

Town Council Meeting Minutes February 24, 2014

The meeting was called to order at 7:00 pm.

Roll Call

Councilors King, Mahoney, Orestis, Goldberg, Farber and Pierce were present and answering roll call. Councilor Anderson was absent.

Pledge of Allegiance

Chair Pierce led those present in the Pledge of Allegiance.

Item 1 Public Forum

No members of the public spoke.

**Item 2 (a) Order to amend the minutes of the December 9, 2013, Town
(Consent Agenda) Council Meeting.**

**Item 2 (b) Order to approve the minutes of the January 13, 2014, Town
(Consent Agenda) Council Workshop Meeting.**

**Item 2 (c) Order to approve the minutes of the January 27, 2014, Town
(Consent Agenda) Council Meeting.**

Councilor Mahoney moved the consent agenda; Councilor King seconded.

Councilor Farber moved to amend January 13 minutes; Councilor Mahoney seconded. Motion carried 6-0.

Councilor Mahoney moved to approve the minutes as amended; Councilor King seconded. Motion carried 6-0.

Item 3 Report from Council Committees and liaisons regarding updates on assignments.

Councilor Farber met with the Library Finance Committee; they talked through the budget and the trustees will review it at their next meeting. They expect an increase in their operating budget.

Councilor King announced that REAC nominated a Falmouth individual and a Falmouth business for eco-excellence awards. Josh Olins, a teacher at the Falmouth elementary school, was nominated for his efforts to reduce waste in the school cafeteria by 80%, and the Falmouth Lamey-Wellehan store was nominated for drastically reducing their carbon footprint. REAC's movie series will continue with the film "A Fierce Green Fire" on Thursday at 6pm at the library. It is a 2012 documentary that chronicles the crucial stories from the last 50 years of the environmental movement. She also announced that LPAC will resume meeting this Thursday to work with CDC on the comprehensive plan land use initiatives.

Item 4 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

Councilor Farber moved to appoint Stephen DeCrosta as the Conservation Commission representative to the ad-hoc Zoning Committee; Councilor Mahoney seconded. Motion carried 6-0.

Item 5 Public hearing on a proposal for the delivery of assessing services from Cumberland County.

Chair Pierce opened the public hearing.

Stan Given of Hillside Avenue presented a handout to the Council. He believed that the County office is understaffed to serve the number of communities. They are proposing 2.5 people to serve 4 communities. He asked Anne Gregory to evaluate a list of the office tasks and the time Town staff spent on each task; he provided the list to the Council. Based on these numbers, he thought the county office would need more people. He didn't think they had enough information to determine how many people they would need. He pointed out that the values in Yarmouth are way off their assessments. They need a lot of work, and will likely need a revaluation soon. That will take away from staffing for Falmouth.

Public hearing closed.

Councilor Farber said she would like an opportunity for staff to respond to the document presented to them tonight. There is a lot of information here.

Councilor Orestis asked if the list of hours per task was based on information from the Assessor. Town Assessor Anne Gregory said that was correct.

Councilor King asked if Mr. Given does this kind of analysis for a living. Mr. Given said he is an engineer and a project manager. He manages large projects, and as a part of that has to evaluate the manpower needed to complete tasks.

Councilor Mahoney asked if the Town tracks hours.

Town Manager Nathan Poore said that Ms. Gregory has provided analysis like this before. He would review the document in detail.

Councilor Mahoney said it would be a good idea to contact Yarmouth to ask about these numbers.

Mr. Poore said Yarmouth is aware of the situation, but clarified that any revaluation effort would be an additional cost above the contract, so it wouldn't take away from available staffing. It is the same now; when the Town does a reval, they add staffing to do that.

Ms. Gregory said she generated the list of tasks and ran it by other assessors in the state. She had a quick meeting with Mr. Given to generate the hours associated with each task. It may not be completely accurate.

The Council will review the contract on March 10.

Item 6 Order to approve a supplemental appropriation and transfer in the amount of \$300,000 from Unassigned Fund Balance to help partially fund the acquisition of the northern end of Clapboard Island, such appropriation to be conditioned upon a successful fundraising campaign for financing from other sources.

Councilor Farber said the Finance Committee met and discussed this item but there was no majority opinion, so they decided to pass the question to the full Council as it was asked.

Chair Pierce opened a public comment period.

Dan Knowles of Oasis Landing, which is a part of Madokawando Landing, supported the Council providing funds to the Maine Coast Heritage Trust (MCHT) to purchase the property. This purchase will allow public access to this property for the first time in 100 years.

Roger Berle of Oasis Landing has served on the board of the Oceanside Conservation Trust of Casco Bay, which preserves island land either in fee or with conservation easements. This is a spectacular property. It is one of only three islands in Falmouth and is really accessible, from both Handy Boat and the Town Landing. This opportunity should receive priority. He urged the Council to support this.

Chuck Sanders of Applegate has had a mooring since 1991. He spent time with Maine Island Trails and had the opportunity to visit dozens of islands in Casco Bay and beyond. This island is a treasure. He spoke about the special experience of going out and standing on the shore of an island. There are trails on the island; it is flat and easy to get to. People can borrow a kayak or rowboat to get there; you can even reach it by inner tube. It was important to him that Falmouth spends the money to support this.

Erik Greven of Carnoustie Drive said waterfront access is a rare commodity; most of the land on the ocean is private. This is a great opportunity to get a little of the marine resource. The comp plan states in multiple places “protect shoreland” and “provide public access to shoreland”. He and his wife support the Council giving its support to this acquisition.

David Gagnon of Field Road serves on LMAC and spoke about going out to the island in his youth. He spent a number of years helping the caretaker of the island. He was concerned about what happens with the Madokawando Island; there is no public parking there. LMAC unanimously supported this effort.

Tim Tolford of Underwood Road visited the island in his own boat when he was young. The island is 1 mile from the Yacht Club and Handy Boat; it is easy to get to. It is a wonderful spot and they need to gain public access to it. This is a one time opportunity.

Bonny Rodden of Shoreline Drive understood the issue of money in the unassigned fund balance and suggested that the Council could bond to pay for this land acquisition. In 2007, 70% of the voters approved bonding to pay for open space. This is an unusual opportunity and it will expire soon. There is no money in the operating budget for land acquisition. The town is bonding the Route 1 project already; they can raise that bond up to \$10 million without impacting the interest rates. This is a jewel property and LMAC has determined that it should be conserved. This is a request from citizens, not just a request from a town committee. She asked the Council to fund the purchase with at least \$300,000 and to consider bonding as an option.

Hugh Smith of Susan Lane is a member of the Friends of Clapboard Island. He spoke of the efforts of the Town to conserve open space, both for recreational use and habitat conservation. The work to date has focused on mainland properties. This is likely a once in a lifetime chance to set aside land on the waterfront at a reasonable cost. This seems like a good buy and they feel it would get regular, low-impact use. He urged the Council to support this opportunity.

David Gooch of Johnson Road stressed that the option expires on August 15; the Friends needs the Town's help. The Town will gain park land and MCHT will steward it. MCHT has a good track record, and they will work with stakeholders to draft a stewardship plan. Parking is a non-issue; the Madokawando lot is intended to remain in its current state. He stressed that it is a minimum of \$300,000 – if the Town could provide \$500,000 it would be a done deal tonight.

Tom Howard of Hedgerow Drive said access to the island will not be a huge problem. He has not had any problem with parking at Town Landing. His big concern was how they make it so everyone in Falmouth can access it, not just people who have boats. He suggested they sell the property across the street from Town Landing market to fund the purchase of the island.

Fred Leighton of Baysite Lane felt the testimony tonight has told the story of Clapboard Island. Open space has always been a concern for the town. This situation is so unique and they are asking the Town for a minimum amount of money compared to what they are planning to raise. Generations from now the island will still be available to people from the Town. He hoped the Council would make this a reality.

Caleb Hemphill of Dunham Pond Lane, representing the Falmouth Land Trust, said the trust fully supports the effort of the MCHT to purchase this island. They support the order as drafted.

Russ Edwards of Hillside Ave said it would be great to have the island, but it took him 2-3 years to get a mooring because of parking. Parking needs to be addressed. The Town purchased the Brown property for parking, and that never happened.

Public comment period closed.

Councilor Farber moved the order; Councilor Goldberg seconded.

Councilor Farber asked about the plan for the Madokawando property.

Mr. Smith said the Madokawando landing lot, referred to as “the grove”, is part of the island parcel. Their initial plan is to create a lot on the island that includes the three-season cottage and sell that off to fund some of the purchase price. They also planned to sell off the grove to offset the cost of the purchase. The total purchase price is \$1.4 million, and they want to establish a stewardship fund as well. They had a title search done on the grove lot, and had the land surveyed to establish the boundaries. They met with the town's code enforcement officer to establish that this lot is developable though it would have restrictions on setbacks and height. They feel uncomfortable selling it as a developable lot; the best thing for the citizens of that neighborhood is to put that lot under some kind of protection. Their plan now is to sell that lot along with the cottage parcel with deed restrictions to both prevent development and preserve its current use as parking for residents of Madokawando landing. If this plan doesn't go through the potential exists for the final buyer to purchase the island and sell off the grove for development.

Mr. Berle, president of the Madokawando Landing Association (MLA), said they have met about this and are meeting again tomorrow night. Both lots on Clapboard are members of the Association. They are preparing to take responsibility for the grove; they are not looking to the Town to preserve that for their personal benefit, but he stressed that there is little land that allows public access to the shoreland.

Councilor Goldberg said the \$700,000 they expect from the sale includes the grove.

Keith Fletcher of MCHT explained that it would depend on the vote of the MLA. The grove will be protected with a conservation easement; it will not be public parking though they will try to preserve parking for the Madokawando residents. It could be sold separately with conservation easements and parking easements on it. The value of this lot was not included in the purchase price; it is found value.

Councilor Goldberg asked if any additional funds raised would lessen the fundraising gap.

Mr. Fletcher said that was correct. They need to raise \$1.6 million.

Councilor King asked if the \$700,000 includes the grove; Mr. Fletcher said it does not. The value on the house lot is a range.

Councilor Farber said if Falmouth were to provide a donation to this effort, it would be toward the island and not toward preserving private access to the grove. Mr. Fletcher said that was correct; the grove is a separate thing.

Mr. Berle said members of the MLA are going to step up; the money they put together will go into the pot. He thought more money will come from this group than MCHT expected originally. They want to preserve open space on the shore as well as the island.

Councilor Mahoney asked the specifics on who will own, who will have the easement, how much property, the stewardship plan and access; this is being offered at below-appraised value.

Mr. Fletcher said the purchase price was a fair market value, but they did go easy on it. They paid almost nothing for the grove. The value there was found. They have a P&S on 17 acres, which includes the northern end of the island and the grove. They will parcel out slightly more than 2 acres with the cottage to sell, and the grove will go along with that. There would be an easement to ensure that the grove would not be developed; the easement would either be held by the Falmouth Land Trust or the Oceanside Conservation Trust. There are six parking spaces there; they have been used by owners on both sides of the island. That would still be available for those owners. They would try to accommodate parking for the island owners; that decision would be up to MCHT.

Councilor Mahoney asked if the owners on the other side of the island would still have access to the parking at the grove, and if they have participated in the fundraising.

Mr. Fletcher said they have not donated yet.

Mr. Berle said they own land on Madokawando to allow them access to the landing.

Councilor Mahoney asked if they have access to parking other than at the grove. Mr. Fletcher said that would be arranged. It has been an informal arrangement for years.

Councilor Mahoney asked if there was monetary value to the parking to the owners on the western end of the island. Mr. Fletcher said there might be.

Mr. Fletcher spoke about the stewardship of the island. This would be a primarily a day-use area, with low impact use and no fires allowed. After a year of ownership, they would bring in stakeholders to discuss a long-term management plan.

Councilor Mahoney asked if moorings are available to be developed as a result of the purchase.

Mr. Fletcher said they don't develop moorings, but there have been some volunteers who have stepped forward to offer their moorings. There is a good anchorage; moorings wouldn't likely be needed.

Councilor King asked if the MLA's contribution would be part of the \$500,000 private fundraising effort. Mr. Berle said MLA felt they were putting money in the pot both for the island and for the grove. If the grove is a found lot they would put a lot of money in.

Councilor Goldberg said this is a compelling idea, with lots of merit and is a different project than the mainland open space projects they have done. There are many projects that are competing for funds from the unassigned fund balance right now. He prioritizes use of those funds this way: 1. assets that are broken; 2. investing in assets to make them better; and 3. acquiring things that they don't have. He included Clapboard in the third category.

Councilor Farber supported \$300,000 toward this effort, but no more than that. She felt this is a rare opportunity; it is consistent with what the voters have asked them to do in protecting open space. She felt

having someone else manage the trails was a good thing. She didn't feel access would be a problem; this is the most densely populated area in town. She felt this was the right thing to do. She supported using the unassigned fund balance for this and not going to bond.

Councilor Orestis thanked the public for their work and passion on this project. This is a unique opportunity to acquire shoreland property. He asked if there was a smaller number; \$300,000 is a big number. He also asked if there was another way to fund this. He wondered if they should be proactive about open space acquisition; bonding for a larger amount and having this be one of the properties they acquire, for example. He cannot support \$300,000 from the fund balance; he can either support a smaller number, or taking the funding from another source.

Councilor Goldberg asked how much time they have for this project. Chair Pierce said the deadline is August 15.

Councilor King felt this fits in the *Greening of Falmouth* and the goals of the comprehensive plan to increase water access. She pointed out that this property is connected to Town Landing. She thought this is important and that this group can make it happen. She was excited by the potential to access the property and thought this might get higher use than the trails in West Falmouth. She supported the order.

Councilor Mahoney spoke of his work on the Blackstrap Hill Preserve project. There are a lot of competing projects right now. He was concerned about the funding component they are looking at. He wondered if the 2 acre cottage piece would sell for the amount they want, if there was a lot of public use of the island. He was struggling with the amount; the Town invested \$200,000 in the Blackstrap property. He was intrigued with the idea of the bond. The Town has to make a contribution to this; the question was what the amount would be.

Chair Pierce liked the project; it is consistent with the *Greening of Falmouth*, it is a jewel property and has public support behind it. With other land purchases the Town has to maintain it. This is a great bang for their buck since they will not have to maintain it. This is a huge leverage of money for them to participate at this level. She would support it at \$300,000. She didn't think they should bond for this.

The Council discussed how to proceed with the project. Councilor Orestis supported a smaller number from the fund balance, or the full amount from a larger land acquisition bond. Councilor Farber didn't think they could go to bond and just hold the money; they would need parcels identified for a bond. Mr. Poore confirmed that was correct. Councilor Orestis felt there were parcels on the table but Chair Pierce was not aware of any specific package on the table. Councilor Goldberg wondered about the MLA funding narrowing the gap.

Mr. Berle said the neighbors and the MLA as a group want to contribute; their efforts are not meant to allow the Town to reduce the amount it contributes.

Councilor Farber said the \$200,000 level came out of discussions at the Finance Committee since the MCHT is looking at a \$200,000 grant from Land for Maine's Future (LMF); typically LMF likes to see a match.

Chair Pierce moved to amend the order, lowering the amount to \$200,000; Councilor Orestis seconded.

Councilor King asked for clarification that the reason to reduce it to \$200,000 was because of the other demands on the fund balance, and because they want to match the requested LMF grant.

Chair Pierce said her reason to lower it to \$200,000 was in consideration of other demands; she wanted the Town to still be a significant contributor to the fundraising campaign. She thought it was worthy of the full \$300,000 but doesn't want to see the Town not participate at all.

Councilor Goldberg wondered if it was worthwhile to park this and discuss bonding to support this at the full \$300,000 amount. Chair Pierce didn't hear support for bonding from the Council. She didn't support bonding it; she didn't think it was fiscally responsible and it would complicate the Route 1 bond.

Councilor Farber asked the cost of borrowing as a stand-alone bond. Mr. Poore said it would depend on if they needed a credit rating. He thought it could be \$30-40,000 if they didn't need a credit rating and \$60,000 or more if they did.

Councilor Farber said they have the money available. There are larger things coming down the pike and it may be more appropriate borrowing for those projects when they are ready. She had a problem with borrowing money when they have money available.

Councilor Orestis wondered about researching a bond to fund 2-3 projects instead of just this one. He wondered about taking some time to figure this out.

Chair Pierce worried about putting it off; timing in a fundraising campaign is important.

Motion to amend carried 4-2 (King, Goldberg opposed).

Councilor Farber called the order as amended.

Amended order carried 5-1 (Goldberg).

Item 7 Order to adopt revisions to the Comprehensive Plan, dated February 7, 2014.

Councilor King moved the order; Councilor Goldberg seconded.

Councilor Goldberg asked if this is now final; this doesn't go back to the state.

Theo Holtwijk, Director of Long-range Planning, said that was correct.

Councilor Mahoney asked what the most significant revisions were.

Mr. Holtwijk said the one revision required by the State was to go more in-depth on the inventory of natural resources. The State asked for the Town to have more comprehensive maps instead of going by the maps the State has. This was likely triggered by the fact that the data from the State was 3.5 years old; the State has a rule that the data should be 3 years old or less. The other revisions were recommendations, but he felt those should be implemented out of courtesy to the state reviewers; they don't change the significance of the policies of the plan or the actions that were adopted. This doesn't bind the Town into following those recommendations. They discussed the comments by IF&W around the issue of public access to Highland Lake.

Motion carried 6-0.

Item 8 Order to approve a supplemental appropriation and transfer in the amount of \$100,000 from Unassigned Fund Balance to pay for consulting services related to the administrative rewrite of the land use ordinances, including creating a unified ordinance.

Chair Pierce explained that the recommendation to rewrite the ordinance was from a study done ten years ago; an ad-hoc committee was formed last summer to begin this work. Amanda Stearns, Community Development Director, was assigned as staff liaison but it has become apparent that, due to other projects competing for staff time, it isn't possible to get this done without outside help. This is a lot of money but is a one-time thing and involves buying some software that will help the Town in the future.

Councilor Farber clarified that the software was already purchased and is not part of this appropriation; this funding is to generate the ordinance changes.

Councilor Goldberg asked what they will have at the end of this process.

Chair Pierce said they will have a unified ordinance that will be linked throughout the software so it is very user-friendly. They will have control over the data and will be able to update the ordinance without having to pay an outside company to do it. They used budgeted funds to pay for the initial software purchase. She stressed that this is up to \$100,000; they hope not to spend the full amount.

Mr. Poore intended to bring this back to CDC to review the final scope of work and cost estimates when it is negotiated.

Councilor King wondered if this would be an efficient way to get this job done and whether it will be worth the money spent.

Chair Pierce felt it would be, based on her experience on the zoning committee and watching how other projects come in and compete for staff time.

Councilor Orestis said this is a big complaint from the business community and a hindrance to bringing new businesses in; he felt it was a smart investment that will bring big returns.

Councilor Mahoney felt this was a bitter pill after the Clapboard Island vote. He asked what other requests there are on the fund balance this year.

Councilor Farber said they have been discussing that at the Finance Committee this year. She viewed this expenditure as one of those things that needs to be done. If they don't do this, they would have to give up on several projects. The Route 100 ad hoc committee visioning project, the goal of the zoning ordinance being done in the next 12 months, a developer coming forward soon that will take staff time and the Hat Trick Drive project are all competing for staff time.

Councilor Mahoney wondered if the individual projects should be compensating for the staff time that is being diverted away from the rezoning.

Chair Pierce said one of the projects taking staff time is the comprehensive plan land management project. She pointed out that a lot of the fund balance projects have been in process for a long time and are all landing right now.

Councilor King pointed out that this code rewrite falls under Councilor Goldberg's priority 1; something they own that they need to fix.

Councilor Goldberg felt this came up rather quickly. He agreed with Councilor King's assessment of its priority and Councilor Orestis' point about the return on investment.

Councilor Farber moved the order; Councilor King seconded. Motion carried 6-0.

Councilor Mahoney asked for a compilation of what they have drawn off the fund balance in the last 4-5 years and what is coming up.

Item 9 Introduction by Councilor Chair Pierce of an amendment to the Falmouth Code of Ordinances regarding the notice requirements for a special amusement permit.

Councilor Farber asked about the abutter notices.

Chair Pierce said the town office would send those out and notify people of the public hearing.

A public hearing will be scheduled.

**Item 10 Order to go into Executive Session pursuant to the Laws of Maine
to discuss and consider the acquisition of land, pursuant to 1
M.R.S.A. § 405 (6) (C).**

Councilor Farber moved to enter executive session; Councilor Mahoney seconded.

Motion carried 6-0.

The Council entered executive session at 9:11 pm.

Adjourn

Councilor Mahoney moved to adjourn; Councilor Goldberg seconded. Motion carried 6-0.

Meeting adjourned at 10:10 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary