

# **Town Council Meeting Minutes October 27, 2014**

The meeting was called to order at 7:00 pm.

## **Roll Call**

All Councilors were present and answering roll call.

## **Pledge of Allegiance**

Chair Farber led those present in the Pledge of Allegiance.

## **Item 1                      Public Forum**

John Winslow of Gray Road spoke about the upcoming library referendum. The library was expanded in 1995, but since then the Town has only grown 25% in population. He felt the expansion was too large and that there was no disclosure of the increase in operating costs for a larger library. He pointed out that applying for LEED gold certification would cost \$70,000 alone. Many states, including Maine, have banned state funded projects from LEED certification. He said other programs in Town operate for a fee, why not the library.

Mike Doyle of Applegate Lane spoke about bids to replace a police cruiser; the Town of Freeport paid less for the same SUV as Falmouth. He said this indicated mismanagement. He spoke about the upcoming election and spoke against candidates Cathy Breen and Teresa Pierce.

**Item 2 (a)                      Order to approve the minutes of the September 8, 2014, Town  
(Consent Agenda)        Council Special Meeting.**

**Item 2 (b)                      Order to approve the minutes of the September 22, 2014, Town  
(Consent Agenda)        Council Meeting.**

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

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

Councilor Anderson spoke about REAC's work on the plastic bags issue. They will hold an outreach meeting for business owners on November 11 at 7pm at the Library. All are welcome to attend and provide input.

Chair Farber said the reorganization of the zoning ordinance is underway; the consultant has started work by meeting with Town staff, committee members, and the Town Council.

Councilor King reported that CDC and LPAC will hold a second outreach meeting on November 13 at 6:30 in council chambers. This meeting is geared toward developers, realtors and architects and is open to the public.

Councilor Hemphill said ecomaine approved a \$1 million rebate to participating communities, which was distributed in proportion to their waste activities; Falmouth received about \$42,000. They also approved a \$500,000 reserve to soften surcharges that might be levied against communities next year.

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

Councilor McBrady moved to appoint Steve DeCrosta to the ad-hoc Zoning Committee; Councilor Hemphill seconded. Motion carried 7-0.

**Item 5                      Resolution to recognize the Falmouth Veterans Memorial and the dedication ceremony on November 11, 2014.**

Councilor Anderson spoke of the committee's work and announced that the dedication ceremony will be held at 10:00am on November 11.

Public comment period opened.

Carol Iverson Kauffman of Blueberry Lane said it's been a pleasure to work on this project. She thanked Town Manager Nathan Poore and Councilor Anderson for their support. She urged the Council to pass the resolution and attend the dedication. After the ceremony, they will move to the Library for a reception. At 7:00pm that night at Blueberry Commons, Barry Hamilton, a Falmouth resident, will speak about his participation with the Wreaths Across America project.

Public comment period closed.

Councilor Anderson moved to adopt the resolution and read it into the record; Councilor Mahoney seconded. Motion carried 7-0.

**Item 6                      Order to schedule a meeting on November 10, 2014, in accordance with 30-A M.R.S.A. sec. 3402 and 23 M.R.S.A sections 3021, et seq., to consider an order that certain described interests in real property be taken and condemned by the Town of Falmouth for public sewer purposes.**

Mr. Poore explained that the Mill Creek pump station was improperly located on land that was not entirely controlled by the Town when it was built in the 1980's. The consultants discovered the issue while doing their work on redesigning the station. The Town Attorney reviewed the issue and has suggested this approach to fix the problem. Condemnation is a tool that works well in a situation like this, where both parties are in agreement. The Land Trust has voted to accept the transaction and a payment of \$3000, which is the appraised value for the 9000 sq. feet that the Town needs. The Town Attorney has been in contact with the Attorney General's office; that process is ongoing, but they don't think there will be any issues.

Public comment period opened; no public comment.

Councilor Goldberg asked where the \$3000 would come from. Mr. Poore said it would be paid by the sewer enterprise fund, which is generated by user fees.

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

**Item 7                      Order to authorize the Town Manager to execute a side letter agreement that amends previous agreements with Casco Bay Hockey, said agreements to include a Ground Lease, authorized by the Town Council on May 28, 2014 and a subsequent Temporary Construction Agreement executed on August 11, 2014.**

Mr. Poore explained that staff has requested that, in the event the Council approves the requested waiver, they reduce the permit fees to \$6,000 from the required \$10,000, instead of waiving it entirely. This would cover the Town's direct costs.

Public comment period opened; no public comment.

Councilor Mahoney asked if direct costs reflected staff time only. Mr. Poore said that is correct.

Councilor Mahoney asked if the Town will charge permit fees to the Library if that project goes forward; Mr. Poore said they would. He can waive fees for a direct town department, but the Library is a separate entity. In response to Chair Farber, he said he thought they reduced the permit fees down to direct costs for the elementary school project as well.

Councilor Anderson asked what the Town did for Family Ice when that was built. He felt the Council had supported this project, and he felt they should seek an accommodation that suited both parties. Councilor Mahoney agreed; this project has great public benefit and merits different treatment.

