

Town Council Meeting Minutes April 8, 2013

Meeting was called to order at 7:00 pm.

Roll Call

All Councilors were present and answering roll call.

Item 1 Public Hearing and Order regarding the June 11, 2013 referendum question pertaining to the proposed Route One South Infrastructure Project. This Public Hearing is in accordance with M.R.S.A 30-A § 2525 (5).

Chair Varney opened the public hearing.

Claudia King of Woodville Road said it was great news that this project can go forward without impact to Falmouth taxpayers. She was excited by the pictures of Route 1 in the future. It will have enhanced traffic flow and better pedestrian amenities. The zoning changes will allow more mixed use development. Hopefully the Town will decide to make this investment in the Town's future. She hoped the Council would vote for the question.

Dave Boyer of Foreside Road represented David Jones, who owns three small businesses along Route 1. Mr. Jones is against any major expansion along Route 1, specifically the medians. He felt they would be detrimental to the traffic flow along Route 1. It would cause congestion. Mr. Jones doesn't mind the plantings or the underground wires. He and Mr. Jones felt the medians would discourage people from patronizing businesses along Route 1; they would drive to Scarborough instead. Medians would make plowing more difficult.

Skip Schirmer of Lincoln Farm Road travels this section of Route 1 every day, at different times of the day. He felt this would create the "town center" they have been looking for for a long time. It has everything they need. He liked the beautification of it, but felt the medians would be a mistake. The triple-lane road handles the traffic beautifully. Being able to turn across to go into any store is essential to traffic there. The islands will interrupt that. He thought the islands block access to certain sites. He pointed out that there are a lot of curb cuts along Route 1 which also helps with the traffic flow. He felt the medians would be destroyed every winter with plowing. He made suggestions for other beautification projects.

Bob Hunt of Foreside Road said if the referendum passes residents would be obligated to borrow \$2 million, which may or may not result in a property tax increase. Even though the treasurer says the cash flow in the TIF will be sufficient to cover the debt service, if there isn't enough cash flow in the TIF in any year, taxes would have to be raised. He felt that there is a risk of that happening. He felt this referendum should be amended thusly: "without increasing the property tax rate *unless future TIF account revenues are insufficient to cover the debt service on the borrowed funds*". When he spoke with his neighbors, they all believed that there would never be any tax increase due to this project. He encouraged the Council to add his requested language.

Mike Doyle of Shady Lane asked if the TIF would be sufficient to cover the cost of the debt service. If the estimates of the TIF funds were based on anticipated apartments installed over buildings that haven't been built yet, he asked if any market survey had been done on whether anyone would build or rent those.

Public hearing closed.

Councilor Pierce moved the order 85-2013; Councilor Mahoney seconded.

Councilor Payne moved to amend the referendum question, adding an Item #7 to the Treasurer's statement in order to clarify the public's obligation under state statute for general obligation bonds. Even if a bond is to be funded by a dedicated revenue stream, if that obligation cannot be met the public is responsible for making payment. The language of his amendment was as follows: *"The debt issued for the Project will be general obligation bonds pledging the Town's full faith and credit. It is the opinion of the Treasurer that the TIF account revenues will be sufficient to cover the Project debt service without increasing the property tax rate. In the unlikely event that the TIF account revenues are not adequate or not made available to fund the Project debt service for any reason, the property tax rate may be affected since the bonds are general obligations of the Town."* Chair Varney seconded the amendment.

Councilor Farber asked about the phrase "not made available". Councilor Payne thought it was if they decided to divert funds to something other than debt service.

Councilor Farber thought that would be by action of the Council. Councilor Payne said yes, it would be a municipal decision.

Councilor Rodden asked why they would do that. Councilor Payne said this is an action of this Council and they cannot obligate a future Council to any action. He doubted any Council would do it; his amendment was to clarify to the public what would happen if the TIF funds were not adequate.

Councilor Mahoney understood, but this is a hypothetical. They could as easily say that if funds are inadequate, municipal services would be cut. This is the treasurer's statement and not a projection on what the future may be. It is important to make the public aware of the slight risk that the TIF funds would be inadequate, but he didn't feel this language belongs in the treasurer's statement.

Councilor Pierce agreed with Councilor Mahoney. She reviewed language in past referendums and felt this statement included in the language under Item 5. She felt they did careful review of the TIF and its growth in the past 13 years, even during a down economy. She felt this amendment was confusing and unnecessary. Raising the tax rate would not necessarily be the only option to raising the funds needed in a catastrophic event.

Councilor Rodden felt the amendment didn't clarify how much risk there is. The likelihood of this happening is miniscule. They have shown this increase in the TIF value every year. She felt his amendment was dangerous to this referendum; she felt it would scare the voters.

Councilor Payne didn't think it was the obligation of the Council to draft a referendum so as to not scare voters; what they should be concerned about is making sure voters are informed. This language makes clear that this is an informed decision. He felt this is a measure that will pass, and he felt this clause informed the voters.

Councilor Orestis agreed with the intent and it was a worthy discussion to have, but he wondered whether it belonged here. He wondered what qualified as an "unlikely event".

Councilor Farber felt the last sentence that Councilor Payne proposed is something a Council should not be doing: it is conjecture and opinion.

Chair Varney pointed out that it says the tax rate "may" be affected, not that it will. She thought the language addressed Mr. Hunt's concerns, as well as the concerns of voters.

Councilor Rodden called the question on the amendment.

Motion failed 2-5 (Farber, Pierce, Rodden, Mahoney, Orestis opposed).

Councilor Rodden moved to amend the referendum language as follows (additions in italics, deletions in strikethrough):

Question 1: Shall the Order entitled: "Order authorizing: infrastructure improvements along Route One *between its intersection with Route 88 and the Maine Turnpike Connector Interchange, including underground utility lines, improvements to the streets, sidewalks, intersections, street lights, landscaping and stormwater management,* said improvements being generally described in the plan entitled, "Route One South Infrastructure Plan," with a total project cost not to exceed \$11,700,000 (the "Project"); such Project to be generally funded from the following:

1. Use of \$2,300,000 from the existing balance of funds in the Route One South Tax Increment Financing District ("TIF") account; and
2. Issuance of general obligation bonds in an amount not to exceed \$9,400,000 (plus issuance costs) for a term not to exceed 16 years ~~with principal and interest paid from the TIF account,~~ the proceeds of which to be used to fund the balance of the total Project costs,"

be adopted?

Councilor Pierce seconded.

Motion carried 7-0.

Councilor Rodden moved to amend the referendum by removing item 2 from the Treasurer's statement. It appears that the State will approve the TIF amendment, and she felt this language would confuse the voters. Councilor Mahoney seconded for purposes of discussion.

Councilor Mahoney thought if they get approval they can take it out then.

Town Manager Nathan Poore received word from the State today that their staff have forwarded the application with a recommendation for approval. If the Council is going to vote on the referendum tonight, he recommended they remove item 2. If they don't want to vote tonight he recommended they table until April 22 and remove it then.

Councilor Pierce wanted to vote on it tonight, and wanted to leave item 2 in there just in case the application is denied. If it is approved, they can amend the referendum language on April 22.

Councilor Mahoney asked if there would be another public hearing for an amendment to the referendum on April 22. Mr. Poore said no. Councilor Mahoney said he would rather wait.

Councilor Farber moved the question.

Motion failed 0-7.

Councilor Farber asked about item 1, which states "*it is anticipated that the TIF account revenues will be sufficient to cover the borrowing costs associated with the Project without increasing the property tax rate.*" She wondered how this sentence differs from the statement in item 7, specifically the terms "debt service" vs. "borrowing costs".

Mr. Poore said there was no difference. Borrowing costs is likely more accurate.

Councilor Mahoney moved the order. Councilor Pierce seconded.

**TOWN OF FALMOUTH
ORDER NO 85-2013**

Order authorizing: infrastructure improvements along Route One, between its intersection with Route 88 and the Maine Turnpike Connector interchange, said improvements being generally described in the plan entitled, "Route One South Infrastructure Plan," with a total project cost not to exceed \$11,700,000 (the "Project"); such Project to be generally funded from the following:

- 1. Use of \$2,300,000 from the existing balance of funds in the Route One South Tax Increment Financing District ("TIF") account; and**
- 2. Issuance of general obligation bonds in an amount not to exceed \$9,400,000 (plus issuance costs) for a term not to exceed 16 years, the proceeds of which to be used to fund the balance of the total Project costs.**

Be it ORDERED by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that:

Pursuant to 30-A M.R.S. § 5772, the Charter of the Town of Falmouth and all other authority thereto enabling and subject to the approval of the voters of the Town of Falmouth at a referendum election held pursuant to Section 903 of the Charter of the Town of Falmouth, the Town Council hereby authorizes infrastructure improvements along Route One, between its intersection with Route 88 and the Maine Turnpike Connector interchange, said improvements being generally described in the plan entitled, "Route One South Infrastructure Plan," with a total project cost not to exceed \$11,700,000 (the "Project"); such Project to be generally funded from the following:

1. Use of \$2,300,000 from the existing balance of funds in the Route One South Tax Increment Financing District ("TIF") account; and
2. Issuance of general obligation bonds in an amount not to exceed \$9,400,000 (plus issuance costs) for a term not to exceed 16 years, the proceeds of which to be used to fund the balance of the total Project costs.

Be it FURTHER ORDERED:

1. That the Treasurer be and hereby is authorized to prepare, issue, and sell such bonds (hereinafter, the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date(s), form, interest rate(s), maturities (with the last maturity not to exceed 16 years from the issue date of the Bonds or any series of Bonds) and all other details of each issue of Bonds, including the form and manner of their sale and award, subject to the provisions of law, the Town Charter and this Order.

2. That the Treasurer be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes, as a single issue or in series, in anticipation of said Bonds in such minimum denominations as the Treasurer shall approve, and to determine the date(s), form, interest rate(s), maturities (with the last maturity, including renewals thereof, not to exceed 3 years from the issue date of said note) and all other details of each issue of notes, including the form and manner of their sale and award, subject to the provisions of the law, the Town Charter and this Order.

3. That the maturity(ies), interest rate(s) and sale price of the Bonds and notes herein authorized shall be either set out to bid or negotiated by the Treasurer in such manner as he deems appropriate and in the best interest of the Town and the financing of the Project and the Treasurer be and hereby is authorized to provide that any of the Bonds and notes herein authorized be made callable, with or without premium, prior to their maturity, and each Bond or note issued hereunder shall be signed by the Treasurer, countersigned by the Chairperson of the Town Council, sealed with the seal of the Town, attested by its Clerk, and otherwise to be in such form and contain such

terms and provisions, not inconsistent herewith, as they shall approve, their approval to be conclusively evidenced by their execution thereof.

4. That the Treasurer is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including agreements, contracts, leases, instruments, documents and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the financing of the Project and the issuance of the Bonds and note herein authorized, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer such approval to be conclusively evidenced by his execution thereof.

5. That the Treasurer be and hereby is authorized to select the underwriter for the Bonds and notes herein authorized and the Treasurer be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

6. That the Treasurer be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds and notes herein authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds and notes for sale be and hereby is approved.

7. That the Treasurer be and hereby is authorized as necessary to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds and notes herein authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

8. That the Bonds and notes herein authorized shall be transferable only on the registration books of the Town kept by the transfer agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in such minimum denominations as the Treasurer, in his discretion, may approve upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

9. That, the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the preceding paragraph above regarding physical transfer of Bonds, and the Treasurer be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

10. That the Treasurer and Chairperson of the Town Council from time to time shall execute such Bonds and notes as may be required to provide for exchanges or transfers of the Bonds and notes herein authorized, all such Bonds or notes to bear the original signature of the Treasurer and Chairperson of the Town Council, sealed with the seal of the Town, attested by its Clerk and in case any officer of the Town whose signature appears on any Bond shall cease to be such officer before the delivery of said Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

11. That the Treasurer be and hereby is authorized and directed to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Bonds and notes herein authorized shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or notes to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141 and 148 of the Internal Revenue Code of 1986, as amended.

12. That the officers executing the Bonds and notes herein authorized be and hereby are individually authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of such Bonds or notes, that the Town will file any required reports and take any other action that may be necessary to insure that interest on the Bonds or notes will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds or notes to be subject to federal income taxation;

13. That the officers executing the Bonds and notes herein authorized be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds and notes, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

14. That an amount sufficient for the payment of the annual payments of principal and interest on the Bonds and any notes issued hereunder, not payable from other sources, shall be included in the tax levy of each year until the debt represented by said Bonds and notes is extinguished.

15. That the Bonds and notes herein authorized by this Order are in addition to any other indebtedness authorized for the same or similar purposes.

16. That any or all of the Bonds and notes issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the Town Council of the Town of Falmouth.

17. That the term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Project; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Project; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Project; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Project; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Project; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing.

18. That the Treasurer be and hereby is authorized and empowered to take all such action as may be necessary to designate the Bonds and notes herein authorized as qualified tax exempt obligations for purposes of Section 265(b) of the Code; it being the Town Council's intention that the Treasurer, with advice of bond counsel, make the required Section 265(b) election with respect to such Bonds and notes to the extent the election may be available and advisable as determined by the Treasurer.

19. That if any of the officers or officials of the Town who have signed or sealed the Bonds or notes herein authorized shall cease to be such officers or officials before such Bonds and notes so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds and notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or notes had not ceased to be such officer or official; and also any such Bonds or notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds or notes, shall be the proper officers and officials of the Town, although at the nominal date of such Bonds or notes any such person shall not have been such officer or official.

20. That the Treasurer, Chairperson of the Town Council and Clerk and other proper officials of the Town be, and hereby are individually authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds and notes herein authorized.

21. That if the Treasurer, Chairman of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds and notes herein authorized or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or notes, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

22. That the proceeds of the Bonds and notes issued hereunder and the investment earnings on the proceeds of the Bonds and notes issued hereunder, if any, and the excess proceeds of the Bonds and notes issued hereunder, if any, be and hereby are appropriated for the following purposes, such proceeds to be held and applied in the following order of priority:

1. To any costs of the Project in excess of the principal amount of the Bonds or notes;
2. In accordance with applicable terms and provisions of the Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the Bonds or notes including, to the extent permitted thereunder, to the Town's general fund.

23. That it is the intent of the Town Council that this Bond Order shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation 1.150-2.

Mr. Poore clarified that they are moving the order, which doesn't include the treasurer's statement.

Motion carried 6-0 (Payne abstained).

Councilor Payne explained that he abstained because the order includes a Council recommendation and he felt that the Council should not be passing its judgment on a ballot question that is going to the voters.

Councilor Pierce moved the ballot question attached to the order, along with the recommendation and the treasurer's statement. Councilor Farber seconded.

Motion carried 6-0 (Payne abstained).

Councilor Payne abstained as he didn't believe it is the role of the Council to take a position on a question that is going to the voters. He clarified that he did support the project.

Councilor Rodden moved to waive Council rules in order to take up an item that was not included on the agenda. Councilor Farber seconded. Motion carried 7-0.

Councilor Pierce moved to approve the minutes of the March 27 meeting. Councilor Farber seconded.

Councilor Pierce clarified that they had to vote on the minutes because the approved minutes need to be added to the TIF application. Mr. Holtwijk confirmed that statement; the minutes have to be attested as well.

Motion carried 7-0.

Item 2 Public hearing for a zoning amendment for changes to Section 6 regarding nonconforming structures.

Councilor Payne left the meeting.

Chair Varney opened the public hearing. There was no public comment.

Councilor Pierce said Code Enforcement Officer Justin Brown brought forward this amendment. At the Planning Board's MRA hearing there was some comment from a Board member who felt there should be some allowance for a nonconforming structure to be rebuilt in it existing size and footprint on lots where it cannot be relocated.

Mr. Brown said the goal was to treat all nonconforming structures the same. The Board members were concerned about areas of Town where a lot would be too small to relocate the building.

The Council agreed that they would like the amendment to be looked at again.

Councilor Payne returned to the meeting.

Community Development Director Amanda Stearns said if they are going to allow this for an accessory structure they should allow it for a primary structure as well. The amendment is trying to get everyone 10 feet away from the property line, as structures have to be 20 feet apart. She wasn't sure how to accomplish this in the language. Pulling this piece out would result in detached accessory structures being treated differently. She suggested looking at a lesser standard for a tear down/rebuild, perhaps 5 feet, and instituting that for any type of structure, to ensure equity.

Councilor Rodden proposed sending the language back to staff for an equitable proposal.

Mr. Poore wondered if this change was big enough to warrant another public hearing. Ms. Stearns didn't think it would rise to the level of a substantive change and so wouldn't require a public hearing.

Councilor Farber was read to proceed with the amendment as it is. Councilor Mahoney thought that would not address the question of equity.

Ms. Stearns said the amendment as written addresses the question of equity, which is not addressed in the ordinance as it is.

Ms. Stearns and Mr. Brown will bring more information to the April 22 meeting.

Item 3 Order to schedule a Public Hearing for two referendum questions regarding two Middle School Construction Projects in accordance with M.R.S.A 30-A § 2528 (5).

Chair Varney opened a public comment period. No public comment.

Councilor Mahoney said both infrastructure projects are necessary for the Middle School to function safely and efficiently as a school. The School Board, staff and Council have worked hard on this and he supported both questions.

Councilor Payne moved the order to schedule the public hearing for the roof; Councilor Pierce seconded.

Councilor Farber clarified that this is for renovations for science and music space, and upgrades to the roof of the cafeteria and gym. She agreed with Councilor Mahoney's statements.

Councilor Rodden supported both questions. The State helped the Town build a new elementary and high school. They are not going to get State help for the middle school. They are looking to make the property safe so they don't have to go to the State to ask for money to build a new school.

Councilor Orestis said this is infrastructure just like Route 1; there are safety and efficiency issues here. There is a great waste of money without these improvements.

Councilor Payne said they are beholden to make sure their public properties are in good order.

Councilor Pierce clarified that the heating system is 50+ years old. She supported both the questions.

Councilor Farber moved the question.

Motion carried 7-0.

Councilor Pierce moved the order to schedule the public hearing for the heating system; Councilor Payne seconded.

Councilor Farber clarified that the referendum for the wood chip boiler in the middle school was approved. This question is for moving the heating system from steam to hot water and installing energy efficient windows in the window wall, as well as to tie the biomass system into the existing system.

Motion carried 7-0.

The Council discussed the number of referendum questions and how they would be listed on the ballot. Question 1 is the Route 1 question, followed by the school budget, the BVR question, the heating delivery system and the roof/science & music rooms questions.

Item 4 Order to schedule the Budget Validation Referendum's (BVR) statutory budget meeting to be held on Monday, May 13, 2013, as required by M.R.S.A 1485 & 1486.

Councilor Pierce moved the order, Councilor Rodden seconded.

Chair Varney opened a public comment period. There was no public comment.

Councilor Farber called the question.

Motion called 7-0.

Item 5 Report from the Falmouth Memorial Library regarding future planning for facility needs.

Kim Millick, president of the Board of Trustees, said the Board has decided not to accept the offer of the Plummer school property. While it has been a pleasure to work with Oceanview the trustees voted unanimously to reject the offer. The financing is not feasible at this time, and the citizens are invested in the current library location. The Board continues its work on expansion of the library.

Councilor Rodden asked her to elaborate on their decision not to go to Plummer.

Ms. Millick said as they were deliberating through the costs, both unanticipated costs and what it would cost to renovate it and make it whole, they didn't think the financing was there.

Councilor Mahoney wondered if they got a bid, or if it was just the general sense of the Board.

Ms. Millick said the Plummer presentation given by Oceanview gave some sense of what those costs might be. They have had engineering work done previously that looked at that structure and said that it might be even more costly once they opened it up.

Councilor Orestis thought this meant they could move forward knowing what the cap on costs would be. They won't spend more than what they thought it would cost to go to Plummer.

Ms. Millick said they couldn't say, but felt they would not be looking at a \$5 million project.

Councilor Payne didn't want to jump to a conclusion that there is a cap on expenditures, just that they have ruled out a move to Plummer.

Councilor Pierce thought their reasoning is cost, so she assumed that they are trying to be below that. Also, as they mentioned location as a reason to stay, she would be concerned if they were looking at purchasing property in another location.

Councilor Rodden asked for examples of some of the options the Board are looking at.

Ms. Millick said they are talking with their neighbors; they are looking at a memorial park with the American Legion Post. They have an engineering consultant that will come back to look at what they can do with the current building. If they can't do anything on site, they will have to look elsewhere. They are keeping all their options open right now.

Councilor Mahoney was concerned with that statement. He urged the trustees to work with the Town on these discussions moving forward.

Councilor Farber agreed, and felt it behooved the Council and the Trustees to think through what this relationship is and what role the Town or Council has in whatever the next decision is. She thought both bodies need to have some conversation about this.

Councilor Pierce thought the Council and Trustees need to work more closely, perhaps a joint committee, so they are all on the same page all the time and are moving in the same direction. She felt this would lead to a stronger library and a stronger community.

Councilor Rodden felt it was important that they meet with the Council, before they make any decisions on spending large amounts of money.

Mr. Poore asked for permission to work with the Trustees on putting together ideas on the relationship and next steps. The Council agreed.

Item 6 Order to create an ad-hoc Zoning Committee to assist the Community Development Committee (CDC) in the administrative rewrite of the Zoning and Site Plan Review Ordinance.

Chair Varney opened a public comment period; there was no public comment.

Councilor Rodden said this proposal was brought to CDC members. They have been talking about rewriting the regulations but it keeps being put on the back burner; it is a time-consuming and detailed project. Rather than have the CDC work on this next year, the proposal is to create an ad-hoc committee for one year with members from Boards and Committees that work with these regulations. The goal is for them to work on the details so the CDC can deal with policy. The committee will come to the Council with suggestions for what should be done.

Chair Varney read the proposed charge into the record.

Councilor Rodden moved the order; Councilor Mahoney seconded.

Councilor Farber felt it should be clear whether the Falmouth Economic Improvement Committee (FEIC) representative should be a resident of Falmouth; some of their members are not. She suggested a resident if one of the Boards/Committees couldn't find a volunteer. She wondered about a CDC member being the chair; this is a huge project and was concerned with the time requirements for both the chair and the CDC.

Mr. Poore felt they could revise this to give it flexibility. They could leave the chair position open.

Councilor Pierce felt a councilor needs to be on the committee. She wondered about former Planning Board and Zoning Board members serving as well. She did feel they needed to be Falmouth residents. She didn't think the chair needed to be the Councilor/CDC member.

Councilor Rodden agreed the FEIC member should be from Falmouth; she thought it was important that a member of the CDC be on the committee and not just serve as a liaison. She agreed that the councilor didn't need to be the chair.

The Council asked staff to take the language back and amend it.

Item 7 Discussion on a possible amendment to Section 5.22.3 of the Zoning and Site Plan Review Ordinance regarding Accessory Cottages.

Councilor Payne explained that this portion of the ordinance sets out terms and conditions for accessory dwelling units on properties in Town. The current ordinance restricts an accessory unit to 40% of the original home. This amendment strikes the language limiting it to 40% but leaves in place a cap of 850 sq. feet. The goal is to create greater density when they can. This amendment would allow children to live in an accessory unit so they can remain in Falmouth, and then switch so their parents can live in the apartment. 850 sq. feet being the maximum would make a comfortable dwelling and not be unreasonable. This amendment could be modified to address accessory apartments and cottages both. He didn't think this was inconsistent with their goal to create density.

Councilor Farber read the definition of accessory cottage. It could be a separate 850 sq. foot structure, or above a garage or other structure that might exist.

Councilor Mahoney asked if it was 850 sq. feet in total and not footprint. Councilor Payne confirmed that.

Councilor Pierce understood the situation and the need; she asked if all accessory dwellings go through Planning Board approval. Ms. Stearns said no; accessory units require conditional use approval from the BZA and a building permit. They are permitted on nonconforming lots as long as they meet setbacks and lot coverage requirements.

Councilor Rodden asked about the reason behind the current restrictions. Ms. Stearns explained that there are two tests; one is a proportionate test, in this case 40%, and the other is minimum and maximum size. The proportionality is to ensure that the accessory is subordinate to the primary both physically and by use. They are required to be kept in the same ownership, as they are on the same lot.

Councilor Pierce said with this change someone could build another structure of the same size if the primary home was 850 sq. feet. Ms. Stearns agreed; this change might make it more difficult to determine which structure is subordinate. It is a policy decision whether this consideration is important to the Council.

Councilor Pierce wondered about abutters. Ms. Stearns said the BZA must evaluate compatibility with the neighborhood along with the other conditional use criteria outlined in the ordinance. They can't regulate who lives in the accessory dwelling; it can be a rental, care unit, relative, etc.

Councilor Farber asked if an accessory structure has a proportional limit. Ms. Stearns says it does not; you can build a barn bigger than your house for example.

Councilor Farber was comfortable with staff working on this. She wanted to make sure there were no unintended consequences.

The Council supported moving forward with drafting an amendment for introduction on April 22.

Councilor Pierce said she didn't want accessory cottages that are bigger than the primary home. Councilor Farber was curious what the typical sq. footage of a home in Falmouth is. Chair Varney wondered about a larger percentage. Councilor Payne thought a maximum was easier, an 850 sq. foot cap and no greater than 100% of the existing home for example.

Item 8 Consideration of endorsement of a protocol outlining procedures to be followed by the Greater Portland Economic Development Corporation ("GPEDC") and its member communities, including Falmouth, for handling business location inquiries from within the Greater Portland region as well as for those from beyond the region.

Councilor Mahoney left the meeting.

Mr. Poore said the FEIC have reviewed this and made suggested revisions. The GPEDC decided not to accept any changes or amendments since all the other member communities have already approved it.

Director of Long-range Planning Theo Holtwijk said the GPEDC would prefer that they adopt the amendment as written, since the other communities have already done so.

Chair Varney opened a public comment period; there was no public comment.

Councilor Rodden asked about the side letter. Mr. Holtwijk said if the Council had comments, they should include those as a side letter.

Councilor Pierce moved the order for the protocol with the side letter that includes the recommendations by the FEIC; Councilor Farber seconded.

Councilor Rodden moved to strike the second paragraph in the side letter which starts "we are somewhat disappointed..." Councilor Farber seconded.

Councilor Mahoney returned to the meeting.

Motion carried 7-0.

Councilor Payne said he was bothered by the idea of government dictating communication with private business. When a business is given an opportunity to lower its costs it is good for the consumer. If communities wish to compete, he felt they should have the opportunity. He felt it was wrong that a public entity was compelled to speak to other public entities if one of their businesses is thinking of moving. He also felt this Council shouldn't feel compelled to take action simply because other communities have already taken action.

Councilor Farber asked what happens if they vote it down.

Councilor Payne thought that Falmouth could solicit businesses from other communities. Businesses would know they would not be informed on if they open discussions with Falmouth.

Councilor Farber wondered where it would leave them with GPEDC.

Mr. Holtwijk said the comments made by FEIC were brought to the GPEDC board. He thought they would be disappointed and would get the impression that Falmouth wasn't as cooperative as they would like. Falmouth has paid their dues for membership. Since Falmouth is a small player, they might just move on. The organization wants to move forward and show a unified front.

Councilor Orestis pointed out that Falmouth is the last and has been the most reluctant. He wondered if this is because they were more worried about their offensive strategy being hindered.

Councilor Rodden said no, it was because Councilor Payne brought up his objection.

Councilor Payne gave an example of his objections. Councilor Pierce felt section 2 covered a situation where a business wanted confidentiality. Councilor Payne didn't think a business should have to "opt out" of their private business being public.

Councilor Pierce didn't want to send the message that Falmouth was hard to work with. She was concerned that they are being nitpicky.

Councilor Mahoney saw Councilor Payne's point. The signatories are all bigger communities. The question is whether Falmouth is going to go on the offensive and recruit larger businesses; he wondered how often they are out aggressively recruiting businesses. He didn't think they were.

Councilor Farber felt the benefits outweighed the risks. She didn't disagree with Councilor Payne's objections. This is new but she would rather be a part of it than be outside it. If it doesn't work, they can stop. If they are on the inside, they can work to change it.

Mr. Poore corrected his earlier statement; expansion is part of the recommended changes.

Motion to adopt the protocol carried 6-1 (Payne).

Item 9 Resolution to oppose LD 300, proposed State legislation that would change aspects of the law passed in 2012 that enabled local school districts/departments to have access to health insurance experience data, which allows competitive bidding for health insurance benefits.

Chair Varney opened public comment period; no public comment.

Councilor Payne moved the resolution; Councilor Rodden seconded.

Chair Varney moved a substitute resolution, as follows:

WHEREAS, the property taxpayers of Falmouth are obligated to fund education for their K-12 students under the laws of the State of Maine; and

WHEREAS, more than 70 percent of Falmouth property taxes are spent to support education in the Falmouth School District; and

WHEREAS, the largest line item expense after salaries in the school district's budget is for the cost of health care insurance for teachers, administrators and support staff; and

WHEREAS, competition and large groups most often produce lower prices for goods and services and improves understanding of the value of such good and services; and

WHEREAS, for decades the MTA and now the ME Ed. Assn. Benefits Trust have attempted to care for all educators from Madawaska to Kittery, Fryeburg to Calais and all ages from the 1st year teacher to the oldest retiree by having them in one large group. and

WHEREAS, competition most often produces lower prices for goods and services and improves understanding of the value of such goods and services; and

WHEREAS, Falmouth School Dept. right now has a good health number and therefore has no increase in the cost of Health Insurance but the municipal side has had bad experiences and therefore a 12.5% increase in health insurance and

WHEREAS if Falmouth School Department were to have a year when the health insurance costs were high the premium rate the next year would also be high instead of being spread out over the whole state as it was previously.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FALMOUTH, that the Town Council hereby urges the 126th Legislature to adopt LD 300 and designates the Town Manager to communicate the Town Council's support to this bill's sponsors, other legislators, the Joint Standing Committee on Insurance and Financial Services and other municipal officials.

Councilor Mahoney seconded for purposes of discussion.

Chair Varney explained that the way the benefits trust has been operating for decades is very different than the way it has to operate based on the bill that was passed last year.

Councilor Farber felt their responsibility was to Falmouth and its taxpayers, and this is something the School Board worked for. Lacking any other form of medical insurance system, they have to find a way to control costs. She felt people should have a right to that data.

Councilor Payne explained that the proposed law states that an insurer providing health insurance to employees of a school administrative unit is not required to provide loss information on those employees if requested by the school administrative unit. The practice since 1993 has been that the policy holder has been the union health plan administrator, the MEA Benefits Trust. What happened is that for 20 years Maine was dealt with as a homogenous state; the rate in Bridgton was the same as the rate in Calais. That was achieved by not releasing any data to the local school districts. LD 300 would repeal LD 1326, passed last year, which allowed local school districts to get their loss data and go out to market if they so chose. He gave a brief history of LD 1326 and the legal actions taken by the union to block it. He argued that the law has been in place for less than a year and he suggested that it be given time to work.

Councilor Rodden supported this, but wondered what happens to a small community that has a bad record. Councilor Payne said communities are not compelled to leave the Trust; those that have poor experience will probably stay with it. The probability of a huge migration is small, since any change requires negotiation with the union.

Chair Varney felt the small town with a bad experience will pay more.

Amendment failed 1-6 (Varney).

Councilor Rodden called the question.

Motion carried 6-1 (Varney).

Item 10 Resolution to support LD 1251, proposed State legislation that would lower costs to municipalities and reduce energy consumption through increased competition in the municipal street light market.

Councilor Pierce moved the resolution; Councilor Farber seconded.

Chair Varney opened public comment period; there was no public comment.

Motion carried 7-0.

Item 11 Resolution to oppose aspects of the proposed State Budget that reduces revenue to municipalities and tax relief to some citizens.

Councilor Pierce moved; Councilor Farber seconded.

Councilor Rodden wrote this resolution on behalf of some constituents. She pointed out the elimination of the circuit breaker program would impact 566 homes in Falmouth and cost them each an average of \$712/year. 2868 properties in Falmouth receive the homestead exemption; elimination of that program would cost those homeowners an average of \$134/year. The biggest impact to Falmouth would be the cuts to revenue sharing. This would cost each Falmouth taxpayer \$121/year on an average Falmouth home. This resolution shows that the Town Council feels it is inappropriate to shift this burden to local property owners. 63 other communities have passed similar resolutions.

Chair Varney moved a substitute resolution, as follows:

WHEREAS, the Falmouth Town Council is deeply concerned about the State Budget; and

WHEREAS, the total of the state budget spent for Education is 44.8% of the State budget; and

WHEREAS, 32.5% is spent by the department of Human Services; and

WHEREAS that only leaves 20% of the State Budget to spend on the remainder of State government including the Judicial, the legislative, debt service, and all other departments.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FALMOUTH, that the Falmouth Town Council calls upon the Maine Legislature to put aside party politics and to work in a collaborative manner to solve our State budget problems.

Councilor Pierce seconded for purposes of discussion.

Chair Varney said she knows there is a major problem, but Councilor Rodden's resolution only points out that they don't want to pay more taxes. Her resolution asks them to work together to solve the budget problems.

Councilor Payne felt the Councilor Rodden resolution identifies the impact on Falmouth specifically and shows that municipalities are handcuffed to raising revenue through property taxes and excise. All these programs were put in place to find more progressive methods of paying for essential services. He supported the Rodden resolution.

Councilor Pierce agreed; she appreciated the amendment but felt the resolution is essentially the same. She agreed that the State passed a tax reduction last year without funding it and is now passing it down to the municipalities.

Amended resolution failed 1-6 (Varney).

Resolution passed 6-12 (Varney)

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

Mr. Poore discussed some of the items on the work plan that staff have been working on but haven't come to the Council level yet.

Councilor Rodden wanted to discuss the conflict of interest item with staff. She also wanted to discuss board member appointments and terminations.

Councilor Pierce said the removal of board members is on the work plan for the appointments committee.

Item 13 Order to authorize the Town Manager to purchase a Fire Truck in FY2014.

Councilor Farber moved the order; Councilor Mahoney seconded.

Chair Varney opened public comment period; there was no public comment.

Fire Chief Howard Rice explained that they want to move up the purchase of the fire truck by one year; it is in the capital improvement plan for FY 2015. They did a bid process and found they can purchase the truck for \$100K less than if they wait for 2015. They bought a demo truck a few years ago; they want to reduce the fleet by one, sell the truck and engine and buy a new engine.

Mr. Poore pointed out that this would be the second piece of apparatus they have removed in the last three years. The department is good about what type of trucks to acquire, and being more efficient.

Chief Rice explained that the demo truck has more room for equipment, so they can consolidate the equipment on the new truck, and sell the heavy rescue truck.

Motion carried 7-0.

Item 14 Discussion about future Council agendas.

Mr. Poore discussed items scheduled for upcoming agendas.

Adjourn

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

Meeting adjourned at 10:20 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary