

# **Town Council Meeting Minutes May 29, 2019**

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**

Chair Hemphill recognized and thanked Councilors King, Svedlow and Ferrante for their service on the council. This is their last meeting. The rest of the Council echoed his thanks.

Chair Hemphill opened the public forum.

Jim Chaousis of Christopher Lane asked the Council to be cautious regarding the future of zoning and take the measure of the community before making any changes. Protests against contract zones have monopolized the conversation, but it is based on a wealth of information. It is the duty of the elected leaders to include all the populace, including those that do not show up for meetings. It is important to have diverse perspectives on the Town Council. He argued for a more comprehensive roll back of 2016 amendments, as well as multiple listening sessions with the residents, including those he didn't agree with.

Walter Libby of Glen Road said the Town purchased part of his property to address a drainage issue but wondered why the Town has not done anything about the water damage to his property. He has lived in his home since 1940. He had to shovel sand off his property that was left by the snow plow. He wondered when the Town would fix his problem. The Town fixed the foundation of the home in 1975.

Lee Hanchett said everyone realizes that a mistake was made in the 2016 zoning; everyone was to blame. Town leadership didn't anticipate the consequences and the residents were not paying attention. He urged the Council to roll back the zoning to pre-2016 levels.

Michelle Sheldon of Route 88 wasn't sure what the Council would do regarding the zoning; despite the residents' testimony at the last public hearing, they appointed Karen Farber, who was part of the passage of the zoning amendments in 2016. This didn't feel like a move to rebuild trust. She hoped they voted for the roll back of RA to pre-2016 levels. She asked them to make ADUs conditional use; they are being used as Airbnb's.

Lisa Joy of Middle Road was happy to see the resolution on the agenda. She said there are many ways to be uncivil and she encouraged the Council to find a way to get people with opposing viewpoints to sit and talk with each other civilly. She spoke about the recent candidates meet and greet event.

Valentine Sheldon of Route 88 said an overwhelming majority oppose the 2016 zoning amendments and want it to be repealed. He asked them to respect the will the residents and roll back the RA zoning to pre-2016 levels. He spoke about the current council candidates and their campaigns. He said he was committed to the goals of the resolution on tonight's agenda.

John Winslow of Gray Road serves as a member of the Falmouth Lions. He said the Lions motto is "We serve". He wished the Council followed that motto. He said he is disappointed with the last council and how they passed the 2016 zoning amendment. He said the Council rushed through a contract zone amendment.

He felt there were interior agendas without public input behind them. He didn't feel the Council is listening to the public. He was glad to see the residents of the town were starting to pay attention and come to meetings; he wished more of them would come to budget meetings. He said that the cost of educating each student at the schools is \$14,000; the cost is too high.

Steve Brimshaw of Middle Road said one size doesn't fit all, and he didn't feel the 2016 zoning fits all. The more people who understand what it is doing to the town, the more people don't like it. The level of public involvement in its passage was insufficient and the level and types of notification the public got in the process was inadequate. He said the Council should return to the 2016 levels in the zoning.

Chair Hemphill closed the public forum.

## **Item 2                      Consent Agenda**

- **Order to approve the minutes of the April 5, 2019, Town Council Workshop Meeting**
- **Order to approve the minutes of the April 8, 2019, Town Council Special Meeting**
- **Order to approve the minutes of the April 22, 2019, Town Council Meeting**

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

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

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

Councilor Kuhn said the Ordinance Committee reviewed regulating backyard fire pits but determined to begin with some public education. They drafted a brochure with tips and best practices about safety and how to be a good neighbor. These will be available at Town Hall, the Library, online and at the Fire Department. She said the library construction has begun, and there was a lot of concern about the number of trees that were removed. Some were removed to address the stormwater issues and others were required by zoning; they have a plan to plant new trees. On June 18 at 4:00 pm in Presumpscot room, PACPAC will host a Tercentennial Legacy Garden tour led by Susan Gilpin. The Police Department ran a program on May 18 to collect unwanted firearms and ammo; they received 13 firearms, 500 rounds of ammo and handed out a dozen gun locks.

Councilor Cahan said REAC wanted to connect GPCOG with the School Department to research the possibility of getting electric buses; there is some grant money from the Volkswagen settlement. REAC is still working on plastic straws; the 5<sup>th</sup> grade at Falmouth worked with the school principal to get plastic straws removed from the school campus. She and Kimberly Darling recently reviewed the school's Farm to Table initiative; it is more than she expected.

Councilor Ferrante said FEIC is working on another business forum in the fall; they want to have a panel of small business owners. The Appointments Committee held their last meeting and all the committees are full. There were two applications received after the committees were full; those will be added to the folder and will be reviewed by the next committee this summer.

## **Item 4                      Report from the Appointments Committee regarding various vacancies on Boards and Committees.**

There was no report. All committees are full.

**Item 5                    Order to appoint election workers for the 2019 elections.**

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

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

**Item 6                    Public Hearing and Order to approve a Food Service License for Cafe Crepe.**

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

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

**Item 7                    Public Hearing and Order to approve a new liquor license for Foreside House of Pizza.**

Chair Hemphill opened a public comment period.

George Sotiropoulos, owner of the business and a resident of Falmouth, said he grew up working at Falmouth House of Pizza and was the manager for the last 15 years. The recent situation with his family has been very sad and unfortunate. He is looking forward to continuing and improving the service at the new restaurant. Many of the employees will be coming back, and he hopes to build on the legacy his father started in 1977.

John Winslow of Gray Road asked if this license was for just beer and wine. Chair Hemphill confirmed that it is.

Chair Hemphill closed the public comment period.

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

**Item 8                    Discussion on proposed amendments to the Code of Ordinances Sections 19-8, 19-64.2, and 19-82, to change certain requirements related to residential development in the RA District.**

Councilor Asherman clarified that the roll-back proposal is not a full roll-back of the 2016 amendments; it addresses two- and multi-family dwellings and the dimensional standards in RA only. The Council cannot add anything to these proposals at this time because they have already been to public hearing with the proposals. They can address changes subsequently.

Councilor Ferrante said a lot of conclusions have been drawn and she encouraged people to recognize that some of those are true and some are not. Yarmouth has experienced more growth than Falmouth and they haven't changed any of their zoning. She felt they need to have respect for all people involved. She felt the Council's job it to take all of it into consideration. Some people have been very responsible with this zoning; a lot of the dimensional standards in RA has caused difficulty and all of the councilors have wanted to do something about it. They needed to give it time to hear from everyone that wanted to say something. The people who created it had good intentions for Falmouth. She supported the roll-back proposal.

Councilor King didn't initially think she would support a roll-back. She said it was tough to understand the problem and it was clear it would take time and research to identify a problem they could address. If they had the time, patience and process they could have come to a solution. The problem, which is still not defined, seemed to get larger as the discussion went on, including concerns about character, growth, school impacts, different housing types, etc. She felt this went beyond the scope of LPAC's charge. LPAC made a recommendation as the Council asked them to, and she thanked them. She wasn't sure this was the answer, since she wasn't sure they knew what exactly the problem is, so at this time she felt perhaps the best thing was to return to the 2016 zoning and then figure out what the problem is. Whatever they do, there will be

consequences, both intended and unintended. She encouraged them to let the zoning, whatever gets past, sit for a while and see what happens. Zoning shouldn't change every six months.

Chair Hemphill agreed with Councilor King. He said the Council has received a number of letters from people who intended to split their lots and said a change to the zoning would create a hardship for them. He was interested in committees taking a hard look at the intention of the 2016 zoning changes and if there is an opportunity to readdress them without causing hardship to the citizens. They have a responsibility to conduct some review of zoning and he encouraged a process to begin within a reasonable time. He said a lot of work and time went to the 2016 amendments and they should keep an open mind.

Councilor Svedlow said Falmouth is on the doorstep of Portland and it is an attractive area for people to live. That is not going to change. Either solution will likely be appropriate. This is just the tip of the iceberg. It is great that the town is engaged on this issue; it is an opportunity and he hoped they use it wisely.

Councilor Cahan was encouraged by the amount of community engagement and thought this is a good sign for more engagement moving forward, looking at what Falmouth wants to be from this point and creating a vision. She agreed that they need to see the impact of changes in RA. She was interested in talking with neighborhoods and talking about smaller zones and how they can help the people that have small parcels and want to make minor changes, as well as those that live on larger parcels and want to maintain what they have. She supported moving back to 2016 standards while they evaluate what they have.

