

**Town Council Special Meeting
Minutes
August 12, 2013**

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

Roll Call

Councilors Anderson, King, Farber, Pierce, and Goldberg were present and answering roll call.

Councilor Orestis arrived after roll call.

Councilors Mahoney was absent.

Item 1 Public Hearing and order relative to a new victualer license for The Orchid Thai Restaurant and Bar.

Public hearing opened; no public comment.

Councilor Farber moved the order, Councilor Goldberg seconded.

Rattanaphom Boobphachati owns three restaurants in the Greater Portland area. This will be the fourth. She plans to open in early October.

Motion carried 6-0.

Item 2 Public Hearing and order for a new liquor license for The Orchid Thai Restaurant and Bar, 202 US Route 1.

Public hearing opened; no public comment.

Councilor Goldberg moved the order; Councilor Farber seconded.

Motion carried 6-0.

Item 3 Ordinance to amend the Code of Ordinances relative to Nuisance Dogs.

Councilor Farber moved the ordinance; Councilor King seconded. Motion carried 6-0.

Item 4 Introduction to an amendment to the Code of Ordinances relative to the disposal of surplus property.

Councilor Farber explained that trade-ins over \$10,000 need Council approval. This limit is cumbersome when taking into account both the current price of vehicles the Town purchases and that the trade-in is part of an approved purchase. This language allows the Town Manager to authorize trade-ins that are a part of an approved capital plan purchase up to \$50,000 without Council approval. This also allows the Town Manager to dispose of personal property with a value up to \$20 without Council approval.

Town Manager Nathan Poore explained that the personal property might include unused and unwanted office supplies.

Councilor Orestis asked how they decided the \$50,000 limit.

Mr. Poore said this came from the examples of trading in the fire equipment this year. They might be able to get away with less, but \$50,000 would cover any of the activity that they did this year, for example.

Councilor Farber pointed out that the trade-in needs to be toward a purchase included in the capital improvement plan.

A public hearing was scheduled for September 9.

Item 5 Introduction of an amendment to the Code of Ordinances relative to solid waste disposal fees.

Mr. Poore explained that this came out of a discussion with Finance Director Robert Boschen and Public Works Director Jay Reynolds. The town collects fees to cover disposal, but trash collection is covered by property taxes. In researching this program they discovered a Council order to establish the pay-per-bag program. It seemed prudent to institutionalize this program in the Code of Ordinances itself. There is no proposal to either increase or decrease the fees at this time. When the Council votes on this amendment, they will also be asked to ratify the current fee schedule.

A public hearing was scheduled for September 9.

Item 6 Order to approve a supplemental appropriation and transfer in the amount of \$7,200 from the Energy Efficiency Reserve Fund to fund part time staffing needs that were not funded in the FY14 Budget.

Councilor King explained that the Recycling and Energy Advisory Committee has lacked staff support for some time. This request is for short term funding for a part-time staff person to support REAC.

Mr. Poore said historically the budget analyst provided staff support for this committee; when that position was replaced by an accountant, REAC lost its staff support. In reviewing this situation, it was determined that the best solution was to fund a part-time person to staff the committee instead of adding it to the workload of an existing staff member. It should be added to the operating budget moving forward next year. The Town has a USM intern, Kimberly Darling, who has been staffing the committee for the last 6 months.

Councilor Anderson asked what the plan was for reassigning the task at the time the position was eliminated.

Mr. Poore said the plan was to reassign it to another staff member, but there is a capacity concern with senior level staff.

Councilor Anderson said this is one time funding under the reserve account; next year it will be included in the operating budget.

Mr. Poore agreed; this position will have to compete for funding with everything else at budget time next year.

Councilor Farber felt the job description included with this request is more than just staff support for the committee; it is for an energy coordinator, which is more than what the Town has had in the past. This isn't just about committee support.

Mr. Poore felt it wasn't until now that they formalized what they wanted for this position. The discussion around funding led to organizing their thoughts on what they wanted.

Councilor Farber wanted to make it clear that they are not spending \$5000-\$7000 just to staff a committee. She didn't want the employee to report to REAC, as is stated in the job description. She was concerned that this person would not really be a part of the overall Town staff if that were the case.

Mr. Poore agreed and said this isn't the official job description.

Councilor Orestis asked if this would be 20-40 hours per month. Mr. Poore said that is correct.

Councilor Goldberg pointed out that there is nothing that has changed that is specifically requiring this at this time. The work has evolved to a point where this makes sense. Mr. Poore agreed.

Chair Pierce felt it should have been part of the budget; she didn't understand the urgency of funding it now rather than incorporating it into next year's budget. She was uncomfortable using the reserve funds for salaries. She asked if this fund was part of the CIP.

Mr. Poore said it is; it is a dormant fund, created in 2006 to cover energy efficiency projects. He explained that the intent was for the cost difference between the purchase of an energy efficient vehicle versus a typical vehicle, for example, to be carried by this fund instead of the budget. The resulting fuel savings would then pay back the fund. This worked in theory, but funding to this reserve fund was cut due to budget cuts. The fund is there for energy efficiency projects that are not funded elsewhere. The proposed position should have been included in the budget; it was an oversight that it was left out.

Councilor King moved the order; Councilor Farber seconded.

Public comment period opened.

Michelle Lamb of Middle Road is the chair of REAC and said the position would help with re-inventorying the Town's energy use and emissions. They are committed to measuring and managing the Town's emissions. She encouraged the Council to approve the order.

Public comment period closed.

Chair Pierce was willing to support this because it would be reviewed in the budget process next year. She wanted the job description cleaned up. Councilor Orestis agreed.

Councilor Anderson asked if they were violating any policy in using this fund for operating expenses. Policies governing other funds would not permit this type of use.

Mr. Poore didn't think so. He encouraged REAC to review this fund because it has been under-utilized.

Motion carried 6-0.

Item 7 Order to approve property tax abatements for 167 Gray Road, Tax Map U42 Lot 37, in the amount of \$118.86 for 2011 and \$113.62 for 2010.

Councilor King moved the order; Councilor Farber seconded.

Public comment period opened; no public comment.

Motion carried 6-0.

Item 8 Discussion and presentation from Falmouth Memorial Library's Executive Director Andi Jackson-Darling regarding the Library's need for expansion and renovation in anticipation of a public forum and community presentation of preliminary design proposals on Tuesday, September 10.

Andi Jackson-Darling gave a presentation on the future trends of libraries and the issues with the current library. Two library consultants hired since 2003 have each concluded that the library needs more space. Based on their reviews, the Library is rated at the lowest standard possible. They have explored expansion on the site in the past; the difference now is that they have the option to add land to the site. Utilization of

Falmouth's library is tied with Yarmouth's per capita, but Yarmouth's library is 2.5 times the size of Falmouth's facility and their citizens recently voted for a significant upgrade. Interlibrary loan usage at the library has increased by 2000% in the last 10 years. Based on population, the library needs to have 9 public access computers to reach a basic level of service; currently they have 6. There are not enough outlets to set up computers, and many of the available outlets are located in the hallways so the public has difficulty accessing the free Wi-Fi. The oldest part of the building has a wet basement, rendering that area unusable. The building is not energy efficient and is lacking in insulation. The programming room can only accommodate 85 people, which limits how many people can attend events. There is a lack of space for staff, leading to inefficient workflow, lack of storage, and an inability to have confidential discussions with patrons. Current library building trends include designing for the users, accommodating disparate uses, and consideration of ergonomics (avoiding the use of the top and bottom shelves). They have reviewed current user trends and found that people are still reading traditional print. The current library has 6437 sq. feet; estimates of needs space range from 12910 – 15293. The current library would need to double to meet those space needs. On Tuesday September 10, from 6-8pm in the Russell room, a public meeting will be held with Scott Simons Architects to present preliminary conceptual designs and get public feedback.

Kim Millick, president of the Library Board of Trustees, discussed the most recent work on design of the library expansion. The Board selected Scott Simons Architects. They have done some charrettes, and preliminary sketches should be available by the end of August. They are hoping for a final design by the end of October.

Councilor Farber wondered what they were talking about when they are talking about doubling space.

Ms. Jackson-Darling said they are talking about space for people not for storage.

Councilor Orestis asked what they anticipate is the percentage of meeting space usage that isn't library specific, but is for community use.

Ms. Jackson-Darling said they are looking at library program specific space. While they looked at the big meeting space, they also need smaller space for people to use for quiet study. When their meeting space isn't being used by the library, it is available for community use.

Councilor King asked how the data was gathered in 2011.

Ms. Jackson-Darling said there is a new law that public libraries have to do an annual report on their statistics to the State library.

Councilor King asked about the per capita usage numbers.

Ms. Jackson-Darling said it is based on materials going in and out of the building. In Falmouth, on average, every resident takes out 16 items per year.

Councilor Anderson said if he walks in the library it is counted as a visit; Ms. Jackson-Darling said that is correct. They have door counters.

Councilor Anderson asked that how they know the demand is there if they don't have the room to provide for small meeting spaces.

Ms. Jackson-Darling said people tell them. They have rearranged the space in the library in the last year and the small table outside her door has been occupied by people studying every day since it was put there.

Councilor Anderson asked about the computer usage. Ms. Jackson-Darling said they really need 9 computers instead of 6; there are waiting lists to use them.

Councilor Anderson asked if the architects are going to develop several options.

Ms. Jackson-Darling said they are; they are going to try to meet the minimum requirement of 12910 sq. feet of assignable space.

Councilor King asked how the additional square footage would be used and whether it would be assigned based on the identified space deficiencies. Ms. Jackson-Darling said it would.

Councilor Goldberg asked if they track usage per square foot.

Ms. Jackson-Darling said they could run those calculations and present them at the public meeting. She said that in America people take up 4-12 sq. feet per person on average.

Councilor Farber asked about the various forms of media available in the library.

Ms. Jackson-Darling gave a list of the materials the library offers for people to borrow, including games, ukuleles, DVD's, music and downloadable e-books and music. They provide help with job searches, community connections including a knitting group, tax forms, e-government, photocopying, and services for the community such as disaster resources and information and educating people about changes in the healthcare law.

Item 9 Order to authorize the Town Manager to enter into a license agreement regarding use of town property to place and access temporary/seasonal/permanent docks.

Chair Pierce explained that the Town owns property along the shorefront at Carroll Street that separates several properties from the oceanfront. Property owners along that area were interested in installing docks to allow access to the water; they need approval from the Council to allow them to cross the Town property.

Councilor King wondered if the Town is obligating itself to conduct shorefront stabilization in this area. Mr. Poore said they are not. The shoreland maintenance section of the agreement is to ensure that the property owners maintain the stabilization.

Ms. Stearns said the two properties that have requested these docks both approached the Town Manager and received permission from him, as well as approvals from both the Planning Board and the DEP to install shoreland stabilization measures on the Town property. Those approvals are required to be maintained. Part of the conditions of the Planning Board's approval are that certain areas are intended to be allowed to evolve in a natural state without any alteration; other areas on the owner's property are to be maintained as lawn. This agreement includes allowances that if the owners have to alter or maintain the Town's land in any way, they have to notify and receive approval from the Town first. The Town has no obligation under this agreement to perform any maintenance or improvement but can do maintenance as it sees fit.

Councilor Orestis asked if there is a prohibition on any alteration to the vegetation along the shore.

Ms. Stearns said it is in both the Town's ordinances and the State statutes. In this case all vegetation was removed in order to install the stabilization materials and then the area was re-vegetated. Once it is re-vegetated, the idea is that the new vegetation is allowed to evolve. If there is any defect they would have to go back and replant.

Chair Pierce thought they had discussed allowing temporary seasonal docks. She wondered why the phrase "permanent docks" was included in the draft language.

Ms. Stearns said there is a permanent dock currently installed on one of the properties on Brown Street. The language is written as a generic agreement; the exact language would be conditional on which

property the agreement references. The orders tonight are for two properties, and not for the existing docks. They will be approaching those property owners soon.

Mr. Poore said there might be some non-substantive issues that still need to be addressed. He asked the Council about fees associated with these licenses. The Town has incurred attorney fees in relation to this proposal.

Councilor King asked if the license would be the place where requirements for licensure would be included.

Ms. Stearns said the agreement includes language that states that the owners would have to be in compliance with any and all permits, local, state and federal regulations, provisions, and requirements in order for the license to remain valid.

Councilor Anderson advocated for lighter fees for the Bushes and Conways in recognition of the fact that they initiated this process, which will benefit the Town in the future.

The consensus of the Council was to charge those two property owners for 1 billable hour.

Councilor Goldberg asked who financed the stabilization efforts; Mr. Poore said the property owners paid for those.

Councilor King asked about the status and condition of the sewer line that runs along that property and whether it needs protection.

Mr. Poore said he asked the superintendent and he said that line is okay. He might rebuild the riprap around the manholes that are located in the water, but that won't impact the other items.

Councilor Orestis asked about the license/renewal fee.

Ms. Stearns said the consensus of the Council at the workshop was that there was no need for an annual fee. The \$1 is there because there needs to be something in the license agreement.

Chair Pierce and Councilor Orestis questioned that. Councilor Farber said once this agreement is in place there are no ongoing costs to the Town.

Councilor Farber moved the order with the Conways; Councilor Goldberg seconded.

Public comment period opened.

Pat Carroll of Carroll Associates, representing the property owners, said they are grateful for the license agreement that will allow the docks. All 4 property owners have spent quite a lot of money on the stabilization efforts.

Tom Conway of Carroll Street spoke about a storm drain problem on the two properties. Part of that storm drain was on their property and the Town had no easement for the drain. They granted an easement to the Town for that storm drain. He thought he should receive special consideration for that and for the stabilization project and be exempt from contributing to the Town's legal fees.

Public comment period closed.

Councilor Farber asked how wide the Town's property is and the work that has been done on it.

Mr. Poore said it is approximately 50 feet. The stabilization efforts have included both the Town property and private property, depending on the amount of work that was needed. The Town has contributed to stabilization efforts on Shoreline Drive. The difference is that the Town has to protect the road infrastructure along Shoreline Drive. In the case of Carroll Street there was no benefit to the Town in stabilizing the shorefront as the sewer line in that area could be completely underwater and would still not be impacted.

Motion carried 6-0.

Councilor Anderson moved the order with the Bushes; Councilor Farber seconded.

Public comment period opened; no public comment.

Mr. Poore thanked the Conways for their work with the culvert.

Motion carried 6-0.

Item 10 Discussion led by Councilor Pierce on possible use additions to a certain section of the BP District.

Chair Pierce said this is in response to a day spa/salon business that wanted to relocate in the area between Bucknam Road and Johnson Road. That type of use is not allowed in this district under the ordinance.

Councilor Farber asked why the Town has historically segregated business and retail. In the Route 1 amendments recently passed, business use was added to the second stories.

Mr. Poore said the thinking was that retail generated the most traffic. If you spread retail out too far, you have a commercial/retail sprawl situation. Commercial use has larger buildings and single parking lots. Village zoning encourages mixed use, with commercial and retail usages.

Ms. Stearns said historically the entire corridor was zoned commercial. When BP was created the vision was for it to be a business park environment with less traffic in and out than a retail use. The district includes increased buffering, so visibility from Route 1 is limited. There are at least 7 properties in this area that are either non-conforming or not permitted.

Councilor Goldberg asked what property this was in reference to.

Doug Hanson said this was for 325 US Route 1. He spoke about the difficulties he has had in filling the space in his building. He has had some interest but the uses proposed were not allowed by the Town.

Councilor Goldberg asked why this change was proposed only to Johnson Road and not beyond.

Chair Pierce said there was value in keeping business separate. Johnson is very residential; beyond Johnson is more business park development. The area between Bucknam and Johnson Roads includes some retail and businesses with more traffic.

Councilor Farber asked which uses were not allowed in this building.

Mr. Hanson said he has had interest from a day spa/hair salon, a computer repair store, and a church. Those are the only three people who have been interested in renting his space for 6 out of the 7 years. Each of those uses would not be allowed due to zoning. His neighbors are doing retail business.

Councilor Farber wanted to make sure they are not being too narrow. She wondered if they were looking at the right boundaries and the right mix of uses, and asked if there are other uses they should be permitting.

Chair Pierce felt they should move away from all the conditional uses, and more toward blanket uses.

Councilor Anderson agreed with taking a broader look at it. He asked why other properties in the area were allowed to have the same type of uses and this property owner can't.

Mr. Poore said the other properties are legally non-conforming; they were in existence prior to the current zoning.

Councilor Farber said she was not suggesting retail and was unsure about restaurants. She would like a broader conversation about the type of uses they might allow in this area.

Councilor King wondered about the vision for the area, and what the comprehensive plan says.

Ms. Stearns said when the Route 1 study was reviewed by the CDC the Council at the time only looked at Route 1 south and left BP for study at a future date. She wondered whether the Council wanted an intermediate look at the uses, or whether they want to look at the whole district more comprehensively.

Chair Pierce felt they had an opportunity to make a change to accommodate professional uses, with the opportunity to look at Route 1 north at a future date. She pointed out that Route 100 is another issue that the Council has raised in past years. She felt this ordinance change would bring allowed uses in this area in line with what is going on there already. Taking the time to look at vision for this area would take staff and Council time that might need to be spent elsewhere.

The consensus of the Council was to move forward with an ordinance amendment in a limited fashion.

Item 11 Update on the Engineering Consultant Selection for the Route One Infrastructure Project.

Councilor Anderson said staff put out an RFP and held a pre-bid meeting. They received 6 proposals. After evaluating each on 5 evaluation criteria Mr. Poore, Public Works Director Jay Reynolds and Director of Long-range Planning Theo Holtwijk recommended hiring engineering firm Fay, Spofford & Thorndike (FST). The CDC met with representatives of the company last week and voted 3-0 to hire them. Councilor Anderson spoke about the company and their experience. While the company is based out of state, they have a strong presence in South Portland. The goal is to have a final design to send out for construction bids by mid-November. A public process is being developed and will include opportunities for public comment. He encouraged the public to get involved. He discussed the upcoming CDC schedule. They plan to meet twice a month as needed between now and the end of the year.

Item 12 Report from the Town Manager regarding options to provide Assessing services from Cumberland County Government.

Mr. Poore said in 2006-2007 the County initiated a study on a potential County-wide assessing service. The challenges uncovered by that study were determined to be too many to be overcome at that time. Recently, Yarmouth, Cumberland and North Yarmouth were sharing a single assessor. That person left for the Town of Scarborough. Anne Gregory, assessor for the Town of Falmouth, has announced her retirement in 2014. This led to the four towns discussing a possible regional approach to providing assessing services. After meetings with the Town Managers and key Town staff, Mr. Poore thought this looks feasible both financially and from a service standpoint. The thinking is that, if they start small and build something successful, it could grow. He didn't know if there would be cost savings as a result of this; if there were he felt they should deposit that into a reserve fund toward future revaluations. He thought a letter of intent might be drafted in September, with a formal agreement drafted later this fall.

Chair Pierce wondered about whether the County has any experience with something this big. She was glad that the appeal process would remain with the Town. She felt it was important to evaluate it after 3-5 years. She supported regionalization.

Councilor Goldberg asked what the primary benefit would be for regionalization of assessing.

Chair Pierce said assessing is becoming a highly acquired skill, with not many people doing it.

Mr. Poore agreed, but said also there would be a benefit to having two available assessors to cover for one another. It would also be an opportunity to test out regionalization; if it works here, it might work for other services.

Councilor Orestis supported this effort moving forward. Councilor King agreed.

Councilor Anderson agreed. He would be more skeptical if it were much bigger than the 3-4 towns currently involved. Councilor Farber agreed.

Item 13 Order to vote for MMA Vice President and Executive Committee Directors.

Councilor Farber moved the order; Councilor Orestis seconded.

Mr. Poore discussed the services provided by the Maine Municipal Association.

Motion carried 6-0.

Item 14 Discussion about future Council agendas

Chair Pierce said Cumberland and Yarmouth would like to have a joint meeting on September 30 at Yarmouth Town Hall. She and Mr. Poore discussed several agenda items that are currently slated for September and October.

Adjourn

Councilor Farber moved to adjourn; Councilor King seconded. Motion carried 6-0.

Meeting adjourned 9:27 pm.

Respectfully submitted,

Melissa Tryon
Recording secretary