

Town Council Meeting
DRAFT Minutes
November 22, 2010

Roll Call

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

Councilor Pierce was absent.

Pledge of Allegiance

Chair Payne led everyone present in reciting the Pledge of Allegiance.

Councilor Breen moved to suspend the Council Rules Section 23, which requires that amendments to Council rules be submitted in writing at the preceding meeting, in order to institutionalize the addition of the Pledge of Allegiance to the agenda at the next meeting. Councilor Rodden seconded. Motion carried 6-0.

Councilor Breen introduced an amendment to Council Rules section 1, adding the phrase “The council meeting will open after the roll call with the Pledge of Allegiance.” to the end of the section. Councilor Rodden seconded. Motion carried 6-0.

The item will be added to the next Council agenda for discussion and action.

Public Forum

Rich O’Leary of Andrews Ave, a member of Falmouth Citizens for Sound Choices, said that the blog had over 600 visitors in three days. This group was formed in July and is nonpartisan. Their goal is to provide information to the citizens and represents a wide range of residents. He spoke about the recent work the group did related to the November referendum. He invited everyone to join the group.

Jan Andrews of Woods Road invited the community to an open house at her home soon after the holidays to discuss the upcoming referendum about the school site. She wanted this to be an informal gathering for people to discuss the issues. She said they would let people know the date on the website.

Bill Gardner of Town Landing Rd reiterated that the group is nonpartisan and everyone is welcome. They don’t always agree on the issues; their goal is to get information out to the public. He hopes people look at the blog and attend the event at Ms. Andrews’ home.

Mike Doyle of Shady Lane honored the agreement with Mr. Chase as best he could. He felt his freedom of speech has been attacked. He praised the Council for adding the pledge of allegiance to the agenda tonight. He complained about the steps he has to take to get information back from

his Freedom of Access requests. He didn't feel that they could defend the new Freedom of Access protocol and he would not comply with any parts of it that were not in agreement with state law.

John Winslow of Gray Rd retracted his signature from a petition presented to the Town Council by Ms. Clark at the last Council meeting. He said the group grossly misled him into believing he was signing a petition in support of a Town vote on the disposition of the surplus town property. He is in support of a town vote on the disposition of the property; he is not in support of relocating the library and Town Hall to these properties and the creation of a civic center. He believed there were others who were likewise misled.

Amy Winton of McKinley Road was one of the petition gatherers; she said that they made posters both of the site and of the petition language so that people were fully aware of what they were signing. They made a 6 foot long banner that said "save Lunt and Plummer-Motz". They had three people at the table to explain in detail the purpose of the petition. They had several copies of the petition language for people to read, and stopped people from signing it if they believed they hadn't read it. She provided a photograph of the table. There were only 3317 who came in to vote at the polls that day; 1100 signed their petition.

Lisa Preney of Middle Rd said there were 4-5 people who posted to the blog that they were misled at the polls. She encouraged the Council members to look at the blog and read the comments for themselves.

**Item 1 (a)
(Consent Agenda) Order to approve the minutes of the October 18, 2010, Town Council Special Meeting and Workshop.**

**Item 1 (b)
(Consent Agenda) Order to approve the minutes of the October 25, 2010, Town Council Meeting.**

**Item 1 (c)
(Consent Agenda) Order to approve the minutes of the November 7, 2010, Town Council Special Meeting.**

Councilor Breen moved to adopt the consent agenda; Councilor Rodden seconded. Motion carried 6-0.

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

Councilor Rodden reported that METRO is having another toy drive, in conjunction with Channel 13. The bus will be at Town Landing Market on Thursday, December 9 from 9:45 to 10:00 am. They will also be picking up gifts from Stepping Stones, and she thanked the families from Stepping Stones for their participation. The CDC has been very busy; the sign ordinance will likely be introduced on Dec. 13. LPAC and the Conservation Commission have indicated a desire to weigh in on the RCZO amendments brought forward by Councilor Chase. CDC asked for comment from both groups, and will then consider those comments and report back to the Council. LPAC is in the middle of preparing questions for a survey for the Comprehensive Plan update. They will soon have a decision on a survey company and the Council will have an

opportunity to weigh in on the questions. She reported that the movie theater will soon be closing, and Wal-Mart has signed a lease to move in to that space. Wal-Mart wants to include a grocery store and garden center. Their plan would increase the footprint of the building. During the Route 1 study, the CDC recommended footprint limitations. Instead of having a formal ordinance prepared, Amanda Stearns, Community Development Director, will make a presentation at the next Council meeting regarding the footprint issue. There will not be a formal vote, but the Council will provide Ms. Stearns with direction for drafting an ordinance. Councilor Rodden would like the public to be able to have an opportunity to comment at the December 13 meeting, even though that is not the normal procedure.

The Council had a discussion about the proposed expansion and ordinance amendments. Councilor Varney wanted to make sure that representatives of Wal-Mart were invited to any discussion. Councilor Rodden agreed that it would be helpful to have Wal-Mart explain what they want to do. She stressed that the ordinance amendments were already being discussed prior to Wal-Mart submitting their intention to expand. Chair Payne felt it was more appropriate to discuss the policy change and not the Wal-Mart plan specifically; they could certainly be invited to come, but they don't have to. Councilor Armitage was concerned that, if Wal-Mart made a presentation on their expansion, the discussion from the public would center on anti-Wal-Mart sentiment, and not a broader discussion on big box stores in general.

Chair Payne agreed to the CDC's request to be on the December 13 agenda. He thought that, since there was no concrete proposal, they don't have something for the public to comment on. Councilor Rodden clarified that CDC is looking for some public input before they begin the ordinance writing process. Chair Payne felt the public could comment during the public forum. The majority of the Council agreed with Chair Payne.

Councilor Varney reported that PACPAC still needs one new member. The trails website should be up by the end of December/beginning of January. The holiday tree lighting will be Thursday, December 2. The School Board held a joint finance committee meeting with the Town Council's finance committee. The report from the Town auditor presented at that meeting was a very good report. The all day financial session for the school budget will be held on March 12. The Falmouth Golf and Soccer Teams were state champions this fall. The school system is looking into using two of the rooms in the new elementary school for daycare. The daycare would be self-supporting.

Councilor Armitage reported that the Finance Committee held a joint meeting with the School Board; at that meeting they received a clean audit from Runyon, Kersteen, and Ouellette. The final financial report will be posted on the web. The next Finance Committee meeting is December 9. Town staff has done an analysis and presentation regarding recent questions about purchasing by the Town. A copy of the report is posted to the Finance Committee's webpage. Councilor Armitage felt comfortable after hearing that report that Town staff is conducting business as they should be. The budget process is starting; the capital budget is the first piece and will be discussed at the December 9 meeting. He encouraged the public to stay in touch and ask questions throughout the process.

Councilor Breen reported that the materials from the Library Board's annual meeting are attached to tonight's agenda. Two links are also posted to the agenda tonight, in connection with

presentations made to GPCOG recently. One concerns an economic development effort funded by Fairpoint and the other is about the Gorham corridor study.

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

Councilor Armitage reported that there are a number of vacancies on a number of committees: Conservation Commission, Economic Development Committee, Falmouth Trails Advisory Committee, Harbor/Waterfront Committee, PACPAC, Planning Board, and the Shellfish Conservation Commission. The Committee will meet again on December 13. They discussed the annual committee reports; their consensus was to recommend that the reports be submitted without presentations by the committee chairs. The committee members who are up for reappointment will be reappointed at the Council meeting on December 13.

The Council discussed whether the committee chairs should give presentations on their annual reports. Chair Payne suggested that the liaisons talk to the chairs, and if there is interest in reporting, the council liaison could facilitate that.

Item 4 Public Hearing on amendments to the Code of Ordinances, Chapter 2, Article III in order to establish an Energy Committee, and to remove the Cable TV Committee.

Councilor Breen introduced the item. The Cable TV committee has recommended that they be disbanded. The recycling committee has indicated that they would like to merge their work with that of an Energy Committee. The Green Ribbon Commission recommended the formation of an energy committee in their report.

Town Manager Nathan Poore explained that Councilor Varney uncovered an error in the ordinance. When Parks was moved to Public Works, the range of 5-7 members for the PACPAC committee that was listed in the ordinance was changed to 5 members. When the terms of the committees was restructured, PACPAC was listed as having 7 members in the new ordinance, so it is inconsistent with the section of the ordinance that establishes the committee. This is a housekeeping issue, and can be corrected by an amendment.

Chair Payne opened the public hearing.

Richard O'Leary of Andrews Ave said that there is a small charge on the Time Warner Cable bill that is derived from the Cable TV Committee.

Councilor Breen said the Town negotiates directly with the cable company, and the Committee is not part of that. The Committee is more of an outreach body.

Claudia King of Woodville Rd. said Maine towns are creating energy committees. Cumberland, Yarmouth, South Portland, Gray, Portland, Windham and Cape Elizabeth all have energy committees. She spoke about the history and work of the Green Ribbon Commission. She thought this amendment is a very good idea and she hoped the Council would support it.

Bill Gardner of Town Landing Road hoped the Council would ask whether the primary purpose of the Energy Committee is to save the taxpayer money or is it to put more mandates on private landowners. He wondered if a budget would be outlined for the committee. He wondered if there

Chair Payne explained that there have been several clerical changes made to the ordinance since it was introduced.

Town Manager Poore said Councilor Pierce introduced the item. There are two sample ordinances: once in which the Town administers the program, and one in which a State entity administers it. The version being proposed for Falmouth is for the State entity to administer. Town Attorney Bill Plouffe has reviewed the proposed ordinance. They are in the process of drafting rules at the State level; those should be ready by the time this comes for an order. A contract would also be required between the Town and the State; Attorney Plouffe has reviewed that and suggested some changes. If these issues are not resolved prior to the ordinance coming back to the Council for an order, staff will recommend that it be tabled.

Councilor Armitage clarified that the State entity is the Efficiency Maine Trust, a separate non-profit trust established to administer the funding received through the federal government. This is all being done though the residential, consumer lending regulations.

Chair Payne opened the public hearing.

Ann Goggin of Foreside Road stated that was speaking for herself and not for the Green Ribbon Commission or its members. She spoke about the legislation establishing the program. The intent of the program was that it would pass through the property tax; a homeowner would voluntarily agree to a special assessment on their property taxes. This is important because a property tax does not show up on the credit report and is not reflected as debt; it runs with the property. The Federal Housing Financing Authority raised concerns with how this program was being used on the West Coast, mainly because paying these assessments would take priority in foreclosure over a mortgage. To address that concern, the Maine law stated that any PACE loan would be junior to any mortgage. Now, Efficiency Maine is advising towns that they cannot place PACE loans on the property tax bills due to its different lien status. She said that, as it stands now, if a homeowner has a mortgage and a PACE loan, it would create difficulty for the homeowner if they wanted a home equity loan. A home equity loan cannot be in third position. She was concerned that this ordinance is misleading; in every other state a PACE assessment is paid back through property taxes. Her other concern is that, now that this is a consumer loan, it doesn't have anything to do with the Town. Technically, what the Town is doing is assigning to Efficiency Maine Trust the right to assess properties in the Town. Even the County doesn't have that right. There are other towns that are doing this, and it is probably better than nothing for those people who can qualify for this program that might not otherwise qualify for a bank loan. She didn't see any harm in it, but wanted to give the Council some background.

Chair Payne asked, if the program was a tax levy, whether that assumed any underwriting.

Ms. Goggin said yes, there would be underwriting rules. It couldn't be greater than \$15,000, must be pre-payable at any time without penalty, and the combination of the PACE and the mortgage couldn't exceed 95% of assessed value of the property. The big difference is that you are really underwriting the property and not the buyer.

Councilor Rodden asked if there was a limit to the amount of one of these loans.

Ms. Goggin said any PACE loan is capped at \$15,000/property. She wasn't sure how they are going to treat multi-family homes.

and those sports need a gym. She encouraged the Council, in looking at the question of footprint, to consider the need for a gym and kitchen.

Marna Miller said the resolution includes a minimum of 8,000 square feet and she encouraged everyone to think about all the kinds of uses. She was interested in revenue-generating possibilities with a community center, similar to Westcustogo Hall in North Yarmouth which is booked every day this November except for Veterans' Day, including 7 private bookings at \$35/hour plus a winter surcharge.

Amy Winton of McKinley Road noticed in the resolution a phrase that requests a reduction in the request for square footage if there is an option for shared space. There is a similar passage in the Library resolution. She said sharing space between those two uses is not an option. Library space is free and needs quiet; community programs are fee-based and can be noisy. She was concerned that asking these two to share space will create tension. Libraries need to maintain client privacy; community programs need a lot of information from their users in order to tailor their programming. She urged the Council to keep as much space for community programs as possible.

Karee Rhoades of Hemlock Lane spoke in support of a community center. She thought a rec program would be good for those kids who might not try out for school sports teams. A community center is helpful for medical/wellness programs as well as a trauma facility in case of community needs. She thought they needed to evaluate what the space needs would be in the future. She was in support of the rec center being at the Plummer/Motz/Lunt site.

Linda Adams of Stonecrest Drive has used community programs often in the past. She has proposed classes to teach and been unable to offer them due to a lack of space. She felt this would benefit the wellness of the community. The demand is there and this type of wellness is the wave of the future. The community center would lead to a healthy, tight-knit community.

Chair Payne closed the public hearing.

Councilor Breen moved to approve the resolution. Councilor Rodden seconded.

Councilor Armitage didn't like having the square footage in the resolution.

Councilor Varney asked about the size of the Mason gym and surrounding space at the current schools.

Theo Holtwijk, Director of Long-range Planning said the Mason gym and kitchen is about 4,300 sq feet. The Motz wing/Mason gym area is probably about 15,000-16,000 sq feet.

Chair Payne reminded everyone that the process was to evaluate space needs first, rather than facility.

Theo Holtwijk clarified that the sq footage of the Mason block is 5,000-6,000 sq feet; adding the Motz wing brings it to 15,000-16,000 sq feet. The total Plummer-Motz building is more than 40,000 sq feet. They looked at the number in the resolution in a general way, by considering how much the programs would need for office space, etc. The Motz building would bring them somewhere in the middle of the range proposed in the resolution.

Councilor Rodden felt it was very important to include a gym, and was not in favor of the 8,000 sq foot minimum. She felt 18,000 sq feet should be the minimum.

Councilor Varney suggested removing the first seven paragraphs of the resolution.

Councilor Breen moved to amend the resolution by adding the phrase “*of programming space*” after both the paragraph that reads “...*the Town Council determined that the minimum floor area for a Community Recreation Center is 8,000 square feet...*” and the paragraph that reads “...*the Town Council determined that the maximum floor area for a Community Recreation Center is 18,065 square feet...*”. She also moved to strike the resolve that says “*BE IT FURTHER RESOLVED, that the amount of space to be provided for a Community Recreation Center may be adjusted based on the most suitable location and available funding for such a center; and*” and to add the term “*conference space*” to the next resolve where it currently says “*space sharing with other community facilities...*” and to add a resolve that said “*BE IT FURTHER RESOLVED that Community Programs could benefit from a commercial kitchen and used gymnasium space in which to conduct future programs*”. Councilor Chase seconded.

Chair Payne was not in favor of the portion of the amendment that strikes the resolve. He moved to amend the amendment to reinstate that portion. There was no second.

Councilor Armitage was not comfortable with all the changes Councilor Breen made, specifically in regards to the square footage. He also didn't like removing the resolve referring to suitable location and available funding.

Councilor Rodden was uncomfortable voting on the amendment with Councilor Pierce absent, and she moved to table it. Councilor Breen seconded. Motion carried 4-2 (Chase, Varney).

Councilor Rodden moved to table the resolution. Councilor Breen seconded. Motion carried 4-2 (Chase, Varney).

Councilor Breen clarified that public comment had already been taken on the resolution and would not be taken again once it is removed from the table, without the Council agreeing to waive the rules.

Councilor Chase observed that there is a lot of support for the community programs department to move into the Motz School, and he thought they were working too hard on this.

Chair Payne reminded everyone that the Rotary Club has written a letter expressing their interest in shared space.

Councilor Breen thought the Rotary Club was interested in a liquor license or in bringing in their own alcohol, and she thought that was a very important element in any agreement with them. The Town doesn't allow any alcohol on their premises.

Town Manager Poore made a presentation on the capital needs of the Town Hall. The items indicated total up to about \$600,000 and represent the minimal needs of the building. Furnishings, architectural/engineering, land acquisition and an expansion of the food pantry are not included in that total. Those items would add up to another \$87,000, bringing the total to close to \$700,000. A range of \$600,000-800,000 would gain another 15-20 years at the current Town Hall.

Councilor Rodden asked how many of the items on the list have to be done within the next 5 years.

Mr. Poore said all except items 6, 8 and 7.

Chair Payne looked at the prices and asked why adding 10 feet to Council Chambers would come to \$233/sq foot.

Bruce Sanford of Conestco explained that the 10 foot addition includes blowing out the wall, adding a header beam and putting support columns down to the foundation. That is a major expense.

Councilor Breen thought this begged the question of what they would get if they spent \$600,000-800,000 on another building in town to make it a Town Hall. She didn't think they had to be wedded to this site. They could spend that money on another building in town and perhaps get a better bang for their buck.

Councilor Chase asked about the need for a fire-proof safe.

Mr. Poore said that is included in the plan. There are two masonry rooms in the old police station that are almost fire-proof as they are.

Councilor Rodden asked what the estimate was to move Town Hall to Plummer.

Mr. Poore thought it was \$3.5 million. He thought if they wanted to examine another building, they should include the money they would receive from selling the current Town Hall. If they could sell it for \$750,000, that would give them about \$1.5 million to work with at another building.

Chair Payne felt the current location was closer to the geographical center of town, and would be a hard building to get rid of.

Councilor Breen didn't think they were discussing location tonight. She was interested in value for the dollar and long-term viability. She felt both this location and other locations have merit and they should be comparing apples to apples.

Councilor Rodden agreed with Chair Payne that it would be a hard building to sell. She didn't want staff to investigate other buildings. Councilors Varney, Armitage and Chase agreed.

Councilor Chase said he is in the real estate business and didn't think they could get a lot of money for the Town Hall building.

The consensus of the Council was to park the Town Hall issue and continue with the other projects.

Chair Payne asked if the proposed improvements were envisioned for the upcoming budget year.

Mr. Poore wasn't sure, but he thought within the next two years. His preference from a staff standpoint was to park it, and then work out the funding for it after they've worked out the other projects. They can wrap this into the bigger picture in six months or so.

The Council discussed the next steps in the process. Mr. Poore recommended the first step would be to address the resolution at the next meeting, and then have a location discussion as the next agenda item at the same meeting.

Item 7

Resolution to approve forestry management practices at Hadlock Community Forest.

Chair Payne asked Bob Shafto to provide information on the projected revenue for 2009 versus the actual revenue for that year.

Bob Shafto, Open Space Ombudsman, said the estimated income from the proposed cut last year was \$17,000. The actual was \$10,000. The primary reason for the difference was that they had to cut the harvest short due to the early spring. They were out of there between March 2-4, instead of April 2-4 as in a typical year.

Councilor Rodden asked Mr. Shafto to explain how they were planning to use the wood products. Previously it had been reported that it would be used for wood pellets for the high school, and at the site walk it was represented that it would be used for biomass and would not go to the high school.

Mr. Shafto explained that this is green wood with high moisture content and doesn't burn well. They chip the wood at the site and then it is taken to a facility to be dried and processed into smaller chips. A harvest like this is adding to the available biomass supply. It does come back to them, but the chips burned at the school are not necessarily from Hadlock.

Councilor Armitage moved to approve the resolution; Councilor Varney seconded.

Chair Payne opened public comment.

Ann Goggin was concerned that they were going to rename the Town Forest the Town woodlot. If they are going to make it into a woodlot and are doing it for the money, she would like to see a spreadsheet on the 10-15 year outlook. She wasn't impressed with \$7,500. She asked if the purpose is to set this up for a continual stream of income to fund conservation staffing, if they are dedicating those funds for that purpose, and will they set the land up so the income is meaningful. Her second concern was for reported vernal pools on the property. She wondered if they had considered best management practices for the site and those pools. She urged the Council to postpone the vote on this until these questions had been answered and the pools had been mapped.

Chair Payne closed public comment.

Councilor Chase was in favor of logging the land, but he has received comments from people questioning how much they are going to do. He was curious how many acres they did last year and how many was proposed for this year.

Mr. Shafto said the intent was to cut about 50 acres this year. They did about 30 acres. It wasn't done for the money, but for the health of the forest. They left the large trees and took out the small, gnarly ones. It was also done to promote diversity in the forest. The vernal pools are not significant ones; the canopy from the hemlock is so dense that the pools don't get sunlight, and so there are no breeding amphibians. This will actually help the vernal pools in his opinion. The real management objective is around wildlife and forest vitality and health. It is a former pasture that grew up mainly with hemlocks which are vulnerable to insects.

Chair Payne asked if they are using a forester for this project.

Mr. Shafto said yes, a certified forester and a certified logger. Those best management practices are all part of that certification.

Chair Payne asked if they are from the State or private.

Mr. Shafto said they are both private, but the State has been involved with this work.

Councilor Chase asked about the deer yard.

Mr. Shafto said there is a deer yard up on the ridge, not in the area where they are cutting.

Councilor Chase said they have 275 acres and then need to be cautious about the forest becoming a woodlot. He felt to do another 30 acres would be palatable, but he didn't want them to get carried away. He didn't think the resolution committed them to anything more than one year.

Chair Payne said it didn't have an end date, but said they would be watching it.

Councilor Rodden said the resolution states "that the forest operations in Hadlock Community Forest continue as planned." It is a three year plan, and they didn't even finish the first year. She asked the total number of acres that were planned over the three year period.

Mr. Shafto estimated that it was around 150 acres. It is a demonstration project for the other properties. He doesn't differentiate between a forest and woodlot; a good, healthy forest is a woodlot among other things. He felt, if they were going to burn wood fuel and they have the capacity to produce that fuel, they should do it in a responsible way. They have held two public hearings on this issue, and had a lot of support.

Councilor Varney was in support of this. She liked what Mr. Shafto is doing, and the plan to take out some hemlock so that other things can grow.

Mr. Shafto said there is a lot less wildlife there now than will be there in 10 years. There will be much more biodiversity.

Councilor Breen said this is about the health of this parcel. There is a lot of uniformity in the size, age and species of trees on this lot. She felt they needed to break even financially. She also liked the idea of contributing to the stream of wood chip supply, seeing as they are using it to heat a public facility.

Councilor Chase didn't want to break even; he wanted to make money. He thought 150 acres over three years was overkill. He would be happier with 2 years and not over 100 acres. He would like to modify the program before they approve it.

Councilor Armitage disagreed with Councilor Chase. In cutting 150 acres, they are preserving almost half the site as it is. The plan was laid out and he wanted to rely on the expertise of those who laid out that plan. They could evaluate it at the end of three years and see if it was too much, or not enough.

Councilor Rodden moved to amend the resolution: "that the forest operations in Hadlock Community Forest continue for one year, with a review in the fall of 2011." Councilor Chase seconded. Motion failed 3-3 (Breen, Armitage, Varney opposed). (An order requires the affirmative vote of four members of the Town Council.)

Councilor Breen asked to move the question. Councilor Armitage seconded.

Councilor Rodden said she was against the resolution because there are enough private woodlots in Falmouth helping to contribute to biomass. This is a Town asset and she thought Mother Nature has managed the property. She thought that when people voted for open space a few years ago, she didn't think they voted for woodlots. She didn't think it was worth it, financially.

