

# **Town Council Meeting**

## **July 27, 2015**

### **Minutes**

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

#### **Roll Call**

Councilors King, Hemphill, McBrady, Anderson, Goldberg and Kitchel were present and answering roll call.  
Councilor Farber was absent.

#### **Pledge of Allegiance**

Chair Goldberg led those present in the Pledge of Allegiance.

#### **Item 1                      Public Forum**

No one spoke at public forum.

**Item 2 (a)                      Order to approve the minutes of the May 11, 2015, Town Council  
(Consent Agenda)      Special Meeting.**

**Item 2 (b)                      Order to approve the minutes of the May 20, 2015, Town Council  
(Consent Agenda)      Special Meeting.**

**Item 2 (c)                      Order to approve the minutes of the May 27, 2015, Town Council  
(Consent Agenda)      Meeting.**

**Item 2 (d)                      Order to approve the minutes of the June 15, 2015, Town Council  
(Consent Agenda)      Meeting.**

Councilor King made amendments to the May 27, 2015 minutes

Councilor Hemphill moved the consent agenda; Councilor Kitchel seconded. Motion carried 6-0.

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

Councilor Hemphill announced that Falmouth had the best recycling rate of all ecomaine's member communities for fiscal year 2015.

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

Councilor McBrady said the committee is scheduled to meet in the next week.

**Item 5                      Public Hearing and Order relative to a new victualer license for Milly's Skillet.**

Chair Goldberg opened the public hearing.

Molly Ritzo of Cape Elizabeth said she wants to locate a food truck at the Smith Farm property. She currently operates a food truck on Peak's Island.

Councilor McBrady asked if it would be seasonal, or year-round. Ms. Ritzo said she would like it to be year-round, but plans to be open at least through December.

Councilor McBrady asked if she was taking over the old restaurant location. Ms. Ritzo said she is focusing on the food truck for now, but would like to have a brick-and-mortar establishment eventually.

Chair Goldberg announced that several conditions were added to the order today: 1. Demonstrate right, title and interest; 2. No outdoor seating; and 3. Staff safety review for access, egress, and sight distance.

Town Manager Nathan Poore said the first one is to show that the applicant has the legal right to do what she is proposing. Food trucks are not eligible for outdoor seating due to plumbing code issues and would likely require Planning Board site plan approval. There is no formal staff review for food trucks so staff have requested that they review the location for public safety at least; there is one area of vegetation that should be removed from this site to improve sight distances.

Councilor King wondered how the victualer license governs food trucks, since they are not mentioned on the license.

Mr. Poore said a mobile food vendor is a sub part of the victualer license process. Any vendor that provides prepared foods requires this permit; a mobile food truck needs an additional approval. The ordinance is silent on what type of standards there should be on those.

Councilor Anderson wondered if the restriction on outdoor dining would affect the applicant's business plan.

Ms. Ritzo said her customer base will be mostly the commuter traffic, so outdoor seating was going to be casual. She set up a patio with her location on Peak's Island. She will have to reconsider her plans for this location, but had envisioned something very casual.

Councilor Anderson asked for clarification that the ordinance wouldn't allow a couple picnic tables. Mr. Poore said it gets into the plumbing code; the minute they have seating, they need to provide bathrooms. A casual bench that allowed people to wait for their food would be fine.

Ms. Ritzo wondered if she could use the restroom facilities in the building. Mr. Poore said Planning staff could look into that possibility.

Councilor McBrady felt they should review the ordinance for food trucks; he felt there would be more of these in the future.

Councilor McBrady moved the order with the conditions as stated; Councilor Kitchel seconded. Motion carried 6-0.

**Item 6                      Discussion on the disposition of unanticipated state aid for education funding for FY 2016.**

Chair Goldberg explained that, following the budget validation referendum, the State came back with some unanticipated education funding in the amount of \$521,000.00. The Council discussed this at their annual retreat with the Town and School staff and Lucy Tucker, the chair of the School Board.

Councilor Hemphill said the Council and School Finance Committees have met as well on this item.

Chair Goldberg said the Town Council does not have the authority to decide what to do with these funds; that is the purview of the School Board. Councilor Anderson said the School Board has sought out the recommendation of the Council, and that is what they are discussing tonight.

Pete McHugh, Director of Finance for the Town, gave an update on the current municipal fund balance. While the books for 2015 are not completely closed, based on current projections the Town should end the fiscal year 2015 with \$10.9 million in the unassigned fund balance, which is slightly over the Standard & Poor's benchmark of 25% of annual expenses that they use in the rating. This is a very strong position. The Town's fund balance requirement is 16.7% of annual operating expenses plus \$1 million; that would come to \$8.2 million.

Councilor Anderson said no one is suggesting that the state aid be used to increase the school's spending for this year; that would be above and beyond what the voters approved. The options being considered are increasing the School's unassigned fund balance, currently sitting at \$600,000, or reducing the mil rate.

Chair Goldberg said there is a third option, to put the money in a capital reserve fund for the School. They could do a portion of all three as well.

Mr. McHugh said the school is limited to how much they can have in unassigned fund balance; the state maximum is 3% of their operating expense. They can allocate about \$400,000 to it, at most.

Councilor Anderson thought the capital reserve fund is for specifically identified projects; there are none at the time.

Mr. McHugh said there were a couple proposed projects, but they would have to identify a way to spend that.

Councilor King thought there were a few capital expenses that were being paid for out of the operating budget. Mr. McHugh said their annual budget has a line for capital projects every year.

Councilor Kitchel thought there was a project that was in the works for a building at the football field; he asked if the money for that would come from this. Mr. McHugh said that project was in the budget.

Councilor King asked about the school budget that was passed; she thought they used unreserved funds to meet their needs.

Chair Goldberg said they have taken funds from their unassigned fund balance to mitigate the impact on the mil rate in past budget seasons. Mr. McHugh said that was correct. 4 years ago they were close to their 3% limit; currently they are at about 1.8%. This is an unsustainable practice.

Councilor King thought that had something to do with the formula that tells them what funds they are going to get from the State. The School Department doesn't know what they will get from the State until after the budget is passed. Mr. McHugh said that is correct; they do the budget based on estimates.

Councilor Anderson felt they should do what they would have done if this money was available when they drafted the budget. He thought they should return the \$150,000 they removed from the unassigned fund balance this year, and use the rest to reduce the mil rate. Councilor McBrady agreed.

Councilor King said the situation now is different than it was back in March. She thought they should weigh what the wisest thing is moving forward. She thought it would be wise to bring the fund balance back to the 3% level. She would like to reduce the mil rate, but she didn't know how much the impact would be. If it is a token amount, she wondered if it would make sense to do it.

Councilor Hemphill pointed out that for every \$24,000 the mil rate would be reduced by \$.01. In Councilor Anderson's proposal, the reduction would be about \$.16. If the School replenished the fund balance, the mil rate reduction would be closer to \$.05.

Chair Goldberg believed that the School Board should do what they think is right. They were elected by the same process and citizens that elected the Council.

**Item 7                      Order to authorize the Town Manager to file a PACTS Complete Street Planning Study Application jointly with Cumberland, Yarmouth, and Freeport.**

Mr. Poore said that PACTS is reviewing complete streets in the regions, which contemplates all potential uses of the streets, not just vehicle traffic. It also ties in with land use. They had the opportunity to apply for a grant to tie in with the Route 100 visioning plan, and now have the opportunity to apply for a grant for the Route 1 North visioning project. The idea is to submit a planning grant with a regional focus, including the towns north along the Route 1 corridor, but each community would have its own planning needs and design features. The grant application is for \$120,000 in estimated costs. It would have a \$24,000 local match and Falmouth's portion would be \$5,000. PACTS requires legislative approval for application submittals.

Councilor King wondered if the interstate spur would be included in this study. Mr. Poore said that is a separate project but the timing is good. If that project doesn't go through, it could be part of this project.

Councilor Anderson wondered how this dovetailed with the Route 1 North study the Town is starting. If Falmouth decides to go in one direction, and the PACTS study wants them to go in another direction, he wondered how that would work. Mr. Poore said the Town has the ability to do whatever it wants. Looking at this regionally doesn't tie the Town's hands. The Town would have a say in what the regional design looked like.

Councilor Anderson didn't want this study to slow down any economic activity along Route 1.

Councilor Hemphill felt this would complement and enhance any other work they were doing along Route 1.

Chair Goldberg said this is not about zoning, but infrastructure. Mr. Poore said that is correct; the Town's committee would look at zoning as part of their process.

Chair Goldberg asked about the timeline. Mr. Poore said the applications will be reviewed and approved this fall; the project would go out to bid in early 2016. The Town's \$5,000 portion would be paid out of the Route 1 North TIF.

Councilor King moved the order; Councilor Hemphill seconded. Motion carried 6-0.

**Item 8                      Introduction of an amendment to the Code of Ordinances Div. II-2-3-12. Economic Improvement Committee to update the charge and membership of the Falmouth Economic Improvement Committee (FEIC).**

Councilor McBrady explained that change will allow the FEIC to assist the Council with the implementation of the Economic Development Strategy that was approved in May.

A public hearing was scheduled for August 24.

**Item 9                      Order to vote for MMA Vice President and Executive Committee Directors.**

Chair Goldberg opened public comment period; no public comment.

Councilor King moved the order; Councilor McBrady seconded. Motion carried 6-0.

**Item 10                      Introduction of an amendment to the Zoning and Site Plan Review Ordinance Sec. 19-23.11 Master Development Plan Time Limits, in order to extend the Tidewater Master Plan Development District an additional six months.**

Councilor Hemphill explained that the Master Plan was extended for 6 months earlier this year, to allow the developers to work with the Town to update the plan. Councilors, staff and the developers have met with members of the community and drafted a list of specific update requests. It is a significant list, and the developers require more time to address it. The six month limit will expire soon; an additional extension is reasonable to allow the developers' time to address the list of requests.

Councilor Anderson asked about the demolition of the farmhouse.

Nathan Bateman, of Tidewater LLC, said they need more time to get a legal opinion on that issue. They will come back with a formal request at a later date if they move forward on it. They are only asking for the six month extension at this time.

A public hearing was scheduled for August 24.

**Item 11                      Order to approve an addition to the Family Ice facilities.**

Chair Goldberg opened public comment.

Dan Roberts, representing the Greely Hockey Boosters, said his group and the Falmouth Hockey Boosters are proposing to add one locker room of 500 sf, and also rehab an existing, internal, all-female locker room. This way each high school's girls' varsity team would have their own locker room. The proposed addition would bump out the back of the rink. Under the terms of Family Ice's lease with the Town, they need Council approval to do this.

Public comment period closed.

Councilor Anderson asked if these will be the same size and quality as the boys' locker rooms. Mr. Roberts said they won't. They have to stay within the 500 sf to avoid full site plan review. They are also limited by their fundraising capacity; site plan review would add significantly to the cost. Both girls' locker rooms will be of similar size.

Councilor McBrady asked if there is a locker room for the girls. Mr. Roberts said there is not. The girls have to bring their gear every time.

Councilor McBrady asked if removing parking for this project will create a problem in the future. Mr. Roberts said he thought the parking in the rear is not public parking; it is for employees.

Councilor Anderson asked how much smaller these are than the boys locker rooms.

Josh Brainerd, General Manager of Family Ice, said he thought they would be about  $\frac{3}{4}$  the size of the boys' rooms.

Councilor Anderson asked if they would be adequate to meet the girls' needs. Mr. Brainerd said what is being proposed is similar to locker rooms that other high schools have. The boys' locker rooms at Family Ice are larger than is typical.

Councilor McBrady moved the order; Councilor Hemphill seconded. Motion carried 6-0.

- Item 12**                      **Order to go into Executive Session pursuant to the Laws of Maine to discuss negotiation parameters associated with the Teamsters Local 340 contract renewal, pursuant 1 M.R.S.A. § 405 (6) (D).**
- Item 13**                      **Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider:**
- **the acquisition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C);**
  - **negotiation parameters associated with the Maine Association of Police contract renewal, pursuant 1 M.R.S.A. § 405 (6) (D); and**
  - **economic development, pursuant to 1 M.R.S.A. § 405 (6) (C).**

Councilor King moved to enter executive session; Councilor Anderson seconded. Motion carried 6-0.

The Council returned from executive session at 8:45 pm.

Councilor Anderson moved an order to authorize the Town Manager to execute a new collective bargaining agreement with Teamsters Local 340 for the contract term 2015-2018; Councilor Kitchel seconded. Motion carried 6-0.

The Council re-entered executive session at 8:46 pm and did not return.

Respectfully submitted,

Melissa Tryon  
Recording Secretary