

Town of Falmouth, Maine
Town Council Meeting Minutes
April 28, 2008

Falmouth Town Hall
Council Chambers - 7:00 PM

Roll Call

Council Attendance: Present and answering roll call: Councilors Wrobleski, Goggin, Rodden, Armitage, Breen, & Libby.

Arriving after roll call: Councilor Payne

Chair Breen recognized Tony Hayes for his dedicated service to the town of Falmouth as Public Works Director.

Public Forum

Chair Breen opened the public forum.

Susan Howe spoke regarding an upcoming Green Ribbon celebration at the library. She mentioned that on Sunday afternoon the land trust is sponsoring a road side clean up.

Patty Weber commented on school consolidation & petition signatures being collected and asked the council to refrain from any official endorsements as a council for school consolidation.

Andy Hyland addressed the council regarding his concern with the dinghy process. There were 8 residents that arrived at Town Hall between 7:30 & 8:00 AM who did not receive permits. He did not believe the notice was clear, and asked for a temporary permit for this season.

Steve Archambault explained the process and stated that dinghy day went well. Placeholders were given out & "we are working towards getting a launch service."

Kevin Cady, HarborMaster stated that he wanted to make this fair & looked at community dinghies and are also looking at a mechanism to get people to their mooring vessels. The Coastal Waters Ordinance states there will be 60 resident dinghies and 30 non-resident dinghies.

Councilor Goggin stated that the council overrode the committee on the amount of dinghy permits. She thought it was well publicized last year. She stated: "my heart is breaking and boating is a very important part of my family life." She thinks it is the council's job to look at the macro picture. She is against giving out additional permits, and suggested dinghy pooling. She asked the Harbor Committee to make a list of those that might share their dinghies.

Chair Breen closed the public forum.

[Item 1 \(a\) \(Consent Agenda\)](#)

Order to approve the minutes of the regular meeting of March 24, 2008.

[Item 1 \(b\) \(Consent Agenda\)](#)

Order to approve the minutes of the special meeting of March 24, 2008.

[Item 1 \(c\) \(Consent Agenda\)](#)

Order to approve the minutes of the special meeting of March 26, 2008.

[Item 1 \(d\) \(Consent Agenda\)](#)

Consider approval of amendments to the Woodlands Articles of Incorporation and Bylaws.

It was explained that there were a series of administrative changes.

[Item 1 \(e\) \(Consent Agenda\)](#)

Order to sign the warrant for unlicensed dogs.

[Item 1 \(f\) \(Consent Agenda\)](#)

Order to approve the relocation of a sewer easement on Chestnut Street.

**TOWN COUNCIL
TOWN OF FALMOUTH, MAINE
ORDER CONCERNING RELOCATION OF A CERTAIN SEWER EASEMENT
ACROSS PROPERTY SITUATED AT 12 CHESTNUT STREET**

WHEREAS, the Town of Falmouth holds a sewer line easement over a certain lot of land situated on Chestnut Street in the Town of Falmouth, being a part of lots 24 and 25 as delineated on a plan of the Stackpole Farm recorded in the Cumberland County Registry of Deeds in Plan Book 6 Page 2;

WHEREAS, the location of the easement is described in the Easement Deed from Beatrice G. Bowen to the Town of Falmouth dated April 7, 1986;

WHEREAS, Lincoln Hayes, current owner of the property over which the easement crosses, wishes to relocate the boundaries of the easement, but not to move the sewer line, in connection with a home renovation project; and

WHEREAS, the Town has no objection to relocating the boundaries of the easement and considers the proposed relocation to benefit the Town in that the sewer line will be in the middle of the easement rather than at the edge of the easement as is currently the case.

NOW THEREFORE, be it ordered by the Town Council of the Town of Falmouth, Maine in Town Council assembled:

1. The Town Manager is authorized to negotiate the terms of a relocated sewer easement over the above referenced property.
2. The boundaries of the relocated easement shall be subject to the approval of the Sewer Superintendent and the language of the easement shall be approved by the

Town Attorney.

3. All fees and costs incurred by the Town in connection with the drafting, execution, surveying, mapping and recording of the relocated easement shall be reimbursed to the Town by the landowner.

4. Upon satisfaction of the conditions stated herein, the Town Manager is authorized to accept the relocated easement on behalf of the Town.

[Item 1 \(g\) \(Consent Agenda\)](#)

Order to accept a proposal from Runyon Kersteen and Ouellette to perform the annual financial audit.

[Item 1 \(h\) \(Consent Agenda\)](#)

Order to set FY09 real and personal property tax due dates.

On motion (Armitage) , duly seconded by (Libby), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

TOWN OF FALMOUTH
ORDER

BE IT HEREBY ORDERED THIS 28th DAY OF APRIL 2008 BY THE FALMOUTH TOWN COUNCIL, FALMOUTH, MAINE, IN TOWN COUNCIL ASSEMBLED:

“To establish the fiscal year 2008-2009 tax due dates as November 7, 2008, and May 1, 2009, for real estate taxes, December 1, 2008, for personal property taxes, 11.0% as the penalty interest rate, and 7.0% as the interest rate for overpayment of taxes. Pursuant to Title 36, Section 906, of the Maine Revised Statutes Annotated, the tax collector is directed to apply any tax payment received from an individual as payment for any property tax against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill.”

