

Falmouth Town Council Meeting November 24, 2008

Roll Call

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

Councilors Rodden and Pierce were absent.

Public Forum

Jeff Dyhrberg thanked the Council and Community Development Director Amanda Stearns for allowing chickens in his zoning district. The process was a great learning experience for his children.

Councilor Payne moved to waive the rules to allow a member of the public to speak on the last agenda item. Councilor Breen seconded. Motion carried 5-0.

Chuck McCatherine, of Kelley Road, addressed the issue of consolidation of town services with Cumberland. He wanted to urge the Town to not make a quick decision based on a short-term staffing problem, but to think about the history of providing service to the Town. He didn't think the townspeople were aware that this was a pending issue.

**Item 1 (a) Order to approve the August 19, 2008 meeting minutes.
(Consent Agenda)**

**Item 1 (b) Order to approve the October 14, 2008 meeting minutes
(Consent Agenda)**

Councilor Wrobleski moved to approve the Consent agenda, Councilor Breen seconded. Motion carried 5-0.

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

Councilor Libby reported that the Cable TV Committee had a meeting last week. The committee asked Councilor Libby and staff member Mike McDade to look at the make-up of the committee (they have been understaffed for three years). The committee would like to have two teachers or members of the school department. Councilor Libby will bring this to workshop. Chief Tolan will introduce the new Harbormaster later tonight.

Councilor Wrobleski filled in for Councilor Pierce last Friday at the school meeting. They will present an alternative plan at the December 8 meeting. December 1 the CDC will meet with staff to discuss the Village Center Design guidelines. December 10 LPAC will meet to discuss the Natural Resources Ordinance and amendments to the Shoreland Zoning Ordinance.

Councilor Payne had no report.

Councilor Breen reported that the Governance Committee will meet next week. The Ad-hoc Facilities Committee will be meeting; they are working on outreach to different groups in the area (30-40) in January and February in anticipation of an event sometime at the end of March. The committee will be busy working throughout the winter. GPCOG and the Metro Coalition are still working on economic development. Councilor Breen will work on having Godfrey Wood and Neal Allen come to do a presentation.

Councilor Armitage said that the Finance Committee of the Town Council and the School Board's Finance Committee will meet Dec. 15 before the school board meeting to discuss the budget process and the alternative plan being submitted.

Councilor Breen reported in Councilor Rodden's absence that the Metro bus service is organizing a toy drive for the community. More information is available on the cable station.

Town Manager Nathan Poore reported that the Town Hall staff have moved the extra hour the Town Clerk's office is open to Monday morning at 7:00 am instead of Thursday nights. The Council had no objections to this change.

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

Councilor Payne gave an update – there are no appointments to recommend tonight. The deadline for new volunteers to apply for positions is November 28. The committee will have a meeting on either December 10 or 11. He encouraged all interested people to apply before the deadline.

Item 4 Public hearing, pursuant to ordinance requirements, for a conditional zoning district for 234 Middle Road to accommodate limited retail use because of the unique properties of the building and lot.

Councilor Armitage opened the public hearing.

David Sheldrake of 235 Middle Rd asked what the reason was for the rezoning; he thought, looking at the ordinance, that there was plenty of opportunity for commercial use. His second question was about one of the proposed uses, called a "tradesman's office" – he wondered what that entails and how the Town would ensure that these uses would meet the requirements of Sections 8.3 c & d of the Town's Zoning Ordinance.

Councilor Wroblewski explained the issue with a commercial building in a residential area and the uniqueness of this particular property. The CDC discussed these issues. He further explained that the Board of Zoning Appeals would review the use of the building to determine that the use fit the requirements of the ordinance. Mr. Sheldrake, as an abutter, would receive notice of that hearing.

Amanda Stearns, Community Development Director, explained the definition of a “tradesman’s office” allows for the administrative office of a plumber, builder, etc. but it would only be an interior use of the building, with no storing of materials.

Councilor Libby discussed the history of the building, and the difficulty of making a “blighted building” more friendly to the neighborhood while balancing the impact on the neighborhood and the intersection.

Councilor Armitage closed the hearing.

Item 5 Order for a conditional zoning district for 234 Middle Road to accommodate limited retail use because of the unique properties of the building and lot.

Councilor Wroblewski asked if this order was to adopt the same conditional zoning district for which a public hearing was held last meeting. Councilor Armitage confirmed that this was correct. Nathan Poore explained that the second public hearing held immediately previous to this order was also the same; it was required due to public notice requirements in both the Charter and the Zoning Ordinance.

Councilor Payne moved to adopt the order; Councilor Libby seconded. Motion carried 5-0.

Item 6 Introduction regarding an amendment to the conditional zoning district for 234 Middle Road to accommodate limited retail use because of the unique properties of the building and lot.

Councilor Wroblewski introduced the item. A public hearing for this item will be held at the December 22, 2008 meeting.

Item 7 A public hearing regarding language relative to a new Ordinance concerning the member terms of Boards, Commissions, and Committees.

Councilor Armitage opened the public hearing.

There was no public comment. Councilor Armitage closed the public hearing.

Nathan Poore answered a question posed by the Council at a previous meeting. According to the Town Attorney, the term “qualified” means “sworn in”. Councilor Breen asked if they could change the ordinance to say sworn in, but the answer was no.

Item 8 Public hearing to discuss an application being submitted to the State for the Riverfront Community Development Bond Program and the River Point management plan.

There was no public comment for this item.

Item 9 Order regarding an amendment to Chapter 17, Traffic and Motor Vehicles, section 17-92, sub section D, of the Town Ordinances regarding parking on Andrews Avenue.

Chief Tolan asked a procedural question – the Council never suggested language for the signs to be placed at the end of the road. Manager Poore said that any change should be done before an order. The discussion at the last meeting was for there to be no time limit.

Councilor Breen moved to adopt the order, Councilor Libby seconded.

Councilor Breen explained that her intent was to provide as much public access to our water resources as possible. She felt that the four spaces at the end of the street should be for anyone, not just Falmouth residents. Since Chief Tolan has testified that any time limit would be difficult to enforce, she would like to remove time limit.

Councilor Breen moved to amend the order, removing the time limit from the ordinance draft. Councilor Wroblewski seconded, for purposes of discussion.

Councilor Wroblewski said the time limit was to prevent residents from parking in those spaces long term. He felt the time limit would be more on the honor system and he wouldn't expect the police to monitor that limit too much. Councilor Payne agreed with that assessment and was in favor of the time limit. Councilor Libby was in favor of language that says residents only, no time limit and he would strike out the Mackworth Island requirement.

The motion to amend the ordinance to remove the time limit fails 3-2. (Councilors Wroblewski, Payne opposed.) The motion needed 4 votes to carry per Council rules.

Councilor Payne moved to amend the order so that the designated spaces at the end of Andrews Ave are to be utilized as parking for Falmouth residents only, as proved by sticker. Councilor Libby seconded.

Councilor Breen said that she can't live with this. She referenced a recent vote in Cape Elizabeth regarding charging for parking at Fort Williams Park. Cape Elizabeth voted to not charge for parking and protect public use of the property. She thought the public should have the right to park at the end of the street, walk across the causeway, and use the island. Councilor Libby argued that it is a nasty situation down there. It is a disaster waiting to happen with schools, parking, etc. He didn't think the Town should promote parking down there.

Councilor Payne thought the island parking issue is a state created issue. Councilor Breen thought maybe the state should close the island and not let anyone come. Councilor Libby argued that the state has parking for the public at large.

Councilor Libby moved to waive the rules to allow public comment from a member of the public who indicated interest in speaking; Councilor Payne seconded. Motion fails 3-2. (Councilors Wroblewski, Breen opposed.) The motion needed 4 votes to carry per Council rules.

The motion to amend the order so that the designated spaces at the end of Andrews Ave are to be utilized as parking for Falmouth residents only, as proved by sticker fails 3-2. (Councilors Wroblewski, Breen opposed.) The motion needed 4 votes to carry per Council rules.

Councilor Armitage suggested that the item be tabled until December 8, when the full Council was present.

Councilor Libby moved to table the order, Councilor Payne seconded. Motion carried 3-2. (Councilors Wroblewski, Breen opposed.) A simple majority is all that is needed to carry a motion to table per Council rules.

This item will be tabled until the Council meeting on December 8.

**Item 10 Public hearing regarding an amendment to Chapter 9, Article IV
(Coastal Waters Ordinance).**

Chief Tolan introduced Alan Twombly, the new Harbormaster/Police Officer. He came from Westbrook, from where he retired after 20 years of service.

Councilor Armitage opened the public hearing.

Charles Kirk of 15 Arbor Road felt that this ordinance puts the nail in the coffin. He thinks the Harbor Committee is made up of people with special interests. He had an issue with dinghies and the number allowed – the report recommends 10 public dinghies for 400 mooring holders – as well as the parking recommendations. He felt that this ordinance is taking away access to the waterfront.

Councilor Wroblewski asked Mr. Kirk for clarification on his views on the public dinghies. Mr. Kirk said that the recommendation would work if there were a launch service, but that a launch service was not likely to happen. He thought enforcement of size limits on dinghies would be more helpful.

David Jansen testified that many people like to leave on a Friday and come back on Sunday and take their dinghies with them.

Charles March testified that his boat can't make it into the dock during low tide because of the size of the keel. Bringing a dinghy every time you want to use your boat creates more traffic and other problems.

Jeff Eastman thought they have always had dinghies and he wondered why it should be changed now. He asked if there is a problem - are there material losses, or casualty issues. He wondered if there were any tax savings to Falmouth residents because fewer staff would be needed to oversee dinghies. The dinghies have not caused any problems for anyone before.

John Winslow was concerned about the elimination of dinghies. The Town has spent thousands of dollars on consultant reports in recent years. He felt other issues raised by the consultants warranted attention before the dinghies. He would like the Parks and Recreation Department to manage the harbor.

Bruce Henning has had a dinghy down at the Harbor for a few years. He understood that there was a safety and insurance issue with dinghies, but he thought those issues have been addressed. He suggested eliminating non-resident dinghies, and drafting a plan for how a launch service would work.

Stan Reed said that it was hard for him to conceptualize Town Landing without dinghies. The situation has been improved from years past.

Richard Wood, a Portland resident, would like to enjoy access to the harbor and wanted the Council to reconsider restricting access to “outsiders”.

Keith Noyes thought the three public dinghies were a great idea, though he thought they should be better maintained. He thought that if the public knew there would be ten dinghies there next year they may not feel their need to bring theirs down.

Madding Morrell, a resident of Cumberland, would like the Town to continue to allow dinghies at the landing. Bringing public dinghies back to the landing before going out would add to the congestion at the landing.

John Phillips explained his issues with bringing a dinghy to the landing every time he wants to use his boat. He complained about the public dinghies missing oars on occasion. He asked the Council to reconsider prohibiting dinghies.

Chief Tolan explained the reasoning behind restricting the number of dinghies, and the launch of public dinghies after the sale of dinghy permits. They have not had any problems in the last two years with the dinghies. He said maintenance problems with the public dinghies were fixed as soon as they were discovered.

Councilor Wrobleski asked if it would be manageable to have 10 public dinghies alongside of the 90 personal dinghy permits.

Chief Tolan said it would be.

Steve Archambault the chair of the Harbor Committee explained that the recommendation to reduce the number of dinghies came from the MMA after an inspection during which there were approximately 200 dinghies at the harbor. This triggered issues with the Town’s insurance. The long range plan for the committee includes instituting a launch system, but they are not ready to do that yet. 80-90 people used the public dinghies this year, so there is interest in them.

Councilor Armitage closed the public hearing.

Item 11 Discussion with the Harbor Committee regarding implementation of the recent Harbor Master Plan Study. The discussion will focus on tasks and a timeline.

Steve Archambault said the timeline is flexible, allowing time for Harbormaster Twombly to acclimate to his new position. The first special meeting is scheduled for February 5th. An invitation to that meeting and a fact sheet will go out with the mooring applications updating people on ordinance changes and the consultants’ findings.

Councilor Wrobleski is not convinced that town money should be spent for parking expansion and he is not convinced about removing the dinghies.

Steve Archambault said that elimination of all the dinghies isn’t truly feasible until a launch service is instituted. The committee applied for a grant to expand parking, but didn’t get it.

Councilor Armitage asked why the committee is recommending delaying the development of a detailed mooring grid until the end of 2010.

Steve Archambault explained that the GIS database is still being updated, and Harbormaster Twombly needs to acclimate to his new job. They are working with five different mooring companies and there are issues with the accuracy of the data.

Chief Tolan said they want to be methodical about this, and not rush it.

Steve Archambault discussed some details about enforcing that the mooring is used by the permit holder. At Councilor Payne's request, he explained how the new mooring grid would be managed and maintained in the future.

Item 12 Order for an amendment to the Code of Ordinances to adopt the 2008 National Electrical Code.

Councilor Wroblewski moved to adopt the order, Councilor Libby seconded. Motion carried 5-0.

Item 13 Order regarding amendments to the Zoning and Site Plan Review Ordinance and the Code of Ordinances to provide for appeal to the Board of Zoning Appeals for Mislocated Single-Family Dwellings and further to authorize the Town Council to grant a Consent Agreement for such misplaced dwellings.

Councilor Libby moved to adopt the order, Councilor Wroblewski seconded. Motion carried 5-0.

Item 14 Order regarding an amendment to Section 4-77 of the Code of Ordinances relative to removing the moratorium on outdoor wood boilers and adopting new regulations permitting their use.

Councilor Libby moved to adopt the order, Councilor Wroblewski seconded. Motion carried 5-0.

Item 15 Order to approve an amendment to Chapter 6, Article 6, Section 6.68, Appendices A-C of the Falmouth Town Ordinance that will change maximum levels of income and expenses for the General Assistance program.

Councilor Libby moved to adopt the order, Councilor Wroblewski seconded. Motion carried 5-0.

Item 16 Report from the Town Manager about current vacancies in the town office and consolidation options with the Town of Cumberland.

Nathan Poore discussed a recent vacancy at the front end at Town Hall, and the impact this has on customer service. He has drafted a table showing the analysis done on the consolidation of services with Cumberland. His recommendation is that services remain separate until such time as more services should be combined. Consolidating front end services would only result in a reduction of 1.5 positions.

Councilor Libby asked about the move to closing the Town Hall on Fridays.

Manager Poore discussed the potential savings of closing on Fridays. The savings here would be primarily on utilities and less in salary costs. He would like to wait on implementing this plan until the next fiscal year, beginning July 1, 2009. He discussed in detail the consolidation report and the budget numbers outlined in it.

Councilor Wrobleski and Councilor Payne were both willing to go along with the recommendation. The savings outlined were not sufficient to do away with having local service.

The Council discussed consolidation options, and the potential savings versus the potential costs. Manager Poore thought there might be some potential savings in the police departments.

Councilor Libby observed that the people who come to Town Hall to do business are those that don't have internet access. He supports the Manager's recommendation.

Councilor Armitage thought this was a huge opportunity, and that once the Town took the first step, the next step would be easier.

Adjourn

Councilor Breen moved to adjourn, Councilor Wrobleski seconded. Motion carried 5-0.

Respectfully submitted,

Amy Lamontagne
Asst. Town Manager

Melissa Tryon
Administrative Assistant