

March 22, 2007

The March 8, 2007 Town Council Meeting was called to order by Colette J. Matarese President at the Benjamin Eddy Building, 6 South Killingly Road, Foster, Rhode Island at 7:00 p.m.

The following members were present :

Colette J. Matarese, President
John Lewis, Vice President
Peter Baribault
Lynne S. Rider
Harold R. Shippee, Sr.,
John J. Bevilacqua, Jr., Town Solicitor

Staff

Anne Carlson, Tax Assessor
Chief Robert E. Coyne, Jr.
Robert Fallon, Building Official
Pamela Fontaine, Tax Collector
Nancy Johnston, Human Services Director
Randy Rossi, Treasurer

The Pledge of Allegiance was recited.

Patricia Boucher of Bacon & Company addressed the council regarding the June 30th 2006 audit report. She noted that the Town of Foster ended the year with \$1,263,405 and \$200,000 of that has been earmarked for the 2006/2007 budget and reserve carryovers of approximately \$215,354 for capital funds. She noted that the school ended the year with a \$215,586 cumulative fund balance and \$170,225 that was unreserved and undesignated. Mrs. Boucher noted that the capital projects fund had a balance of \$2,043,158. She showed the council the difference of actual budget and received which had a \$467,575 favorable revenue variance and on the expenditure standpoint there was a favorable variance of \$139,000. It was noted that \$532,474 was transferred to the capital projects fund. Mrs. Boucher explained that was a quick overview of the audit. She said that the management letter was pretty comprehensive which the council has received with recommendations for improvements.

Colette J. Matarese remarked that the council was looking into some of the internal controls and one was to increase the Deputy Treasurer to a full time position and a purchasing policy was going to be reviewed at this meeting. Randy Rossi, Treasurer noted that he has started to incorporate a majority of the reportable conditions in the management letter with the help of the auditors and the town is moving forward.

Patricia Boucher noted that there should be a segregation of duties with the Tax Collector as the same person should not be recording and authorizing transactions and so forth and right now she does the whole process. There should be more checks and balances with someone else reviewing the deposits. She noted that the town does use a purchase order system however it is used more as a payment voucher. She said it should really be preauthorization. It was noted that grants need better communication between finance and the department that has received the grants. She noted that restricted accounts such as Realty Tax Stamp, Historical Records and Technology were going in the general fund and were not being allocated into the appropriate funds and they were not earning interest appropriately. She noted that too was happening to the Capital Reserve Fund it was not being transferred to the investment account. She also said that more documentation was needed on the bidding process such as the fuel bid. She also not the computer system in finance was not backed up properly.

Representative Nicholas Gorham addressed the town council regarding the Rural Conservation District which he has proposed to the General Assembly in House Bill H-5990. This bill would establish a state rural conservation district for purposes of zoning,

planning and implementing all other land use regulation contained in Title 45, Chapters 22, 23, 24 and 53 of the General Laws. The areas for special consideration would be in the Pawcatuck Borderlands which the Town of Foster is included. Representative Gorham asked the council members to endorse his proposed legislation

Lynne S. Rider moved, Harold R. Shippee, Sr. seconded and it was unanimously so voted to approve the following Resolution in favor of the Amendment to Title 42 Chapter 113 of the Rhode Island General Laws.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

**STATE OF RHODE ISLAND
TOWN OF FOSTER**

**RESOLUTION IN FAVOR OF AMENDEMENT TO TITLE 42, CHAPTER 113
OF THE RHODE ISLAND GENERAL LAWS**

WHEREAS, there lies in the towns of Foster, Glocester, Coventry, West Greenwich, Exeter, Hopkinton and Richmond one of the last and largest tracts of undeveloped forest and otherwise rural land, including that certain area known as the “*Pawcatuck Borderlands*”; and

WHEREAS, the mandates of state law regarding all cities and towns impose certain development standards and conditions which do not adequately allow for the preservation of such undeveloped forest and otherwise rural land; and

WHEREAS, five-acre zoning has been proven to be an effective foundation upon which to control density and otherwise preserve undeveloped land and the rural character of such lands; and

WHEREAS, it is necessary to effectuate changes to state law in order to preserve and protect the rural and undeveloped nature of such undeveloped forest and otherwise rural land, in the towns of Foster, Glocester, Coventry, West Greenwich, Exeter, Hopkinton and Richmond, including the allowance of five-acre zoning in all or part of such towns, without such zoning having the effect of increasing the effect or imposition of state mandates for development of land elsewhere in said towns;

NOW THEREFORE BE IT RESOLVED on the 22ND day of March , 2007 by and before the honorable town council of the Town of Foster, that the said town council gives its endorsement to the House Bill 07-5990 AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - - STATE RURAL CONSERVATION,” a copy of which is attached hereto.

ATTEST:

TOWN OF FOSTER

S/Anne M. Irons
Anne M. Irons
Town Clerk

S/Colette J. Matarese
Colette J. Matarese
Town Council President

Lynne S. Rider moved, Harold R. Shippee, Sr. seconded, and it was so voted to approve the minutes from the February 22, 2007 meeting.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese abstained

Harold R. Shippee, Sr. moved, John Lewis seconded, and it was unanimously so voted to approve Payroll Warrant #35 in the amount of \$23,824.27, Payroll Warrant #36 in the amount of \$21,881.17 and General Warrant #24 in the amount of \$87,852.70.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

Colette J. Matarese explained that Ellie Tetreault, Program Manger contacted her regarding the councils' prioritizing of the CDBG for 07-08 at the March 8th council meeting. She noted that housing rehabilitation has always been first and the members had voted to place the handicapped ramp at the Human Services Office first. She asked at the council reconsider the list of priorities.

John Lewis moved, Lynne S. Rider seconded, and it was unanimously so voted to accept Ellie Tetreault's recommendation to list the Housing Rehabilitation #1 for \$100,000, #2 \$5,000 for a handicapped grant for the Department of Human Services, and the following remain the same #3 Housing Rehabilitation Foreclosure Assistance Program for \$10,000, #4. Septic Pumping and Oil Burner Cleaning for \$5,000, #5 Abbey Lane Engineering, \$65,000, #6 Food Bank \$3,000, #7 Community Housing Land Trust, #8 \$3,000, #9 Operations \$44,500 and #10Administration \$9,000.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

Harold R. Shippee, Sr. moved, John Lewis seconded and it was unanimously so voted to appoint Thomas Mercier to the Planning Board.

It was noted that Mr. Mercier would stay on the Personnel Board until someone else is appointed in his place.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

John Lewis moved, Harold R. Shippee, Sr. seconded and it was unanimously so voted to table the recreation committee appointments as the individuals interested did not attend the meeting.

Lynne S. Rider moved, Harold R. Shippee, Sr. seconded and it was unanimously so voted to appoint Julie Capobianco as the Foster Representative to the Foster-Glocester Building Committee.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

Colette J. Matarese reported that she had presented a Purchasing Policy to the previous council which was never voted on. She noted that Randy Rossi, Town Treasurer reviewed it and they have collaborated together with the one that is before the council tonight that should be acceptable to the auditors.

John Lewis moved, Peter Baribault seconded and it was unanimously so voted to adopt the following Purchasing Policy for the Town of Foster.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye



Town of Foster

Est. 1781

Municipal Purchasing Policy

Section 1 - Purpose

The purposes of this regulation are to standardize the purchasing procedure of the Town of Foster thereby securing for the town the advantages of a centralized and uniform purchasing policy saving taxpayers' money and increasing public confidence in the procedure for municipal purchasing; to promote the fair and equitable treatment of all suppliers of goods and services; and to set forth the duties and responsibilities of the department head and the Purchasing Agent, thereby fostering interdepartmental cooperation and trust in the purchasing system.

Section 2 – Legal Authority

This Policy is adopted pursuant to the authority contained in Section 45-55-9, Rhode Island General Laws, 1956, 1988 Reenactment, as amended (RIGL) and the Town's Home Rule Charter, section 14.02.

Section 3 – Definitions

1. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.
2. "Change order" means a written order signed by the purchasing agent, or contractor directing or allowing the contractor to make changes which the changes clause of the contract authorizes the purchasing agent or contractor to order without the consent of the contractor or purchasing agent.
3. "Purchasing agent" means the Town Treasurer
4. "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or building, or other public improvements of any kind to any public real property. It does not include the routine maintenance or repair of existing structures, buildings, or real property performed by salaried employees of the municipality in the usual course of their job.
5. "Contract" means all types of agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts, purchase orders, and construction management contracts. It also includes supplemental agreements with respect to any of the preceding. "Contract" does not include labor contracts with employees of the town.
6. "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes bilateral actions, as supplemental agreements, and unilateral actions, as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.
7. "Contractor" means any person having a contract with the town.
8. "Data" means recorded information, regardless of form or characteristic.

9. "Employee" means an individual drawing a salary from a municipality, whether elected or not, and any non-salaried individual performing personal services for any municipality.
10. "Negotiation" means contracting by either of the methods described in RIGL §§ 45-55-6, 45-55-7, and 45-55-8.
11. "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
12. "Regulations" means rules and regulations adopted by the town, concerning the implementation of the provisions of this chapter.
13. "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services. "Services" does not include labor contracts with employees of governmental agencies.
14. "Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.
15. "Supplies" means all property, including, but not limited, to leases of real property, printing and insurance, except land or permanent interest in land.

Section 4 – Applicability

Procurements, not to exceed an aggregate amount of \$10,000 for construction and \$5,000 for all other purchases shall be made in accordance with this Policy. Procurement requirements shall not be artificially divided so as to constitute a small purchase under RIGL 45-55-9. Purchases in excess of the above specified amounts shall be made in accordance with state law. In accordance with RIGL 45-55-3, the Town Council hereby appoints the Town Treasurer as Purchasing Agent. The Town Treasurer is responsible for ensuring that the Town's procurement actions comply with State law.

Section 5 - Purchasing Agent's Responsibilities

The Purchasing Agent is responsible for ensuring that procurement using grant funds is in accordance with the terms of the grant. He or she is also responsible for ensuring that purchases made with general revenue, special revenue and grant funds are made lawfully. Such funds may not be used to purchase political materials or services. Such funds may not be used to procure goods or services which would benefit Town employees or elected officials. Department Heads will retain bid documentation for a minimum of five years after bid award along with filing said documentation with the Purchasing Agent.

Section 6 - Exclusions

Contracts for professional, architectural, consulting or engineering services are expressly exempted from the terms of this Policy and shall follow the qualification based selection process in accordance with RIGL 45-55-8.1. The procurement of the service of an attorney, physician or dentist by the Town is also expressly exempted from the terms of this process in accordance with RIGL 45-55-14.

Section 7 - Purchasing Authority

The Town Council shall have the following final powers and discretions with respect to all purchases:

1. To purchase or contract for all supplies, materials and equipment required by any office, department or agency.
2. To establish and enforce specifications with respect to supplies, materials and equipment required by the Town.

Section 8 – Purchases Not Requiring Prior Council Approval

The Town Clerk or Department Heads may approve the purchase of any previously budgeted item or items otherwise reasonably necessary or incidental to the day to day functioning of Town offices and departments, without prior approval of the Town Council providing that such purchase shall be in a sum less than \$5,000 (\$10,000 for construction). Such purchases shall be deemed ratified as if expressly authorized by the Town Council at the time of meeting the above requirements and approval by the Town Clerk or Department Head.

Purchases less than \$2,000

Such purchases may be made without the necessity of seeking competitive bids. Where practicable, however, solicitation of competitive quotations is encouraged.

Purchases greater than \$2,000 but less than \$5,000

Such purchases require three written quotations to be documented with the Purchasing Agent, advertising and approval by the Town Council shall not be necessary. If three written quotes cannot be obtained, it shall be so stated in writing and approved by the Purchasing Agent.

Waiver of written quote requirement

The requirement may be waived if the goods or services have already been competitively bid on a local, regional, state or national level by a governmental organization and the Town is permitted to use the contract price established by the other governmental entity. Documentation of pricing method must be filed with Purchasing Agent prior to procurement.

Section 9 - Bid Purchasing Requirements

Each purchase which is greater than \$5,000 as set forth in the preceding section shall be subject to the method of source selection set forth in RIGL 45-55-2. The Town Treasurer is responsible for ensuring that the Town complies with State law for large procurement actions.

1. Competitive sealed bidding will be the most common method of source selection. Specifications can be prepared that permit award on the basis of either the lowest qualified bid price or the lowest qualified evaluated bid price. The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated or responsive bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be stated in the invitation for bids. The invitation to bid shall be advertised in a newspaper of general circulation within the Town and other provisions of RIGL 45-55-5 shall be followed.
2. Upon receiving the report of the Town Treasurer for large procurement actions, the Town Council, by majority vote, shall award the purchase to the lowest qualified bid or the lowest evaluated or responsive bid as required by RIGL 45-55-5. The requirement for competitive sealed bidding shall be considered met if the goods or services have already been competitively bid on a local, regional, state or national level by a governmental organization and the Town is permitted to use the contract price established by the other governmental entity.

Section 10 – Bidding Procedure for purchases in excess of \$5,000

1. Department Head or Town Clerk informs Purchasing Agent (Town Treasurer) of intent to bid in writing. Place of intended advertisement and potential vendor list will be included with the intent to bid.
2. After review and analysis of budget, the purchase agent will either approve or deny the bid process.

3. The purchase agent will notify the Town Council members of his/her determination along with rationale and copies of all pertinent documentation. The Town Clerk will also be notified for placement on the next Town Council Agenda.
4. The Town Council, at the next regularly scheduled meeting, has the power to approve or overturn the purchasing agent's decision.
5. After said meeting the Department Head will proceed with the bidding process.
6. Bids specifications will be due not less than seven days or more than 21 days (as per RIGL) from the date of advertisement.
7. All bids will be returned to the Town Clerk for the purpose of time stamping who will then send them to the Town Treasurer until the next scheduled Town Council meeting.
8. All bids will remain sealed until opened at a regularly scheduled Town Council meeting.
9. The Town Council in collaboration with the Department Head will award the bid.

Section 11 - Sole Source Procurement

A contract may be awarded for a supply, service or construction item without competition when the Town Council (or the Town Clerk or Department Head in the case of small purchasing) determines, in writing, that there is only one source for the required supply, service or construction item as permitted by RIGL 45-55-8.

Section 12 - Emergency Procurement

The Town Council, Town Clerk or Department Head may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as defined by the State's Emergency Management Agency or where the procurement will be in the best interest of the Town; provided, that emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of a particular contractor shall be included in the contract file.

Effective Date: This Policy shall take effect upon its passage.

ADOPTED BY TOWN COUNCIL

ACTION ON 3-22-07

Colette J. Matarese reported that the State of Rhode Island Department of Health has awarded the Town of Foster a \$7,000 grant for work and activities to be undertaken relative to Medical Emergency Distribution System.

John Lewis moved, Harold R. Shippee, Sr. seconded and it was unanimously so voted to enter into the agreement with the Department of Health and to appoint the Town Planner as the coordinator for the grant agreement.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye,
Colette J. Matarese aye

Harold Shippee moved, Peter Baribault seconded and it was unanimously so voted to hire David Robinson to the Public Works Department.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye,
Colette J. Matarese aye

A memo from Julia Parmentier, Chair of the Planning Board was read recommending awarding two of the three proposals for ordinance revisions submitted by Anthony Lachowicz to him; one for ordinance revisions related to Affordable Housing and the second for Conservation Development ordinance revisions. It was noted that the third proposal for Farmland and Rural Conservation Overlay District which includes proposed work by Lorraine Joubert of the URI Cooperative Extension related to groundwater protection. However sufficient funds may not be available for the third proposal.

Town Solicitor John Bevilacqua would review the proposed agreement from Anthony Lachowicz.

John Lewis moved, Lynne Rider seconded and it was unanimously so voted to table the matter until the Town Solicitor has reviewed the contract agreement.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

Lynne Rider, council member recused herself from the discussion on the Request from the Foster Senior Housing, Inc. as she is a member of the Board of Directors.

A request was received from Thomas Walden, President of the Foster Senior Housing, Inc. asking the council to include trash and recycle services for the facility in the next contract for trash and recycling. He noted that the corporation was a 501c3 non profit corporation however they have paid taxes to the Town of Foster for 25 years.

Peter Baribault moved, Harold Shippee seconded and it was unanimously so voted to include the Foster Senior Housing, Inc. (Hemlock Village) be included in the Town Trash Hauling Contract based upon the following: 1) that Hemlock Village is tax exempt from property tax in our town but elects to pay approximately \$18,000 in property tax on a voluntary basis. 2) Based upon the above the Town will not be giving any preferred treatment to a private commercial residential complex.

Peter Baribault aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye
Lynne S. Rider recused herself

A request was received from the Swamp Meadow Community Theatre to hold a summer Children's program on Sunday, August 19, 2007 performing Charlotte's Web on the fairgrounds.

John Lewis moved to approve the request the use of the fairgrounds to the Swamp Meadow Community Theatre on Sunday August 19, 2007 to hold a performance of Charlotte's Web.

Peter Baribault aye, Harold R. Shippee, Sr. aye, Lynne S. Rider aye, John Lewis aye, Colette J. Matarese aye

Lynne Rider read a request from the Foster Center Volunteer Fire Company requesting that the council add the \$1400 back that was recently cut from their budget request for the 2007-08 fiscal year.

Lynne Rider moved, Harold Shippee, Sr., seconded and it was unanimously so voted to table the matter until more information was received.

Peter Baribault aye, Harold R. Shippee, Sr. aye, Lynne S. Rider aye, John Lewis aye, Colette J. Matarese aye

Colette Matarese noted that the campground license for John & Bertha Hawkins at Whippoorwill Campground was inadvertently left off when the renewal of town licenses was done at the December meeting. She noted that all the appropriate town departments had signed off.

John Lewis moved, Peter Baribault seconded and it was unanimously so voted to grant the campground license for John & Bertha Hawkins for Whippoorwill Campground for 2007.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

Peter Baribault moved, Harold Shippee seconded and it was unanimously so voted to table the adoption of the 2007-08 budget as the regional financial meeting did not have a final vote on the budget.

Peter Baribault aye, Lynne S. Rider aye, Harold R. Shippee, Sr. aye, John Lewis aye, Colette J. Matarese aye

Robert Peterson of Foster Center Road spoke under concerned citizens regarding the Regional Financial Town Meeting on March 20, 2007.

Ronald Cervasio of Old Plainfield Pike also spoke about the Regional Financial Town Meeting and regarding his due process regarding his recreation committee appointment.

Gordon Rogers of Cucumber Hill Road reported that the fuel pumps at the public works garage were unlocked.

Bradford Gove, Public Works Department said that the pump would be locked after the meeting but he had issued keys to everyone.

Mr. Harold Hey of North Road all spoke about the Regional Financial Town meeting.

The council added Ordinance Revisions, Foster Center Volunteer Fire Company and appointment to recreation committee and adoption of budget on future agenda items for a April 5th meeting.

The council went into executive session at 9:35 p.m.

Lynne Rider moved Harold Shippee, Sr. seconded and it was unanimously so voted to go into executive session according to 42-46-45 (a) (1) Personnel (2) Collective Bargaining regarding Emergency Dispatchers and to reconvene in open session and further to keep the minutes of said meeting closed and the minutes of all Executive Session held previous to this meeting be closed and remain closed pursuant to provisions of the General Laws of Rhode Island 42-46-4-5.

The council noted that in executive session the council authorized expenditure to be determined from the legislative legal account for the Solicitor's salary for the balance of the fiscal year.

The meeting was adjourned at 10:15 p.m.

Submitted by,

Anne M. Irons