

**Town Council Meeting
DRAFT Minutes
November 26, 2012**

The meeting was called to order at 7:03 pm.

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 asked for a moment of silence in memory of Kevin Grover, a second-grade teacher from Falmouth Elementary School, who passed away suddenly on Thanksgiving.

Public Forum

Mary Costigan, representing Lou Vinios, owner of the Falmouth Shopping Center, thanked the Council for their willingness to work with business owners on the footprint limitation issue. She thanked Town staff for working with her on the project.

Melanie Collins of Middle Road is a business owner. She was concerned with people who move here while their children are in school and then move away after their children are grown. She spoke about a lack of overall community in Falmouth. She thought following the contract to create a public-private partnership would create community. She hoped that the report scheduled for tonight will show a plan for Plummer that includes some public use. She suggested possible community uses for the Plummer school.

Mike Doyle of Shady Lane alleged that the rules of the public forum violate free speech. He said his email account was hacked this past weekend and those who received the emails should know they were not from him.

Item 1 (a) **Order to approve the minutes of the October 10, 2012, Town
(Consent Agenda) Council Meeting.**

Item 1 (b) **Order to approve the minutes of the October 22, 2012, Town
(Consent Agenda) Council Meeting.**

Item 1 (c) **Order to certify the November 6, 2012, State General Election and
(Consent Agenda) Referendum Election results.**

Chair Varney made a correction to the October 10 minutes.

Councilor Rodden moved the consent agenda with the correction; Councilor Pierce seconded. Motion carried 7-0.

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

Councilor Orestis said the LPC met about 2 weeks ago and addressed a number of items; they endorsed legislation around Right To Know/FOA requests. The proposed changes come, in part, out of Falmouth's experiences with these requests.

Councilor Mahoney said the School Board recognized both the girls and boys soccer teams, and the high school was selected as an AP district by the College Boards. Their audit should be completed by December. He announced that this Saturday morning at the Library there will be a presentation on timber management, with field trips to both Pine Grove and Woods Road Community Forest.

Chair Varney said that, at the Library Board meeting on December 3, Andy Hyland will present his version of an on-site library expansion.

Councilor Rodden announced the first Shop Falmouth event on December 7-9. The annual tree lighting is on Wednesday December 5 from 5:30-6:30pm. Community Programs will host a babysitting night on December 7 from 5-9pm. There will be a toy drive in conjunction with METRO's Stuff-A-Bus promotion; one drop off is Friday, December 7 from 5-9pm at Plummer in the office, and a second is on December 12 at 10:30am. Toys will be distributed via the Joy of Sharing program. There are over 35 businesses that have registered with the Shop Falmouth event, with special deals or events at their stores.

Councilor Pierce said LPAC and LPAC+ have finished the draft of the comprehensive plan and will bring it to the Council soon.

Councilor Payne said the Cumberland County Budget Advisory Committee finished their work and held a public hearing; a modest increase is expected.

Councilor Farber said FEIC has completed their review of the mobile food cart ordinance; they met with the brick and mortar store owner as well as the food cart owner and reviewed a report from staff. They have concluded that there is no need for any more ordinance language regarding this issue at this time. At Councilor Rodden's question, she said there was no formal, written report. Minutes are available.

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

Councilor Pierce said they will meet in the next few weeks. FEIC, Human Services, PACPAC, Open Space and Planning Board all have vacancies.

Item 4 Ordinance to amend the Zoning and Site Plan Review Ordinance regarding ground floor tenant area limitations in SB1.

Councilor Pierce moved the ordinance, Councilor Payne seconded.

Community Development Director Amanda Stearns wanted to make sure the version they were approving was the version circulated this afternoon, which included a few typo corrections. She provided a brief history of the ordinance amendment.

Councilor Farber wanted to make sure they haven't created an opportunity for a building to be built in the future under a contract zone and then use the squaring off provision to exceed the allowed limit.

Ms. Stearns said any building allowed under a contract zone would be governed by its contract, and not the zoning regulations in this ordinance. A contract zone is, in effect, its own zoning district.

Councilor Payne clarified that, wherever “not applicable” appears in the table that means there is no limitation. Ms. Stearns confirmed that is correct.

Councilor Mahoney said “existing non-conforming buildings” refers only to those properties that are on the ground now. Any future buildings would not qualify for the squaring off provision.

Ms. Stearns thanked Mary Costigan for working proactively and cooperatively with her on this ordinance.

Councilor Rodden said the Council has debated changes on Route 1 for 10 years. She spoke of her feelings about this vote, to make Route 1 more walkable and community focused.

Chair Varney said they have come a long way.

Motion carried 7-0.

Councilor Rodden spoke about a discussion at the last meeting regarding a letter submitted by resident Jon Berry. She asked Mr. Poore to clarify what is going to be done.

Mr. Poore said there has been no official committee to work on the proposal; the Council charged him to work with key staff, a couple Councilors and Mr. Berry to draft a report for the full Council in January.

**Item 5 Progress report on the Purchase and Sale Agreement with
OceanView Retirement Community regarding the Plummer-Motz
and Lunt School Property.**

Mr. Poore presented an update report. The closing is still anticipated by the end of the year. Approval by the Planning Board is possible at their next meeting in December. At the December 10 Council meeting they plan to discuss potential public-private partnership uses, the Village Green and the auditorium conversion. The Library Board is meeting in December to look at on-site expansion; they are aware that decisions on Plummer will have to be made soon.

Councilor Rodden asked about the Village Green; she thought the majority of decisions will come after they decide the uses of Plummer/Motz.

Mr. Poore said that was correct; they are hoping for an attractive and useful wet pond that will serve as a detention pond for the site. At this time it is a green area, with a gazebo perhaps. The Purchase and Sale (P&S) anticipated that these issues would not be decided prior to the closing; they are currently drafting a post-closing agreement to cover any remaining issues that are not finalized at the time of the closing.

Councilor Farber wanted to know what the decision points are for the Council.

Mr. Poore said December 10 would show what the potential uses might be. The Council’s decision will need to come after the Library has decided what they want to do, as that will impact the uses of the building.

Councilor Pierce asked if the Library meeting is open to the public; Chair Varney said it is.

Councilor Pierce pointed out that the longer the buildings are vacant, the more wear and tear there will be on them. This is a priority in the workplan for this year.

Councilor Rodden wondered if the Library has been informed of the financial aspects of this. Mr. Poore said those numbers are very preliminary at this point.

Councilor Pierce wondered if a presentation was made to the Library from OceanView. Mr. Poore said yes; also, the materials sent to the Council for this meeting will be given to the Library for their next meeting.

Councilor Payne pointed out the Council's obligation to determine where the nexus of activity should be in Town. He wondered what is in the best interest of the new downtown that they are creating.

Chair Varney reminded everyone that as far as Mason and Motz are concerned, they have 5 years to use it and then they need to make a decision on what to do with it.

Councilor Pierce said they have up to 5 years to make that decision. They could decide before then.

Councilor Farber wanted to see a clearer timeline. She wants to make sure the Library Board knows ahead of time when they need a decision. Mr. Poore said something will be provided on December 10.

Councilor Rodden hoped Town staff would be present at Library Board meetings to help. Mr. Poore said Town staff are there to help; the Board is well-informed.

Item 6 Discussion of a protocol outlining procedures to be followed by the Greater Portland Economic Development Corporation ("GPEDC") and its member communities, including Falmouth, for business location inquiries from within the Greater Portland region as well as for those from beyond the region.

Mr. Poore said Long-range Planning Director Theo Holtwijk serves on the Board as Falmouth's representative. The goal was to work together more, and in that spirit the agreement was that towns would not try to solicit business from one town to another. The goal is to encourage business within the region.

Mr. Holtwijk said the corporation endorsed this protocol, with the understanding that the municipalities would each have to support it. The draft resolution attached was submitted as a suggestion.

Mr. Poore said the GPEDC has 6 municipal members and 9 members from the business sector.

Mr. Holtwijk agreed; there is a majority of private sector business on the committee.

Councilor Farber asked if encouraging a business to expand into your community would be considered solicitation.

Mr. Holtwijk said this is focused on relocation; they hope that businesses will expand, and understand opening branches in partner communities. Solicitation did not preclude broader advertising.

Councilor Rodden asked how it would be decided where a business would locate in the region.

Mr. Holtwijk said that is addressed in the procedures; the GPEDC Executive Director is expected to facilitate these requests, keeping a database of available sites and notifying the towns in the area. All suitable sites would be forwarded to the business and all follow-ups would be coordinated through the GPEDC. Financial incentives might be a part of a proposal package by a town that is in direct competition with another town. The intent is that through the communications outlined in the proposal, towns would be aware and there would be no secrets. Falmouth hasn't seen any issues around this so far, but other towns have had tug-of-war situations.

Councilor Payne asked who is on the Board.

Mr. Holtwijk named a few businesses that have representatives on the Board, including National Semiconductor, Androscoggin Bank, Fairchild Semiconductor, Regional Chamber of Commerce, Maine Colleges and University, Southern Maine Community College, New England College, and the Foundation for Blood Research.

Councilor Payne was concerned that, in discouraging poaching, the protocol might deprive current businesses of the ability to be offered a better opportunity in another community. If a business is

considering relocation, he thought the self-interest of Falmouth would not be served if they were prohibited from approaching them to discuss available sites. The protocol would preclude competition.

Mr. Holtwijk thought competition happens today and will still happen; if a developer approaches a realtor to help them select a site in Greater Portland, they will assess many parameters. The Board is united in making sure that existing companies don't leave this area or the state. They understand that there will be competitive advantages between towns. The main piece is to make sure that no hidden asset remains hidden; if there are suitable sites in Falmouth they would be considered alongside sites in Scarborough or Westbrook. He said he could provide a follow-up report to the Council on how the protocol is working in a year.

Councilor Payne wondered if the FEIC has reviewed this protocol. Mr. Holtwijk said they have been made aware of it, but he didn't share this draft protocol with them as it is very new.

Mr. Poore said when Mr. Holtwijk and he did their 13 business visits this past spring, it wasn't a big concern that a regional entity existed to facilitate businesses locating in the region, as opposed to just in Falmouth. Mr. Holtwijk confirmed that statement.

Councilor Payne was concerned with the protocol; he felt their sovereignty was being compromised in part. This gives up some of their tools. He recommended that it be brought to the FEIC before the Council votes on it.

Councilor Pierce felt the Town is well represented on the GPEDC and has a voice on the Board. She pointed out that if another town came in to try and solicit a Falmouth business, they wouldn't be happy. She wanted to focus on making Falmouth attractive to businesses so that they float to the top of the list when businesses are looking for a location.

Councilor Farber asked about action on the draft resolution. Mr. Holtwijk said there is no deadline. An action could follow at an upcoming meeting if the Council is comfortable with it.

Councilor Mahoney agreed that it should go to FEIC for review. He would like to know if they supported it. He would like to see a vote before the end of the year. He understood Councilor Payne's concerns but he also saw the value and the strength to the regional part of it.

Mr. Holtwijk said a vote on December 10 was possible; the FEIC was scheduled to meet on December 5.

Councilor Payne wanted a more substantive review. Councilor Farber wanted to grant them two meetings, with an answer back from them by the first meeting in January.

**Item 7 Order to authorize the Town Manager to enter into an
Administrative Consent Agreement with the owners of a certain
parcel to address the owner's non-compliance with section 18-133 of
the Town Sewer Ordinance.**

Mr. Poore explained that the Falmouth on the Green (FOG) subdivision was designed to rely on a community leach field, which did not work. Eventually they took their grey water and put it through a sewer extension down Winn Road. This worked for a few years. Excess infiltration of stormwater in the system over a number of years created capacity issues. A partnership with the Town and FOG concluded that the infiltration was coming from the homeowners' septic tanks. The agreement was that the Town would fund some of the improvement and then take over the system, since the Town was better able to manage it. Every homeowner had to eliminate their septic tank and go through the sewer. The average cost of bypassing these tanks has been around \$3,000; in the situation here tonight, due to the terrain and where the tank is located, the lowest quote the homeowner received was \$38,000. Pete Clark, Wastewater

Superintendent, went to the site and determined that due to the location of the tank it was unlikely that this tank would contribute to infiltration. In consideration of fairness, the homeowners have agreed to pay \$3,500 in exchange for a consent agreement to let them keep their tank. The agreement also says that, if the tank ever has to be removed due to infiltration, the town will repay the \$3,500. This type of situation was anticipated in the beginning. Staff recommends that this consent agreement be approved.

Councilor Pierce wondered who will monitor the septic. Mr. Poore said the risk is so remote, no one will monitor. If there were any infiltration it would be quarts and not hundreds of gallons.

Councilor Pierce wondered if this type of situation would be prevented in the future. Mr. Poore said he would look into it.

Councilor Mahoney thought it was outrageous that the Town has to clean up this mess. He wanted to know what has been done in regards with Planning Board procedures to prevent this in the future.

Councilor Payne asked for clarification on the language, that it applies in perpetuity. Mr. Poore confirmed that.

Councilor Pierce moved the order; Councilor Farber seconded.

Councilor Mahoney asked where the \$3,500 is going; Mr. Poore said it would go to general fund. Any rebate that would be required would come out of the general fund.

Motion carried 7-0.

Item 8 Discussion about memorializing and/or naming Town owned property and facilities.

Councilor Pierce discussed the history of the proposed policy and the work she did with town staff in reviewing policies from the School Department and other communities. Going down a path of naming things in Town is significant; it deserves a lot of thought and process, but the policies drafted will point them in the right direction.

Councilor Farber asked how they address who pays for memorial items, and who approves them.

Mr. Poore said this was a pretty general document; this is a policy and not an ordinance amendment which will allow the Council to try it out. As to the cost, it is open ended. He felt anyone that came forward with a request should have a recommendation on how to pay for it, either an offer to pay for it, or a request for the Town to pay for it. He thought the Council might decide it was something they wanted to pay for. Ongoing maintenance is addressed in the policy; it is not necessarily the Town's obligation to maintain what is installed.

Councilor Farber wanted to make sure that the Council or someone from the Town has the ability to approve whatever might be put up, if anything.

Councilor Pierce felt if they agreed to start naming things, they still need to have consistency.

Councilor Rodden thought they should designate a committee to deal with that level of detail, perhaps PACPAC. She asked about the policy of naming only after someone who has died.

Councilor Pierce said she felt very strongly about that policy, to prevent the possibility of someone who has been honored doing something horrible later on.

Item 9

Order to authorize the Town Manager to apply on behalf of the Town for state financing assistance under the provisions of the Recreational Trail Grant Program, for the development of trails, a trailhead parking facility, and trail signage in the Woods Road Community Forest, with trail extensions to the Deer Ridge Conservation Area.

Councilor Farber moved the order; Councilor Rodden seconded.

Councilor Farber explained that this would be for trail development. The cost to the Town would be covered by in-kind donations.

Councilor Mahoney said there were no long-strings attached to this grant, as with others.

Motion carried 7-0.

Item 10

Introduction to adopt the maximum levels of income and expenses for the General Assistance program, Chapter 6, Article 6, Section 6.68, Appendices A-C of the Falmouth Town Ordinance.

Councilor Pierce said assistance peaked in 2009/2010 and has dropped off since then. This action is required every year.

A public hearing was scheduled for the January 14 meeting.

Adjourn

Councilor Payne moved to adjourn; Councilor Farber seconded. Motion carried 7-0.

Meeting adjourned 8:51 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary