

**Town Council Meeting
September 22, 2008
DRAFT MINUTES**

Roll Call

Present and answering roll call: Councilors Breen, Armitage, Libby, Wrobleski & Pierce.

Absent: Councilors Payne and Rodden

Public Forum

No public comment

Consent Agenda

Item 1(a) Order to approve the August 25, 2008 meeting minutes.

Item 1(b) Order to approve the September 8, 2008 meeting minutes.

Item 1(c) Order to appoint Warden, Ward Clerk, Deputy Registrar and election workers for both the October 7 and November 4 elections.

Councilor Wrobleski moved to approve the items on the Consent Agenda; Councilor Libby seconded. Motion carried 5-0.

Item 2 Report from Council Committees and liaisons regarding updates on assignments.

Councilor Breen reported that the Community Facilities Analysis Group has been on hiatus, pending the October 7th vote on the new school building. They plan to reconvene on 10/15 at 7 pm at Town Hall and they encourage people to attend that meeting. The Greater Portland Council of Governments has been working on a Regional Sustainability Plan. There has been a public forum and several meetings. They are trying to come up with some guiding principles for a regional plan. The Governance Committee is trying to schedule a meeting. She also announced that a Community Turkey Dinner, hosted by several local congregations, will be held at Falmouth Congregational Church on 10/7. The dinner is free, but will be raising money in whatever denominations people can afford. All proceeds will go to the Town's fuel assistance fund, which will be set aside for Falmouth residents in need this winter. The dinner is from 5 – 7pm.

Councilor Wrobleski reported that the CDC met to discuss a contract zone at Falmouth Corners. They will have a draft of a contract zone for the Council workshop in October. The LPAC will hold a meeting to discuss the Natural Resources Ordinance, and they will post more information to the web.

Councilor Pierce reported that there was a School Board meeting on 9/24/08 to discuss consolidation. The vote on the elementary school is 10/7/08. The Recreational Committee (RACPAC) met last week; they are doing a lot of work around their mission and structure.

Councilor Libby reported that Cable TV met this past month; things are going well in that committee. The Harbor committee has been extremely busy - they have a list of amendments to the Coastal Waters Ordinance and are looking to bring them to the Council for an introduction at the first October meeting in order to pass them by the end of November. They are under a timeline, as any changes that are made need to be implemented before billings go out in January. Falmouth on the Green has not met since Councilor Libby's appointment as the liaison. The Finance Committee will meet in December.

Item 3 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

Councilor Pierce reported that they have been working on the Town Manager's evaluation. They invited Councilor Armitage to serve as a third member while Councilor Payne is away, in order to complete the evaluation. They will bring their report to the Council at the 10/14 meeting.

Councilor Pierce also announced openings for the Harbor Committee, RACPAC, Workforce Housing, Conservation Commission, and Recycling Committee. Two applications were received today for the Harbor Committee.

Councilor Libby moved to waive the rules and move Item 12 to Item 5 and Item 14 to Item 9. Councilor Breen seconded. Motion carried 5-0.

Item 4 Report from the Town Assessor regarding the revaluation project and the 2008/9 tax rate.

Assessor Anne Gregory reported that the tax rate is set at \$12.35 (down from the earlier estimate of \$12.40). During her meetings with 400+ residents, there were many concerns about the real estate market. She said that, for those who weren't able to schedule an appointment, she would be meeting with more people in October, and there is a time frame to file a formal appeal. She thanked taxpayers for their kindness during the hearings.

Councilor Breen inquired about commercial property owners.

Anne Gregory met with 6 commercial owners out of 220 commercial properties. The remainder of her appointments were with residential owners. The tax bills will be sent in 7-10 days. They made adjustments up to \$9 million, with the total valuation at about 2.2 billion. They made a record number of home inspections, which led to a number of adjustments, but the total taxable valuation is \$2,173,791,900.

Item 12 Public Hearing regarding the amendment to the Zoning and Site Plan Review Ordinance to allow the keeping of poultry in all residential districts.

This item was taken out of order by vote of the Council.

Councilor Armitage opened the public hearing.

Falmouth resident Geoff Dyhrberg thanked Councilor Breen for making the introduction and Community Development Director Amanda Stearns. He thanked the Council for taking the poultry issue out of order because he has brought his two children to the meeting so they can have a learning experience. He explained the he wants to raise chickens to teach his children where food comes from. He wants them to take responsibility for caring for the animals. His daughter Kiersten approached the microphone and explained the benefits she receives from raising chickens. Currently, her chickens are caged in Freeport but she is optimistic they can come to her house soon.

Public hearing closed.

Item 5 Public Hearing for an amendment to the Zoning and Site Plan Review Ordinance and the Code of Ordinances to provide for appeal to the Board of Zoning Appeals for Misplaced Single-Family Dwellings and further to authorize the Town Council to grant a Consent Agreement for such misplaced dwellings.

Public hearing opened: no public comment.

Public hearing closed.

The Council discussed the two versions of this amendment. Councilor Wroblewski would like to use the Town Attorney's version of the amendment. They Council wondered if there are substantive changes between the original and current versions.

Bill Plouffe, Town Attorney, testified that, in his opinion, it is probably a substantive change.

Councilor Armitage said that the Council will hold another Public Hearing after changes are accepted. He said it could be introduced at the October 14th meeting with another public hearing to be held at the end of October.

Councilor Wroblewski moved to table items 6 and 7 until Bill Lunt and Richard Olson arrive; Councilor Libby seconded. Motion carried 5-0.

Item 8 Workforce Housing Commission presentation - public hearing and order to select the Preferred Developer.

Tim Bryant represented the Workforce Housing Commission and spoke to the Council about the efforts they have put into the public process. Councilor Libby drove the town van for the group to visit a Brunswick development and they visited a development in South Portland. They were looking for ideas and to test the quality of projects. They spoke with developers informally. This whole process involved neighbors as well. The Commission recommends Portland Builders and Developers Collaborative. Portland Builders was actually part of another team, but the Commission asked if they would work with another group. All the neighbors that have been involved in the meetings agreed with the choice of Developers Collaborative.

Councilor Libby was the Council liaison to the Commission. He thanked Theo Holtwijk, Director of Long-range Planning, for his staff support. Councilor Libby was very impressed with the work of the commission.

Councilor Breen asked why they need both a builder and a developer.

Mr. Bryant explained that the developer looks at the project from a big picture. The builder builds the project while the developer works with neighbors, etc.

Councilor Breen asked who will own the units and manage them. She asked if an association would manage them.

Mr. Bryant said he wants homeowners to own in order to control the long-term viability of the project.

Councilor Breen asked if there were any current national issues affecting this project as far as financing.

Mr. Bryant explained that it will be 2010 before these units would be done, and he anticipates a different market. He thanked the Commission members.

Public Hearing opened:

Martha Marshall of 100 Woods Road said the abutter's notice she received from the Town regarding this meeting is the first word she has received about this project. She does not have a computer and is concerned that she knew nothing about the process. She thinks traffic is already an issue on Woods Road and doesn't want to see a tax increase because of project.

Councilor Breen gave Ms. Marshall a project book so she has information and Councilor Libby told her he will call her on Tuesday to discuss her concerns.

Public Hearing closed.

Councilor Breen moved to table the item to 10/14/08; Councilor Wrobleksi seconded. Motion carried 5-0.

Item 14 Introduction by Councilor Libby of recommendations from the Community Development Department concerning an update to the fees and guarantees that the Town collects for review, inspection, and guarantee of development projects.

This item was taken out of order by vote of the Council.

Theo Holtwijk gave a brief report on the fee structure. Nine fees were reviewed. The report is on the website for the Council to review the proposed changes. A Public Hearing will be held at the next scheduled meeting of the Council.

Item 9 Public Hearing pertaining to school consolidation.

Councilor Wrobleksi moved to table this item, pending the end of the School Board meeting. Councilor Pierce seconded. Motion carried 4-1 (Breen).

Item 10 Public hearing and order to consider an amendment to the Tidewater Master Plan to accommodate vehicle garage units in the area known as TV2.

Nathan Bateman explained the need for covered parking. There is enough parking on site to allow for this change.

Public Hearing opened: no public comment.

Public Hearing closed.

Councilor Breen recused herself from the garage issue.

Councilor Libby moved to approve the item; Councilor Pierce seconded. Motion carried 4-0.

Councilor Wroblewski moved to remove the Charter items from the table and return them to the agenda. Councilor Breen seconded. Motion carried 5-0.

Item 6 Public hearing to discuss the Charter Review Commission final report.

Richard Olsen spoke for the Commission. He explained that every ten years the Town must form a Charter Review Commission. Some members ran for the group as elected members and others were appointed by the Council. They did not want to rush the process if more time was needed, but they wanted to bring it to vote in November. There was not a lot of public interest despite the efforts made to publicize public forums, maybe because the meetings were held in the summer. There was no sense that the Town wanted radical or revolutionary changes, but some of the philosophical moves that the Town has made in terms of business practices/best practices were not covered by the Charter. They wanted to enhance checks and balances, foster increased participation and transparency in government, maintain appropriate financial controls, improve communication with citizens, and prepare for possible school consolidation. The Commission wanted to enhance the Council-Manager form of government. Mr. Olsen encouraged everyone to read the summary of changes on page 41 of the report. He also explained the two ballot questions for November and discussed the Assessor issue. He explained the past issue with municipal employees not being permitted to serve on the Town Council. The new charter has changed that provision to allow Fire/EMS personnel to serve on the Council. Mr. Olsen discussed this possible conflict of interest with the Town Manager and Assistant Town Manager.

Councilor Breen asked if they discussed moving municipal elections from June to November, so that elections are held once a year.

Mr. Olsen said that the Commission discussed the issue, but they are waiting until school consolidation is decided. Also, with the new state mandated Budget Validation Referendum, an election is needed in the spring to approve a school budget.

Councilor Armitage asked about Section 704, pertaining to the Long-range Planning Committee. He asked why it was added to the Charter when it was already changed in the Ordinance.

Peggy McGehee provided the explanation that the Planning Board does not do long-range planning, and they wanted to correct this misinformation in the charter.

Councilor Armitage asked about Section 905. He wondered why they reduced the number of signatures in a recall.

Mr. Olsen explained that the Commission wanted to make the language consistent with other provisions for petitions. They chose a fixed number based on the amount of registered voters.

Bill Lunt discussed his Minority Report. Although he questioned the Commission's ambitious time period in the beginning, he is happy with everything in the end.

Public Hearing opened: no public comment.

Public Hearing closed.

Item 7 Order to approve the Charter Warrant and Ballot

Councilor Wroblewski moved to approve the Charter Warrant and Ballot; Councilor Breen seconded.

The Council waived the reading of the order.

Motion carried 5-0.

Item 11 Public hearing and order to consider a request from AT&T for a conditional rezoning for change of use from a Tier II tower to a Tier III tower.

Barry Hobbins, representing AT&T, presented the application and gave an update on the balloon test. He described the exhibit pictures provided in the packet. He would like permission to go through the Planning Board site review process.

Councilor Pierce asked how big the diesel generator is.

Bob Gaslin said it is 4 ft by 11 ft.

Councilor Pierce asked how often it works and whether it is loud; she wondered about its carbon footprint.

Mr. Gaslin said the generator is used in emergencies.

Amanda Stearns, Community Development Director, provided an update on the staff review.

Councilor Libby thought a complete job was done and the application package is thorough. He thought this is the best alternative and intent for the owner of the tower site to build foundation for the increase to a Tier III.

Public Hearing opened: no public comment.

Public Hearing closed.

Councilor Wroblewski moved to approve the conditional rezoning for change of use from a Tier II tower to a Tier III tower. Councilor Pierce seconded. Motion carried 5-0.

Councilor Wroblewski moved to remove the school consolidation item from the table and return it to the agenda. Councilor Pierce seconded. Motion carried 5-0.

Item 9 Public Hearing pertaining to school consolidation.

Public Hearing opened.

Charlie Hebson said he has been working with the group Friends of Falmouth Education. The group is opposed to school consolidation in Falmouth. There is a discussion on Wednesday night. He hopes the Council can attend the meeting. He does not want the Council to take a position on the consolidation. He would like the Council to look into an alternative plan that does not include consolidation.

Peggy McGehee said she has been heavily involved with school consolidation. She is concerned about declining enrollment figures and the reduced opportunities it provides to students. She believes consolidation will allow more class offerings as well as extracurricular activities. She would like a debate because the voters do not have enough information to decide in November.

Jean Gulliver spoke in favor of consolidation. She has had four children in Falmouth's system and thinks we need leadership for the future so kids can return to Maine. School populations are dropping and the state is over administered. She believes the state can't sustain the burden. Ms. Gulliver would like the Council to take leadership on the issue with a position and she would also like municipal consolidation.

Public Hearing closed.

Later in the meeting, Councilor Pierce asked about setting up a forum around this issue, as suggested by Peggy McGehee. Councilor Armitage will be in touch with the Forecaster to see if they would like to set this up.

Item 13 A report from Conservation Commission regarding outdoor wood boilers.

Councilor Armitage said that staff is in the process of writing the language for this ordinance. One question still remaining is the issue of grandfathering.

Councilor Libby said that it looked straightforward. He does see the need for regulation, but in this trying economic time they do need to address the need for outdoor wood boilers.

Councilor Wroblewski said they had planned, at the time of the ban, to readdress the issue when the state came up with guidelines for emissions. He asked about setbacks.

Amanda Stearns discussed the setbacks as detailed in the state regulations and that the Commission is recommending increased setbacks for commercial uses. Residential uses would mirror the state regulations.

Councilor Libby asked about the enforcement of these regulations.

Amanda Stearns discussed the several options for enforcement – permitting, certification, investigating complaints, etc.

The Council discussed the existing boilers that were “grandfathered” at the time of the moratorium. Ms. Stearns believed there were two or three that came forward at the time of the ban, and there may be one or two more.

Councilor Libby offered to introduce the item at the 10/14 meeting.

Councilor Breen asked if they will have to repeal the moratorium.

Amanda Stearns said no, that they can simply replace the current language with the new language and that will lift the ban.

Item 15 Introduction by Councilor Libby language relative to a new Ordinance concerning the terms of members of Boards, Commissions and Committee.

Councilors Libby and Breen explained that they would like to recruit for new members in the fall and fill vacancies before the end of year so that all appointments would be effective January 1.

A Public Hearing will be held on October 14th, with a vote potentially at the end of October.

Councilor Wroblewski said a draft needs to go to the Board/Committee chairs to discuss what terms current members will receive (one, two or three-year). A Governance Committee meeting will be scheduled to discuss the mechanics of implementation.

Councilor Breen suggested another casual dinner with Board/Committee Chairs like the one held last winter.

Adjourn

Councilor Libby moved to adjourn the meeting; Councilor Breen seconded. Motion carried 5-0.

Meeting adjourned at 9:45 pm.

Respectfully submitted,

Amy Lamontagne
Assistant Town Manager