

**Town Council Meeting
DRAFT Minutes
August 22, 2011**

Roll Call

Councilors Payne, Rodden, Varney, Pierce, Orestis and Armitage were present.
Councilor Chase was absent.

Pledge of Allegiance

Chair Pierce led those present in the pledge of allegiance.

Public Forum

Mike Doyle of Shady Lane spoke about Chief Tolan taking the Police Boat to Harpswell for the Lobster Races. He accused Chief Tolan of committing a felony. He made accusations of nepotism at the police department. He recommended that the Town change the policy about hiring relatives of employees.

Julie Rabinowitz of Muirfield Road thanked the Council for their work researching the impact of the expansion of the Downeaster. The increase in traffic will increase the train whistles. She would like the Town to investigate the possibility of keeping the quiet zone and expanding it.

Jimmy Ascanio of Birkdale Road agreed with Ms. Rabinowitz and said there is a lot of support for this in the community. He did a lot of work on this issue 11 years ago when they got the whistle ban on Muirfield. He didn't think the train needed to blow the whistle at 3am. He said one is more likely to be hit by lightening than hit by a train. He hoped the Council would help them with the quiet zones.

**Item 1 (a) Order to approve the minutes of the July 11, 2011, Town Council
(Consent Agenda) Special Meeting and Workshop.**

**Item 1 (b) Order to approve the minutes of the July 25, 2011, Town Council
(Consent Agenda) Meeting.**

Councilor Varney moved to approve the consent agenda; Councilor Armitage seconded.

Councilor Varney amended the July 11 minutes.

Motion carried as amended 6-0.

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

Councilor Rodden spoke about a recent article in the paper regarding the Town's recycling rate, which reported that the rate has decreased since the silver bullets were removed. She said was concerned that, while the tonnage of recycling collected at curbside went up, the trash tonnage went up as well. The REAC committee is working on a workplan and planning some events in the fall around weatherization

and PACE. METRO and other public transit organizations are talking to Gorham about public transit. There is a notice on the Town's website about an upcoming event regarding disposal of pesticides.

Councilor Varney said the Library Board of Trustees has changed their annual meeting to October 3. She hoped some of the Council members would attend.

Chair Pierce said the Community Programs fall brochure is out. They are able to offer some daytime activities at the Plummer/Motz/Lunt site.

Councilor Armitage spoke about a memo from the FEIC. There are six items that the committee is planning to review with regard to town policies and ordinances along with a business directory and business visitations. They would like some of these items added to the Council's annual work plan.

Councilor Rodden asked whether the committee is going to work on getting businesses into the shopping centers. Councilor Armitage thought historically the Council was reluctant for the committee to work on those kinds of issues, but he would like to see that happen as well. Councilor Rodden thought they could discuss it during their retreat.

Bill Lunt, vice-chair of the FEIC, said he hoped the Council would add this to their work plan. His understanding was that this would be a standing committee. He said Theo Holtwijk, Long-range Planning Director, has been a great resource. He said that signage has been identified as a big issue.

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

Councilor Payne said there is nothing to report at this time.

Item 4 Public Hearing and Order on a draft "Call for Offers" regarding the future use and disposition of part or all of the Plummer-Motz and Lunt Schools property.

The Council discussed how to proceed. Councilor Varney moved to waive the Council's rules to allow for public comment after the Council deliberated, in order to allow the public to comment on any proposed amendments. There was no second.

Public Hearing opened.

Chantal Walker, President of the Library Board of Trustees, stated that the Council unanimously agreed last October that the library needs more space. While they are not asking for a library to be added as a required element in the RFP, the Trustees respectfully request that wherever a community center is listed as a possible option for the developer to consider, a library facility also be mentioned as a possible option. The Trustees have provided a great deal of the information regarding these buildings and their physical needs, at the Library's expense, which is now available for potential developers. The Trustees worked with and complied with all the Council's requests in the past year during this process. If no developer puts forth a conceptual design that includes a library, the Trustees will continue to work with the Council to find a solution to their space needs.

Lisa Agnew of Avon Road spoke about the community center, and she asked the Council to commission a study regarding where the community center should be located – either on this site, behind Wal-Mart, on Legion Field, wherever. She felt a committee should be convened to look at every site, and determine where a center would be feasible.

Kathy Smith of Lunt Road asked the Council to strike the entire “Civic Considerations” paragraph from the RFP. She felt the vote was a clear “no” vote. She didn’t want a community center and felt they should put the property up for sale and get some tax revenue.

Bob Hunt agreed with Ms. Smith; in June the voters said no to the proposal on the ballot and the call for offers should not require developers to consider civic use. Calls for offers should provide the developers a free and unencumbered hand to draft proposals. He made an alternate proposal for the property.

Judith Currier of Hardy Road, a member of the Parks and Community Programs Advisory Committee and a former member of the Facilities Committee, spoke about her hope that a community center will be built at the location and the potential benefits to the senior population.

Mike Doyle of Shady Lane thought the Council needed to discover what the value of the property would be without a community center and the cost to a developer to build a community center. If that difference exceeds \$1 million dollars, he thought they should hold another referendum.

Lisa Preney of Middle Road was disappointed that the Council didn’t take public comment after their deliberations. She thought the Council should take the Library as a Town department. She thought the outcome of the vote was a clear no and felt the Council was predisposed toward building a library.

Jason Ronco of Middle Road spoke about the vote. He wondered why OceanView hadn’t come forward and said they would like a community center next to their property. He felt Falmouth needed a community center and that it would improve the quality of life for the citizens.

Bill Lunt of Lunt Road said that, while his mother helped get the D.W. Lunt School built, he wants the Town to be able to afford the things they have. The vote said no, and the voters meant no. In order for the developers to have a chance to give a proposal that makes sense, they have to take the handcuffs off. This community needs taxes and jobs. He didn’t think the Town could afford a recreation center.

Public Hearing closed.

Chair Pierce disclosed that the Council has received email communications from the public regarding this issue as well.

Chair Pierce clarified which draft of the RFP will be discussed at this meeting. It is identified as the “Council clean”, or “Council redline” version on the web agenda.

Councilor Orestis moved to adopt the order with the Call for Offers drafted as of 8/19/11, referred to as the “Council clean” or “Council redline” version. Councilor Rodden seconded.

Councilor Payne moved to amend the order by changing the words “*is a need*” in the Civic Considerations paragraph with the phrase “*is a desire*”. Councilor Armitage seconded. Motion carried 6-0.

Councilor Rodden moved to add language under the title “Financial Analysis and Capacity” as follows: *The financial package to the Town will be an important factor, but not the overriding factor.* Councilor Orestis seconded.

Councilor Armitage felt that language confused the RFP. He felt those bullet points assess the financial capacity of the developer, not the package the Town is getting. Councilor Rodden suggested a different location for the language, but Councilor Armitage didn’t feel they needed to say it at all. Councilor Payne felt the point was inherent in the entire proposal. Councilor Orestis said he wants to get the best possible economic and community use outcome for Falmouth out of this project. There needs to be a balance. Councilor Rodden said this amendment makes it more clear what they are doing. Councilor Varney pointed out that on page 9 it says the Council has the right to reject any offer.

Chair Pierce thought they had discussed that, when offers are received, they will weigh them based on a quantitative measure.

Theo Holtwijk said if they want to do that, it should be laid out in the RFP. He discussed the options the Council had for reviewing proposals.

Councilor Rodden called the question on the amendment. Motion fails 2-4 (Payne, Varney, Pierce, Armitage opposed).

Councilor Rodden moved to strike the language "*Other factors as appropriate will be considered under each of these categories*" located on page 7. Councilor Orestis seconded.

Councilor Armitage moved the question on the amendment. Motion carried 4-2 (Varney, Armitage opposed).

Councilor Rodden moved to remove the language "*If not included, specifically discuss why this aspect does not work for your concept*" from those paragraphs where it is located. Councilor Varney seconded.

Councilor Armitage explained that he proposed adding that language because it would provide them with feedback from the developer with regards to potential uses of the property.

Chair Pierce thought this language encumbered the developers; she thought if they wanted feedback from the developers they could ask for it. She wasn't sure this language added anything to their call for offers.

Councilor Armitage moved the question. Motion carried 5-1 (Armitage opposed).

The Council discussed the call for offers. Councilor Armitage expressed his dissatisfaction with the document; he felt they were influencing what the development community would send back to them. Councilor Payne felt that this safeguards everyone's interests, both proponents and opponents. Councilor Orestis felt there are no mandates in this; the market will come back and reveal the highest and best use of the property. This is an open and unbiased process. Councilor Rodden wasn't happy about it, but was going to support it. She planned to pursue a community center for the Town. Councilor Varney felt they have reached the point where they should send the RFP out. She agreed that the Town needed a community center, somewhere in Town.

Motion carried 5-0 (Armitage abstained).

Councilor Armitage said he abstained because, while he felt it did need to go out, he didn't agree with the requirements in the document.

Item 5 Discussion about rail road crossings along the Pan Am Railways line and the impact on neighborhoods from train whistles.

Town Manager Nathan Poore said there will be a joint meeting with the Cumberland Town Council on September 19 at the Cumberland Town Hall, with a representative from the Federal Rail Authority available to answer questions from the public and both Councils. He discussed the issues of the "quiet zones" (QZ), also known as "no whistle zones", detailing the location of each of the road crossings in town, and the Federal horn rule. The additional safety improvements that might be necessary to either establish or maintain existing QZ are typically paid for with Town funds. Installation costs, annual license fees and maintenance fees might also be required. He detailed the options and costs for each type of possible safety improvement – Quad gates, gates with channelization or medians, and the Wayside Horn. He presented the preferred options for improvements at each of the roads impacted in order to establish/maintain QZ, and the reasoning behind each.

Chair Pierce asked if the trains are going to slow down when they come to the crossings.