Councilor King asked how the permit fees are calculated. Mr. Poore said the calculations are listed in the ordinance and are relative to the size of a project.

Councilor King wondered if the fee was overlay large for the type of project, considering the size of the rink. She asked if the fee is based on the footprint.

Mr. Poore thought it was, but the fee reflects the time and effort staff members have to put into inspecting a project like this. It is the right dollar amount for this type of building; the debate is whether the use of the building merits a reduced fee.

Councilor McBrady asked if there was any way to estimate real costs to the Town for this project; Mr. Poore said they did the calculations and figured it out to the \$5,000-6,000 range.

Councilor Goldberg pointed out that another non-profit might come and ask for the same thing, but he felt this is different.

Councilor King agreed that the public good of this project made consideration of this request worthwhile.

Councilor Hemphill asked for clarification of the reduction. Mr. Poore said staff recommended a reduction of \$4,000: lowering the fee from \$10,000 to \$6,000.

Councilor McBrady wondered if the Town has ever entertained another request such as this. Mr. Poore said he didn't remember one, but it might come up with the library.

Chair Farber was uncomfortable with the request. She felt it was important to point out that the Town doesn't make a profit on these fees; they are structured to cover costs. This reduction will mean the Town will not cover their real costs on this project. She was concerned with the precedent this might create.

Councilor Hemphill pointed out that there have been delays and challenges already with this project.

Councilor McBrady was also uncomfortable with the precedent this might set. Any reduction in fees will pull away from what they need to run the Town. He couldn't support this request.

Councilor King said the letter from CBHA stated that they didn't realize that there would be fees. She wondered if there was any responsibility for the Town to have discussed this with them.

Councilor Mahoney didn't feel there was anybody to blame. CBHA is a group of volunteers, and this issue might have slipped by them.

Councilor Anderson was comfortable setting a policy that the Town would not charge non-profits for the overhead portion of the fees. He didn't have a problem with the precedent that this would set.

Councilor Mahoney understood the spirit of that recommendation but felt they should treat this on a case-by-case basis. Not all non-profits are equal.

Chair Farber asked about the downside of waiving the fees. She pointed out that, if difficulties happened with construction, it might require multiple visits and inspections. She wondered if this project could end up costing the Town 3 times the estimate of \$6000. Mr. Poore didn't think so but agreed it is possible.

Councilor Goldberg felt that this being non-profit is not what makes this different; this is a public-private partnership. That is what makes this okay with him.

Councilor King felt this came from a misunderstanding and a lack of negotiation prior to now; going forward, the Town should have a policy.

Councilor Goldberg felt this was about this particular issue, and not about policy. He felt this was correcting an oversight.

Chair Farber pointed out that CBHA has an architect involved; they are not all novices. She thinks this opens a big door.

Councilor Mahoney moved the order, authorizing a waiver of the fee down to \$6000; Councilor Anderson seconded. Motion carried 5-2 (Farber, McBrady).

**Item 8                      Order to accept an easement deed from Ann R. Gagnon Living Trust to access its property at 121 Field Road for the purpose of maintaining railroad signage as part of the Woodville-Field Road Quiet Zone.**

Chair Farber explained that there need to be signs on private property in order to establish the quiet zone. This easement would give the Town the right to erect, access, and maintain these signs.

Public comment period opened;

David Gagnon of Field Road clarified that this easement isn't a trigger for the quiet zone. He pointed out that if the Town abandons the quiet zone, they would lose this easement.

Public comment period closed.

Chair Farber said the Town approached the property owner for the easement. The planning for these quiet zones was already underway at that point.

Councilor Goldberg asked for clarification on what is being approved.

Mr. Gagnon said that, in order to comply with federal regulations, there has to be a "cross buck" on either side, a sign that indicates that there is no whistle, and an approach sign stating that there is a railroad crossing ahead.

Mr. Poore said there are six signs in all, three on each side.

Councilor Hemphill pointed out that these signs are on private property and are necessary to establish the entire quiet zone.

Chair Farber said this easement is for the Town to use only.

Councilor McBrady asked if there is consideration paid for this easement; Mr. Poore thought it was the standard \$1.00.

The Council thanked Mr. Gagnon for his generosity in this matter.

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

**Item 9                      Discussion on the 2015 Council workplan, and an update on the implementation of the 2012 Comprehensive Plan.**

Mr. Poore gave an update on the progress being made on each task on the Council's workplan.

Councilor Anderson asked about the conflict of interest policy; he wanted to make sure this was done this year. Councilor Mahoney felt MMA must have something they could review. Mr. Poore said a lot of work has been done on it, but it was tabled last year. Chair Farber asked for it to be put on the agenda soon.

Councilor Anderson asked about modifications to the Council rules. Chair Farber would review the notes from the retreat.

Chair Farber wondered about reviewing the need for senior programs and services; she thought they discussed forming an ad-hoc committee in the spring around this issue. Councilor Anderson supported an ad-hoc committee, and hoped it could happen before spring. Councilor King and Councilor McBrady agreed.

**Adjourn**

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

The meeting adjourned at 8:24pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary