

**Town Council Meeting
Minutes
March 27, 2013**

The meeting opened at 7:02 pm.

Roll Call

All Councilors were present and answering roll call.

Pledge of Allegiance

Chair Varney led those present in the Pledge of Allegiance.

Public Forum

Michael Doyle of Shady Lane spoke about a school safety drill held in Massachusetts. He argued that active shooter training should be held in Falmouth with teachers and students present.

Item 1 (a) Order to approve the minutes of the February 11, 2013, Town Council Meeting.

Item 1 (b) Order to approve the minutes of the February 25, 2013, Town Council Meeting.

Item 1 (c) Order to authorize the Town Manager to execute a quit claim deed for Tax Map and Lot U45-005.

Councilor Pierce moved the consent agenda; Councilor Farber seconded. Motion carried 7-0.

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

Councilor Farber said the Finance Committee will be meeting at 8am Friday morning; this will include a joint meeting with the School Board's Finance Committee.

Councilor Pierce said LPAC and LPAC+ meet tomorrow night. They are finalizing the packet for the Council to review in May.

Councilor Rodden said Ecomaine is considering lowering the assessment; this would save Falmouth \$59,000.

Chair Varney said the Library's silent auction comes to an end tomorrow night from 5-7 pm. They are holding a fundraiser on April 22 at the Sea Grille. Monica Wood will be there to discuss her work and they are hoping to have Richard Blanco there as well.

Councilor Mahoney said the School Board is in the midst of developing the budget; it has been a good and transparent process.

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

Councilor Pierce said the LPAC representative on FEIC left recently; that slot will be filled by Sandra Lipsey. They are working on the performance review for the Town Manager; the Council will meet from 4:30-6:30 on May 13 for that review.

Item 4 Order to approve a supplemental appropriation in the amount of \$35,534 from unassigned fund balance for capital expenditures at the Falmouth Memorial Library.

Councilor Pierce moved the order; Councilor Farber seconded.

Councilor Farber explained that this need is due to some repairs to the library building; the Town shares ownership of that building. This appropriation comes with the recommendation of the Finance Committee.

Public comment period opened; no public comment.

Councilor Rodden supported this because the Town owns 50% of the building and the library is asking them to pay 50% of the repairs.

Councilor Orestis asked if the Council would be asked before repairs were made in the future.

Councilor Farber said the Finance Committee asked the Library Board to revisit their capital improvements plan. The Board is already working on that.

Councilor Mahoney thought there should also be a discussion about general governance, as the Town contributes to the general operating budget of the Library as well to capital improvements.

Chair Varney pointed out that the Council appoints three of the trustees, and the Library has a capital improvement plan. In this instance the roof didn't last as long as expected.

Councilor Mahoney supported this particular request, but thought there was a question regarding the general governance of the Library that has come up before.

Motion carried 7-0.

Item 5 Order to transfer funds, in the amount of \$1,200,000 from the Town's unassigned fund balance to the Falmouth Middle School capital reserve fund to the installation of a woodchip boiler.

Councilor Farber moved the order; Councilor Mahoney seconded.

Councilor Farber explained that the School Board approached the Finance Committee a few months ago to start discussions about the Town providing financial assistance for capital improvements to the middle school. A referendum on the \$1.2 million for the wood chip boiler passed last June. The question is whether to pay for it with unassigned fund balance or for the School Department to go out to bond. The Finance Committee is recommending they use fund balance rather than have the School incur debt. There has been no oil burned at the middle school this season, and they estimate that they have been saving \$750/day in energy costs.

Councilor Mahoney supported the order, and noted that the Town has a precedent for doing this with the open space program. He felt this was appropriate and smart and will save money.

or Middle Road if there was an accident on Route 1. He argued that median strips would be a waste of money.

Jon Berry is the president of Falmouth Economic Development Committee (FEDC), a member of the Town's Zoning Board of Appeals (ZBA) and a resident. He felt that most of the business owners that have invested in the Council's work to date are very pleased with the changes proposed. Route 1 is their livelihood. A lot of the business owners also live in town. As a member of the ZBA he cautioned the Council against subjective language such as "good" or "quality" in the zoning language; it can lead to disagreements between applicants and abutters.

Russ Anderson of Oakmont Drive has been following the project and attended all the public forums. He applauded the Councilors and staff, who have been extremely responsive to feedback. He was concerned with the traffic flow, but he was satisfied by some of the changes that have been made. He felt it would be good for business, the environment, pedestrians, residents and quality of life. He encouraged everyone to support it. He pointed out that the cost keeps going up, and asked if there were ways to reduce the costs between now and the referendum. He pointed out that the costs being carried by the TIF relies on the State expanding the TIF until 2030. He wondered what would happen if the State didn't agree to expand it; he asked what the Council's contingency plan was in that instance. He wasn't worried about the operating costs, in fact he was more worried that they wouldn't spend enough on maintenance. If they are going to spend that much money, they need to keep it nice.

Councilor Pierce explained that this is similar to the wood chip boiler at the middle school which went to referendum because the School Department was up for a grant. The language included a caveat that if they didn't get the grant, they would reevaluate the project. That same caveat is written into this referendum; if the TIF is not expanded, the question of the underground power would return to the Council.

Councilor Orestis asked how this is managed in Augusta. Councilor Rodden said it is handled by the Department of Economic and Community Development; all indications are that the Department will approve this.

Councilor Orestis asked if the town's legislative delegation is supporting this.

Councilor Rodden said the Town is working with the department; if they need help they will appeal to the delegation.

Councilor Pierce said that the Town has applied for changes to the TIF in the past, and have always received them. Town staff have been in communication with the Department.

Mr. Poore said April 1 is the key date for every community to commit their taxes and use the added value in the TIFs. The application will be hand delivered on that day.

Kathy Smith of Lunt Road felt it was easy to make the impression that \$700,000 of federal money is not their tax money too. All this money is still coming from the taxpayers' pocket. She said medians with trees were installed in Route 1 and then taken out because it wasn't safe for staff to maintain them. She felt the medians should not be permitted. The deceleration lanes were installed because they were deemed to be safe; they are now being removed as unneeded. She felt there was too much traffic to reduce the speed to 25 mph. She didn't think people would walk even with pedestrian areas. She was frustrated with paying to install things just to take them out.

Public forum closed.

Councilor Payne agreed with the concern that Route 1 is a major artery. A major piece of this plan is to synchronize the traffic lights. The CDC have listened and removed vast amounts of median strips. The

remaining medians are primarily to provide pedestrian refuge for people crossing the road. The center turning lanes are unsafe; he felt the proposed plan will handle traffic better than what they have today.

Councilor Pierce said the CDC is meeting tomorrow morning to discuss tonight's meeting. She thanked everyone for their comments.

Chair Varney pointed out that many of the medians are flush and not raised.

Councilor Rodden said there are no trees in the median anymore, except for the entrances at Route 88 and Bucknam Road. They did this because they heard from various people that it needed to be safer.

Mr. Holtwijk pointed out that Kathy Kern, engineer from TY Lin was in the audience listening to all comments. He thanked them for their work on the plan.

Ms. Kern said she was impressed with how engaged the community has been in this process. They have reduced the medians by half since the first plan, and moved some of them from raised to flush. The flush medians will provide the enhancement of a median, but they are mountable in the event of an accident. The cost of the medians has been reduced substantially.

Chair Varney felt they have been careful to be at the high end in their cost estimates so that the community will be pleasantly surprised at the end.

Item 8 The Council will conduct a Public Hearing and act on an Order regarding the Third Amendment of the Route One South Tax Increment Financing (TIF) District.

Councilor Pierce moved the order; Councilor Farber seconded.

Mr. Poore said this amendment is not that far off the original vision of the TIF.

Public comment period opened; no public comment.

Motion carried 7-0.

Item 9 Order to schedule the Public Hearing for the referendum regarding the Route One South Infrastructure Plan in accordance with M.R.S.A 30-A § 2528 (5).

Councilor Pierce moved the order; Councilor Rodden seconded.

The Council discussed wording changes and the two versions. Final language was not settled.

Motion carried 7-0. The Public Hearing will be on April 8.

Item 10 Introduction of an ordinance to amend the Code of Ordinances to create a new Land Management Committee which will elevate the current Land Management Team to a Council appointed committee by consolidation and replacement of the existing Falmouth Trails Advisory Committee (FTAC) and Open Space Implementation Sub-Committees (OSIC).

Councilor Mahoney discussed the proposed ordinance; the goal is to streamline the maintenance and oversight of open space land in town. The Town now has hundreds of open space acres and it is an incredible asset to the town. Management of these lands had been under the guidance of a dedicated,

informal working group; this ordinance seeks to create a more formal committee to do this work. This committee would be staffed by the Parks and Community Programs Department. The committee would be made up by representatives of the various committees including the Conservation Corps, Land Trust, Conservation Commission, and Ombudsman. This will facilitate communication on land management with the Council.

Councilor Rodden thought this was a good step and would reduce the number of committees the Town has. She felt this would be much more efficient. She asked about the make up of the committee; she wondered how they selected the various categories.

Councilor Poore said there was a lot of conversation around this. They have had a good working model with the Land Management Team over the last couple years and wanted to have a mix of backgrounds and interests on the committee.

Councilor Rodden felt the Ombudsman should serve as staff for the committee, and not as a voting member.

Councilor Pierce would like to see the committee make-up section worked on. She pointed out that there is some inconsistency in the ordinance with regards to committees; some of them have a list of roles, and she felt that a general public member might have just as much to contribute.

Chair Varney asked what happened if they couldn't find a member of the requested category.

Councilor Mahoney thought they could say "including but not limited to the following".

Councilor Pierce wanted to make sure they were paying careful attention to staffing in Parks and Community Programs, considering the amount of responsibilities that have been shifted to them recently.

Mr. Poore said that the volunteers are making it so that they don't have to hire a whole new team of people. He pointed out that an additional Parks position was suggested but scaled back during the budget process. He was willing to try that out this year, but it may not work.

Councilor Farber suggested thinking about the list of suggested committee members in terms of their recreational interests, instead of the guided roles. She wouldn't want it to become all about hiking, or mountain biking, instead of incorporating all recreational uses.

A public hearing was scheduled for April 22.

Councilor Rodden moved to reopen the public forum to allow a resident to speak. There was a misunderstanding as to when public comment would be allowed.

Councilor Farber seconded. Motion carried 7-0.

David Gagnon of Field Road is a member of the Open Space Committee, and he didn't feel that their work is done. He thought the LMC would not focus on that if it was not part of their charge. The work outlined in *The Greening of Falmouth* has not been completed. Properties are still coming available. He wasn't sure the title of the proposed committee was right. If the Ombudsman hadn't been involved, they wouldn't be where they are today. He said a realtor was valuable; not knowing what properties were available in town could lead them to miss an opportunity. He said the make-up of the Open Space Committee has been broad and varied over its existence. He thought they should be careful about being too specific; for example, under the suggested make-up he wouldn't fit.

Public comment period closed.

Councilor Mahoney agreed that the title may not be correct for the LMC. They will review that and the membership category list.

Mr. Poore said creating and responding to opportunities for acquisition is listed under "Powers and Duties". The ongoing implementation of *The Greening of Falmouth* would continue to guide the committee.

Item 11 Order to approve a Memorandum of Understanding (MOU) with Summit Natural Gas regarding the expansion of natural gas distribution system in Falmouth, Cumberland and Yarmouth.

Councilor Pierce moved the order; Councilor Rodden seconded.

Councilor Pierce felt this was a good reflection of the joint meeting they held with the Towns of Cumberland and Yarmouth. The redline changes generally reflect the will of the group.

Councilor Orestis felt this was tremendous example of regional cooperation.

Councilor Payne said this is a MOU between the communities endorsing Summit Natural Gas's proposal, submitted in response to the joint RFP. Item 2 in the MOU discusses a surcharge on gas for energy conservation efforts. This is the compromise language; he was concerned about having this in the agreement, since having a surcharge has attendant costs and increased staff responsibilities. This surcharge already exists in state law when the utility reaches 5000 customers. He didn't feel that this item was wise. He also pointed out that item 6 suggests that municipal buildings transition to natural gas if it is economically and practically preferred. Falmouth just installed two wood chip boilers at the schools.

Councilor Payne moved an amendment to strike item 2 from the MOU. Chair Varney seconded.

Councilor Pierce didn't want Falmouth to engage in this since once they hit 5000 customers, Summit would engage with Efficiency Maine as it is. However, this would provide the option for another community to do this, and it was important to them. This clause isn't a mandate for Falmouth to do anything. She was concerned about amending this document when it has been signed by Yarmouth already.

Mr. Poore recommended that they go with the language as written. If they go this route, he would ask to add an asterisk that Falmouth struck that item.

Councilor Mahoney had several comments about the MOU: he said the Town should not have any significant legal fees as a result of having intervener status. He felt that item 2 doesn't do anything; he preferred if they struck the redline language. They did have comments at their public hearing regarding getting something to encourage efficiency. Paragraph 4 should address the Systems Benefit Charge question; what was suggested at the public hearing was that Summit should waive the 5000 limit and start the SBC voluntarily. Even though Summit feels that they will have 5000 customers within a year, it will only happen if the project in the Kennebec Valley moves forward as planned.

Councilor Farber agreed with Councilor Pierce; she didn't like it but felt it was not encumbering the Town or a future Council. She didn't think there was a downside to accepting this.

Councilor Payne didn't like taking action based on action taken by another body.

Councilor Mahoney thought the benefits of converting to natural gas are substantial at this time, but he pointed out that the price varies. He encouraged people to make good, informed decisions and not just jump on the bandwagon.

Councilor Rodden felt they should approve it but agreed that it isn't ideal. While they shouldn't approve something based on the fact that someone else already approved it, as a partner they need to make compromises. She pointed out that this isn't a legal document and isn't binding in any way.

Public comment period opened on the amendment; no public comment.

Councilor Payne changed his amendment to strike the redline language in item 2. Chair Varney seconded the change.

Motion failed 3-4. (Farber, Pierce, Rodden, Orestis opposed)

Public comment period opened on the original motion.

Melanie Collins of Middle Road spoke about hydrofracking and the huge environmental cost on those that live near where they extract the oil. She is replacing her oil furnace with a wood pellet boiler. She will pay a quarter of what she pays in oil and reduce her emissions by 90%. She is converting to a solar hot water heater and will pay 1/6 to 1/10 of what she had been paying. Wood pellets are renewable and locally sourced. She felt converting to natural gas was a stop-gap measure when better methods are available. She asked the Council to add a clause that the utility pay for an energy audit for every homeowner prior to converting.

Councilor Payne said there is a larger picture around project labor agreements; much of the construction done for this project will not be done by Maine contractors because they are not unionized. Summit has entered into a project labor agreement in regards to laying the pipe. This increases the cost of laying the pipe as well as not employing Maine workers.

Councilor Mahoney said a third of the project is being done subject to the labor agreement; two-thirds is not. He argued that they are a business and are entitled to do business as they feel necessary.

Mr. Poore felt it was one-third/two-thirds in the Kennebec Valley; he wasn't sure that was the correct ratio here. It is in regards to the steel pipe being laid.

Councilor Mahoney thought the memo from Bill Shane to his Town Council said it is roughly one-third/two-thirds.

Chair Varney thought this natural gas was coming from Canada and is not sourced by fracking.

Councilor Mahoney said it comes in two directions; some of it comes from hydrofracking some of it comes from natural sources.

Motion carried 7-0.

Item 12 Discussion and update regarding the 2012/2013 Town Council Work Plan.

Councilor Rodden moved to table the item to the next meeting; Councilor Farber seconded.

Motion carried 7-0.

Adjourn

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

Meeting adjourned at 10:05 pm.

Respectfully submitted,

Melissa Tryon
Recording secretary