

**Town Council Special Meeting
March 8, 2010
DRAFT Minutes**

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

Roll Call

Councilors present and answering roll call: Councilors Libby, Rodden, Armitage, Payne, Breen, Chase, and Pierce.

Item 1 Consideration of Red Oak Drive for Street Acceptance.

Amanda Stearns, Community Development Director, explained that Red Oak Drive is a dead end street off Blackstrap Road, serves 11 lots, and is approximately 1800 feet long. The subdivision was approved in 2003 and has since been built out. She said the deed will need to be amended to grant all easement rights in the access way across lot 7. When the paper street was designated it was not designated as a separate right of way, but as an easement across lot 7. The lot was conveyed out, but the developer reserved the rights to the paper street. If the Town chooses to accept the street, it would not have the paper street in fee, as the developer no longer owns the fee and so cannot convey it, only the rights. Some language in the deed needs to be amended to change how the access and maintenance rights to stormwater improvements outside of the right of way – currently they are granted to the fire department, and they should be granted to the Town. Mr. Huber needs to provide proof of right, title and interest in the street. As-builts have been submitted, and staff suggests that mylars for recording be presented prior to the order. Some surface cracking was observed during inspection of the street; that has since been fixed, but no cause was determined. Jay Reynolds, Interim Parks and Public Works Director, has suggested that the performance guarantee be retained for this project. Ms. Stearns requested that the Council determine whether or not an easement for the paper street is adequate, whether or not the waiver of the performance guarantee is acceptable, and whether or not it is appropriate to schedule an order tonight, and if so, for what date.

Councilor Libby asked what was approved for the paper street.

Ms. Stearns said it was approved by the Planning Board as an easement. She wasn't able to find in the record why this was done differently than other streets.

Councilor Breen asked Mr. Huber if he could explain the easement vs. fee issue.

Mr. Huber said the Planning office requested that design at the last minute before the Planning Board meeting.

Councilor Breen asked about the pavement cracking.

Mr. Huber said it appeared to be in the surface layer. The base pavement has never done that in the 5-6 years it has been down. They believe that the crack is in the upper layer.

Councilor Breen asked him why he requested the waiver for the performance guarantee.

Mr. Huber said that the request is from the homeowner's association. Some homeowners wanted to request the waiver, since they are pretty close to the two years.

Councilor Breen said they have several more lots that haven't begun development.

Mr. Huber said yes; they will try to avoid any wear and tear on the road surface.

Councilor Chase asked what the purpose of the easement is at all; he wondered where they would go.

Mr. Huber said there is 50 vacant acres behind them and the planning staff might have been looking to coordinate the dead end street with those 50 acres.

Councilor Chase asked if there was any planned link up with Susan Lane.

Mr. Huber said the residents of Susan Lane were against that. He discussed with Councilor Chase that the lot 7 in question has number 22 on their mailbox.

Councilor Breen asked if the owners of that lot are aware of the easement.

Mr. Huber said yes; it is on the plans.

A resident of the street asked for the Council to accept the street. She really wanted the street to be plowed, as she felt it was part of her taxes.

Councilor Breen didn't think this was ready for an order.

The consensus of the Council was to require the performance guarantee, as they have required it of the other two streets that have come before them for acceptance.

It was mentioned that the Town is looking into the removal of street lights, and if the residents of the street are interested in removing their street light, even though it is on their subdivision plan, they should contact either the Town Manager or the Planning office about that.

The item will be placed on an agenda for an order as soon as the remaining materials are submitted.

Councilor Payne reported that the Ordinance Committee will report out on the status of policy discussions regarding the street acceptance ordinance on March 22.

Councilor Libby moved to waive Council Rules in order to allow an item to be added regarding road closings. Councilor Payne seconded. Motion carried 7-0.

Item Discussion and Order regarding the regulation of motor vehicle weight on posted ways.

Nathan Poore, Town Manager, explained that the Council is supposed to authorize the posting of roads but due to an oversight the roads were posted a couple weeks ago. He explained the need for posting roads during this time of year. A resident has asked for a road to be exempted; Councilor Breen and Mr. Poore will be in touch with her.

Councilor Armitage asked about roads that are not coordinated between different towns.

Mr. Poore said that there has been discussion with other Towns. Falmouth has just started doing this, and the thought was to start small, with the few roads on the list. The list will probably grow in coming years.

Councilor Armitage would encourage more coordination with other towns next year.

Councilor Rodden asked how they decide about waivers; what are the criteria.

Mr. Poore said that there needs to be an emergency or a very unusual situation. Typically a waiver could be considered on a day-to-day basis based on the conditions of the road.

Councilor Libby observed that the postings protect their investment in the road.

There was a discussion regarding the Council's involvement in this process. Councilor Chase thought this was an administrative issue; the public works directors work together on this issue. Councilor Breen said it was in the ordinance. Mr. Poore thought it was a state statute.

Councilor Libby moved an Order to authorize the Town Manager or his designees to post seasonal weight limits of 23,000 lbs (listed GVW) on certain local roads, per the authority granted in Falmouth Code of Ordinances Chapter 17 Article IV Section 17, such roads to include: Mountain Road, Woodville Road (Woods to Winn), Lunt Road (Falmouth to Middle), Merrill Road, and Johnson Road (Route 1 to Foreside). Be it further ordered that such limits may be posted and lifted, at the discretion of the Town Manager or his designees, anytime between March 9, 2010 and April 30, 2010, and such discretion shall be based on road condition, weather conditions and temperature

Councilor Rodden seconded. Motion carried 7-0.

Item 2 Report from the Community Development Committee and Introduction of the Natural Resources amendment to the Zoning and Site Plan Review Ordinance, the Subdivision Ordinance and the Planning Fee Schedule.

Bonny Rodden, Chair of the Community Development Committee, introduced the amendments and gave a brief history of their development.

A public hearing was scheduled for April 12.

Item 3 Introduction by Councilor Libby of an amendment to the Zoning and Land Use Ordinance to amend the definition of recreational vehicle and how they are stored.

Councilor Libby introduced the amendment and discussed the reason it is needed.

A public hearing was scheduled for April 12.

Item 4 Discussion relative to a proposed amendment to the Code of Ordinances (Workshop) that would create a new Economic Development Committee.

Councilor Libby presented a proposed amendment, written by him, to create an economic development committee.

Councilor Pierce asked how this committee would interact with the CDC and other town committees.

Councilor Libby explained that LPAC is proposed to have a seat on this committee. He didn't think there was precedent for a councilor on a standing committee, such as CDC, having a seat on a citizen committee. He explained the proposed makeup of the committee, including the designated seats. He clarified that it would be a standing committee, and not ad-hoc, but a sunset

clause could be added. All members would have to be Falmouth citizens, even those members in the designated seats.

Item 5 Review budget development schedule including the School Department (Workshop) Budget Validation Referendum (BVR) process. This agenda item will also include a discussion about whether to ask the voters if they want to continue the BVR process beyond FY11.

Councilor Pierce discussed the process of budget development and the next steps. It is mandatory in the state statute that they ask the voters every three years whether they want to continue the BVR process. The school will be designing an advisory non-binding question to add to the ballot regarding whether the voter wanted the budget to be higher or lower, to avoid multiple votes in the case the school budget doesn't pass.

Item 6 Discussion regarding future Council agendas. (Workshop)

The Council will receive the annual reports of the Board and Committees on March 22. They asked the chairs or a representative from each committee that has not yet presented to come to the meeting. They discussed the agendas for the next four meetings.

Item 7 Order to go into Executive Session pursuant to the Laws of Maine to discuss the Town Manager's annual performance evaluation, pursuant 1 M.R.S.A. § 405 (6) (A).

Councilor Armitage moved to enter executive session; Councilor Libby seconded. Motion carried 7-0.

Councilor Breen said that the Council will not be reporting out after this item.

Meeting adjourned at 9:10.

Respectfully submitted,

Melissa Tryon

Administrative Assistant