Councilor Kuhn supported the roll back for two reasons. She felt the dimensional standards were too small for some areas and the change is impacting the character of those neighborhoods. She felt it was the best way to level the playing field and get a fresh start. She encouraged the community to stay involved. A change tonight will benefit some people and hurt others.

Councilor Asherman felt this was a start; it fixes an immediate issue but there are potentially other issues in the RB zone and he wanted it to be a short-term item next council year. He also wanted to discuss the issue of ADUs as rental properties as a short-term item. He felt there are still issues with people who can't make minor improvements on their homes, as well as those who own lot splits under the current zoning. There are long-term issues as well, like zoning and communication. He wanted them to discuss updating the comp plan.

Councilor Ferrante agreed with Councilor Asherman on the non-conformity issue. This is a big issue in Falmouth and one not many people understand. This should be the first thing the next council addresses. She thought they need clear pathways for people to follow for their lots. She felt this should not be the work of a committee, unless it is very big. She encouraged the public to stay involved and make their voices heard. She thanked Mr. Hanchett for his message of healing; we all need to work together and not tear each other apart.

**Item 9                      Ordinance to amend the Code of Ordinances Sections 19-8, 19-64.2, and 19-82, to change certain requirements related to residential development in the RA District. These proposed amendments would be retroactive to May 3, 2019 and are referred to as "Option 1".**

Councilor Svedlow moved the ordinance; Councilor King seconded.

The Council thanked LPAC for all their work on these recommended changes.

Motion failed 0-7.

**Item 10                     Ordinance to amend the Code of Ordinances Sections 19-8, 19-64.2, and 19-82, to change certain requirements related to residential development in the RA District. These proposed amendments would be retroactive to May 3, 2019 and are referred to as "Option 2".**

Councilor Cahan moved the ordinance; Councilor Svedlow seconded.

Councilor Ferrante didn't think anyone should feel criticized for being part of the 2016 zoning amendments; we are at the evaluation stage and knew it was coming. Two years in is when you begin to see what the effects of the work are.

Councilor King agreed, and said they need to recognize that town government is a shared responsibility with the council, committee members, and the public. This sets the scene for constructive contributions and criticism, and there is no place in that for blame and hurtful comments.

Motion carried 7-0.

**Item 11                      Ordinance to amend the Tidewater Village Design Guidelines, the Tidewater Master Development Plan, and the Zoning and Site Plan Review Ordinance relative to development regulations for the area known as TV3 in the Tidewater Master Planned Development District.**

Councilor Cahan said this has gotten captured in the discussion about growth. She supported it because it actually decreases the number of units in the Tidewater district and gathers them in an area that is walkable to stores, restaurants, the movies, and jobs, as well as on the bus line. This is a great model of how the town can develop well; it will provide the opportunity for another restaurant and bring in tax dollars.

Councilor Kuhn agreed and said this proposal avoids some of the downsides of residential growth. It has one- and two-bedroom apartments, which will have a lower impact on the schools.

Councilor King agreed. She wondered about having only one charging station and wondered if more would be allowed, but a minimum of one was required.

Chair Hemphill was glad to see a sound proposal for Tidewater; they have tried to address this for a long time but felt they have come to a good solution here. The Town has acquired open space, there is a net reduction of housing units, and these additional units will have less impact than freestanding homes. He regretted the confusion at the Planning Board level, but he felt they are doing the right thing by approving this. The Board will have review authority over any development on the property.

Councilor Cahan asked if the Board will see the feedback from the Council on why they are supporting this; Chair Hemphill said they will. Councilor Kuhn asked the Board to pay careful attention to parking concerns when they review the site plan for this development.

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

**Item 12                      Order to approve the adoption of Special Plan 3C under the MainePERS PLD Consolidated Plan for the Town's eligible Fire/EMS employees as of July 1, 2019, and to authorize the Town Manager to sign the amended agreement between the Town of Falmouth and MainePERS**

Town Manager Nathan Poore explained that MainePERS offers several different retirement plans. Many local Fire/EMS departments are moving to the 3C plan. Staff believe that offering this plan is critical in order for the Town to be competitive in the hiring market.

Councilor Kuhn said the cost of this plan is already included in the municipal budget for the next fiscal year.

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

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

**Item 13                    Introduction of an amendment to the Code of Ordinances Section 2-3  
Boards, Committees, Commissions to create the Community Wellness  
Committee**

Councilor Ferrante said historically the Human Services Committee has reviewed and recommended which service organizations the Town should support. The Appointments Committee researched expanding the charge of this committee to include wellness of the community.

Councilor Asherman looked at this as bringing resources available in the community together. Lots of good things are happening in the community, but they are not working together. This committee could get the word out about these to the wider community. Allocating the money will still be a portion of their work.

Councilor Kuhn said if they have a web of resources established, it will be easier to mobilize and get people the help they need. She felt the charge should better define what “wellness” means. There are lots of good things going on in town; it would be good to highlight and integrate them.

Councilor King said this sounds like the committee would be a resource hub for outside organizations and not directly providing resources. Councilor Ferrante said they didn’t want to limit it to just a resource but allow the committee to be flexible with what they do.

Councilor Cahan wanted to clarify the language in the last item addressing the representation from the different categories.

Councilor Svedlow wondered when this committee would start; Chair Hemphill said there is a target date of January 2020. Councilor Ferrante said the committee didn’t discuss a start date. She said they allowed for up to 11 members on the committee, but if they felt nine was enough, they could keep it at nine.

The Council supported the holistic approach to wellness suggested in the charge. The committee can narrow or broaden it as they see fit.

A public hearing was scheduled for July 8, 2019.

**Item 14                    Introduction of amendments to the Code of Ordinances to increase the  
membership of the Economic Improvement Committee.**

Councilor Ferrante explained that there are people interested in serving on this committee, and the committee needs all the help they can get. They are requesting to have up to 9 members.

A public hearing was scheduled for July 8, 2019.

**Item 15                    Resolution to recognize recent public input and concerns about land use  
ordinances, public outreach, land use planning, and residential growth and  
further, to commit to processes that will: 1.) develop an improved  
communication system and 2.) evaluate and improve how future land use  
related policies are developed, with improved community outreach and  
input.**

Councilor Svedlow felt it was important to have this resolution to provide some continuity and put in writing what they feel is the best way forward based on the public feedback they have received. This resolution captures what he wanted.

Councilor Ferrante suggested changes to the resolution, changing the language around the consultants to avoid limiting the type of consultants they engage. The Council agreed to the following changes:

*C. With the assistance of a professional ~~communication~~ consultant (s),*

*D. With the assistance of a professional ~~planning~~ consultant (s)*

*E. With the assistance of a professional ~~planning~~ consultant (s)*

Councilor Ferrante asked about the “external” versus “internal” communication. It was explained that external is how they communicate with the public and the internal is how they communicate within the organization.

Councilor Kuhn said this is the most important work they will do in the next year; it will make everything else they do easier. Councilor Asherman agreed.

Councilor Cahan said this is a compilation of many things they have discussed throughout this year and not a response to just one issue.

Councilor King and Councilor Svedlow read the resolution into the record.

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

Councilor Asherman moved the resolution as amended; Councilor Svedlow seconded.

Councilor King suggested an amendment to the 5<sup>th</sup> whereas to clarify the intent: “*residents have raised concerns about both the ordinances passed in 2016 and recent requests for additional ordinance amendments to accommodate new housing and commercial development...*”. Councilor Asherman and Councilor Svedlow confirmed the amendment.

Councilor Ferrante wondered how to pass to the next council some of the items they discussed at their workshops that led to the items in this resolution.

Motion carried 7-0.

**Item 16                      Order to go into Executive Session pursuant to the Laws of Maine to discuss the following:**

- **the acquisition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C);**
- **nomination of the annual Citizen of the Year Award, pursuant 1 M.R.S.A. § 405.**

Councilor Svedlow moved to enter executive session; Councilor King seconded. Motion carried 7-0.

The Council entered executive session at 9:35 pm and did not return.

Respectfully submitted,

Melissa Tryon  
Recording Secretary