

MAY 22, 2014
TOWN COUNCIL MEETING

The May 22, 2014, 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 7:07 p.m.

The following members were present:

John L. Lewis, Jr., President
Pamela Fontaine, Vice President
Neal C. Whitelaw,
Denise DiFranco, and
Roger L. Hawes.

Also present were:

Renee M. Bevilacqua, Town Solicitor
Kelli Russ, Town Treasurer
Ann-Marie Ignasher, Town Planner
William Ziehl, Police Chief

I. 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.

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.*

III. MINUTES

Denise DiFranco moved, Roger Hawes seconded, to approve the minutes of **April 24, 2014.**

Discussion: Pamela Fontaine abstained as she was not present at that meeting. Denise DiFranco asked about the reference to a lightning strike at the Woody Lowden recreation center. Had anyone checked the strike when reported, and is there an insurance policy for that? Kelli Russ stated that she had recently asked Mike Polouski what he knew. He did not think the lightning did the damage and did not know when it happened. It was determined that Joe Cardillo would speak to Harry Shippee, who had originally noticed the damage, and get further information.

John L. Lewis, Jr., aye; Pamela Fontaine, abstained; Roger Hawes, aye; Denise DiFranco, aye; and Neal Whitelaw, aye. Motion passed 4-0.

Neal Whitelaw moved, Roger Hawes seconded, to approve the minutes of **May 8, 2014.**

No discussion.

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

IV. WARRANTS

Denise DiFranco moved, Roger Hawes seconded, to approve **Payroll Warrant #44** for \$27,063.65.

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

Neal Whitelaw moved, Roger Hawes seconded, to approve **Payroll Warrant #45** for \$27,154.88.

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

Denise DiFranco moved, Roger Hawes seconded, to approve **General Warrant #20** for \$64,213.67.

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

V. MONTHLY REPORTS

Denise DiFranco moved, Roger Hawes seconded, to approve the amended March monthly report from Building & Zoning, and the April monthly reports from Building & Zoning, the Dept. of Public Works, Finance, Human Services, Planning, Police, RIRRC, and School Committee.

Discussion: Pamela Fontaine asked Treasurer Kelli Russ about dates on the expense report. Ms. Russ responded that they were current on the general

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warrant and two weeks behind on the payroll warrant.

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

VI. QUARTERLY REPORTS

Neal Whitelaw moved, Roger Hawes seconded, and it was so moved to accept the Quarterly reports from the Foster Ambulance Corps and the Planning Board as presented.

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

**VII. NEW BUSINESS
a. Blue Star Mothers' Resolution**

John L. Lewis, Jr. recognized Dorothy Healy of Foster, representing the Blue Star Mothers of Rhode Island. Ms. Healy read a statement outlining the group's history, purpose and relationship to the Gold Star Mothers group. They had asked that a Town resolution be prepared to submit to the General Assembly requesting the establishment of a Blue Star Mothers holiday on the last Sunday in September.

Denise DiFranco read the Resolution (Exhibit A) that had been written.

Neal Whitelaw moved, Roger Hawes seconded, to approve the resolution and its submission to the State.

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

b. Approval for "Ride Round Rhody" event

John L. Lewis, Jr. read the request given to the Police Chief from a Mr. Morris for approval of a bicycle fundraiser on August 10, 2014, that would travel through Foster. Chief Ziehl stated that he had no objection to the ride.

Roger Hawes moved, Denise DiFranco seconded, to approve the ride scheduled for August 10, 2014. Denise DiFranco asked the Chief if this particular ride has ever been held in the past. The Chief was not sure if this particular ride had.

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

c. DPW Summer Help

DPW Director Joe Cardillo reported that the DPW Department was looking for a 20-hour a week person to do mowing and string trimming in order to free up the DPW employees to concentrate on other tasks. Funds exist in the DPW budget and have been cleared with the Treasurer. Mr. Cardillo stated they would first look at last year's part timer, who has experience with the Department, and pay him at the same rate of \$12.50 per hour.

Roger Hawes moved, Neal Whitelaw seconded, to allow the DPW Director to hire this part time employee.

Discussion: Neal Whitelaw asked for confirmation of dates.

Neal Whitelaw moved, Roger Hawes seconded, to amend the motion to read: "summer help to include the months of June, July and August, no more than 20 hours per week and no more than \$12.50 per hour."