Attest: Kathleen W. Babeu
Town Clerk

On motion (Armitage), duly seconded by (Libby), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To approve the consent agenda.”

Item 2

Report from Council Committees and liaisons regarding updates on assignments.

Councilor Wrobleski as school board liaison stated there is a consolidation meeting tomorrow night at the Cumberland Town Hall to discuss whether to go forward with school consolidation in June or November. The budget validation referendum vote is scheduled for May 6th.

Councilor Rodden reported on Metro & mentioned on Earth Day there was a special bus ride with 272 riders. Metro is working on student discount tickets at the school.

Councilor Armitage reported the Recreational Activities/Community Programs Advisory Committee is in the process of updating their mission and charge. They want to maintain the recreational and park component in their committee, and will have a presentation coming up.

Councilor Breen commented that the Community Facilities Planning Committee's draft charge will be on the web. The Governance Committee will meet on May 7 at 7:30 AM in the large conference room upstairs.

Councilor Payne spoke regarding the Ordinance Committee and the possibility of disbanding the committee.

Councilor Libby reported the Cable TV is rolling along nicely. The Harbor Committee is doing well, except with the dinghy issues. The committee is reviewing the information supplied from the consultant and should have the information in the next 3 months. The committee should be able to report to council in August. Workforce Housing held its first meeting last Wednesday. They have 6 proposals.

[Item 3](#)

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

The Appointments Committee was unable to meet this month. The deadline has been extended for the Green Ribbon Commission on Energy and Climate Protection to May 9th. GPCOG representatives are Cathy Breen and Nathan Poore.

[Item 4](#)

Public Hearing and order to renew food service/victualers licenses for: Falmouth Exxon, Falmouth Memorial Post 164, Falmouth School Food Service, Family Ice Center, Foreside Tavern & Side Bar, Handy Boat Service, Inc., Hannaford Food & Drug #222, Holy Martyr's Church, Leavitt & Sons, Lotus Joy Garden, Inc., McDonald's, Nina's Variety, Professional Catering Services, Inc., Rite Aid #3278, Starbucks Coffee, Waldo's General Store, Wendy's Restwend LLC, West Falmouth Baptist Church, West Falmouth Blue Canoe, Harmon's Lunch, Falmouth 10, Subway, Portland Country Club: Pool Café, Portland Country Club: Clubhouse, Ricetta's of Falmouth, Falmouth Congregational Church & Finch's Restaurant.

On motion (Armitage), duly seconded by (Wrobleski), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

"To approve renewal food service/victualer's licenses for the above named establishments."

On motion (Wrobleski), duly seconded by (Rodden), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To take the testimony of the Falmouth Flyer out of order.”

Residents from OceanView spoke in favor of the Falmouth Flyer.

Item 5

Public Hearing and presentation - FY09 school budget.

A powerpoint presentation of the school budget was presented.

Chair Breen opened the public hearing.

Gary Reed asked the council to handle the budget with fiscal restraint.

Elwin Hanson believes the town should come in with a zero budget this year.

Mary Beth Bachman has 3 kids in the school system and supports the school budget.

Julie McDonald supports the school budget.

Chair Breen closed the public hearing.

Item 6

Order to approve the Fy09 School Department Budget

On motion (Armitage), duly seconded by (Payne), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To approve the FY09 School Department Budget at 3.5%.”

On motion (Wrobleski), duly seconded by (Breen), it was VOTED (3 Ayes 4 opposed: Goggin, Armitage, Payne & Libby) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To support amending the order to reinstate the additional money the school board was asked to cut from the budget. “

MOTION FAILED

On motion (Armitage) , duly seconded by (Payne), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To move the question.”

On motion (Armitage) , duly seconded by (Payne), it was VOTED (5 Ayes: 2 opposed: Rodden & Breen) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To approve the FY 09 School Department Budget at 3.5%.”

**TOWN OF FALMOUTH
ORDERS APPROVING SCHOOL BUDGET
FOR FISCAL YEAR 2008-2009
THE FOLLOWING ARE ORDERS RELATING TO THE SCHOOL BUDGET AS
REQUIRED BY 20-A MRSA §§1486, 2307 AND 15690.
APRIL 28, 2008**

**BE IT ORDERED, that the following school budget articles be adopted and approved
for fiscal year 2008-2009:**

1. That \$11,599,595 be authorized to be expended for Regular Instruction.
2. That \$3,109,380 be authorized to be expended for Special Education.
3. That \$60,989 be authorized to be expended for Career and Technical Education.
4. That \$707,731 be authorized to be expended for Other Instruction.
5. That \$2,133,767 be authorized to be expended for Student and Staff Support.
6. That \$827,013 be authorized to be expended for System Administration.
7. That \$1,095,816 be authorized to be expended for School Administration.
8. That \$1,305,459 be authorized to be expended for Transportation and Buses.
9. That \$2,493,806 be authorized to be expended for Facilities Maintenance.
10. That \$1,797,958 be authorized to be expended for Debt Service and Other Commitments.
11. That \$0 be authorized to be expended for All Other Expenditures.

BE IT FURTHER ORDERED, that \$19,584,263 be appropriated for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and that \$12,916,600 be raised as the municipality’s contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

Explanation: The municipality’s contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars.

BE IT FURTHER ORDERED, that \$366,483 be raised and appropriated for the annual payments on debt service previously approved by the municipality’s legislative body for non-state-funded school construction projects, non-state-funded portions of school construction projects and minor capital projects in addition to the funds appropriated as the local share of the municipality’s contribution to the total cost of funding public education from kindergarten to grade 12.

Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the municipality's long-term debt for major capital school construction projects and minor capital renovation projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or other legislative body.

The following order must be approved by a majority of the entire membership of the Council.

BE IT FURTHER ORDERED, that \$4,916,769 be raised and appropriated in additional local funds, which exceeds the State's Essential Programs and Services allocation model by \$4,466,578 as required to fund the budget recommended by the school committee. The school committee recommends \$4,916,769 for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by \$4,466,578: The state's funding model does not support all of the costs of the schools because it includes only those costs considered essential by the new State Essential Programs and Services (EPS) model.

For FY2008, the State is funding 97% of the full cost of the Essential Programs and Services funding model. State funding at 100% would have provided \$450,191 in additional funds. The remaining \$4,466,578 represents Falmouth educational costs not recognized in the Essential Program and Services (EPS) funding model.

The EPS funding model was originally designed to provide adequacy and equity for educational funding and was not designed to provide full funding for a complete educational experience. The model does not adequately recognize the full costs associated with delivering the educational experiences that the Falmouth community values and the Falmouth Public Schools provide. Costs not adequately represented or included in the EPS model (formulas) that contribute to exceeding 100% of the EPS model include, but are not limited to, professional staff salary and benefit costs (not reflective of market conditions or number of personnel needed to deliver the Falmouth educational program (unified arts, world languages, literacy, class sizes, high school electives/college prep/AP offerings, etc.), athletic and co-curricular activity costs, substitute teacher costs, the cost of three additional student days, accurate facility maintenance and repair costs, and energy cost variances beyond the rate of inflation.

Explanation: The additional local funds are those locally raised funds over and above the municipality's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state funded debt service that will help achieve the school department budget for educational programs.

BE IT FURTHER ORDERED, that the school committee be authorized to expend \$25,131,514 for the fiscal year beginning July 1, 2008 and ending June 30, 2009 from the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools. **BE IT FURTHER ORDERED**, that in addition to the amounts authorized under the

previous orders, the Council hereby authorizes the school committee to expend any state, federal and other grants, aid and receipts during the fiscal year beginning July 1, 2008 and ending June 30, 2009, for school purposes and adult education, provided that such grants, aid and receipts do not require expenditure of local funds not previously appropriated.

BE IT FURTHER ORDERED, that the Town will appropriate \$313,108 for adult education and raise \$124,327 as the local share; with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program.

On motion (Payne) , duly seconded by (Libby), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To take Item #13: Order relative to create a new use “Commercial School” and permit it in the Business Professional District (BP) out of order.”

[Item 7](#)

Public Hearing and presentation - FY09 municipal budget.

Town Manager. **Nathan Poore** presented the budget.

Chair Breen opened the public hearing.

Mel Dickenson, Chair of the Open Space Committee supports preserving space and the rural character of the town.

Lissa Robinson, Chair of the Conservation Commission stated that this is a great opportunity to support open space.

Chair Breen closed the public hearing.

[Item 8](#)

Council order - FY09 municipal budget.

On motion (Wrobleski), duly seconded by (Goggin), it was VOTED (Ayes: no vote) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To restore the funding to open space to \$500,000 in this fiscal year and ombudsman and restoration of the capital expenditures for streets and sidewalks.”

On motion (Rodden), duly seconded by (Breen), it was VOTED (3 Ayes: 3 opposed: Armitage, Goggin, Payne) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED

“To amend and move \$300,000 from reserves into the open space and add to the designated fund balance: \$200,000 from reserves moved to the express side/ revenue side of the budget.”

On motion (Payne), duly seconded by (Libby), it was VOTED (3 Ayes: 4 opposed Armitage, Goggin, Rodden & Breen) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To amend Councilor Wrobleski’s motion to increase reserves by \$300,000 with \$200,000 in new money.

MOTION FAILS

On motion (Breen), duly seconded by (Wrobleski), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To move the question.”

On motion (Goggin), duly seconded by (Breen), it was VOTED (5 Ayes: 2 opposed: Payne, Libby) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To move \$150,000 to fund through the general fund in one year regarding the open space funding of \$500,000.

On motion (Wrobleski), duly seconded by (Breen), it was VOTED (5 Ayes: 2 opposed: Payne & Armitage) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To approve the amended motion on the table for the whole amount.”

**TOWN OF FALMOUTH
ORDER**

**BE IT HEREBY ORDERED THIS 28th DAY OF APRIL, 2008, BY
THE FALMOUTH TOWN COUNCIL, FALMOUTH MAINE, IN
TOWN COUNCIL ASSEMBLED:**

“To adopt the 2008-2009 General Fund Operating Budget as follows:

GENERAL FUND:

GENERAL GOVERNMENT	818,985
FINANCIAL ADMINISTRATION/DEBT SERVICE	1,657,068

PUBLIC SAFETY	3,221,097
PARKS & PUBLIC WORKS	3,209,609
COMMUNITY DEVELOPMENT	590,561
COMMUNITY PROGRAMS	179,153
OTHER AGENCIES / NON-DEPARTMENTAL	1,167,407
EDUCATION	<u>25,131,514</u>
TOTAL GENERAL FUND OPERATING BUDGET	35,975,394

Attest:

Kathleen W. Babeu

Town Clerk
*PROPOSED +AMENDMENTS 1 AND 3

Item 9

Public Hearing relative to amendment to the Code of Ordinances, Part II, Chapter 2, Article III, Division 4, that will change the charge and membership of the Comprehensive Planning Advisory Committee.

Chair Breen opened the public hearing.

There was no public comment.

Chair Breen closed the public hearing.

Item 10

Order relative to amending the Code of Ordinance Chapter 17, Traffic and Motor Vehicles.

On motion (Armitage), duly seconded by (Goggin), it was VOTED (5 Ayes: 2 opposed: Breen, Wroblewski) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To amend the Code of Ordinance Chapter 17, Traffic and Motor Vehicles, with a proposed amendment of extending the date of banning parking on Andrews Avenue to October 31, 2008.”

On motion (Goggin), duly seconded by (Payne), it was VOTED (3 Ayes: 4 opposed: Libby, Armitage, Wroblewski, Breen) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To vote on the original amendment.”

On motion (Armitage), duly seconded by (Goggin), it was VOTED (5 Ayes: 2 opposed: Breen, Wroblewski) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To vote on the amended amendment with the date change to October 31, 2008.”

“To extend Andrews Avenue to October 31st of each year.”

Add to Chapter 17, Traffic and Motor Vehicles, section 17-92, sub section D; Squidere Lane – no parking on the east side of the road from the intersection of Depot Road to the Blackstone cul-de-sac.

This request is being made in response to the parking that occurs on both sides of Squidere Lane during Little League season. This is a narrow road and with vehicles parked on both sides of the road it severely restricts emergency vehicle access to Blackstone housing complex.

Add to Chapter 17, Traffic and Motor Vehicles, section 17-92, sub section D; Andrews Avenue – no parking, tow away zone, May 1 until October 31 from 6 am to 6 pm. It appears that this restriction was never adopted, beyond a sunset limited emergency ordinance amendment, by the Town Council when the signs were erected in 2006. This restriction was imposed after being requested by the residents of Andrews Ave. Prior to the emergency ordinance adopted by the Town Council, people began parking on both sides of the street when Mackworth Island restricted parking on the island. This also was a safety hazard for emergency vehicles accessing the area when both sides of the road were parked on.

Item 11

Order relative to the adoption of an Emergency Management Ordinance.

On motion (Libby) , duly seconded by (Payne), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To adopt the Emergency Management Ordinance.”

Town of Falmouth Department of Emergency Management & Homeland Security

Purpose:

It is the intent and purpose of this ordinance to establish a Department of Emergency Management & Homeland Security in compliance and in conformity with the provisions of Title 37-B, M.R.S.A., § 781 et. seg., to ensure the complete and efficient utilization of the Town’s facilities and resources to combat disaster as defined herein.

Definitions:

The following definitions shall apply in the interpretation of this article:

Department: “Department” shall mean the Department of Emergency Management and Homeland Security as established by this ordinance.

Civil Emergency Preparedness. “Civil Emergency Preparedness” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency

welfare, rescue, engineering, and communications services, evacuation of persons from stricken areas, allocation of critical materials in short supply, emergency transportation, other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

Civil emergency preparedness forces: “Civil emergency preparedness forces” shall mean the employees, equipment and facilities of all town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Director: “Director” means the director of the Town of Falmouth Department of Emergency Management & Homeland Security, appointed as prescribed in the ordinance.

Disaster: “Disaster means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made causes including, but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

Organization:

(a) The town manager shall be responsible for the department’s organization, administration and operation. The town manager may employ such permanent or temporary employees as he deems necessary and prescribe their duties.

(b) The town council shall review the existing operational organization to ascertain the department’s ability to cope with its responsibilities and shall approve the town’s emergency operation plan.

Appointment of director; duties and responsibilities:

The town manager shall appoint the director of the department, who shall coordinate the activities of all town departments, organizations, and agencies for civil emergency preparedness within the town and maintain a liaison with other civil preparedness agencies, public safety agencies, and have such additional duties as prescribed by the town manager.

Rules and regulations:

The director shall prepare, under the direction of the town manager or designee, such policies as may be deemed necessary or the administration and operational requirements of the department,

which policies must be approved by the town council prior to becoming effective.

Emergency proclamation:

(a) The town council chairperson, in consultation with the town manager, shall have the power and authority to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent; The proclamation may declare that an emergency exists in any or all sections of the town. If the town council chairperson is temporarily absent from the town or otherwise unavailable, the vice chairperson of the town council may issue the proclamation that an emergency exists. If neither the chairperson, or the vice-chairperson of the town council is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the town manager, the director;

the chief of police, the fire chief. A copy of such proclamation shall be filed within twentyfour (24) hours in the office of the town clerk.

(b) Notwithstanding the above, when consultation with the chairperson of the town council would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the town manager is authorized to take whatever actions are necessary to prevent the loss of life and property in the town.

(c) The town manager and the director shall be responsible for submitting a full report to the town council of all actions taken as a result of the declared emergency as soon as the town council can be convened.

Termination of emergency:

(a) When the town council chairperson, in consultation with the town manager, is satisfied that a disaster or civil emergency no longer exists, he / she shall terminate the emergency proclamation by another proclamation affecting the sections of the town covered by the original proclamation, or any part thereof. If the town council chairperson is temporarily absent from the town or otherwise unavailable, the vice chairperson of the town council may issue the proclamation that a disaster or civil emergency no longer exists. If neither the chairperson, or the vice-chairperson of the town council is available, then the following persons shall have the power and authority to issue a proclamation that a disaster or civil emergency no longer exists, in the following order of succession: the town manager, the director; the chief of police, the fire chief. Said termination of emergency shall be filed in the office of the town clerk.

(b) No state of emergency may continue for longer than five days unless renewed by the town council. Manager's duties and emergency powers:

(a) During any period when an emergency or disaster exists or appears imminent, the town manager may promulgate such regulations as he / she deems necessary to protect life and property and to preserve critical resources within the purposes of this ordinance. Such regulations may include, but are not limited to, the following:

(1) Regulations prohibiting or restricting the movement of vehicles in areas within or without of the town;

(2) Regulations facilitating or restricting the movement of persons within the town;

(3) Regulations pertaining to the movement of persons from hazardous areas within the town;

(4) Such other regulations necessary to preserve public peace, health and safety. Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by state statute, town ordinance or the charter of the town.

(b) The town manager or designee may order the evacuation of persons from hazardous areas within the town.

(c) The town manager shall be authorized to request aid or assistance from the state or any political subdivision of the state and shall render assistance to other political subdivisions under the provisions of Title 37-B, M.R.S.A., section 781.

(d) The town manager may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property.

(e) The provisions of this section will terminate at the end of the declared emergency.

Emergency operations plans:

The director shall prepare an emergency operations plan for the town, which shall be submitted to the town council for approval.

It shall be the responsibility of all town departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The town plan shall be reviewed periodically by the town manager in conjunction with all town department heads and the director. Immunity from liability: All members of the civil emergency preparedness forces, while engaged in civil emergency preparedness activities, shall be immune from liability, as set forth in Title 37-B, section 822 M.R.S.A.

Compensation for injuries:

All members of the civil emergency preparedness forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the *Workman's Compensation Act*, as set forth in Title 37-B, section 823, M.R.S.A.

Violation of regulations:

It shall be unlawful for any person to violate any provisions of this article or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any member of the civil emergency preparedness organization as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued there under.

Penalty:

Any person, firm or corporation violating any provision of this article or any rule or regulation promulgated there under, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) and the costs of the prosecution.

Severability:

Should any provision of this ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this ordinance as a whole, it being the legislative intent that the provisions of this ordinance shall be severable and remain valid notwithstanding such declaration.

Conflicting ordinances, orders, rules and regulations suspended:

At all times when orders, rule and regulations made and promulgated pursuant to this ordinance shall be in effect, they shall supersede all existing ordinances, order, rules and regulations, insofar as the latter may be inconsistent herewith.

[Item 12](#)

Order relative to the adoption of a new General Assistance Ordinance (replacing all language in chapter 6 of the Code of Ordinance), and adoption of state dollar amounts for maximum assistance.

On motion (Armitage) , duly seconded by (Libby), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To adopt the new General Assistance Ordinance replacing all language in Chapter 6 of the Code of Ordinance, and adopt the state dollar amounts for maximum assistance.

The maximums are included at the end of the minutes.

[Item 13](#)

Order relative to Zoning Amendment to create a new use "Commercial School" and permit it in the Business Professional District (BP).

On motion (Payne), duly seconded by (Libby), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

On motion (Wroblewski), duly seconded by (Goggin), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To amend the proposed ordinance to move the commercial school use from the BP (permitted uses) to the conditioned use column as a matter of fairness.”

On motion (Goggin), duly seconded by (Breen), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To offer an amendment which would restrict a change that only the BP (Business Profession District) is impacted & to limit the change to just the BP zone.”

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, **and as amended March 3, 2008**

2.136 Private School: A private institution for education or instruction including a college, university, or school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency, but not including commercially operated schools., **such as schools of beauty culture, business, dancing, driving, music or recreation which shall be deemed retail businesses.**

Add new definitions to Section 2 as follows:

“Commercial School – A for-profit business facility or institution which provides instruction or tutoring by previous arrangement for a particular skill or subject to a group of students in a classroom or similar type setting and may include private lessons as an ancillary service. By way of example only, commercial schools may include schools for performing arts, fine arts, photography, driving, pottery, business, beauty, sports, language or driving.”

Net Leasable Area - In a building or project, floor space that may be rented to tenants excluding common areas and space devoted to the heating, cooling, and other equipment of a building.

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, and as amended March 3, 2008

3.6 "SB-1" - Route One Business District [Adopted, 4/27/87]

To establish within the Town of Falmouth general retail sales, services, and business space within the Route One corridor between Route 88 and the BP Zoning District. It is the intent of this District to create an attractive entrance to Falmouth's major commercial district, to promote the overall aesthetics of the District, and to control vehicle access and encourage an orderly and safe traffic flow along Route One. Landscaping requirements are mandated within the front setback. All structures and uses are subject to Planning Board Site Plan Review.

Permitted Structures and Uses

1. Business and professional offices less than 20,000 SF of ground floor area
2. Wholly enclosed places of assembly, amusement, recreation, culture, and government [Amended 5/27/93]
3. Motels and hotels
4. Private clubs
5. Restaurants (excluding carry-out and drive-through restaurants)
6. Automobile sales
7. Automobile related sales and services
8. Retail and service establishments
9. Accessory buildings and uses
10. Farmer's Markets [Adopted 7/23/01]
11. Ballet Arts Facility [Adopted 5/24/04]
12. Mixed Use Development [Adopted 5/24/04]
13. Diverse Housing [Adopted 5/24/04]
14. Tier I Personal Wireless Service Facilities [Adopted 4/25/05]
15. Tier II Personal Wireless Service Facilities [Adopted 4/25/05]
16. Municipal buildings & uses [Adopted 4/23/07]
17. Commercial Schools [Adopted ???]

Conditional Uses

1. Light manufacturing
2. Multiplex
3. Outdoor recreation facilities
4. Outdoor sales and storage of equipment and materials
5. Automobile repair service garage
6. Automobile service station
7. Carry-out and drive-through restaurants

8. Business and professional offices more than 20,000 SF of ground floor area
 9. Veterinary Clinic [Amended, 7/22/91]
 10. Churches [Amended, 7/22/91]
 11. Public Utilities [Adopted, 7/22/91]
 12. Outdoor Eating Areas [Adopted, 5/28/96]
 13. Day Care Centers [Adopted, 7/23/01]
- ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, **and as amended March 3, 2008**

3.7 "BP" - Business and Professional District

To establish within the Town of Falmouth space for business and professional offices, with exceptions for certain other uses with appropriate site design. Uses locating in this District shall be located, sited and landscaped in such a manner as to preserve open space, control vehicle access and traffic, maintain appropriate setbacks, buffers and natural screening, and to screen parking areas from Route One and other roadways.

Permitted Structures and Uses

1. Business and professional offices
2. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]
3. Tier II Personal Wireless Service Facilities [Adopted, 4/25/05]
4. Commercial Schools not exceeding 2,000 square feet of net leasable area. [Adopted ?????]

Conditional Uses

1. Light manufacturing operations
 2. Laboratory facilities
 3. Private clubs
 4. Research facilities
 5. Warehouses and wholesale distributors not exceeding 30,000 SF in gross floor area and not having more than two off-street loading berths.
 6. Hotels and motels, but only on the westerly side of U.S. Route One in the area between Bucknam Road and Johnson Road.
 7. Public Utilities [Adopted, 7/22/91]
 8. Churches [Amended, 7/22/91]
 9. Outdoor Eating Areas [Adopted, 5/28/96]
 10. Day Care Centers [Adopted, 7/23/01]
 11. Ballet Arts Facilities [Adopted 5/24/04]
- ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, **and as amended March 3, 2008**

3.8 "MUC" - Mixed Use Cluster District

To establish within the Town of Falmouth areas for well-planned mixed use developments with access to the region's major highway system.

Permitted Structures and Uses

1. Accessory buildings and structures
2. Business and professional offices
3. Wholly enclosed places of assembly, amusement, recreation, and government
4. Wholesale, warehousing and distributions facilities
5. Light manufacturing operations with no exterior storage of material, equipment or products
6. Retail businesses as part of a mixed use development
7. Multiplexes as part of a mixed use development
8. Research facilities
9. Restaurants (not including carry-out or drive through restaurants)
10. Residential planned developments as part of mixed use development
11. Municipal buildings and uses
12. Tradesman's offices
13. Single Family Detached Dwellings (only in established residential areas and except on lots fronting on Gray Road) [Adopted 5/28/96]
14. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]
15. Tier II Personal Wireless Service Facilities [Adopted, 4/25/05]
16. Commerical Schools as part of mixed use development [Adopted ?????]

Conditional Uses

1. Outdoor recreation facilities
2. Day Care Centers
3. Churches
4. Excavating Business
5. Land reclamation
6. Processing of Mineral materials for resale [Amended, 4/25/88]
7. Veterinary Clinic [Amended,7/22/91]
8. Public Utilities [Adopted, 7/22/91]
9. Outdoor Eating Areas [Adopted, 5/28/96]
10. Day Care Homes [Adopted, 7/23/01]
11. Accessory Dwelling Units [Amended 11/27/06]

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, and as amended March 3, 2008

3.9 "VMU" - Village Mixed Use District

To establish within the Town of Falmouth areas for small scale, low intensity

nonresidential uses which are compatible with the residential character of the district. Areas designated as VMU are areas with historical development patterns as village centers.

Permitted Structures and Uses

1. Retail and service establishments with less than 5,000 SF of gross floor area
2. Professional offices
3. Art and craft studios
4. Tradesman's offices
5. Restaurants (not including carry-out or drive through restaurants) with less than sixty seats
6. Museums
7. Bed and Breakfast establishments
8. Single family detached dwellings
9. Multiplexes
10. Residential planned developments
11. Municipal buildings and uses
12. Accessory buildings and uses
13. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]
14. Tier II Personal Wireless Service Facilities [Adopted, 4/25/05]
15. Commercial Schools with less than 5,000 SF of gross floor area

Conditional Uses

1. Accessory Dwelling Units
2. Cemeteries
3. Day care centers
4. Day care homes
5. Churches
6. Health institutions
7. Libraries
8. The conversion of an existing structure into multi-family housing with no more than three dwelling units
9. Congregate care facilities
10. Home occupations
11. Veterinary Clinic [Amended, 7/22/91]
12. Public Utilities [Adopted, 7/22/91]
13. Elderly Boarding Home [Adopted, 5/28/96]
14. Outdoor Eating Areas [Adopted, 5/28/96]

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, and as amended March 3, 2008

3.14 West Falmouth Crossing Master Planned Development District*

[Adopted, 1/26/98] [Amended, 12/22/05] *(Formerly Exit 10 Master Planned Development District)

To create a planned development at the West Falmouth Crossing interchange that will be in keeping with the semi-rural character of West Falmouth and surrounding neighborhoods. To permit maximum creativity in site design and to ensure high quality construction with special attention to landscaping, lighting, building orientation and form, coordination of architecture, and signage. To accomplish these goals, the Town Council may approve a Master Development Plan that guides the site plan review process in keeping with general performance standards of the ordinance, but with more flexibility granted to developers and the Planning Board in implementing the approved Master Development Plan.

Permitted Structures and Uses

1. Accessory buildings and structures
 2. Business and professional offices
 3. Wholly enclosed places of assembly, amusement, recreation, and government
 4. Retail business as part of a mixed use development
 5. Research facilities
 6. Restaurants (not including carry-out or drive through service)
 7. Municipal buildings and uses
 8. Tradesman's offices
 9. The following additional uses if specifically shown on a Master Development Plan approved by the Town Council:
 - a. Motels and hotels
 - b. Restaurants with carry out and/or drive through service
 - c. Movie theaters
 - d. Service establishments
 - e. Convenience stores with gas pumps as an accessory use
 - f. Outdoor recreational facilities
 - g. Light manufacturing operations with no exterior storage of material, equipment or products
 - h. Wholesale, warehousing, and distribution facilities
 - i. Automobile related sales and services
 10. Farmer's Markets [Adopted 7/23/01]
 11. Tier I Personal Wireless Service Facilities [Adopted, 4/25/05]
 12. Tier II Personal Wireless Service Facilities [Adopted, 4/25/05]
 13. Commercial schools as part of a mixed use development
- (Note: The Town Council may require design specific information for Master Plan approval of items 9.a. through i.)

Conditional Uses

1. Day care centers
2. Churches
3. Veterinary clinic
4. Public utilities
5. Outdoor eating areas

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, and as amended March 3, 2008

3.18 Tidewater Master Planned Development District [Adopted, 4/4/05]

3.18.1 Allowed Uses

The use of land, buildings and structures within the Tidewater Master Planned Development District shall be consistent with the adopted Master Development Plan. The following uses shall be specifically allowed in accordance with the Master Development Plan:

Tidewater Master Planned Development District
Permitted Structures and Uses

1. Accessory buildings and structures
2. Single family detached dwellings
3. Two-family dwellings
4. Multiplexes
5. Apartments on the upper floors of a mixed-use building
6. Business and professional offices
7. Research facilities
8. Wholly enclosed places of assembly, amusement, recreation, and government
9. Outdoor facilities for recreation, entertainment and culture
10. Retail and service establishments; and commercial schools
11. Restaurants (not including drive through service)
12. Outdoor eating areas
13. Hotels
14. Municipal buildings and uses
15. Day care centers
16. Churches
17. Health Institutions
18. Libraries
19. Museums
20. Private clubs
21. Farming
22. Animal Husbandry
23. Farm Stands
24. Forestry
25. Riding Stables
26. Farmer's Markets

Conditional Uses

1. Public utilities
2. Light manufacturing operations with no exterior storage of material, equipment or products
3. Home occupations

[NOTE: In order to preserve the uses permitted on the Master Plan and to integrate this amendment, commercial schools were added to Item 10 as the Master Plan references permitted uses by Item number.]

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, and as amended March 3, 2008

[NOTE: The following excerpt from the Zoning Ordinance is for reference only. There are no proposed changes to this section.]

Sign Regulations

5.13 Regulations Applicable to Signs in All Districts

The following provisions relating to signs are applicable in all districts.

- a. Signs identifying the name, address, and profession of a permitted home occupation or a lawfully existing nonconforming home occupation are allowed provided such sign does not exceed two (2) square feet in area, is non-illuminated, and is mounted flat against the wall of the principal building.
- b. A bulletin board or similar sign in connection with any church, museum, library, school or similar public structure is allowed.
- c. No sign shall project over a public right of way.
- d. No sign shall have visible moving parts, blinking, moving or glaring illumination, or any part consisting of banners, pennants, ribbons, streamers, spinners or other similar devices.
- e. A string of lights shall not be used for the purpose of advertising or attracting attention unless as an integral part of a permitted sign.
- f. Any sign which no longer advertises a bona-fide business conducted, product sold, activity or campaign being conducted, or public notice, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or premises upon which such sign may be found within ten (10) days after written or personal notification from the Building Inspector, except in the case of temporary signs which shall be removed in accordance with Section 5.12.
- g. No billboards or other off-premises signs, including official business directional signs as defined in 23 MRSA, subsection 1903, shall be constructed, erected, or maintained in any district, except as expressly permitted by the terms of this Ordinance, nor shall any banner, streamer, pennant, ribbon, spinner, or similar device be constructed or erected in any district.
- h. Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, having a display area not exceeding three (3) square feet, and not extending higher than seven (7) feet above ground level, are permitted.
- i. Nonconforming signs may continue but may not be altered or relocated on the same premises without approval by the Board of Zoning Appeals as a conditional use. Nonconforming signs located within the public right of way shall not be permitted to be altered or relocated within the public right of way. [Adopted, 4/27/87.]

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony

Payne on February 12, 2008, and as amended March 3, 2008

j Identification signs indicating the location of, or direction to, a separate function performed within one portion of that building may be erected over or by the doorway or entrance to such portion of the building. The sign area shall not exceed ten (10%) percent of the area of such doorway or entrance to such portion of the building.

k. No sign shall be erected in a floodplain.

l. A sign with a double signboard or display area shall be construed to be one sign for the purpose of this Ordinance.

m. No portable or roof signs shall be permitted.

n. Minimum lot line setbacks for all signs shall be fifteen (15) feet unless otherwise specified.

o. Maximum gross display area of wall signs shall not exceed ten (10%) percent of the wall area to which it is attached.

5.14 Maximum Size of Freestanding Signs (sq. ft.)

Type of sign F RA, RB & RC SB, BP, MUC & VMU CO

Temporary signs giving notice 12 12 16 16

Temporary real estate 9 9 16 16

Temporary construction 16 16 16 16

Bulletin Board Home 24 24 24 24

Home Occupation 2 2 - 2

Advertising 16 - 100 48

5.15 Maximum Size of Wall Signs (sq. ft.)

Type of sign F RA, RB & RC SB, BP, MUC & VMU

Temporary signs giving notice

12 12 16

Temporary real estate 9 9 16

Temporary construction 16 16 32

Bulletin Board Home 24 24 24

Home Occupation 2 2 -

Advertising 50 – 100

5.16 Maximum Number of Freestanding Signs Per Lot

District Temporary Permanent

F 1 1

RA, RB & RC 1 1

SB, BP, MUC & VMU 2 2

CO 1 1

ZSPRO Excerpt with proposed changes for Commercial Schools as introduced by Tony Payne on February 12, 2008, and as amended March 3, 2008

5.17 Free-Standing Signs - Other Requirements

Unless otherwise provided, free standing signs in the Suburban-Business, Route 1 Business and Commercial districts shall conform to the following:

- a. Maximum gross display area one hundred (100) square feet measure from the tops of the topmost display elements to the bottom of the lowest display element including any blank space between the elements.
- b. Maximum length and height sixteen (16) feet.
- c. Minimum distance between signs one hundred (100) feet.
- d. Minimum lot line setback, two hundred (200) feet from a "Residential" or "Farm and Forest " district, fifteen (15) feet from all other lot lines.

5.18 Wall Signs - Other Requirements

Unless otherwise provided, wall signs shall conform to the following:

- a. Maximum gross display area shall not exceed ten (10%) percent of the wall area to which it is attached. Where two signs are utilized, the gross display area shall be the area of both signs added together.
- b. Maximum height seven (7) feet above the eaves.
- c. No wall sign shall extend beyond the wall to which it is attached or party wall separating occupancies.

5.19 Illuminated Signs

Illumination of signs shall be permitted only between the hours of 7:00 a.m. and 11:00 p.m., except that this time restriction shall not apply to the illuminated signs of retail establishments during such hours as the establishments are lawfully open to the public. Within the BP and VMU Districts, no sign with internal illumination shall be permitted.

Item 14

Adjourn

On motion (Armitage) , duly seconded by (Goggin), it was VOTED (7 Ayes) as follows:

BE IT ORDERED BY THE MUNICIPAL OFFICERS OF THE TOWN OF FALMOUTH, MAINE IN TOWN COUNCIL ASSEMBLED:

“To adjourn the meeting at 12:25 AM.”

Respectfully submitted,

Kathleen W. Babeu

Kathleen Babeu. CMC
Falmouth Town Clerk