

To: Falmouth Town Council
From: Governance Committee
Re: Memo and Proposed Rules Changes
Date: 5/13/2008

These rules changes and policy recommendations stem from the Council's decision, at its retreat, to create an *ad hoc* Governance Committee to both review our rules, and create policies that would help the Council work more effectively internally, and also to enhance its working relationship with its Council Committees, other Town Boards and Committees, Town Staff, and Town citizens. The following rules and policies are intended to address these organizational issues raised in the Council's 2007-2008 work plan.

A. Recommendations on Council Committee Issues:

The Council work plan authorized the Governance Committee to develop rules for how the Council Committees and the Council Committee Chairs operate. Problematic is the lack of definition in our rules for Council Committees. Also, how and when these committees take up projects is unclear. The overall philosophy of these rules amendments is that the Council Committees have been created to assist the Council in achieving the objectives in its work plan, and therefore, generally, Council Committees should only work on matters delegated to them by the Council.

Specifically, the Governance Committee recommended that each Council Committee meet to draft a defining statement and forward that draft to the Governance Committee for incorporation into the Council Rules. The GC has modified those draft statements with a view toward (1) focusing solely on the functions of the particular committee and avoiding statements of guiding principals, and (2) ensuring that Council Committees take up only those matters delegated to them by the Council. There was a consensus, however, that the Finance and Appointments Committees have a core function that may be addressed by those committees independent of Council delegation.

A notable deletion was the language in the Finance Committee's recommended charge that the Committee "Monitor budget development process regarding Education related services."

In order to foster more transparency in our Council Committee functioning, the Governance Committee further recommends that the following rules be adopted stating that the Chairs of the various Council Committees be responsible for the following tasks:

- a. Developing an agenda in advance of a meeting, which is posted on the web in a timely manner prior to the Council Committee meeting.
- b. Keeping minutes of the meetings.

Below is proposed amendment language, with additions in red.

Section 30. The following Council Committees are authorized:

Finance Committee: The Finance Committee ensures that the Town Council's policies are conveyed to the Town Manager during the Finance Committee's review of the Town Manager's draft budgets and other financial practices. This Committee performs the following tasks for the Council:

1. Acts as the Town's official Audit Committee;
2. Reviews and makes recommendations to the Town Manager and the Council on the Annual Operating Budget;
3. Reviews and makes recommendations to the Town Manager and the Council on the Capital Improvement Plan Budget to address the long range needs of Town, and;
4. Performs analysis of other policies and procedures that impact the financial and budgetary position of the Town, as directed by the Town Council.

Appointments & Personnel Committee: The Appointments & Personnel Committee reviews applications made by volunteer citizens to serve on the standing and *ad hoc* boards and committees of the Town. This Committee makes recommendations to the Council as to applicants who wish to fill vacancies in those boards and committees. It may also be directed by the Council to perform policy analysis of matters pertaining to appointments and personnel.

Ordinance Committee: The Ordinance Committee researches and drafts proposed ordinances as directed by the Town Council.

Note: The Ordinance Committee recommends that this committee be omitted from these rules.

Community Development Committee: The Community Development Committee (CDC) works with and oversees the Comprehensive Plan Advisory Committee, the Town's other land use planning committees and also does detailed work on economic development projects, as directed by the Town Council.

The Council may from time to time choose to form a select (*ad hoc*) Committee from any number of its members for the consideration of any question. A select committee shall be dissolved when its report is received by the Council.

At the commencement of the municipal year or as soon thereafter as possible, the committees listed above shall be established. Each committee will consist of such members of the Council as the Council may designate. Every member of the Council shall be an exofficio (non-voting) member of any of these committees.

~~In addition, the Chair shall elect a Community Development Committee.~~

The members of these Council Committees will select a Committee Chair person. The Chair person of a Council Committee will develop an agenda, and have it posted on the

Town's Website, in a timely manner, prior to a proposed meeting. The keeping of meeting minutes is encouraged.

B. Recommendations on Liaison Issues:

This rule change is meant to clarify the responsibilities of Council liaisons to our boards and committees.

Section 31. No member of the Town Council shall represent to anyone or knowingly allow anyone to infer that he/she speaks on behalf of the Town Council unless, by Order of the Council, a Councilor has been officially designated as its Representative to another organization.

At the commencement of the municipal year or as soon thereafter as possible, a Liaison from the Council shall be appointed, by Order, to every non-statutory volunteer committee or board of the Town. From time to time, the Council may also, by Order, appoint Councilors as Liaison to other organizations. A Liaison is not a Representative of the Council and will serve only as a conduit of information between the Council and the other organization. A Liaison from the Council will perform this conduit function with respect to their organization at least once every three (3) months.

C. Recommendations on Motions Rules:

In its review of our rules, the Governance Committee found that our motions rules lack clarity and definition. The original rules list, but generally do not define, the motions. Most of the motions listed below are taken from original Council Rule Section 15; a motion to withdraw a motion was added. Other rules on motions scattered throughout the Council Rules were brought into new Section 16 and explained. The explanations and the ranking of the Rules were taken from Robert's Rules of Order (RRO).

Substantive changes in the Council Rules on motions are as follows:

1. A Motion to Lay on the Table is proposed to rank higher than a Motion for the Previous Question. RRO ranks these in this order. This ranking makes more sense in term of efficiency because the motion to table ends all consideration of the main motion, until such time as the main motion is taken off the table; a motion for the previous question, if passed, still requires a subsequent vote on the main question.
2. A Motion to Suspend the Rules must have unanimous support of the Councilors present, rather than a simple majority. Section 8 of our rules requires at least four affirmative votes to pass an ordinance. Permitting a simple majority of the Council to suspend this rule could result in the passage of ordinances by three Councilors. The Governance Committee thought this was bad policy.

PROPOSED AMENDMENTS TO MOTIONS RULES

**PRESERVE
ORDER:
DECIDE ALL
QUESTION
OF ORDER:**

Section 13. The Chairperson shall preserve decorum and order, may speak to points of order in preference to other members and shall decide all questions of order.

**DECLARE
VOTES:
CAUSE RETURN
OF VOTES**

Section 14. The Chairperson shall declare all votes, but if any member doubts a vote, the Chairperson shall cause a return of the members voting in the affirmative and in the negative without debate.

**DEBATE:
RULES OF**

Section 15. Debate on a question shall not be suspended by the Chairperson if any Councilor shall seek recognition, and the Chair shall receive no motions, but those provided for in Section 16.

MOTIONS:

Section 16. The following motions take precedence in the order provided below. All motions must be seconded, may be debated, amended, reconsidered, and also may be passed by a simple majority of Councilors present, unless otherwise indicated below

- a. Motion to Adjourn: Any Councilor may call for an adjournment – even during debate – as long as a time for the next meeting has already been established. Business left unfinished at the end of the meeting becomes the first order of business at the next meeting. This motion cannot be debated, amended, or reconsidered.
- b. Motion for Reconsideration: When a vote is passed, on any matter or motion, it shall be in order for any Councilor who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards. This motion is subject to debate if the motion proposed to be reconsidered is also subject to debate; when a motion of reconsideration is decided, that vote shall not be reconsidered.
- c. Motion Concerning Priority of Business: Any Councilor may move to amend the agenda to take up a question out of order.
- d. Appeal on a Point of Order: A question on a point of order may be raised by any Councilor against any proceeding or motion that a Councilor believes is a violation of these rules. All points of order must be raised at the time of the alleged infraction, and need not be seconded. The Chair's ruling on a point of order is subject to an appeal to the Council by motion.

- e. Motion to Withdraw Motion: Any Councilor may withdraw their motion prior to a vote. If any Councilor objects, the Chair will request a vote of the Councilors on the motion to withdraw. This motion cannot be debated or amended.
- f. Motion to Suspend the Rules: Any Councilor may move to suspend any of the provisions of these rules. Such motion will be successful if all of the Councilors present vote in the affirmative. The rule to be suspended must be identified and the reason for suspending the rule must be stated in the motion. This motion cannot be debated or amended.
- g. Motion to Lay of the Table: This motion sets aside a main motion or question without establishing a time for debate to resume. This motion may not be debated or amended.
- h. Motion for the Previous Question (Close Debate or Move the Question): A motion for the previous (main) question closes debate and brings the main question or motion to an immediate vote. All debate upon the main question shall be suspended until the motion for the previous question shall be decided, without debate. After the adoption of a motion for the previous question, by a majority vote, the Chairperson shall call for a vote on all pending amendments, and then upon the main question.
- i. Motion to Postpone for a Time Certain: This motion suspends debate on the main question to another time in the meeting, or to another date as proposed by the movant.
- j. Motion to Refer: A motion to refer a matter to a committee or an administrative official may be debated or amended.
- k. Motion to Amend: A motion to amend a motion may be debated or amended.
- l. Motion for a Division of a Question: Any Councilor may move to divide a question. Such motion, if seconded, will be successful if a majority of Councilors present vote for the division.
- m. Motion to Postpone Indefinitely: This motion postpones consideration of a main motion indefinitely.
- n. Motion to Take from the Table: This motion permits resumption of debate on a previously tabled motion or question. This motion may not be debated or amended.

