

# Town Council Meeting

## Minutes

### April 27, 2020

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

#### **Roll Call**

All Councilors were present and answering roll call.

#### **Pledge of Allegiance**

Chair Kuhn led those present in the Pledge of Allegiance.

#### **Item 1          Public Comment Period.**

Chair Kuhn said that during Item 6 Town staff will provide updates on plans to reopen the transfer station for brush and for social distancing at the trailhead parking lots. She said that the FY21 Budget Public Hearing will be held on April 29.

Chair Kuhn opened the public comment period.

Jack Uminski asked about School Board vacancies that no one filed papers for.

Valentine Sheldon of Route 88 commented on the Falmouth Land Trust's request for the Town to contribute funding toward the purchase of the property of Route 1 and Johnson Road. He expressed concern regarding councilors' leadership positions with the Land Trust and discussed other concerns related to potential land acquisitions under consideration.

Chair Kuhn closed the public comment period.

Chair Kuhn said that municipalities in Maine did not have the authority to change the dates involved in the nomination process. She said it is possible that the Governor will grant that authority between now and the election at which point the Town would take additional steps if appropriate. She said that currently the people who have filed papers are the ones who will be on the ballot. She said that no members of the Council are in violation of the Town's conflict of interest policy. She said the policy is available for review on the website. She said that the policy requires a direct and substantial financial benefit to a councilor or their family. She said that is why Councilor De Lima abstained from discussion and votes on the parcel that she abuts. She reviewed the conflict of interest policy. She felt it was part of the political process that councilors would have held leadership positions with organizations in Town before running for the Council.

Councilor De Lima said that recused herself from all prior discussions on the parcel that she abuts not just abstained. She did not attend the executive sessions, nor does she plan to attend future executive sessions. She said that the parcel she abuts was not on the agenda during the meeting in which the property owner suggested a collective effort surrounding the Land Trust's request.

Councilor Hemphill noted that there was no vote taken on allocating potential funds for the potential Land Trust acquisition.

Councilor Trickett said he agreed with Chair Kuhn's summary of the conflict of interest rules and felt that there was misinformation being spread regarding what a conflict of interest means. He confirmed that

Councilor De Lima recused herself and has not participated in any discussion about that potential acquisition. He said that corruption was an inapt term and that prior affiliations do not matter for purpose of evaluating a conflict of interest.

**Item 2 (Consent Agenda)**

- **Order to approve the minutes of the February 3, 2020 Special Town Council Meeting.**
- **Order to approve the minutes of the February 10, 2020 Town Council Workshop.**
- **Order to approve the minutes of the February 10, 2020 Town Council Special Meeting.**
- **Order to approve the minutes of the February 24, 2020 Town Council Meeting.**

Councilor Asherman moved the orders. There was no second.

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

The motion carried unanimously.

**Item 3 Order to establish tax collection dates, interest rates, and payment application methods for 2020-2021 property taxes.**

Mr. Poore said Pete McHugh, Finance Director, reached out to surrounding towns to see how they were handling this. He said this order is for next year beginning in November 2020 and a May due date in 2021. He said about half of the other towns said they planned to use the max rate allowed by the state which is 9%, one town said they would use 5%, and a few towns said they would use 7%. Mr. Poore and Mr. McHugh believed that 6% would be more reasonable than 9% but enough to entice people to pay on time.

Councilor Cahan asked if there was a way to revisit this issue if things take a turn for the worst in the Fall. Mr. Poore said no, there is no authorizing State Statute or Executive Order that would allow the Town to do that now or in the future. He said that MMA has requested that the Governor allow that flexibility but as of right now we do not have that authority.

Councilor De Lima asked if the Town had the option to waive the late fees. Mr. Poore said once the Council takes action and establishes the interest rate and due dates for year they cannot be changed. He said that he thought the Council might be able to wait to make the decision up until the commitment.

Councilor Trickett said he asked at the last meeting whether the Town could legally provide tax relief outside of the senior tax relief program for people who demonstrate a need. Mr. Poore said he followed up with Mr. McHugh after the meeting and based on his research it can only be offered for seniors. Tax relief is offered for all ages through the poverty abatement application process but that would only impact the very poorest people.

Chair Kuhn asked if there would be any harm to delaying this until closer to the commitment time frame. Mr. McHugh said he thought that everything was driven by the commitment date so it should be fine if it is done by the commitment date. Chair Kuhn asked for clarification on the commitment date. Mr. McHugh said mid-August.

Councilor Trickett said he would prefer waiting until closer to the commitment date.

Councilor Cahan also supported waiting until closer to the commitment date.

Councilor Hemphill asked how this would impact the budget going on the July ballot. Mr. Poore said it would not have an impact except if there was a major reduction in property tax collections.

Councilor Asherman was in favor of deferring this decision.

There was consensus to defer the order until sometime later, at the latest mid-August, so that the Council has a better understanding of economic circumstances.

Councilor Trickett asked if the tax liens held by the Town were included as collateral for its borrowing capacity and credit rating. Mr. McHugh said they are taken into account but because the Town has a good record of getting taxes when properties sell, he did not see it being a major influence one way or another. He said rating agencies look at the Town's procedures and they never comment on them.

#### **Item 4 Workshop discussion on proposed FY21 Budget.**

Pete McHugh, Finance Director, said that the Town is doing extremely well with property tax collections. He said that the Town is pacing slow on auto excise taxes, but he did not see an overall issue on collections other than a month or two delay. He said that through the end of March the Town is \$300,000 underspent to budget. He said the Town is a little short on some of the growth-related fees. He said that the Community Development Department said that it seemed like things had slowed down, but it would be only around \$40,000. He said that the Town should end the year \$400,000 underspent to budget.

Councilor De Lima reviewed the Town's budgetary responsibilities under the Town Charter. She said the last time the Council met on this topic in early April Mr. Poore referred to this budget as a bridge budget. She felt this was a good way to describe the approach being taken on preparing the budget. She said that Mr. Poore and the Department Heads brought forward many options including a zero mil rate option. She said that the Council opted against the zero mil rate budget because it would require the Town to defer necessary capital expenditures. She said that there were cuts in other areas like the open space allocation and deferring land trust acquisitions under consideration. She said that the Council may still be required to adjust as circumstances change. She said that the proposed budget has residents' safety and wellbeing in mind including moving forward with the increased costs for staffing the Fire-EMS Department. She said many non-essential costs will be deferred until there is a better understanding of the lasting economic impacts. She said as the Town plans for future years there will be additional costs related to optimally staffing the Fire-EMS Department and for restoring funding levels to the capital improvement accounts.

Pete McHugh, Finance Director, delivered the presentation. He reviewed considerations in building the FY 2021 budget. He reviewed COVID-19 budget impacts and changes. He reviewed a chart comparing the FY2020 and FY2021 revenues and expenditures. He said that a big initiative in the budget trying to make user fee services cover more of the related expenses. He reviewed the proposed mooring fee increase. He showed a chart comparing mooring fees with amenities offered across surrounding towns. He reviewed impacts in revenue between FY20 and FY21. He described the proposed trash bag fee increase. He reviewed impacts in expenditures between FY21 and FY20. He reviewed a chart comparing the Town's funding of the Library from FY18 to FY21. He reviewed a chart comparing the FY20 and FY21 Library budgets. He reviewed a summary of the 15-cent mil rate impact. He reviewed the Town's FY20 and FY21 sources of revenue. He reviewed a pie chart showing the budget broken down by department. He reviewed the FY21 Wastewater budget. He reviewed a chart showing changes in monthly sewer rates over the years. He showed a chart comparing Falmouth's wastewater rate with surrounding communities. He said that Falmouth is below average. He reviewed the property mil rate calculation. He provided background information on the Town's bond ratings and debt. He showed charts comparing Falmouth's mil rate with surrounding communities. He reviewed the Town's mil rate history since 2009. He reviewed 5-year mill rate drivers.

Mr. Poore addressed questions raised by residents and councilors regarding the budget. He said that the trash bag and mooring fee increases, and the Library budget increase were covered in Mr. McHugh's presentation. He said that over the last 11 years of his tenure as manager the mil rate increase has been 38%. He said that the rate for the municipal portion of the mil rate was .95% and that Falmouth's tax rate was the lowest in area comparable communities. He said there had been questions about reevaluating recently added positions. He said that the additions of the positions had been due to growth needs and that much of the funding for these positions was through other line item reductions and savings created by the positions as well as TIFs and CIP Funds. He said the Town is not filling some vacant positions. He said that the sewer increase is the total expenditure side of the budget. He said that the rate increase is three percent which is the third or fourth year in the planned rate increase to handle some larger projects. He said that some of the sewer budget increase is built in additional revenues and growth but the majority is that the Town is dipping into the fund balance for a couple of years until it grows back. He said that questions had been raised about the Windham Police Department budget being \$1 million less than the Falmouth Police Department budget. He said Chief Kilbride reviewed Windham's budget and the budgets are very similar, but Windham does not include its benefits, retirement, and building maintenance. Windham also does not fully fund the school resource officer, does not have a harbor budget, and does not fund streetlights and traffic lights.

Councilor Asherman asked staff to review the differences between the zero mil rate increase budget the 15 cent increase budget. Mr. McHugh said the difference amounted to about \$360,000. He said that the proposed deferrals of vehicle replacements would have had a ripple effect that would have significantly impacted maintenance costs. He said that the difference was also putting back in half a year's worth of the employee cost of living adjustment.

Mr. Poore said that if the Council decides to extend the election date to July 14, the Council could take more time to consider the budget. Mr. McHugh added that it would cause a delay in the hiring of the new firefighters.

Councilor Trickett asked for staff to confirm at the public hearing on April 29 whether there would be any additional impacts of the Council extending the budget process. He asked if there could be an option to return tax money to residents if the Council decided later in the year to reduce expenses. Mr. Poore said that money could not be returned mid-year but could be returned in the next budget. He said that if circumstances change mid-year, the Council and staff can make mid-year adjustments. He said that those adjustments would require Council action. Councilor Trickett said he wanted to know the extent to which the Council would have flexibility going forward to provide relief if things get worse or stay bad for a longer time than hoped. Mr. Poore said it could be possible to begin reducing spending in FY21 in order to reduce spending in FY22. Councilor Trickett clarified that he was asking if the Town could make a return of tax payments. Mr. McHugh said that the senior tax relief program is not a return of taxes but a subsidy. He said that refunding taxes is not allowed by the state. He said the Town reduced the tax rate last year due to the municipal revenue sharing. Mr. McHugh said that he saw a much different likelihood of drastic reductions in both the education support from the state and municipal revenue sharing. He said the much more likely scenario is where the Town will be drastically cutting expenses to balance the budget. Councilor Trickett asked for further clarification on how the taxes were returned. Mr. Poore said when staff say what they think the tax rate will be in April or May when the budget is approved it is still an estimate. The actual tax rate is not set until the taxes are committed in August. He said that in the case of the municipal revenue sharing, staff had estimated the amount and it improved over the summer before the commitment, so staff lowered the mil rate by the difference. Councilor Trickett asked if the budget could be adjusted between now and the commitment date. Mr. Poore said that was his understanding but he wanted to ask the Town attorney. Councilor Trickett asked if it would be the same for the School Department. Mr. Poore said he did not believe the School budget could be amended after it is voted upon, but he would ask the Town Attorney. Mr. McHugh described a

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prior school budget where the Council put it in the order that the tax rate would be reduced if the School Department received more funding.

Chair Kuhn asked whether adjustments could be made to the mooring and trash bag fees if circumstances turned out better than expected. Mr. Poore said he would talk to the Town Attorney.

Councilor De Lima was appreciative that Mr. Poore answered the resident questions. She said that the new world we are entering into is going to be substantially different and that councilors had asked the School Board similar questions. She asked if the Town had set aside funding for PPE for staff. Mr. Poore described the supplies that had been ordered and said that the existing budget will be able to handle purchasing supplies.

