

OCTOBER 22, 2015
TOWN COUNCIL MEETING

The October 22, 2015, Town Council Meeting was called to order by John L. Lewis, Jr., President of the Foster Town Council, at the Foster Town House, Foster, Rhode Island, at 7:02 p.m.

The following members were present:
John L. Lewis, Jr., President
Denise DiFranco, Vice President,
Roger L. Hawes, excused
Gordon Rogers, and
Jon Restivo

Also present:
Renee M. Bevilacqua, Town Solicitor
Joe Cardillo, DPW Director
Police Chief William Ziehl
Ed Balfour
Suzanne Balfour

- I. OPEN SESSION PLEDGE OF ALLEGIANCE** The Pledge of Allegiance was recited.
- II. ANNOUNCEMENTS** John L. Lewis, Jr. stated that the notice of the meeting was properly posted on the Secretary of State's web site.
- Mr. Lewis also asked for a moment of silence for residents Wilma Gervasio and Brad Gorham, who had recently passed away.
- III. PUBLIC COMMENT** Resident Ron Cervasio expressed concern that the library does not submit a quarterly report for review by the council. Ms. Bevilacqua clarified that they do submit a report but that it doesn't include finances. Mr. Cervasio stated that it should include finances.
- IV. MINUTES** Denise DiFranco moved, Jon Restivo seconded, to approve the minutes from October 8, 2015 as presented.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- V. WARRANTS** Denise DiFranco moved, Gordon Rogers seconded, to approve Payroll Warrant #14 in the amount of \$41,693.14.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- Denise DiFranco moved, Gordon Rogers seconded, to approve Payroll Warrant #15 in the amount of \$41,558.40.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- Denise DiFranco moved, Gordon Rogers seconded, to approve General Warrant #8 in the amount of \$234,099.08.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

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VI. MONTHLY REPORTS

Denise DiFranco moved, Jon Restivo seconded, to accept the September 2015 monthly reports as presented from the Building and Zoning Department, the Department of Public Works, Finance Department, Human Services, Planning Department, Police Department, RIRRC, and Tax Assessor.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

VII. QUARTERLY REPORTS

Denise DiFranco moved, Gordon Rogers seconded, to accept the following Quarterly reports due for July through September as presented from the Engineering Board, Foster Center Fire Co., Foster Home Repair, Foster School Committee, Planning Board, Recreation Committee, South Foster Fire Company, Tax Board of Review and Zoning Board of Review.

Discussion: Ms. DiFranco asked if the Foster Home Repair Program was now called CDBG, because that was in the heading on the report. Mr. Lewis stated that the money that funds the Foster Home Repair program comes from a CDBG grant. It was also stated that the report was not what the council had hoped for and that Mr. Garlick should be contacted for additional information on a better report.

John Lewis moved, Denise DiFranco seconded, to amend the motion to exclude Foster Home Repair.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Amended motion carried 4-0.

Discussion: Ms. DiFranco asked for clarification as to what quarter the reports were for. She stated that some reports said quarter one and some said quarter three. There was discussion about fiscal year confusion and it was decided that the Deputy Clerk would contact the committees to straighten out the problem.

John Lewis moved to approve the balance of the quarterly reports.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

VIII. QUARTERLY REPORTS (past due from July)

It was noted that reports were still missing from the Foster Ambulance Corps, Civil Preparedness and Moosup Valley Fire Department.

**IX. OLD BUSINESS
a.) Bid Opening, 2009 Freightliner – M917A2MCS Plow & Sander Setup**

John L. Lewis, Jr. read a letter of recommendation (Exhibit A) from DPW director Joe Cardillo for the 2009 Freightliner project, to give the award to W.H. Rose as the low bidder.

Gordon Rogers noted that the bid from W. H. Rose was the only bid received, not the low bid.

Denise DiFranco moved, Jon Restivo seconded, to honor the recommendation of the Public Works Director and award the bid to W. H. Rose for the total cost of \$45,346.00.

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Cont.**

Discussion: Mr. Rogers asked Mr. Cardillo how many companies had come out to look at the project. Mr. Cardillo responded that three companies, including W.H. Rose, had looked at it.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

**X. NEW
BUSINESS
a.) Abatements,
Tax Collector**

Denise DiFranco moved, Jon Restivo seconded, to honor the request of the Tax Assessor for a Real Estate first appeal abatement totaling \$284.89.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

Denise DiFranco moved, Gordon Rogers seconded, to honor the request of the Tax Assessor for Motor Vehicle abatements totaling \$54.20.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

Denise DiFranco moved, Gordon Rogers seconded, to honor the request of the Tax Assessor for the Real Estate abatement to the 2014 tax roll totaling \$3.64.

John L. Lewis, Jr, aye; Denise Durance, aye; Gordon Rogers, aye; and Jon Restive, aye. Motion carried 4-0.

**b.) Appointment
to Juvenile
Hearing
Board**

Mr. Lewis stated that the Council had received a letter of interest from Representative Mike Chippendale to be reappointed to the Juvenile Hearing Board, as his last term had expired in September.

Denise DiFranco moved, Gordon Rogers seconded, to reappoint Mr. Mike Chippendale to the Foster/Glocester Juvenile Hearing Board.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

**c.) Bid opening,
Winter Sand**

John L. Lewis, Jr. opened and read the bids for winter sand as follows:

Barnes Concrete Company, Putnam, CT.
Delivered: \$13.50 per ton Picked up: \$9.45 per ton
Rawson Materials, Putnam, CT.
Delivered: \$12.90 per ton Picked up: \$8.99 per ton
Cardi Corporation, Warwick, RI.
Delivered: \$21.00 per ton Picked up: \$14.50 per ton
P.J. Keating Company, Lunenburg, MA.
Delivered: \$15.50 per ton Picked up: \$9.20
LaFrambois Sand and Stone, Brooklyn, CT.
Delivered: \$11.50 per ton Picked up: \$7.50

Gordon Rogers moved, Denise DiFranco seconded, to refer the bids to the DPW Director for review.

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Cont.**

- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- d.) Request for Class F Liquor License, Thornton Beagle Club, November 8.** John L. Lewis, Jr. referenced an application from the Thornton Beagle Club for a wine and beer liquor license for a one day event on November 8, 2015.
- Denise DiFranco moved, Gordon Rogers seconded, to grant the liquor license Class F to the Thornton Beagle Club for November 8, 2015.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- e.) Request for Class F Liquor License, Thornton Beagle Club, December 13.** Mr. Lewis read a second application from the Thornton Beagle Club for a wine and beer liquor license for a one day event on December 13, 2015.
- Denise DiFranco moved, Gordon Rogers seconded, to grant the liquor license Class F to the Thornton Beagle Club for December 13, 2015.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- f.) Request for F-2 Liquor License, North Central Chamber of Commerce, December 17.** John L. Lewis, Jr. read an application from the North Central Chamber of Commerce for a Class F-2 liquor license for a one day event on December 17, 2015.
- Denise DiFranco moved, Gordon Rogers seconded, to grant a Class F-2 liquor license to the North Central Chamber of Commerce for an event to be held at the Foster Country Club on December 17, 2015.
- John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.
- g.) Foster Home Journal Articles** Council Vice President Denise DiFranco stated that the Council had been submitting articles to the Foster Home Journal for about a year. She wanted to know what the Council thought about the articles as presented, topics covered in the articles and if the other members of the council had any issues they would like addressed. Ms. DiFranco asked if the members of the Council had anything they would like to submit. All members expressed satisfaction with the Foster Home Journal articles.
- h. Reassignment of DPW Capital Equipment Money** John L. Lewis, Jr. spoke to a letter from DPW Director Joe Cardillo and read the letter into the record. (Exhibit B) In the letter, Mr. Cardillo stated that due to the acquisition of a 1991 BMY 6 wheel dump truck and a 2009 Freightliner 10 wheel dump truck, and the mounting issues with the John Deere 410-G backhoe with repair estimates over \$20,000, he would like to reallocate the balance of capital money approved for a new dump truck, to purchase a new backhoe. The letter went on to say that replacement of the backhoe has become a priority due to mounting major repairs and the significant role it plays in both the summer and the winter.
- Denise DiFranco moved, Jon Restivo seconded, to honor the request of the DPW Director for the balance of the capital money approved for a new dump truck to be reallocated to the purchase of a new backhoe.

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Cont.**

Discussion: Denise DiFranco expressed concern over the reallocation.

Mr. Cardillo informed the council that due to LESO program acquisitions, it is hard to know what the town is going to get and when we are going to get it, and that sometimes it will be necessary to reallocate and reprioritize.

Gordon Rogers asked Mr. Cardillo what was wrong with the backhoe and was given an estimate for repairs. Mr. Rogers stated that he would like time to go over the estimate. Discussion followed regarding cost of the new piece of equipment, trade in value of the old backhoe and the type of machine they are looking to purchase.

John Lewis brought to the Council's attention that the backhoe was the next piece of equipment in the capital requests of the DPW department, behind the dump truck and plow.

Ms. Bevilacqua stated that she had spoken with the Treasurer and they had agreed that both legally and accounting wise, capital was capital and it was keeping the money within the same department. That moving to the next piece of equipment would be going down the list of needs within that department and it is capital money; it wouldn't be changing the character of the money in any way. She stated that the money is there, and can be used for equipment for DPW.

A member of the audience spoke in favor of allowing the allocation of funds.

Jon Restivo recommended tabling the issue until Mr. Rogers had a chance to look at the backhoe.

Mr. Restivo withdrew his second, Ms. DiFranco withdrew her motion and the decision was made to do some investigation and carry this agenda item ahead to the next meeting.

**i.) DPW Truck
Usage**

John Lewis stated that Roger Hawes wanted this item put on the agenda after the Police Station septic issue and asked Chief Ziehl to speak to it.

Chief Ziehl summarized the events on the night of the septic issue at the Police Department, stating that Mr. Cardillo responded from home, in his personal vehicle and was unequipped to handle the situation. Mr. Cardillo had to leave and go to the DPW garage to pick up his work truck. Chief Ziehl went on to explain that the DPW director is on call 24/7 and when called out during non-business hours, he should be able to respond in the DPW vehicle.

Denise DiFranco moved, Gordon Rogers seconded, to allow the DPW Director to use the town vehicle after hours within the Town of Foster to report to emergency situations. Mr. Lewis clarified that the DPW Director would be able to take the vehicle home with him.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

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**j.)Improvements
to Barb's Hill
Road**

Mr. Lewis explained that this item was put on the agenda to inform the Council of issues that had come up with some of the residents of Barb's Hill Road. He went on to explain that Barb's Hill Rd. is a very narrow, curvy road and that the DPW had trouble last winter getting their equipment down the road. The road needed to be widened in order for a plow truck to be able to pass an oncoming vehicle. DPW tried to make improvements to Barb's Hill Road this summer, mowing it and widening it. Some of the residents who live on the road were happy with the improvements and some were not and didn't want the road touched at all, saying that they own the road. This has lead to a dilemma, as to whether or not Barb's Hill Road is a town road. Mr. Lewis acknowledged that there were many people who live on Barb's Hill Road in the audience.

Ms. Bevilacqua spoke to the issue saying she had gone out to view the area and had spoken with Mr. Ed Balfour, the resident at 9 Barb's Hill. Mr. Balfour claimed to own the road. Ms. Bevilacqua explained that she had reviewed information that Mr. Balfour gave her from 1888, 1911 and 1913 and also researched the deeds, plat maps and class 1 surveys from 2010 and 2012 for Mr. Balfour's property with the Town Clerk. She was unable to find anything to support Mr. Balfour's claim of ownership of the road. She also noted that there was a subdivision of Mr. Balfour's property in recent years. The solicitor stated that the information she reviewed, plat maps and recorded surveys, pointed toward the interior angles of the stone walls as the markers. She pointed out that almost all of the deeds in the Town Hall refer to Barb's Hill Road itself as being the division point of the properties. Ms. Bevilacqua went on to explain that when the town wants to widen a road that has been maintained by the town for 20 or 30 years, that Title 24, (state law for town highways), shows that the burden shifts to the property owner, once he has received notice, that the town may go ahead with what the Council sees fit, and that the claimant must go to the Superior Court to dispute if he so chooses. Ms. Bevilacqua felt as though the town is on good footing with her research to show that the Balfour's do not own Barb's Hill Road.

More discussion followed regarding the DPW working on Barb's Hill Rd. and the conflict it created between Mr. Balfour, the Town and other residents on the road.

Gordon Rogers pointed out that now that it has been brought to the council as a public safety issue, it must be addressed.

Mr. Balfour presented the council with a handout that he had prepared and read it out loud to the Council and audience. (Exhibit C) In the handout Mr. Balfour gave his account of the events preceding that nights meeting, supported his belief of ownership of the road and offered a suggestion of an alternate route to avoid his property.

Renee Bevilacqua presented a Minor subdivision, with a Class I Survey, revised January 12, 2010 that was used when Charles Poole, father of Suzanne Balfour, deeded land to his daughter.

Councilman Jon Restivo pointed out that the subdivision showed 300 feet of

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Cont.**

frontage on Barb's Hill Rd. Frontage on a public road is a legal requirement for a subdivision. He went on to outline that you can't have frontage on a public road, for the purpose of a subdivision and then say it's not a public road.

Many members of the audience spoke in support of the Town's ownership of the road, the need for improvements and expressed concern over the dangers on the road as it exists.

Suzanne Balfour spoke with concerns on the towns plan for improvements to Barb's Hill Road.

Gordon Rogers expressed the public safety issue again mentioning some rocks that are on the Balfour's land that need to be moved. Jon Restivo agreed that it is the obligation of the Town to make the road safe.

Members of the audience again spoke in agreement and support of improvements being done to Barb's Hill Road by the Town.

Denise DiFranco moved, Gordon Rogers seconded, that Barb's Hill Road is indeed a public road, not privately owned, and that any services or improvements for safety reasons made to that road are indeed legal, with two rods being the measurable width of the road.

Gordon Rogers pointed out that every time a telephone pole was placed on the road it would have been put on an agenda and gone before the council for a pole placement, and no one ever objected to the placement of the poles.

John L. Lewis, Jr, aye; Denise DiFranco, aye; Gordon Rogers, aye; and Jon Restivo, aye. Motion carried 4-0.

John Lewis stated that at that point the Town has affirmed ownership of the road and if legal ownership of the road needed to be sorted out any further, it would need to be done through attorneys.

The Town Solicitor stated that the rocks that were reported by residents of the road as a safety hazard should be removed if they are within the 33 feet owned by the Town. Gordon Rogers suggested that DPW should remove the rocks the following day.

**XI. FUTURE
AGENDA
ITEMS**

- Policy For Use of Town Grounds
- Police Station Update
- Liquor Licenses, November 12
- All Other Licenses, December 10
- Yard Waste Allotment Transfer to Cranston

**XII. EXECUTIVE
SESSION**

None

**XIII. ADJOURN-
MENT**

Gordon Rogers moved, Jon Restivo seconded, and it was so moved to adjourn the meeting.

John L. Lewis, Jr. aye; Denise DiFranco, aye; Gordon Rogers, aye; Jon

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Restivo, aye. Motion passed 4-0.

Meeting adjourned at 8:20 p.m.

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

Submitted by,

Susan E. Sprague
Deputy Town Clerk