MANNER OF SPEAKING

Section 17. When a member is about to speak, he/she shall respectfully address the Chairperson, confine himself or herself to the question under debate and avoid personalities.

D. Policy Recommendations:

The Council work plan authorized the Governance Committee to develop policies concerning the use of email, appointments procedure, and volunteer board and committee organization and reporting. The email policy has already been approved by the Council. The GC has met with the board and committee chairs and solicited input on how a policy may foster a better working relationship between the Council and the Town Boards and Committees. The GC also gathered input on the appointments process. Policies Two and Three concern those issues.

The drafts of Policies four and five were not part of the GC's work plan, and were not taken up by that committee. They are included here for Council discussion.

The Ordinance Committee was given the task of developing an ordinance procedure. Policy Four was drafted in consultation with the ordinance committee.

Policy Five was drafted to address recent concerns around Council/Staff interaction. Councilor Goggin assisted in drafting this policy.

Policies of the Falmouth Town Council

Pursuant to Section ____ of the Council Rules, the Falmouth Town Council hereby directs the Town Manager to memorialize the following policies of the Falmouth Town Council:

Policy One: Use of Electronic Mail (E-mail). Three or more Councilors or three or more members of any volunteer board or committee shall avoid the use of e-mail for deliberation or for voting on matters properly confined to public meetings; email should be used for non-substantive matters such as scheduling meetings, dissemination of information and reports, and developing agendas for future meetings.

In the event this policy is not followed, or if there is a question whether substantive matters properly confined to public meetings were discussed or deliberated on via e-mail by three or more members of any Town body, those e-mails in question should be printed and disclosed to the public at the next public meeting of the Town body.

Under Maine's Freedom of Access ("Right to Know") law, e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

The Town Council Chair shall acknowledge email messages that come to all Council members at once. While the Chair is not empowered to discuss substantive matters on behalf of the Council in these acknowledgements, he or she may supply pertinent information regarding how the Council will proceed with the issue, if applicable (for example, upcoming public hearings, information available through the Town of Falmouth website, and so on). The Chair and individual Councilors remain free to reply to such messages as individuals, but shall refrain from engaging more than one other Councilor in the electronic discussion.

Policy Two: Appointments Procedure.

1. Prior to recommending an applicant for service on any volunteer board or committee, the Chair of the Appointments & Personnel Committee shall contact the Chair of the volunteer board or committee to discuss the appointment or reappointment of the applicant. The Chair of the board or committee in question should be invited to attend the interview of the applicant.
2. Prior to recommending an applicant for service on any volunteer board or committee, the Town Council's Appointments & Personnel Committee shall interview the applicant, unless that applicant is currently serving on the committee.
3. The names of the applicants to be considered by the Appointments & Personnel Committee shall be included on its meeting agenda, and posted to the Town's website, in a timely manner, prior to the proposed meeting.
4. The meeting agenda, the applications to be considered, and any other supporting documents shall be sent to Appointments & Personnel Committee members, in a timely manner, prior to the proposed meeting.
5. Applicants are encouraged to attend a meeting of the committee to which they wish to be appointed.

Policy Three: Volunteer Board and Committee Reporting and Organization.

The volunteer boards or committees of the Town should prepare an annual work plan, and present that plan to the Town Council for approval. Any budget requests should be included in this work plan. Volunteer board or committees should also prepare an annual report on their work during the prior year. Meeting agendas should be posted to the Town web site in a timely manner prior to a proposed meeting. Meeting minutes are encouraged to be taken and posted to the Town website.

Policy Four: Ordinance Procedure. Initiatives to amend or enact a Town ordinance, prior to their referral to a committee or an administrative official for development and drafting, shall be placed on a Council agenda for provisional approval. If the ordinance initiative obtains the provisional approval of a majority of Councilors, it may then be referred to the appropriate committee or administrative official for further development and drafting. This policy does not limit the right of any Councilor under Section 209 of the Town Charter, to place an item on any agenda of the Council. The procedure for formal introduction of a proposed ordinance is further governed by Section 213 of the Town Charter.

Policy Five: Council Norms on Contacting Staff. Councilor inquiries concerning routine Town business should first be with the Town Manager. Direct inquiries by Councilors, on such matters, to department heads, should be avoided. Councilor contact with staff is formally governed by section ____ of the Town Charter.