Chair Kuhn asked if councilors had adjustments that they wanted made to the budget in advance of the April 29 public hearing. Councilor Trickett asked if Howard Rice, Fire Chief could attend the public hearing to discuss the feasibility of various scenarios surrounding the Fire-EMS Department staffing increases considering the current circumstances. Chair Kuhn said she wanted to hear how the Town could achieve a reduction so that the increase was under 4% and what would have to be eliminated to achieve that.

Chair Kuhn said that the School Board was meeting simultaneously so School Department leadership could not be present. She said that councilors asked Dan O'Shea, School Department Finance Director, questions in advance of the meeting. Councilors Asherman and De Lima read the list of questions and answers into the record.

Councilor Asherman asked how confident the School Department is that its non-tax revenues will remain stable.

Chair Kuhn encouraged councilors with questions to reach out to the School Board in advance of the April 29 public hearing.

Councilor Trickett wanted the School Board to be prepared to discuss the impacts of a 2-5% reduction scenario. He felt it would be helpful for the Council to know where cuts are going to hit the schools. Councilor Cahan asked whether the School Board had prepared similar scenarios in the past. Councilor De Lima said the School Board said the School Department is in the middle of negotiating a contract with the teachers' union and the bulk of their expenditures are personnel related. She felt if 80% of the budget is personnel related and they are undergoing a contract negotiation, there is not going to be much room to maneuver within the remaining 20%. Councilor Cahan said she wanted to hear what would have to be cut if the State had to cut school funding. She felt it might be awkward if the impacts would largely be personnel related. Councilor Cahan asked whether the School Department was working on an assessment and remediation plan for students who were underprepared for the next grade level due to online learning. Councilor Asherman read the School Department's answer. Councilor Cahan said she wanted more information on a plan and the cost of a plan to assess all the students to make sure that they are all at the appropriate grade level.

Councilor Trickett clarified that if the School Department's answer to the reduction scenarios was that it would have to cut personnel expenses then he understood that it would not be helpful for them to be identify the personnel that would be cut given the contract negotiations. He felt it would be good to know if the first place they would go to address a shortfall would be personnel or if there are other expenditures that would be prioritized in terms of making cuts.

Chair Kuhn said she would ask the School Board Chair to watch this portion of the meeting so that the School Board is aware of the councilors' questions.

**Item 5            Order to postpone (i) the Town's regular municipal election for members of the Town Council and the School Board, and (ii) the school budget validation referendum to vote on the 2020-2021 school budget as adopted by the Town Council, from June 9, 2020 to July 14, 2020 with polling hours from 7:00 am to 8:00 pm. This Order is made pursuant to emergency legislation, P.L. 2019, Ch. 617.**

Chair Kuhn said that municipalities in Maine do not currently have authority to move the deadline to submit nomination papers so that deadline has passed. She said if the Governor decides to grant municipalities that authority the Council will have the option of bringing it up. Mr. Poore said that staff also did not have any answers as to whether the election can be handled by 100% absentee voting

Councilor Trickett asked if there were downsides to postponing the election. Mr. Poore said the School Department would not have a budget for the first 14 days of the fiscal year, but he did not think that was a major impact.

Councilor Hemphill motioned; Councilor Cahan seconded.

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

The motioned carried unanimously.

**Item 6            Discussion regarding COVID-19 updates and issues.**

Mr. Poore described the transfer station reopening plan. He said the goal is to have the transfer station reopen for just brush drop-off on May 4. He described the trailhead parking social distance measures that would be put in place the week of May 4. He said that the public safety buildings would remain closed to the public to protect the health of the first responders. Ms. Lamontagne said she had been working with various department heads to decide what will work best for their office setup and staff. She said that plexiglass dividers had been ordered. She said that Town staff are looking at what other communities are doing and whether the Governor offers guidance. She described social distancing options for Town Hall.

Councilor Cahan asked whether the transfer station and Town Hall could initially be opened by appointment only. Ms. Lamontagne said that she and Mr. Poore had discussed opening the Code Enforcement and Planning Department by appointment only because the area is tight. She said she was not sure about the first floor. She said that they had not considered that for the transfer station but that she would speak with the Public Works Director.

Councilor De Lima discussed an article in the Press Herald about the open spaces in Scarborough. She felt it was everyone's responsibility to make sure that they are socially distancing from one another. She acknowledged that there had been a lot of requests to reopen the trails. She hoped that all residents take that responsibility on themselves. She said that wearing masks in public is a behavior change that is not comfortable for a lot of us, but it is necessary to keep people safe. She encouraged people to bring masks with them to the open spaces.

Councilor Johnson thanked the staff for their attention to these topics. He asked whether the purpose of putting barriers between vehicles was to limit the total number of people in the parking lots or to put distance between the people there. Mr. Poore said to limit the distance between the vehicles themselves. Councilor

Johnson asked if staff looked at what other Towns are doing as far as parking. Mr. Poore said it varies depending on the community. He described the situation in Scarborough, Portland, Westbrook, and Gorham. He said that crowding does not seem to be a problem at beaches with larger parking lots. Councilor Hemphill said he was involved with discussions regarding reopening the Town's public spaces. He felt ultimately the Town can only do so much and is doing its best to encourage social distancing. He said that the parking restrictions were well intended but did not work.

Councilor Trickett said he was excited to hear this report. He felt there was a growing eagerness to loosen the tightness of the lockdown. He felt that we are starting to enter a phase that could last a long time so he hoped that the Town would start opening back up and be creative about it. He felt that there would be grace for missteps and incrementalism if the Town is being creative and working towards making the best of this situation.

Mr. Poore said that the Town took things so seriously because positive cases were geographically spread throughout town. He said that EMS transports were slowing down and that staff were hearing that the Governor may begin loosening restrictions. Chair Kuhn added that Town staff went to great lengths to solve problems for residents. She hoped that the Governor would provide specific recommendations for moving forward.

She said that the Town has had inquiries from businesses in Falmouth wanting to know if they could get relief on their wastewater bills because their businesses are closed. Mr. Poore said staff heard early on that some utility districts were waiving late fees. He said that the late fees for the first two months of the pandemic have been less than \$12. He said the requests have come from two property owners but multiple businesses in those properties. He said the Town Attorney said that the Council can provide adjustments based on anticipated flows. He said the monthly commercial sewer fees are around \$36,000. He said if the Council had interest in discussing this and perhaps taking action it would need to be scheduled for a future council meeting.

Councilor Trickett asked how this would be implemented. Mr. Poore said assuming some of the businesses may be reopened by the time the Council takes action on this he thought it could be a retroactive credit for March or April or both months. Councilor Trickett asked how the Town would determine who qualified and whether it would be applied universally or only to those who asked. Mr. Poore said that is a policy consideration for the Council. He felt that the degree of administration would depend on how much money the Council is willing to waive. He thought an across the board decrease made the most sense administratively. He discussed essential versus non-essential businesses as a consideration. Councilor Trickett asked how the amount waived would be made up. Mr. Poore said it would again be a policy question for the Council to ultimately decide. He said again it would depend on the amount of money. He said that the two months amount could be taken out of the wastewater fund balance but there might be a fairness issue if it was a larger amount. Mr. McHugh said the wastewater uncommitted operating fund balance was \$95,000.

Councilor De Lima felt that under the current circumstances the Council should not make big projects out of everything that came to the councilors. She was reluctant to add the cost burden of asking staff to spend time developing scenarios. She felt that the Town needed to be leaner and more efficient in handling these requests.

Councilor Trickett was interested in hearing more about this. He felt that the staff recommendation could be low burden and high efficiency. He discussed how difficult it had been for small businesses to receive federal relief. He felt this was something that the Council could do at a reality low burden to the town to help businesses.

Councilor Hemphill felt the Council should keep an eye on this.

Chair Kuhn said she was interested in learning more about it.

**Adjourn**

Councilor Cahan motioned; Councilor Johnson seconded.

The motion carried unanimously.

The meeting adjourned at 9:39 pm.

Respectfully submitted,

Marguerite Fleming  
Recording Secretary