

**Town Council Special Meeting
April 12, 2010
DRAFT Minutes**

Roll Call

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

Item 1 Resolutions to recognize Falmouth High School's Boys Basketball Team, Indoor Track, Nordic and Alpine Ski Teams.

Councilor Pierce read the resolutions.

Councilor Pierce moved to approve the resolutions; Councilor Armitage seconded. Motion carried 7-0.

Item 2 Order to adopt an amendment to the Coastal Waters Ordinance, Chapter 9 Article IV Section 9-94.c.3.

Councilor Libby moved to adopt the order. Councilor Armitage seconded. Motion carried 7-0.

Item 3 Order to adopt an amendment to the Coastal Waters Ordinance, Chapter 9 Article IV Section 9-94(h).

Councilor Libby moved to adopt the order. Councilor Pierce seconded. Motion carried 7-0.

Item 4 Public Hearing regarding a proposed amendment to the Code of Ordinances that would create a new Economic Development Committee.

Chair Breen opened the public hearing.

There was no public comment.

Chair Breen closed the public hearing.

The Council discussed the potential for confusion with the name of this committee being similar to the Falmouth Economic Development Commission, a private group incorporated in the State of Maine. Councilor Chase is a member of the Commission and offered to ask whether they would consider changing their name. The Council also discussed changing the name of the proposed committee to the Economic Improvement Committee.

Item 5 Request from developer Jeff Soule, on behalf of the Bodkin Farms Development Company, Inc., for street acceptance of Spoonrift Road.

Amanda Stearns, Community Development Director, discussed the application for street acceptance. Staff recommends that, prior to an order by the Council, a recordable mylar for the

as-builts be submitted, a performance guarantee be submitted, reimbursement of the Town's out-of-pocket expenses be submitted, and the deed and light pole agreement be executed.

Councilor Chase mentioned that there is a sign at the end of the road that says "private way" which should be removed if the street is accepted.

An order will be scheduled for this item when the four items listed are completed.

Item 6 Public Hearing on the Natural Resources amendment to the Zoning and Site Plan Review Ordinance, the Subdivision Ordinance and the Planning Fee Schedule.

Councilor Breen opened the public hearing.

Craig Miller of 151 Mast Road represented the Lowell family. He asked the Council to think about the cost to landowners of this ordinance. He said this ordinance isn't to protect wildlife but to limit building in the Town. He said there is no scientific backing for going above and beyond what the State scientists have said you need to do for vernal pools.

Elwin Hansen of Idleknot Farm asked who owns the animals in the vernal pools, the landowner, the Town or the State. Until you find out who owns them, you can't restrict what the landowners can do with the land around them. Landowners have sacrificed their land; if the Town passes the ordinance someone should give some compensation to who owns it.

Lynn Foley of 14 Stonewall Way thought the compensation piece of the ordinance goes back to the Greening of Falmouth and how to fund it. In that report it listed \$3 million of the total \$20 million as mitigation. In 2007 when this started it was supposed to protect natural resources but also landowner rights and she doesn't see the landowner rights. She asked the Councilors to look at what this vote says about their view of landowner rights.

Willie Audet of Merrill Road presented the Council with a map demonstrating an example of how this proposal would affect an existing subdivision of 10 lots, which was built 10 years ago. He looked on this "insignificant vernal pool classification" as a huge negative impact on the tax base. If the pool shown on the map is an insignificant vernal pool, the 100 foot setback required under the proposed ordinance would exclude two of the house lots in the subdivision. He wondered how much it would cost in mitigation to build the 500 feet of road that passes through the 250 foot setback.

Nathan Poore, Town Manager, thought they could run those numbers fairly quickly.

Tim Bryant of Fieldstone Lane felt if the intention of the amendments was to clean up the old ordinance than that is what it should do, and not create further restrictions that will further choke the tax base. He agreed that there is an effort to stop development in the Town and that is the purpose of this ordinance. These efforts have been directed by two scientists in New York, as well as the Maine Audubon Society, as a pilot program. He felt that people should be paid when the Town takes away their property. This mitigation proposal is not compensating people for their land. He encouraged the Council to vote no. He said they have protected vernal pools at the level that the State does, and that is plenty of protection.

Caleb Hemphill of Dunham Pond Lane spoke in favor of the amendments. The study of vernal pools in Falmouth was originated solely by the Town with the direction of the Council, not by

any external group. He didn't see this as a project to control any type of development. He thought there were many creative ways to work around vernal pools and protection of natural resources. He didn't see this as a significant obstacle to development in the Town. He urged the Council to adopt the measure.

Lance Wieland of Terison Drive thought it was just an economic issue; everyone here was in favor of protecting the natural resources in the community. It seemed wrong to him to take value from one citizen who has a natural resource on their property and give it to another who benefits from living in a community that has natural resources and wide open spaces. He was concerned about a property owner who intended to use the value of their land for a retirement account, college fund, etc. He thought if they were going to take value away, they should compensate the landowner.

Mike Doyle of Shady Lane felt a small minority of people was driving the agenda. He felt this was a total waste of time and money. He felt this was an attempt to confiscate private property without compensation, and he hoped the Council would vote against it.

Paul Labrecque of Brook Road asked why the Town's regulations were more stringent than other states. He felt the state regulations should be enough; they are already more stringent than the Federal regulations. He didn't feel that those people who own more than one acre were represented in the Town.

Councilor Breen closed the Public Hearing.

The consensus of the Council was to debate the item when it was placed on the agenda for an order.

Item 7 Introduction on an amendment to the Zoning and Land Use Ordinance to amend the definition of recreational vehicle and how they are stored.

Councilor Libby re-introduced the amendment. There have been several changes since it was first introduced and he discussed the purpose of the amendment and the changes that have been made.

A public hearing will be held at the first meeting in May.

Item 8 Consideration to Appoint Michael Pearce of Pearce Dow as the Town Attorney in certain instances for the Board of Zoning Appeals.

Nathan Poore and Amanda Stearns explained the need for this appointment.

Councilor Pierce moved to appoint Michael Pearce of Pearce Dow as the Town Attorney in certain instances for the Board of Zoning Appeals; Councilor Rodden seconded. Motion carried 7-0.

Item 9 Order to schedule the School Department Budget Validation Referendum on June 8, 2010. Discussion on the updated Budget Validation Referendum time line pertaining to LD 1671. Charter Article VIII § 803, 20-A M.S.R.S.2528§ (4)(5) M.S.R.S. 1486 § (2).

Nathan Poore explained that the order tonight is to set the date for the referendum. He discussed the timeline moving forward and how it has changed from what was previously discussed due to amendments made recently by the Legislature.

There was a discussion around the absentee voting process in this election and how it relates to the BVR process.

Councilor Pierce moved to schedule the BVR on June 8, 2010; Councilor Armitage seconded. Motion carried 7-0.

Councilor Pierce moved to waive Council rules to allow a vote on a resolution not on the agenda. Councilor Chase seconded. Motion carried 7-0.

Item Resolution honoring the 82nd annual New England Drama Festival, hosted by Falmouth High School.

Councilor Pierce moved to approve a resolution honoring the 82nd Annual New England Drama Festival being hosted by Falmouth High School. Councilor Payne seconded. Motion carried 7-0.

Item 10 Discussion about future Council agendas.

The Council discussed the annual volunteer banquet. The consensus was to hold it on June 24. Councilor Breen suggested the Councilors who are liaisons reach out to their committee members to remind them and encourage them to come.

The Council reviewed the upcoming agendas.

Adjourn

Councilor Libby moved to adjourn; Councilor Armitage seconded. Motion carried 7-0.

Respectfully submitted,

Melissa Tryon
Administrative Assistant