

SEPTEMBER 26, 2013
TOWN COUNCIL MEETING

The September 26, 2013, Town Council Meeting was called to order by John L. Lewis, Jr., President of the Foster Town Council, at the Town House, Foster, Rhode Island, at 7:00 p.m.

The following members were present:
John L. Lewis, Jr., President
Pamela Fontaine, Vice President
Roger L. Hawes
Denise DiFranco, and
Neal C. Whitelaw.

Also present:
Renee M. Bevilacqua, Town Solicitor
Ann-Marie Ignasher, Town Planner
Robert Hohler, DPW Director
Kelli Russ, Treasurer
Chief Wm. Ziehl

I. OPEN SESSION
PLEDGE OF
ALLEGIANCE

The Pledge of Allegiance was recited.

II. ANNOUNCE-
MENTS

John L. Lewis, Jr. stated that the notice of the meeting was properly posted on the Secretary of State's web site.

Pamela Fontaine read the notice from the top of the agenda: *The Foster Town Council does not sanction any electronic audio/video recordings of Town Council Meetings made by the public. Any audio/video recordings made by the public are not public records under Title 38 Public Records.*

John Lewis announced that there would be a flu clinic at Hemlock Village on October 2, 2013, from 10:00 a.m. to noon.

III. MINUTES

Neal Whitelaw moved, Roger Hawes seconded, to approve the minutes of **September 12, 2013.**

Discussion: Regarding the September 12 Council minutes, Neal Whitelaw commented that on page 1, section III, under "Minutes", he had requested that on the August 22nd minutes, page 2 section c read "'scheduled' comp time"; he asked that it change again to read "scheduled time off".

John L. Lewis, Jr, aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

IV. WARRANTS

Denise DiFranco moved, Roger Hawes seconded, and it was so voted to approve **Payroll Warrant #10**, in the amount of \$30,874.57.

John L. Lewis, Jr, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye; Pamela Fontaine, nay. Motion carried 4-1.

Neal Whitelaw moved, Roger Hawes seconded, and it was so voted to approve **Payroll Warrant #11**, in the amount of \$25,088.03.

John L. Lewis, Jr, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye; Pamela Fontaine, nay. Motion carried 4-1.

Denise DiFranco moved, Roger Hawes seconded, and it was so voted to approve **General Warrant #27** in the amount of \$1,111.67.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

Neal Whitelaw moved, Roger Hawes seconded, and it was so voted to approve **General Warrant #6** in the amount of \$42,921.90.

Discussion: Pamela Fontaine questioned a police expense for extermination of fleas. Chief Ziehl explained that one of the officers had responded to a call at a flea-infested house and the car required the fumigation as a result.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

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**V. MONTHLY
REPORTS**

Denise DiFranco moved, Roger Hawes seconded, to approve the monthly reports as presented from the following departments: Building & Zoning, Public Works, Finance, Human Services, Planning, Police, RIRRC, School Committee (for July & August) & Tax Assessor.

Discussion: Mrs. Rider questioned the recycling status of the town; Mr. Lewis responded that the percentage of recycling for 2013 is at 21.6 % of the allotted cap and is not out of line from the previous year. Ken Knight asked who sets the cap for recycling and how is that determined? John Lewis replied that the cap is set by Resource Recovery.

Denise DiFranco questioned the appointment of a custodian for the defunct Western Rhode Island Home repair program indicated on the finance report. Mr. Lewis responded that the subject will be covered later in the agenda under old business.

Ms. DiFranco also asked the Town Planner if the \$5,000.00 remaining on the RIHPHC grant of 2007 referenced on page 3 of her report was in danger of being lost. Ann-Marie Ignasher responded that the money could be lost if that agency asked for it back. The grant was intended for renovations to the interior of the Town House only, and the original renovations included in the grant request had come in under budget. An assessment of necessary additional repairs would have to be made in order to access the remaining grant money. Ms. Ignasher reminded the Council that this was a 50-50 grant and that any money spent of the remaining \$5,000 available would have to be equally matched by the Town.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

**VI. QUARTERLY
REPORTS**

None

VII. NEW BUSINESS

**a. Additions &
Abatements**

Neal Whitelaw moved, Roger Hawes seconded, to approve the additions of \$79.89 and the abatements of \$1,111.81 as presented by the Tax Assessor.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

**b. Set Council
date for
Liquor
License
approvals
and second
November
Council
meeting**

John L. Lewis, Jr. stated that the second Council meeting in November falls on Thanksgiving. Does the Council want to add a second meeting on a different day or forego that meeting? The liquor license renewals are due on December 1; should the Council vote on the renewals at the November 14 meeting?

The Council agreed to hear the licenses on the November 14 meeting and to eliminate the second meeting contingent on requiring one to handle any emergency situation. No vote was taken.

**c. Appt. of
Town
Council
Liaison to the
Engineering
Board**

John L. Lewis, Jr. explained that there was a need to officially appoint a liaison to the Council from the Engineering Board and wished to appoint Tom Walden, who has been serving in this capacity for a number of years, and providing quarterly reports.

Roger Hawes moved, Pamela Fontaine seconded, to appoint Tom Walden as the liaison between the Council and the Engineering Board for the remainder of this Council's term.

John L. Lewis, Jr, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye; Pamela Fontaine, aye. Motion carried 5-0.

- d. Request from South Foster Fire Company Re: Dry Hydrant at Anthony Road.** Mr. Lewis referenced the letter (Exhibit A) that had been sent to the Council by Jim Carlson on behalf of the South Foster Fire Company requesting an easement for 99 years to put in a dry fire hydrant on the abutment at the north side of Hemlock Brook and of the (now dismantled) Anthony Road Bridge, with the written stipulation that if the bridge were ever rebuilt and the hydrant needed to be relocated, the Fire Company would do so at its own expense. The abutment is owned by the Town and is why the easement is requested. Mr. Carlson had also provided a draft easement for review.

Neal Whitelaw moved, Roger Hawes seconded, to grant the easement to the South Foster Fire Department.

Mrs. Rider asked if the hydrant would be accessible to both sides of the bridge. Jim Carlson responded that it would not. There is another hydrant at Hemlock Brook and Central Pike, but the fire company has a need for this new hydrant to service residents at the other end of the road. Mr. Carlson also stated that DEM would not allow SFVFC to apply for permits for the hydrant without the property owner (the town) giving permission. DEM has approved the wording of this easement for hydrants on private property, which provided a starting point for wording this easement.

Mr. Lewis asked the solicitor if the Council could give approval to the easement contingent on the solicitor's review and approval of the document. Ms. Bevilacqua responded in the affirmative.

Mr. Whitelaw moved, Roger Hawes seconded to amend the motion to reflect that contingency.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Amendment carried 5-0.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Main motion carried 5-0.

VIII. OLD BUSINESS

a. Update on Plainwoods Road Bridge Project

John Lewis asked the DPW director to update the Council on the status of the Plainwoods Road Bridge and Mill Road Bridge projects.

Mr. Hohler reported that a Mr. Hubert from DEM had returned from vacation and had the town's application to review and understood the urgency in approving the project. As soon as the permit is issued the Town will comply with the required preliminary work and there should be no problem in getting approval soon.

Renee Bevilacqua stated that the necessary performance and payment bonds had been secured by Mr. Donatelli from New England Building and those should be forthcoming soon.

The Town Planner and Deputy Town Clerk confirmed that the Town has not yet received either a performance bond or contract from New England Building.

Mr. Lewis stated that the next financial report to FEMA is due October 10, and the Town Planner will have to continue to provide those as she has in the past.

b. Update on Mill Road Bridge Project

The DPW director reported that he had selected Provost and Rovero, the lowest bidder, to make a set of plans for the Mill Road Bridge. The plans will be ready in about four weeks. The plans will then go out for bid per FEMA requirements.

John Lewis asked if there was enough time to complete the job by January of 2014. If the Town put the plans out for bid immediately, the award may be able to be determined at the December 12 meeting. Will that allow enough time to complete the work to comply with FEMA's deadline? Renee Bevilacqua stated that she thought that FEMA will afford an extension. Mr. Lewis asked that an extension be requested.

**c. Treasurer's
recommendation/
Perpetual Care
Cemetery Fund**

John Lewis reported that he has been assisting Denise DiFranco with a review of the perpetual care cemetery fund. One item that they identified was that the principal (and not just the interest) of the perpetual care cemetery fund had been drawn down, which is not allowed under State Law.

It may have been allowed in the 1860's, but current law does not allow the principal to be touched. During the last fiscal year, funds were taken for cemetery maintenance from that account, and should have been taken instead from the contingency fund, or the Building & Grounds fund.

The Council received a letter from the Town Treasurer (exhibit B) with some recommendations as to how to restore a good portion of the funds as follows:

- a. Moving the expense of \$6,125.72 spent on maintenance of all Town cemeteries in the last fiscal year to the contingency fund. Though the line item would be overspent, the department overall would still be under budget and still be in compliance with the Town Charter.
- b. The second option would be to charge the \$6,125.72 to DPW Building & Grounds account. This would again make the line item go over budget but as a whole the Department would still be under budget.

Since the expenses incurred in the last fiscal year and the books for 2013 have not yet been closed, the opportunity is available to transfer the expense to either of those accounts as an independent line item. This would provide an opportunity to straighten out the immediate problem of restoring funds to the principal of the perpetual cemetery account.

Mr. Lewis asked the Council what their thoughts were.

Neal Whitelaw asked if this would be moving public funds to a private account? Mr. Lewis replied that he didn't think it was a private account, they are both Town accounts. Kelli Russ explained how the transfer would work.

John Lewis stated that if any previous Councils had known about the situation before, they would not have taken any of the principal out of that account. The cemetery maintenance would either not have been done, or would have been paid out of another account.

Mrs. Rider asked what would happen if neither option was approved?
Mr. Lewis – the next time the subject of mowing comes up, a decision will have to be made to fund the mowing another way or give it up entirely. If neither option proposed by the treasurer is chosen now, the Town is in violation of the State law.

Denise DiFranco stated that she had made inquiries of other towns. Some towns don't know the difference between historic cemeteries and perpetual care cemeteries, or know what perpetual care is. Richmond has one perpetual care cemetery and sells plots from it to cover costs. No town has as many perpetual care cemeteries as Foster.

John Lewis moved, Roger Hawes seconded, that this Council take \$6,125.72 from the contingency fund and transfer it into the Cemetery fund to clear up part of the problem.

Mrs. Rider stated that this would not be using taxpayers' money from the town – the Town (taxpayers) had taken money from that account that they should not have, and would now just be putting it back.

John Lewis – the Treasurer wants to close the books within two weeks, and this is the opportunity to move the money that was collected last year and bring the town into compliance with the state law.

John Lewis stated that would like to put the money back and called for a vote on the motion.

John L. Lewis, Jr., aye; Pamela Fontaine, nay; Roger Hawes, aye; Denise DiFranco, nay; and Neal Whitelaw, nay. Motion failed 3-2.

d. Appointment of Temporary Custodian for WRIHR Dissolution

Kelli Russ reported that the work required of the custodian for WRIHR will be greater than anticipated. She has requested more money from the State to cover personnel, a bookkeeper. Only one individual firm is interested in taking on the project, but the cost is significantly more, over \$20,000.00. John Lewis summarized that there is only one firm interested, but the price is more than the amount of the grant we received to pay for it. So Ms. Russ has referred this to the State for re-evaluation.

No motions were made, no votes were taken.

e. Reactivation of Foster Home Repair Program

Joe Garlick from Blackstone Valley NeighborWorks spoke about that organization's reactivation of the Home Repair program with a proposal detailing their new structure including personnel, state cap on administrative costs, application process, audit and reporting methods. NeighborWorks would be handling home repair only and no other component of the CDBG grants. NeighborWorks would work with the Town to draw down money from the State. \$115,000.00 has been frozen by the State for the Town of Foster.

John Lewis asked what support would be required from any Town personnel. Mr. Garlick responded that some help would be needed from the planner and the treasurer. The Town planner would process the CDBG grants as she has always done. Mr. Garlick would administer any housing application with the Town treasurer transferring money to NeighborWorks. Other components, such as the Hemlock Village and the Food Bank yearly reports would also be done by the Planner. Mr. Garlick advised that the Town would be able to take a percentage of the allowable 20% administration fees to help offset additional work.

John Lewis asked if the Treasurer's office had enough resources to handle the additional work required of that Department. Kelli Russ responded, yes.

John Lewis voiced three options for the program:

1. Endorse NeighborWorks program as presented, which will be up and running almost immediately.
2. Do everything in-house instead, which will not be ready to implement anytime soon.
3. Don't do it at all.

John Lewis asked that if the Council was concerned about additional time spent by Town Council personnel for all CDBG grant components, why not focus only on the housing program at this meeting, and decide on the other components later?

Neal Whitelaw moved, Roger Hawes seconded, to accept the proposal of NeighborWorks Blackstone Valley in a letter dated January 14, 2013, and for this contract to run from September 26, 2013, to December 30, 2014. No further discussion.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

IX. FUTURE AGENDA ITEMS

- Appointment of temporary custodian for WRIHR
- Balance of CDBG Program

Open session ended at 8:55 p.m.

X. EXECUTIVE SESSION

Neal Whitelaw moved, Roger Hawes seconded, to go into Executive Session pursuant to a work session regarding RIGL 42-46-5A(2) Collective Bargaining / Negotiations or Litigation and to reconvene into open session and to further keep the minutes of said meeting closed and the minutes of all executive sessions held previous to this meeting remain closed in accordance with provisions in RIGL 42-46-4 & 5. No discussion.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

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XI. RECONVENE INTO OPEN SESSION Neal Whitelaw moved, Roger Hawes seconded, to reconvene into open session at 9:05 p.m.

John L. Lewis, Jr. announced that no votes were taken in Executive Session.

XII. ADJOURNMENT Roger Hawes moved, Neal Whitelaw seconded, to adjourn the meeting.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion carried 5-0.

Meeting adjourned at 9:06 p.m.

A digital sound file is made a part of the record for a complete account of the council meeting.

Submitted by

Jane Christopher
Deputy Town Clerk