

**Town Council Meeting
Minutes
May 13, 2013**

The meeting was called to order at 4:30 pm.

Roll Call

Councilors Farber, Pierce, Rodden, Varney and Orestis were present and answering roll call.

Councilors Payne and Mahoney arrived late.

Item 1 Order to go into Executive Session pursuant to the Laws of Maine to discuss the Town Manager's annual performance review, pursuant to 1 M.R.S.A. § 405 (6) (A).

Councilor Pierce moved to enter executive session; Councilor Farber seconded. Motion carried 5-0.

Councilors Payne and Mahoney arrived during executive session.

The Council left executive session.

Item 2 Resolution recognizing Tidesmart Global, winner of an ecomaine Eco-Excellence Award.

Councilor Pierce moved to table the item until later in the meeting; Councilor Farber seconded. Motion carried 7-0.

Item 3 Resolution to acknowledge the service to our community and Country of former Senator Olympia Snowe.

Chair Varney read the resolution into the record.

Chair Varney moved the resolution; Councilor Pierce seconded. Motion carried 7-0.

Item 4 Public hearing on a proposed amendment to Section 5.22.3 of the Zoning and Site Plan Review Ordinance regarding Accessory Cottages.

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

Item 5 Public hearing on an amendment to the Code of Ordinance relative to parking restrictions on Mariner Lane.

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

Councilor Pierce was concerned about limiting the parking year-round in response to what is a seasonal issue. She worried about a resident having a Christmas party and not being able to park on the street.

Councilor Farber said the residents were notified of the proposed change and the Police Department received a few responses; no one seemed concerned about it.

**Item 6 Orders to approve the FY14 School Department Budget as required by
M.S.R.A. Title 20-A §1485, §1486 §2307.**

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

Councilor Pierce moved the orders; Councilor Payne seconded.

Councilor Payne read the orders into the record.

**BE IT HEREBY ORDERED THIS 13th DAY OF MAY, 2013, BY THE FALMOUTH TOWN COUNCIL,
FALMOUTH MAINE, IN TOWN COUNCIL ASSEMBLED:**

That the following school budget articles be adopted and approved for fiscal year 2013-2014 as required by M.R.S.A. 20-A, §§1486, 2307 and 15690:

1. That **\$13,247,091** be authorized to be expended for Regular Instruction.
2. That **\$3,831,620** be authorized to be expended for Special Education.
3. That **\$97,001** be authorized to be expended for Career and Technical Education.
4. That **\$774,106** be authorized to be expended for Other Instruction.
5. That **\$2,550,370** be authorized to be expended for Student and Staff Support.
6. That **\$777,390** be authorized to be expended for System Administration.
7. That **\$1,124,766** be authorized to be expended for School Administration.
8. That **\$1,230,757** be authorized to be expended for Transportation and Buses.
9. That **\$2,298,739** be authorized to be expended for Facilities Maintenance.
10. That **\$4,322,513** 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 **\$23,976,470** 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 **\$16,803,109** 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 **\$712,633** 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 or non-state-funded portions of school construction 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 that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters.

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

BE IT FURTHER ORDERED, that **\$5,515,250** be raised and appropriated in additional local funds, which exceeds the State's Essential Programs and Services allocation model by **\$5,398,203** as required to fund the budget recommended by the school committee.

The school committee recommends **\$5,515,250** for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by **\$5,398,203**: 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.

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.

The EPS funding model was originally designed to provide minimum funding expectations 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 (RTI, 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 additional student days, accurate facility maintenance and repair costs, and energy cost variances beyond the rate of inflation.

BE IT FURTHER ORDERED, that the school committee be authorized to expend **\$30,254,353** for the fiscal year beginning July 1, 2013 and ending June 30, 2014 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, 2013 and ending June 30, 2014, for school purposes and adult education, provided that such grants, aid and receipts do not require expenditure of local funds not previously appropriated.

Councilor Payne asked what happened if the State does not cut as much as expected.

Andrew Kinley, School Board member, said the budget they are presenting is the only one they can move forward with. In any budget there is a potential for leftover funds at the end of the year. If there is no cost shift with the retirement funds that is money they are not going to touch. They will set it aside and decide what to do with it in the next budget year.

The Council expressed its support for the school budget.

Motion carried 7-0.

Item 2 Resolution recognizing Tidesmart Global, winner of an ecomaine Eco-Excellence Award.

The Council voted 7-0 to remove item 2 from the table.

Councilor Rodden read the resolution into the record.

Councilor Rodden moved the resolution; Councilor Payne seconded. Motion carried 7-0.

Steve Woods, president of Tidesmart, accepted the resolution and thanked the Council and Town staff.

Item 7 Order to sign the June 11, Budget Validation Referendum and the Municipal Official Election and Referendum warrant. M.R.S.A.30-A §2551.

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

In response to Councilor Rodden's question, Mr. Kinley explained the requirement for the budget validation referendum (BVR). The BVR is the community's opportunity to validate the school budget. Every three years the community has the choice on whether to continue this annual process. The School Board has no opinion on the BVR; it is up to the residents of Falmouth.

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

Item 8 Report from Councilor Farber on feedback from the Planning Board and staff on the development of a minor site plan review process for small non-residential projects.

Councilor Farber brought this before the Council a month ago. She met with the Planning Board and Town Staff last month; comments from that meeting have been incorporated into the proposal. The goal of this is to simplify the process for small commercial projects and reduce the time and costs for approval. They also wanted to incorporate a process for staff to refer a project to the Planning Board if it was particularly complicated or included extenuating circumstances. Finally, they want to limit the number of ordinance standards a small project would need to meet. The memo in the Council's packet identifies several policy questions for the Council to consider.

Councilor Rodden felt this document should go to the CDC for review of the policy questions; she felt they were too detailed for the full Council to address at this meeting.

Amanda Stearns, Community Development Director, stressed that the issue of the ordinance standards being applied only to those improvements being made is crucial to the business owner who requested the change, as that site was approved prior to the current Route 1 standards. Time is an issue for him as well, as he is trying to take advantage of this construction season.

Councilor Farber said the key question is whether the Council wants to permit minor site improvements without triggering full compliance with the design guidelines.

Councilor Mahoney did want them to allow it; Councilor Farber agreed. Councilor Pierce supported the concept but wondered about the definition of minor.

Ms. Stearns said a list of proposed criteria for a minor improvement is included in the report.

Councilor Payne supported the idea of a sunset provision on this item. He also wanted to see it adopted as soon as possible.

Councilor Pierce agreed with Councilor Payne; she wanted a cap on the number of times one property could apply for a minor site improvement. She felt staff should be allowed to approve signs for the VC.

Councilor Rodden acknowledged that the idea for this has floated around for a while, but she felt strongly that the Council shouldn't make decisions based on one property owner. She asked what the alternative would be to sending this to CDC.

Councilor Farber didn't want to slow down this process due to the election. She asked if there was enough here to draft ordinance language, and where it would sit in relation to staff workload.

Town Manager Nathan Poore said he would have to confer with staff in regards to priority.

Councilor Pierce felt ready to move it forward based on the work done so far. She wasn't moving this forward for one property owner; this issue has been raised since she joined the Council.

Councilor Farber said the first policy question was whether only the proposed improvements and the provisions related to the improvements would be held to the design guidelines.

The Council agreed with this.

Councilor Farber asked if the provision should have a sunset provision. The Council consensus was for a three year sunset provision.

Councilor Farber asked the Council whether the amendment should allow multiple submissions over time, with a cap on the total square footage on expansions.

The Council agreed with a cap on expansion. Councilor Pierce suggested that the cap should expire after a certain amount of time, and that there should be a minimum timeframe between projects. The Council agreed.

Councilor Farber asked if they should allow more staff approval of signs in VC-1 and -2. The Council agreed.

Councilor Farber asked if minor site review projects should require abutter notice and what procedure should be used.

Ms. Stearns said staff strongly recommended that they narrow the type of project permitted under this to the point where the Council is comfortable with no abutter notification being required. Any process of abutter notice would lengthen the time needed for approval.

Councilor Rodden asked for an example of a narrow type of project.

Ms. Stearns referred to the list of projects included in the document: placing a new HVAC system outside a business, for example. Staff doesn't have the right to waive any of the ordinance standards. As long as the proposed project meets the proscribed standards of the ordinance, they are meeting the design threshold required by the Town. Abutter notice becomes important where waivers from the standards are being requested. Any waivers from the standard would automatically send a project to the Planning Board anyway.

Councilor Mahoney thought a business could add 1800 sq. ft. of impervious surface over a three year period. He wondered if they could add another 1800 sq. ft. after three more years.

Ms. Stearns said one of the questions is how to address that cumulative impact.

Councilor Mahoney felt you could have pretty big expansion without any opportunity for an abutter to weigh in. They don't want to allow the opportunity for people to use this contrary to its intent.

Ms. Stearns said they could limit it.

Councilor Mahoney was more interested in extending the period of time for the cap. If they are talking about entities looking for a minor change to improve their business, they aren't looking to spread those changes out. He suggested extending the cap to 10 years. The Council agreed.

With that limitation, the majority of the Council was comfortable with no abutter notification. Councilor Rodden dissented; she was concerned about residential properties and she wanted to know more about lighting issues.

Ms. Stearns said they have specific standards for properties that abut residential properties and projects would have to meet those standards.

Councilor Farber pointed out that any conditional uses would still need to go before the Board of Zoning Appeals.

Item 9 Discussion about future bridge (railroad crossing) needs at the Town-owned River Point parcel.

Councilor Pierce moved to waive Council rules to allow comment by a member of the public; Councilor Mahoney seconded. Motion carried 7-0.

Caleb Hemphill is a volunteer that has worked extensively on the maintenance of River Point. This bridge is crucial to the trail connections in Town. The River Point trails are the gateway to the Cross Falmouth trail, which looks to link one side of Falmouth to the other. With others he volunteered to build a safe walkway across this bridge. The bridge needs to be replaced and he urged the Council to weigh the options on replacing the bridge. There are no good options for a surface crossing there.

Councilor Rodden asked how they get more concrete numbers from Pan Am on the costs.

Mr. Poore said they couldn't until they have a design and an estimate of the time needed for construction. The only way to do that is to issue a Request for Proposals (RFP) and get bids.

Councilor Payne said the Council had talked about the disposition of the property in its entirety and whether some portion of it could be made available for development. The Council should consider what they want the parcel to look like, and whether they were interested in selling a portion of it. They should consider the ongoing costs of the bridge as well as its maintenance and replacement.

Councilor Pierce remembered that the Council discussed whether to put the property into permanent easement. She thought they should do an RFP to get an idea of the costs before they make a decision on this property. She had a hard time spending the money on the bridge if they weren't going to commit the property to open space. She understood they want to leave it open for mitigation but she wanted to have a Council discussion about the future of the parcel in conjunction with a decision on the bridge.

Mr. Poore said the type of the bridge being proposed couldn't support more intense commercial or residential use. It is meant for pedestrian and occasional vehicular use. In response to the question of selling a portion of the property, he explained that the Council examined that idea with a couple potential developers in the past. One didn't offer any numbers, and while the other ran some numbers they confirmed a couple weeks ago that it was no longer an option. He said the design presented lends itself more to the vision of the parcel remaining open space.

Councilor Payne said the parcel has high historic value, as well as high conservation value. He thought a visitor center might be a good use on the site and that might lend itself to different utilization of the site. He cautioned against locking up the property into a non-development clause, but preserving a portion of the site for a future use.

Councilor Mahoney said the goal of preserving vehicular access was to maintain the grassland and early successional forest. He wondered about parking a tractor there and leaving it. That was a lot cheaper than installing a new bridge. He understood there would still be maintenance issues. A pedestrian bridge is different than a vehicular bridge.

Mr. Poore discussed a report he received today from Town Attorney Bill Plouffe which detailed the Town's legal rights on the River Point parcel. One issue of concern is that the Town has no parking rights in perpetuity on the Hannaford parcel.

Councilor Mahoney was very concerned if they were talking about the potential for parking on the other side of the bridge. He felt that would invite trouble, even if it was a small, 6-car parking lot.

Mr. Poore said they don't know what some of the construction costs would be. They have estimates for an 8-foot bridge; they could put together a RFP for a 5 foot wide bridge as well as a 10-12 foot bridge.

Councilor Pierce was okay going forward with an RFP but was not ready to agree to use undesignated fund balance. It was hard to move forward without good numbers.

The consensus of the Council was to move forward with an RFP. Councilor Farber wanted to see multiple weight and width options. Councilor Mahoney wanted to see a cost estimate for storage of equipment on site. He supported the protection of River Point, but wanted to weigh all the options. Councilor Rodden pointed out that this parcel is a jewel property and she wouldn't want to see it developed. It is a significant property. Chair Varney didn't care how wide the bridge was, as long as it is there.

Item 10 Ordinance to amend the Code of Ordinances to create a new Land Management and Acquisition 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-Committee (OSIC).

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

Item 11 Ordinance to amend the Zoning and Site Plan Review Ordinance and the Code of Ordinances to replace the SB District on Route One with new Village Center Districts.

Councilor Farber moved to adopt the ordinance; Councilor Pierce seconded.

Mr. Poore asked for clarification that the version moved and seconded is the most recent version, with the amendments made. The Council confirmed that was the case.

Councilor Pierce acknowledged the concerns expressed by the Planning Board in regards to parking; she felt the amendments as drafted would allow the Board the flexibility to address parking issues for any specific project.

Councilor Pierce called the question.

Motion carried 7-0.

Item 12 Discussion about future Council agendas.

Councilor Pierce moved to cancel the July 8 meeting; Councilor Farber seconded. Motion carried 7-0.

Councilor Farber confirmed that the regular meeting would still be held on July 22.

Councilor Farber reported that she, Councilor Mahoney and Mr. Poore met with the Library Board to discuss the plan and process for moving forward with improvements to the library in its current location. Two RFP's will go out soon; one for preliminary design for the library, and a second for the fundraising aspect. They are hopeful a discussion will come before the Council on June 17 along with a discussion on funding for the preliminary design and the feasibility study.

Mr. Poore discussed the items scheduled for future Council agendas. An order for Mariner Lane was scheduled for May 29. An order for the Accessory Cottage item was scheduled for July 22.

Item 13 Order to go into Executive Session pursuant to the Laws of Maine to discuss the nomination of the annual Citizen of the Year Award, pursuant 1 M.R.S.A. § 405.

Councilor Mahoney moved to enter executive session; Councilor Pierce seconded. Motion carried 7-0.

They Council entered executive session at 8:58 pm. The Council adjourned from executive session.

Respectfully submitted,

Melissa Tryon
Recording Secretary