

**Town Council Meeting  
October 26, 2009  
Minutes**

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

**Roll Call**

All Councilors were present and answering roll call.

Councilor Armitage moved to waive Council rules and take Items 1 and 2 out of order. Councilor Pierce seconded. Motion carried 7-0.

**Public Forum**

David Gooch from 41 Johnson Rd thanked the Town for the new sidewalks. They have seen a lot of use, but there were issues with snow removal last year. He understands that abutters are responsible for removing snow. He said the Town should maintain the sidewalks because of the Metro route. He presented a petition from residents of the street asking Public Works to plow the sidewalks. Councilor Breen updated everyone on the status and discussed the budget issue because the Town is not obliged to plow sidewalks.

Councilor Breen discussed her ongoing issues with the Forecaster. She was told by the editor that they would not publish any more of her letters on the issue. She read the letter she most recently sent that the Forecaster refused to publish.

**Item 1                    Resolution to recognize Kevin Grover, Lunt School second grade teacher, for his recent selection by the Maine Department of Education as the Maine State Teacher of the Year.**

**Item 2                    Resolution to recognize the U9-10 Falmouth All-Star Baseball team's 2009 State Championship.**

Councilor Armitage moved to approve Items 1 and 2. Councilor Libby seconded. Motion carried 7-0.

Councilor Pierce read the resolution honoring Teacher of the Year Kevin Grover.

Councilor Armitage read the resolution honoring the U9-10 Falmouth Little League All Star Baseball Team and their 2009 State Championship.

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

Councilor Libby had no updates.

Councilor Rodden spoke about the Falmouth Shopping Center Charette being held on November 14 9:00 am to 2:30pm. Councilor Rodden reported that LPAC has one more meeting on November 10 to wrap up the Natural Resources Ordinance. They are scheduled to present their work to the CDC on November 12. CDC met last week to discuss the Informed Growth Act. It is a good possibility that the Falmouth Shopping Center could fall under this category if it is developed. They discussed whether to review the Shopping Center project under the state standards or to develop standards for Falmouth. They decided to wait until after the charette. She announced that the Bus Bonanza is in its last week. The Scavenger hunt ends October 31. An Ipod Nano will be awarded to one lucky winner.

Councilor Armitage reported that the One Falmouth Committee has been working the past 5 months. They are progressing slowly, reviewing department structures, staff levels and work flow. They met with Cape Elizabeth to view their structure. They have issued an RFP for IT services; a pre-bid meeting was held and the deadline is in a few weeks. Their next meeting is December 1.

Councilor Payne stated that the Ordinance Committee would like feedback from the Council about street acceptance. The committee has discussed dividing streets into two classes: those streets that declared at the time of their approval their intent to apply for their street to be accepted, and those subdivisions that either never declared their intention either way, or actually declared that they were not intending to apply for acceptance. He asked for the Council's guidance on these two classes.

Councilor Breen said the issue of accepting dead-end streets has been problem for the Council in the past. She felt that the main issue is not whether they were in the pipeline, or what they did or did not declare; it is whether to accept dead end streets. She felt the Council should encourage acceptance of streets that are interconnected.

Councilor Pierce agreed with interconnectivity, but would like to have an understanding of which subdivisions came in before the resolutions were passed. She observed that it costs more to do a "T" than a cul-de-sac.

Councilor Payne stated that the Town is not obliged to accept any street. Acceptance of a street is a legislative act, and is at their discretion case by case.

Councilor Armitage agreed with inter-connectivity but observed that it is not always achievable. He would suggest reviewing on case by case basis.

Councilor Rodden didn't think it was fair to not accept cul-de-sacs if they have in the past, especially if it was a street that was built before the resolutions were passed. She urged the ordinance committee to create a dead end street ordinance so developers and future homeowners know what to expect.

Councilor Breen asked when the first resolution was passed in this regard.

Councilor Chase didn't think there was a resolution passed; he thought it was a moratorium that was passed. The Council lifted the moratorium at the last meeting. He stated that a cul-de-sac is a dead end. If a developer made it clear that he was building a street to be approved by the Town Council and built it to town specifications, he worried about changing the rules now. He thought there was a distinction between whether the

intent was to have it approved or keep it private, especially for the builder selling the house lots and the people who bought them.

Councilor Breen was interested in identifying which parties were in the pipeline before moratorium was passed.

Nathan Poore thought the first moratorium was passed in spring 2006 and then renewed late 2007.

Councilor Libby agreed with the other councilors.

Councilor Pierce reported that a decision to hire a new Superintendent will occur in March. Residents can review the school website for all information gathered at this time. The School Board is holding a series of public meetings to discuss tough issues with the budget starting in November (class size, pay to play, etc). Regarding the Elementary School construction, she said it is a great bidding market. Karen Farber will provide an update after a contract is signed.

Councilor Chase reported that an open house will be held at Riverpoint on November 8 at 1:30 pm. They will show off the new bridge that connects the trail from the high school to Riverpoint.

Councilor Breen reported that GPCOG is setting up a regional land use planning plan to encourage a regional approach to land use planning. A finalized comprehensive plan could take 5-10 years. Towns could choose to participate or not participate. The first focus would be Lake Region towns; since they share a major natural resource and they also aren't as likely to have planning staff and so they often use GPCOG for land use planning already. She also reported that the Facilities Committee has been meeting with the architects to decide if current town uses would fit in the Plummer-Motz and Lunt buildings. They have identified that Town Hall would fit into Plummer; the Library into Lunt with an expansion, and Community Programs would fit into Motz wing and expand for daytime uses. Their next meeting is November 18 at 7 pm with representatives from OceanView. Appraisals will be done by Cushman and Wakefield in the next 6 weeks on all the properties.

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

Councilor Pierce said the committee held a meeting before tonight's Council Meeting and met with 6 people who are seeking positions. The group will report next month on status. The Recycling and Conservation Committees have openings.

**Item 5 Public Hearing and order to renew a liquor license for Portland Country Club.**

The Public hearing was opened at 8:10pm. There was no public comment.

Councilor Armitage moved to approve; Councilor Libby seconded. Motion carried 7-0.

**Item 6                    Green Ribbon Commission status report to the Town Council.**

Ann Goggin recognized committee members and thanked them for their work. She explained that the final report is not done with editing yet. This portion of the report will discuss status and emissions inventories. She presented slides and Claudia King continued with a discussion about emissions – direct and indirect.

Councilor Breen asked when they thought they would have recommendations for the Town. Ann Goggin thought either the end of November or December.

**Item 7                    Discussion of the Briefing Report for Former Brown Property, 260  
Foreside Road.**

Councilor Breen asked the Council what they should do with the findings.

Councilor Libby observed that there was a ton of input from the community. His group of ten said leave it alone. He would like to leave it alone as well, at least for the next year. He would expect a basic level of maintenance, mowing, etc. He might allow some parking, maybe ten cars where the foundation was. His group said they didn't really see a parking problem down there except for the big weekend events.

Councilor Rodden said the majority of people who attended said they don't see a parking problem. The reports from the consultants have said there is a parking problem. She wants it identified whether there is a problem or not. She would agree with Councilor Libby except she would not want cars on it. She thought that would junk it up. It's a residential neighborhood, and they need to be considerate of the neighbors and what it looks like. This was a huge investment of over \$600,000 and she would like to recoup some of that loss by selling off a housing lot in front, but not in the current market.

Councilor Armitage said he did not attend the forum. This summer was the worst summer at the landing in terms of parking and available space that he has seen. He found it disheartening that there is a lack of willingness to have a conversation about options. There is a balance of community assets – harbor and neighbors. He didn't want to send the message that this issue isn't important. He doesn't have a mooring and so has to haul his boat in. He used the harbor half a dozen times this summer and had problems with parking just about every time.

Councilor Payne agreed with Councilor Rodden; he would like to recoup some of the cost of the property. He would like the market to recover before cashing out. He said if the Town adds infrastructure and builds it out, they must maintain it. He thought that much of the concern about parking is triggered by the question of whether they are going to add moorings to the anchorage. He doesn't think there is a lot of appetite to expand the anchorage. He would like to put a hold on the property and investigate what a sale of a buildable lot would look like and what a more active recreational use would look like.

Councilor Chase would like to minimize the impact on the neighborhood, not expand the anchorage, eliminate non-residents through attrition and try not to compete with Handy Boat and the Yacht Club. The land is begging for long-range planning. This lot is long and narrow and it's difficult to do something with it. His prediction was that there will always be problems with Town Landing and they needed to listen to the police because

they control it. He was interested in selling the lot and getting their money back and in investigating active recreation. He would like parking at peak times; those peak times are very short.

Councilor Pierce said she was happy to have the event. Not everyone who uses the Town Landing boats. She was shocked that 100% of the people in her group didn't think there is parking problem. The area is densely populated with little open space and she thinks the open space should be maintained. She didn't want basketball or tennis courts; she was more interested in passive recreation. She thought they should investigate other Town property to sell to recoup some money; she was not convinced that someone would want to buy the property if they knew the Town was doing something in back. She would like to form a committee.

Councilor Breen's group suggested and she agreed with more active recreation on the lot, including basketball courts, and that included some parking for both the recreation area and Town Landing, only ten spaces or so. She was also interested in selling off the lot. She suggested having another meeting with the community sometime in the spring to review options for the lot.

Councilor Rodden thought the Council needed to address harbor issues in the bigger picture.

Councilor Breen didn't think residents want to expand the anchorage. She had an issue with closing off the harbor to non-residents. The good people of Cape Elizabeth keep Fort Williams Park open for everyone in the state. She and Councilor Teresa discussed setting up an ad-hoc committee, but it was decided to ask staff to prepare proposals and recommendations. Staff should develop several options based on feedback and there should be another opportunity for public input.

Nathan Poore said that staff could develop a matrix of options for a workshop meeting. He thought it was important to discuss harbor issues.

**Item 8                    Order to adopt a resolution adopting a Red Flag Policy and establishing an identity theft prevention program.**

Nathan Poore explained that this is a policy to help prevent identify theft. It is a federal mandate.

Councilor Armitage moved to approve; Councilor Libby seconded. Motion carried 7-0.

**Item 9                    Order to adopt a resolution to oppose the following November 3 statewide referendum questions:**

**"Do you want to cut the rate of the municipal excise tax by an average of 55% on motor vehicles less than six years old and exempt hybrid and other alternative-energy and highly fuel-efficient motor vehicles from sales tax and three years of excise tax?" (Motor Vehicle Local Excise Tax Amendment)**

**"Do you want to change the existing formulas that limit state and local government spending and require voter approval by**

**referendum for spending over those limits and for increases in state taxes?" (TABOR II)**

Councilor Armitage thought there should be a unanimous vote on these. He felt if the Council is not unanimous, they should not take a stand and he would move to table these. He and Councilor Pierce discussed whether an abstention counted as a no vote.

Councilor Pierce moved to approve the resolution opposing the excise tax referendum; Councilor Rodden seconded.

Councilor Libby stated he would support this resolution but not the Tabor II resolution.

Councilor Rodden supported this resolution. She thought the Council had a moral and financial obligation to oppose. The taxes the Town would lose would have to be made up or there would need to be serious cuts. Councilors are elected to vote and she thought they had an obligation to take a stand. She said she will vote against the Excise referendum question.

Councilor Armitage was opposed to this referendum and would vote in favor of the resolution.

Councilor Payne was opposed to the excise referendum, but he also said he is opposed to taking a position as a Councilor. The ballot questions ask what the citizens of Maine want, not the Town Council.

Councilor Chase agreed with Councilor Payne, and would abstain.

Councilor Pierce was opposed to the Excise tax referendum and, as an elected official, felt it was their fiduciary responsibility to take a stand. Councilor Breen agreed.

Motion carried 5-0 in favor (Chase, Payne abstained).

Councilor Pierce moved to approve the resolution on the Tabor II referendum; Councilor Rodden seconded.

Councilor Pierce said she will support the resolution. While it doesn't show as direct link to the finances of Falmouth, she felt it will have cumulative effect on Falmouth.

Councilor Chase thought the timing was really bad for Tabor II but would abstain.

Councilor Payne had problems with the wording of the resolution. He discussed LD1 and the trend of school spending increases since then. If the Council passes this resolution, they are saying business as usual is ok. He didn't believe that business as usual is ok. He said he will personally vote for Tabor II but he didn't think the Council should vote.

Councilor Armitage felt that the state has never lived up to its obligation under LD1 to pay for local school programming. The issue is the state legislature; it has nothing to do with this Council Chamber. There is a lack of leadership at the state level. He will vote for the resolution.

Councilor Rodden was not in favor of decisions being made by referendum and with Tabor many decisions would be made by referendum. She said this is a local issue;

things will trickle down from the state and it will become our problem. She was going to support the resolution and vote against Tabor II

Councilor Libby said he will vote against the resolution. He said he is appalled at the waste in this state.

Councilor Armitage said that something needs to be done, but this isn't it.

Councilor Breen said she will support the resolution. Her concern was that Falmouth is taking a huge hit to education because of budget shortfalls. Referendums are expensive; and in an active community, we still get a low turnout with the school budget validation referendum. Turning to referendum every time the state wants to do something different is not a good validation process. She thought people circulating petitions should get more involved in local government – attending budget hearings and council meetings, calling their representatives, etc.

Motion carried 4-1 (Libby) (Chase, Payne abstained).

Councilor Chase left the meeting.

**Item 10            Discussion and possible introduction of an amendment to the Coastal Waters Ordinance, Chapter 9 Article IV.**

Councilor Breen explained that the first issue is to implement an electronic mooring system and attaching an additional \$7 fee to the mooring permit application to cover the cost of implementing that software. This will cut down on postage and staff time. The second issue is removing the fee schedule from the ordinance so that it can be updated without the 3 month ordinance amendment procedure.

Councilor Libby asked if the Council should increase the mooring fee to \$100 and then charge non-residents \$500. His reasoning was that this would bring the fees in line with other areas.

Councilor Rodden felt this is a discussion to consider but another time.

Nathan Poore said they didn't have a lot of time to change the rate for this year and it needs to be tied to a spending amount.

Councilor Armitage said it's almost an enterprise fund and there should be a rationale for charging what you do.

Councilor Breen asked if this could be reviewed as part of the Finance Committee's budget work.

The Council agreed that the fee would increase by \$7.00 this year and no advertising.

A Public Hearing will be held in November.

**Item 11            Introduction to amend the Traffic and Motor Vehicle ordinance, Chapter 17, such amendment would restrict parking on Woodville Road in a location near the Middle School, new Elementary School and Superintendent's office.**

Councilor Pierce introduced the item and explained that this will not change until the school is built and used, but the ordinance needs to be on the books.

Nathan Poore said Town attorney Bill Plouffe's advice was not to put a date in the ordinance but to insert it after more information is available.

Councilor Breen suggested inserting language that tied the ordinance to occupation of the elementary school.

A Public Hearing will be held in November.

Councilor Breen announced that the November meetings will be held on November 9 and 23. One December meeting will be on the 14 with another one scheduled later if necessary.

### **Adjourn**

Councilor Libby moved to adjourn; Councilor Rodden seconded. Motion carried 7-0.

Respectfully submitted,

Amy Lamontagne  
Asst. Town Manager