

**Town Council Meeting
DRAFT Minutes
October 22, 2012**

Roll Call

All Councilors were present and answering roll call.

Pledge of Allegiance

Chair Varney led those present in the Pledge of Allegiance.

Chair Varney added an item to the agenda, Item 8, to discuss an item on an upcoming agenda. The Councilors agreed.

Public Forum

Mary Costigan of Bernstein Shur, representing Lou Vinios owner of the Falmouth Shopping Center, thanked the Council for taking more time to consider the footprint ordinance and the changes suggested.

Eric Anton of Blackstrap Road owns a business along Route 1 and is President of the Falmouth/Cumberland Chamber of Commerce. He thanked the Council for the time they have put into the footprint limit.

Mike Doyle of Shady Lane spoke about a story in the Press Herald regarding the METRO bus service. It seemed strange that two towns withdrew from the bus service two years after its founding and Falmouth just recently joined. He hoped the bus service would be defeated in the upcoming referendum.

Lisa Agnew of Avon Road urged people to vote no on 1, to save the bus. The bus is inexpensive and serves a large number of people. People rely on the bus to get to work and appointments. The bus is growing. It is good for the economy, environment and the Town.

Item 1 (a) Order to approve the minutes of the September 10, 2012, Town Council Meeting.

Item 1 (b) Order to approve the minutes of the September 24, 2012, Town Council Meeting.

Item 1 (c) Order to appoint the Warden, Ward Clerk, Registrar, Deputy Registrar and additional Election Clerks.

Councilor Rodden moved the consent agenda; Councilor Payne seconded. Motion carried 7-0.

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

Councilor Orestis said the Veterans Memorial Committee has met several times and done site walks to evaluate potential sites. They want it to connect to the Route 1 redevelopment.

Councilor Rodden said Yarmouth, Cumberland and Freeport have met with METRO and expressed interest in joining and establishing bus service.

Councilor Payne said the County Budget committee has been meeting. A very conservative budget is being brought forward. The Civic Center received a huge income boost from the recent Cirque de Soleil shows, though they are still at a deficit.

Councilor Farber said REAC are looking at the Green Ribbon report and assessing what has been done and what still needs to be done, and prioritizing those. The FEIC has a "Shop Falmouth" event coming up on December 7-9, 2012. She encouraged any business owners that might like to be involved to contact the committee.

Councilor Pierce said that LPAC has extended the deadline for completing the survey on the comprehensive plan draft chapters. Surveys can be submitted through November 15.

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

Councilor Pierce said there are vacancies on FEIC, Open Space, and PACPAC. She encouraged interested residents to apply.

Item 4 Public hearing regarding an amendment to the Zoning and Site Plan Review Ordinance that permits drive-thru and carry out restaurants in the Mixed Use Cluster District.

Chair Varney opened the public hearing; there was no public comment.

An order was scheduled for November 14.

Item 5 Public Hearing and Order to authorize the Town Manager to apply for federal financing assistance under the provisions of the Land and Water Conservation Fund Act, Public Law 88-578, for the development of trails, a trailhead parking facility and trail signage in the North Falmouth Community Forest; and further to authorize the Town Manager to enter into the Land and Water Conservation Fund Project Agreement with the State subsequent to federal approval of the project.

Chair Varney wanted to make sure that this would not prevent the Town from using this property as mitigation.

Town Manager Nathan Poore said that was correct. Theo Holtwijk, Long-range Planning Director, has spoken with Mick Rogers, the state liaison with the National Park Service, who has said that it will not limit their ability to use this property for conversion of the Land & Water Conservation Fund (LWCF) grant on to the former elementary school site. Mr. Poore has requested a formal letter to that effect; they are being very cautious about this issue. This parcel is commonly referred to as the 100 Acre Woods Parcel; it includes 133 acres and is in the northern corner of town. The thinking behind this grant application is that, since the land will be encumbered by LWCF anyway, it made sense to get grant money for improvements. This project is \$25,000; 50% local share, 50% LWCF share. Nearly all the local share is in-kind or already included in the Town's budget for the ombudsman. This project would include trail enhancements and parking improvements.

Chair Varney opened the public hearing.

Jed Harris of Woodville Road supported the grant application. This is a key property that connects the North Falmouth Community Forest to Wilshore Farm and the Blackstrap recreation area. This would create 700-800 acres of contiguous open space land.

John Winslow of Gray Road didn't feel the Council had educated itself on the impact of taking these LWCF grants. He spoke about the conversion process with the former school site. There are towns and cities all across the country that are fighting to get out of these grants. Once you accept these grants, the lands fall under the restrictions of the National Park Service. He was concerned that hunting would no longer be allowed on the 100 Acre Wood parcel after this. The Town would be responsible for maintaining and/or replacing in perpetuity any improvements that they make with this money. He felt the Town should maintain control, and not have the land be under federal jurisdiction.

Susan Gilpin of Heron Point Road spoke in favor of building trails through 100 Acre Woods. Trails provide access for both residents and the Town. The trails would benefit wildlife. She said that the population of Falmouth will increase, and they need to provide the opportunity for residents to be outside.

Mr. Poore said he received an email from town resident Jim Thibodeau, in support of the application.

Dave Gagnon of Field Road builds trails for the Town. He is continually surprised by the variety of people who come by while they are working: bikers, families with children, grandparents. They appreciate that the trails are being used.

Caleb Hemphill of Dunham Pond Lane is also a trail builder. 100 Acre Woods is a tremendous opportunity for the Town for different types of trails. He spoke about some of the different opportunities for recreational use. He supported the grant application.

Ted Asherman of Falmouth Road is also a volunteer trail builder. He was blown away by the property when he first visited it. There is a beautiful view from Poplar Ridge. He thought they could have picnic tables up there.

Jerry Goodall of Liberty Road is excited that the Town is acquiring land. These trails will enhance people's ability to enjoy the open space. He has visited and enjoyed using the Riverpoint trails.

Nancy Lightbody of Falmouth Road agreed that it is a beautiful, special place and she supported the trails.

Public comment period closed.

Councilor Payne asked if this property would be encumbered by this new grant.

Mr. Poore said it would already be encumbered due to the conversion of the restrictions on the former school property. That conversion is required before the Town can sell that property.

Councilor Payne thought this was a great opportunity. This fits nicely into the contiguous open space in West Falmouth.

Councilor Farber thought some of the proposed trail work would extend into the northern forest.

Bob Shafto, Open Space Ombudsman said that was not correct. He said they would only be using these grant funds to build trails within the 100 Acre Woods parcel. It will be open to hunting, and these trails would provide access. This parcel would allow them to create a 10 mile long cross-Falmouth trail.

Councilor Farber asked when the trail building would be done. She was concerned with the safety elements of the general public using these lands during hunting season. Councilor Rodden agreed; it is too hard to tell on the website where and when hunting is allowed and she would like more notification. Mr. Poore said he would bring this request to the next Land Management Team meeting.

Councilor Mahoney spoke about the value of that piece of land and how much of a boon these trails will be to the Town. He supported this application. Councilor Pierce agreed; she was excited to hear they were going to make this parcel accessible. She asked how much of the trail building and other work they want to do on this parcel will be covered by this grant.

Mr. Shafto said there is no cash from the Town needed to do this work beyond his time to oversee the project, which is already budgeted, and the Town Engineer's time to design the parking lot. They will have in-kind donations of time from volunteers.

Councilor Rodden voiced her support for the grant, and thanked the Falmouth Conservation Corps and all the volunteers who work on building these trails.

Councilor Orestis supported the grant application. He was excited to get out there and use the property.

Councilor Pierce moved the order with an amendment, adding "*and conditioned upon this parcel still being eligible for conversion of the former elementary school site*". Councilor Payne seconded.

Motion carried 7-0.

Item 6 Update on proposed railroad crossing upgrades along the Pan Am Railways line to maintain and/or expand a so-called "Quiet Zone."

Mr. Poore gave an update on the quiet zone upgrades. They may need more public input if the Council makes changes tonight. Over the summer, there have been some changes. They have updated the traffic count numbers; the Federal Rail Authority (FRA) was using traffic count numbers generated in the 1990's. Traffic counts are used in the formulas, and added traffic impacts the thresholds they need to meet for safety.

Theo Holtwijk, Long-range Planning Director, gave a brief history of the issue and the Council's work on it. In order to keep the Town's "quiet zone", which prevents the trains from blowing their horns, the Council voted to install channelization on those roads impacted. In doing their work, staff discovered that the traffic counts the FRA was using were from either 1990 or 1997; staff located updated traffic numbers from 2010. They also discovered that the thresholds used by the FRA was lower than previously thought. In order to qualify for a quiet zone, you have to do a calculation called a quiet zone risk index. This index is compared to a threshold number; the local index needs to be lower than the threshold in order to qualify for a quiet zone. A whole host of items are rolled into this index. Installing channelization, for example, would make the crossing safer and thereby lower than index. Other parameters have changed since the Council approved the channelization: the trains will be going faster (60-70 MPH), and the number of trains increased by one trip/day. These changes impacted the index number. They also discovered that they would have to submit an application rather than receive designation, and there might be an annual review. The proposed channelization improvements did not get them the score they were looking for; when they redesigned the proposal the index came to just slightly below the national threshold. This led them to question whether the FRA agreed with their approach of taking partial credit, and whether they would review it annually. If an annual review bumped them out of compliance, the town would lose the quiet zone that they spent so much money to maintain. The council has three options: Option #3 is to pursue the plan originally proposed which would install channelization at all four crossings; Option #2 is to leave the quiet zone at Blackstrap and Falmouth roads as it currently exists, and make channelization improvements at Field and Woodville roads to establish a new quiet zone; and Option #1 is to not make any channelization improvements, which would maintain the quiet zone at Blackstrap and Falmouth, but not Field and Woodville. #1 would lead to train whistles being blown at those intersections.

Mr. Poore mentioned that the police department has been working with Operation Lifesaver to provide information to various local groups and the schools. A public meeting will be held on October 30 at

Town Hall for those who are interested. In regards to the crossings, he thought it should be an all-or-nothing approach; he did not support Option #2. He wanted them to be aware that spending the money on Option #3 didn't necessarily mean that the quiet zone would be maintained for Blackstrap and Falmouth. Option #1 would save the Town money; Option #3, regardless of whether they had the quiet zone or not, would make the crossings safer.

Councilor Mahoney thought the safest was having the horns. A quiet zone would allow a crossing without the horns.

Mr. Poore said the safest crossing is a quad gate system which is very expensive. Once you figure the safety index, channelization with the normal gates and no horns can be safer than using the horns.

Councilor Mahoney asked if the driver behind this project is noise or safety.

Chair Varney said it is both. She felt channelization is safer.

Councilor Pierce asked if accidents are more likely on roads that are more travelled or less travelled. Mr. Holtwijk said the more traffic, the more likely an accident would be.

Councilor Varney asked if the current quiet zone will continue, even with the increased speed of the trains. Mr. Poore said yes, for now, but he thought the Town could hear from the FRA anytime.

Councilor Pierce asked for clarification that if they went with Option #3, they could spend all this money and go through the application and still lose the quiet zone.

Mr. Holtwijk said there is a chance of that. If they apply, they need to apply with updated traffic figures. If they do nothing, it is unclear when the FRA will update their crossing safety numbers at those roads.

Councilor Rodden pointed out that if they do the work, even if they lose the quiet zone the crossings will still be safer. She supported Option #3.

Councilor Farber asked if there had been any objections to channelization, other than cost.

Councilor Pierce thought the general public hadn't paid much attention to this issue so far. She felt that once the channelization was installed, they would hear about it. The crossings would look much different. She said they haven't heard anything except from those who live within the quiet zone.

Councilor Farber asked about plowing with channelization.

Mr. Poore said they would have a small median with 3 foot posts. It would not be plowed. Any snow buildup would likely be minor; if there was some buildup there would have to be some hand removal.

Mr. Holtwijk said the snow plows would push snow toward the edge of the road, and not toward the center.

Councilor Mahoney pointed out that the goal of the channelization is to prevent people from doing something they aren't supposed to do anyway.

Councilor Payne clarified that these improvements are the responsibility of the Town and not the railroad. Mr. Poore said that was correct.

At Councilor Payne's question, Mr. Holtwijk clarified that, if they want to move forward they anticipated that the improvements would be installed next spring. There is no date certain of any review of the crossings.

Councilor Payne thought there was no reason to postpone a decision and wait for further information. Mr. Holtwijk said the only benefit to waiting would be to live with the horns for 6 months and see how it goes.

Councilor Payne was less concerned with channelization as aesthetic; he was more concerned with safety. If channelization improves safety and creates the quiet zone, that is a win. They may be compelled at a later date into a quad system if the safety numbers require it, but this seems the more reasonable course at this time.

Councilor Pierce asked about the cost of the quad system. Mr. Holtwijk thought it was about \$500,000 for one crossing. The difficulty is that the work is in the railroad right of way; they have to contract for that work and it involves annual maintenance costs. Channelization is in the Town's right of way.

Councilor Pierce asked what kind of crossings they have in Portland; Mr. Poore didn't know.

Councilor Pierce was torn; safety was important, but it was hard to spend that kind of money to prevent people from doing what they shouldn't do anyway, and then they might not even keep the quiet zone.

Councilor Orestis wondered if they would remove the channelization and install the quad gates, if they lost the quiet zone. Mr. Poore outlined several options if that happened.

Councilor Orestis asked when the calculation gets updated. Mr. Holtwijk said if they go the route of the application, they would trigger the update. They don't know when the FRA would look at the crossing without the application.

Mr. Poore wondered if they have the obligation to discuss the updated numbers with the FRA, since they have discovered it.

Councilor Mahoney asked about the timing of doing the work.

Mr. Holtwijk said if they go with notification, it is a process of filing out paperwork and scheduling the construction. If it is an application process, it would involve several months for approval turnaround.

Councilor Mahoney thought that, even if they have the notification process, they will have a couple months with the Downeaster running, if it starts on November 1. He wondered whether they should wait 6 months, and evaluate how it is going after that. That is what Cumberland is doing.

Chair Varney pointed out that if they wait, they would still have the quiet zones on Blackstrap and Falmouth.

Councilor Rodden thought the most important thing is safety, and this is a reasonable improvement.

Councilor Farber felt they had to do it for the safety of both motorists and people on the train.

Councilor Pierce echoed Councilor Mahoney's comment about timing. There will be a few months before they can do anything anyway.

Mr. Poore said if the Council said go ahead and apply, it would be 4-6 months anyway. They could put off any decision on actually going through with the proposal until then.

Councilor Rodden thought there was a death on the tracks years ago.

Dave Gagnon of Field Road said there have been three deaths at Field Road in his lifetime, and one on Blackstrap. He said sometimes people aren't even aware of the tracks and the channelization might get their attention. Also, the horn wakes people up. He supported channelization.

Chair Varney polled the Council on Option #3.

The consensus of the Council was to support Option #3. They agreed that it would not need to be brought back to the Council unless something substantial changed.

Item 7 Order to authorize the Town Manager to issue a request for proposal (RFP) that would seek proposals to expand natural gas distribution into Falmouth, Cumberland and Yarmouth.

Mr. Poore explained that the town managers of the three towns are looking at the possibility of expanding natural gas into the towns. This summer the Council voted to spend money for a feasibility study. Three natural gas companies approached the towns with interest. It was determined that the companies were willing to bring their proposals forward if the towns did an RFP process. This allows the towns to get, in essence, three feasibility studies. This doesn't mean that they are going to eliminate the possibility of a quasi-municipal type of utility, but they would rather continue working with the companies at this time considering their interest. Costs to come might include peer reviews, legal consultations, etc.

Councilor Farber thought those costs would come out of the \$15,000 that was previously appropriated.

Mr. Poore agreed; he didn't think they would need that much. The costs would be shared equally between the three towns.

Councilor Mahoney moved the order; Councilor Pierce seconded.

Public comment period opened; there was no public input.

Motion carried 7-0.

Item 8 Discussion about the November 14 Council agenda.

Chair Varney wanted to know what the Council wanted to do with the footprint item on November 14.

The Council decided to hold a workshop on November 14. If members of the public wished to offer comments, they were encouraged to do so prior to that meeting. In order for public comment to be taken at that meeting, a waiver of Council rules would be required.

Adjourn

Councilor Pierce moved to adjourn; Councilor Mahoney seconded. Motion carried 7-0.

Meeting adjourned at 9:05 PM.

Respectfully submitted,

Melissa Tryon
Recording Secretary