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

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

**VIII. OLD BUSINESS
a. LESO Update/ Dump Truck for FPD**

Police Chief William Ziehl reported that the military surplus dump truck had been received sooner than expected. There had been some confusion on the part of the Federal Government about the timing of the pickup of the truck, and they required the Town to remove the truck from their base in New Jersey within one week of the award of the truck. Officer Kitson had arranged transport at \$1,200.00, less than the anticipated \$1,900.00. The Police department is searching and applying for additional vehicles and equipment needed by the Town and police department as it comes available. Roger Hawes commended Chief Ziehl on doing a good job.

**b. CDBG
approval of
Planning
Board
Review**

Denise DiFranco asked to recuse herself from this discussion as she is on the Executive Board of the Hemlock Village, one potential recipient of the CDBG Grant.

Ann-Marie Ignasher referenced her letter to the Council explaining the review and recommendations and ranking by the Planning Board. At their Wednesday, May 7, 2014 regular meeting, the Planning Board reviewed, approved and ranked the four applications for Community Development Block Grants, all of which complied with Foster's current comprehensive plan. Ms. Ignasher's letter to the Council indicated how each application conformed to the Comprehensive Plan item by item. The Planning Board had to determine that the combined applications would not exceed the total allowed award limit of \$150,000.00. Therefore the Planning Board made the following changes to the amounts requested by the following applicants, in order of priority ranking:

- Foster Senior Housing requested 148,873.00, approved for \$140,000.00;
- Foster Food Pantry requested \$3,600.00, approved for \$4,000.00;
- RI Center for Law & Public Policy requested 5,000, approved for 4,000.00;
- Housing Network Community Land Trust requested \$3,000, approved for 2,000.00.

Ms. Ignasher asked the Town Council to ratify the board's findings and give approval to go forward with the CDBG grant proposal based on these applications with the revised numbers, in order to put the final application out for public review prior to the next public hearing at which time the Council will sign the final application

Neal Whitelaw moved, Roger Hawes seconded, to approve the completion of the grant application as read and based on the Planning Board's recommendations.

Discussion. Neal Whitelaw asked Renee Bevilacqua about her past concern with the type of legal issues handled at the legal clinic; Ms. Bevilacqua responded that that issue had been resolved.

John L. Lewis, Jr., aye; Pamela Fontaine, aye; Roger Hawes, aye; Denise DiFranco, abstained; and Neal Whitelaw, aye. Motion passed 4-0

**e. Motion to
reconsider
Motor Vehicle
Exemption for
FY 2014-2015
(moved ahead
of "c" while
waiting for
DPW Director)**

Denise DiFranco moved, Roger Hawes seconded, to reconsider the motor vehicle exemption that was set at the last Town Council meeting of May 8, 2014.

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

Denise DiFranco moved, Roger Hawes seconded, to set the motor vehicle exemption for fiscal year 2014/2015 at the rate of \$2,000.00.

Discussion: Pamela Fontaine stated that she was not sure why they were readdressing this issue. A vote had been previously taken and should stand. Renee Bevilacqua advised that she could either amend the motion or discuss the merits of the \$2,000.00.

Pamela Fontaine moved, Neal Whitelaw seconded, to amend the motion to leave the exemption at the \$3,100.00 previously voted upon.

Discussion: Neal Whitelaw explained he doesn't see shifting the taxes from one group to another, to hurt some people, particularly the elderly. Denise DiFranco explained that after listening to taxpayers at the last meeting, she took it upon herself to get a list of the real estate taxes and motor vehicle taxes from the DMV. She made a comparison and tallied up the number of people in town who have no cars, 1 car, 2 cars, 3 cars, 4 cars and more. Based on her findings she felt the rate warranted an adjustment. Pamela Fontaine asked if she went through every single taxpayer. Ms. DiFranco responded that she had, and outlined the lists and reports she had received from the Tax Assessor, and the DMV. Ms. Fontaine asked if Ms. DiFranco had looked at owners with more than 4 cars? Denise DiFranco: yes. There are some people with 13 and 17 cars.

John Lewis stated that he still felt that by having a larger exemption we are shifting the tax from the non-homeowners who owns taxable property and strictly to the homeowner. He favors the \$2000.00 exemption.

Pamela Fontaine stated that the motor vehicles taxes are harder to collect. Do we still do reporting to our collection agency and are we still reporting things? Kelli Russ: yes. Motor vehicles are harder to collect on, but they do receive checks from the collection agency.

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

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

Pamela Fontaine went on record to say that she does not agree with this at all, that this is detrimental to our town, and also how you vote on things. When you take a vote, you take a stand, and you should not reconsider.

**c. Johnson
Road Bridge
Report**

DPW Director Joe Cardillo stated that most of the dangerous portions have been removed, signage and new guardrails are up, they are waiting for the boxing glove ends for rails. Then the rest of the wall will be taken down. John Lewis asked if the bridge was in a safe situation at this point? Mr. Cardillo: Yes. They are still within budget, have not yet used any money from the contingency fund.

Neal Whitelaw asked if the DOT had to inspect the bridge and the guardrails. Joe Cardillo responded that they had followed all the DOT guidelines and will call the DOT to see if they would inspect. Gordon Rogers expressed concern that the boxing glove ends were not on, as they are safety measure and leave the town open to a liability.

**d. Building of
Winsor Road
Bridge**

John Lewis stated that the funding for the Winsor Road bridge was approved at the financial town meeting and that the two options were to go out for bid, or to build it in-house. Walter May, past DPW Director, had offered his services in constructing the bridge with the DOT.

Discussion: Renee Bevilacqua stated that she had spoken to the Trust, the Town's insurer. The Trust representative felt there were two trouble areas : 1. Using private individuals, requiring a worker's comp liability waiver, an indemnification and hold harmless contract; and additional insurance coverage for that volunteer. They feel this is a huge potential liability. The Trust insures the property, not the bridge. Insuring the bridge would be an additional cost. The Town would have to buy its own insurance and performance bond, a one-time cost (not disclosed). 2. Another concern is the warranty of workmanship and materials. This is a public structure, heavily traveled. The Trust will only pay up to the liability limit on the insurance policy. The Town would have to file a judgment bond to free the town's assets if there is a lawsuit. The Trust didn't feel any town DOT has the expertise to design and build a bridge, and would like to address the Council directly if they felt they wanted to go forward with this bridge privately. Conversely, when a contractor insures the materials and workmanship, that contractor takes the responsibility of the liability.

John Lewis asked – up to this year, (when FEMA helped to pay for two bridges) the town has built every bridge. What are the implications there? Are none of those bridges insured?

Renee Bevilacqua explained the limits of the liability policy,

Kelli Russ asked about the time limits of the warranty on any bridge. Do contractors guarantee the life of a bridge?

Roger Hawes stated that the Town has 7 bridges in Town built by Mr. May. Why all of a sudden to we have to pay a quarter million to pay a contractor when we can use Walt and spend far less? Pay the extra insurance and let him do the job.

Neal Whitelaw asked what the extent of the renovations are. Various people spoke to the merits of getting a contractor to do job as opposed to doing it with DPW workers. Funding was discussed.

Roger Hawes moved, John Lewis seconded, to use Walt May to build this bridge and run the job.

Discussion: Neal Whitelaw stated he was concerned with the liability aspects,

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and that the DPW didn't have the time to spend on the bridge. Denise DiFranco had the same concerns, although she added that she felt that Walt May was more than capable.

John L. Lewis, Jr., no vote; Pamela Fontaine, nay; Roger Hawes, aye; Denise DiFranco, nay; and Neal Whitelaw, nay. Motion failed 3-1 with one no vote.

Neal Whitelaw moved, Pamela Fontaine seconded, to have the DPW director write an RFP to go out for bid for the bridge repair; and if that includes an engineering plan, than that would be included in the motion.

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

IX. FUTURE AGENDA ITEMS

- Procedure for collecting tangible taxes
- Foster Center Baptist Church Well Request
- Public Hearing in changes to the Zoning Ordinance
- Contract with Animal Shelter
- Board of Canvassers appointment
- Advertising for Foster Home Repair

X. EXECUTIVE SESSION

Neal Whitelaw moved, Pamela Fontaine seconded, to go into Executive Session pursuant to a work session regarding RIGL 42-46-5 for the discussion of (A) 42-46-5a(2) Collective Bargaining / Negotiations or Litigation and (B) 42-46-5a(1) Personnel, 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 be closed and remain closed in accordance with provisions in RIGL 42-46-4 and 5. Executive session convened at 9:05 p.m.

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

RECONVENE INTO OPEN SESSION

The Town Council reconvened into open session at 9:27 p.m.

John L. Lewis, Jr. announced that one vote was taken was to grant unpaid leave to a Town Hall employee for the period of June 16 - 20, 2014. The vote was 3-2.

XI. ADJOURNMENT

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

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

Meeting adjourned at 9:28 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