

Town Council Meeting
August 22, 2019

The August 22, 2019 Town Council Meeting was called to order by Denise L. DiFranco, President of the Foster Town Council, at the Benjamin Eddy Building at 7:00 p.m. for Open Session.

The following members were present:	Also present:
Denise L. DiFranco, President	Joanna Achille, Assistant Town Solicitor
Cheryl Hawes, Vice President	Kelly Russ, Town Finance Director/Treasurer
Chris Stone	Jennifer Siciliano, Town Planner
Heidi Rogers	Robert Lohr, DPW Director
Joe Cardillo, excused	

An EXECUTIVE CLOSED SESSION was held at 5:30 p.m.
Heidi Rogers moved, Chris Stone seconded to go into Executive Session pursuant to RIGL 42-46-5A(2) for the purposes of discussion of

- 1. Potential Litigation / Zoning Violations *disc/action*
 - a. RP Investments b. Mark Audet c. Isreal Solano d. Jack Lucia
- 2. Balfour vs. Town of Foster *disc/action*

Motion passed 4 – 0.

Heidi Rogers moved, Chris Stone seconded, to come out of Executive Closed Session.
Motion passed 4 – 0.
Denise L. DiFranco stated that no votes were taken.
Open Session began at 7:00 p.m.

- I. PLEDGE OF ALLEGIANCE** The Pledge of Allegiance was recited.

- II. PUBLIC COMMENT /ANNOUNCEMENTS** Denise L. DiFranco requested a moment of silence for Hank Luther who had passed. He was our golden cane holder, he has a booth at Shady’s, and there are many stories about him. She also stated that Joe Cardillo is excused.

Cheryl Hawes drew attention to the improvements to the Eddy Building by Town Clerk, Susan Dillon.

Gordon Rogers spoke.

- III. CONSENT AGENDA**
 - 1. Approval of the Town Council Meeting minutes for July 25, 2019.
 - 2. Approval of Payroll Warrants
 - a) #4 \$35,136.74
 - b) #5 \$35,802.31
 - c) #6 \$36,126.36
 - d) #7 \$33,890.14
 - e) FY2019 General Warrant #24 \$15,450.54
 - f) FY2020 General Warrant #2 \$103,259.96
 - 3. Monthly Reports (July)
 - a) Building & Zoning
 - b) Human Services
 - c) RIRRC
 - d) Police
 - e) Finance
 - f) Planning

Chris Stone moved, Heidi Rogers seconded, to accept the Consent Agenda as presented.
Discussion: none.
Motion passed 4 – 0.

- IV. PUBLIC HEARING**
 - 1. Solar Ordinance** Denise L. DiFranco reviewed the procedures for the public hearing. Town Planner Jennifer Siciliano discussed what the Planning Board recommended. Jennifer Siciliano read the proposed Sec. 38-292 Solar Installations into the minutes. (see Exhibit A).
The following people spoke in favor of the solar ordinance: Amita Rodman, Tucker Hollow Road; Patty Moreau, Central Pike; Ron Cervasio, Old Plainfield Pike; Lynne Rider, Burgess Road spoke; Jon Restivo, Mill Road; and Anthony Renzi, Central Pike.
Russ Maitland, North Kingstown spoke against the ordinance.

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Jennifer Siciliano stated that the Planning Board recommended that the moratorium be extended to allow for more research and discussion. Denise L. DiFranco stated that the meeting will be September 4 and that it would be a workshop. Ms. DiFranco also stated that Ms. Siciliano also recommended that the public hearing be continued for two months.

Chris Stone moved, Heidi Rogers seconded, to continue the Public Hearing until October 24, 2019.
Motion passed 4 – 0.

**Commendations
moved to this position**

Cheryl Hawes moved, Chris Stone seconded, to move the commendations forward to this position.
Motion passed 4 – 0.

Chief David Breit called Officer Creamer forth. He presented a Letter of Commendation and Life Saving ribbon which he authorized to wear on his uniform.

Chief David Breit called Officer Bilodeau forth. He presented a Letter of Commendation and Life Saving ribbon which he authorized to wear on his uniform.

**2. Appeal of
Removal From
Office**

Denise L. DiFranco opened the Public Hearing for Ron Cervasio and removing of public office.
Chris Stone recused himself.
Cheryl Hawes moved, Heidi Rogers seconded, to rescind the vote to remove Ron Cervasio from office. Ms. Hawes stated that her reason was that she did not think they should have voted on that phone call which was later substantiated to have taken place before meeting with Mr. Cervasio in June. The call was made in April of 2018. Heidi Rogers stated that she agreed.
Motion passed 3 – 0 – 1 with one recusal.
Ms. Hawes stated that Mr. Cervasio spoke to the *Valley Breeze* the following day in a derogatory way about the town, and that she wanted to pursue removing him from the Planning Board.

Denise L. DiFranco stated that because the vote was rescinded, Mr. Cervasio is reinstated and there is no need for appeal and that the item will be placed on as a Future Agenda Item.

V. PRESENTATIONS

1. Police Chief

Police Chief David Breit discussed the prior six weeks of the police dept.

2.

3. Commendation

(moved to prior position)

4. Planner

Town Planner Jennifer Siciliano discussed the activity of the Planning Department, Zoning Board, and Planning Board.

VI. OLD BUSINESS

**1. Board and
Committee
Updates**

Denise L. DiFranco stated that there are two resignations from Zoning Board members, Tom DiRaimo whose term expires in December of 2021; and Robert DeLuca whose terms expired in December of 2022. Bradford Smith who is an alternate would like to be considered for a full member; also Raymond Oliver and Donna Carchia who are not present. Joe Carey applied for the Zoning Board as well and he was present.

Heidi Rogers moved, Chris Stone seconded, to appoint Joe Carey to the term expiring 2022.

Discussion: Denise L. DiFranco, Joe Carey, and Lynne Rider
Motion passed 4 – 0.

Heidi Rogers moved, Chris Stone seconded, to appoint the current serving alternate board member Brad Smith to Mr. DiRaimo's term which expired in December of 2021.

Discussion: Denise L. DiFranco, Brad Smith, Cheryl Hawes, Lynne Rider, Heidi Rogers, Jennifer Siciliano

Cheryl Hawes amended the motion to table the vote to allow for further discussion including speaking to the other candidates. Denise L. DiFranco seconded.

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Discussion: Cheryl Hawes, Brad Smith, Gordon Rogers, Chris Stone
Amendment failed 1 – 3. Cheryl Hawes voted yes. Denise L. DiFranco,
Chris Stone and Heidi Rogers voted no.
Main motion failed 2 – 2.

Denise L. DiFranco stated there was an appointment request to Recreation
by Tiffany Oliver. She was not present. Appointment was tabled.

Gordon Brayton reported on the activity of the Historic Oversight
Committee, and the Police Building Committee. The Economic
Development Committee will report on September 12, the Police Building
Committee on September 9.

Jon Restivo reviewed the Charter Review Committee activities. Heidi
Rogers moved, Cheryl Hawes seconded, to extend the Charter Commission
work to December 31, 2019.
Motion passed 4 – 0.

Denise L. DiFranco stated they had received a resignation letter from Eric
Devine from the Recreation Committee.
Chris Stone moved, Heidi Rogers seconded, to accept Eric Devine's
resignation with regrets.
Motion passed 4 – 0.

**2. DPW Funding of
Johnson Road
Culvert**

Kelli Russ explained that they were awarded a bid for \$88,000.00 and we
only have \$82,000+ for it. She noted a couple areas that could be transferred
for it.
Heidi Rogers moved, Chris Stone seconded, to allow the DPW Director
discretion in re-appropriating funds for capital projects.
Discussion: Bob Lohr, Joe Carey, Kelli Russ
Motion passed 4 – 0.

**3. Ground Mounted
Solar Ordinance
Moratorium**

Denise L. DiFranco stated that they are voting on extending the moratorium.
Chris Stone moved, Cheryl Hawes seconded, to extend the Installation
moratorium until November 28, 2019.
Discussion: Lynne Rider
Heidi Rogers amended the motion to extend the moratorium until January
31, 2020. Cheryl Hawes seconded.
Amendment passed 4 – 0.
Main motion passed 3 – 1.

VII. NEW BUSINESS

**1. Purchase / Lease
Options**

Kelli Russ explained the leasing of police vehicles. She has pursued other
leasing options. A bigger purchase will result in a cheaper rate. The
requested DPW department vehicles can be included to lower the rate.
Discussion: Gordon Rogers, Lynne Rider, Kelli Russ, Denise L. DiFranco,
Heidi Rogers, Cheryl Hawes, Chief Breit
Denise L. DiFranco stated if they table this item, they could have a special
meeting at 5:30 p.m. on August 27 to vote on it.
Chris Stone moved, Heidi Rogers seconded, to table this item until a Special
Meeting on August 27 at 5:30.
Motion passed 4 – 0.

**2. Policies &
Procedures**

Denise L. DiFranco stated this policy is a result of a letter where using town
vehicles vs. town vehicles for their own protection and the town's protection.
Joanna Achille says she had received a response from the Trust. It indicates
that they want people to contact their insurance companies, and that people
need to understand the risks if they are driving their own vehicle under the
guise of their employment, because most insurance policies have a business
exception saying it will not cover you or the person you hit. If you are doing
town business you should be driving the town car. If you do drive your own
car The Trust wants you to put your own insurance company on notice and
have comparable coverage of at least 200 to 300 per accident. They say for
auto damage, they will not cover it so if the employee doesn't have collision
coverage the employee won't be covered. Ms. Achille says she will talk with
them further.
Chris Stone moved, Heidi Rogers seconded, to table the item until
September 12.
Discussion: Patty Moreau, Denise L. DiFranco, Kelli Russ, Marilyn Flanders
Motion passed 4 – 0.

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- 3. Rte. 6 Workshop** Denise L. DiFranco stated that she would like feedback regarding holding a workshop to discuss Route 6 and include the Town Council, Building & Zoning officials, the Zoning Board, the Planning Board, the Town Planner, the Economic Development Committee, businesses and residents to discuss what can be done to improve conditions.
Discussion: Brad Smith, Lynne Rider
Chris Stone moved, Cheryl Hawes seconded, to plan a council workshop for Route 6.
Motion passed 4 – 0.

- IX. EXECUTIVE SESSION** Heidi Rogers moved, Chris Stone seconded, to go into Executive Session pursuant to RIGL 42-46-4 for the reasons stated in RIGL 42-46-5 for discussion and work session for Collective Bargaining / Contract Negotiations or Litigation according to RIGL 42-46-5-a (2) and for potential litigation.
Motion passed 4-0.

Denise L. DiFranco returned to Open Session and announced that two votes were taken: One to give Joanna Achille permission to review a settlement proposal with Mr. Gorham to review with the Balfours.
The second to give Joanna Achille permission to hire a surveyor if necessary and take the monies out of contingency for the purposes of the lawsuit.

- X. ADJOURNMENT** Meeting adjourned at 9:45 p.m.

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

Submitted by,

Susan Dillon
Town Clerk

PLANNING DEPT Proposed changes to the Solar Ordinance *additional considerations*

- Add a 'purpose' section to the solar ordinance - *expand?*
- Add three definitions
 - o Ground-mounted solar installation
 - o Roof-mounted installation
 - o Solar land coverage
- Change definitions of major and minor solar installations to be based on square footage rather than megawatts at the suggestion of the State – *yes Ordinance is LAND USE oriented not production. Is there a need for Medium size?*
- Limit all ground-mounted minor and major solar installations to a height of 15 feet *Tweaks suggested*
- Require all major solar installations to go through major land development rather than some going through the minor land development process
- Change setbacks from a 20-foot vegetated buffer to 200-foot undisturbed buffer with an additional 20-foot vegetated buffer *Tweak this to 50 ft*
- Limit solar land coverage from no limit to 40% for all zones except M – Municipal, which will still have no limit
- Require a landscaping plan by a licensed RI landscaping architect, with a 5-year performance bond, approval by the Planning Board with third-party estimates
- Add a requirement to minimize clearing of natural vegetation for major solar installations and to encourage wherever possible the inclusion of pollinator-friendly and native plant ground cover under the installation
- Add a requirement to minimize grading and removal of top soil for major solar installations
- Change fencing from 9-feet to 8-feet, require natural type colors to blend in with natural surroundings, prohibit barbed wire fencing, and require a small 8-inch gap and flagging for the benefit of wildlife
- Add a requirement for third-party cost estimates for decommissioning bonds
- Add a requirement for an operation and maintenance plan for site access, vegetative management, equipment, and fence maintenance

*additional considerations*Preamble and Policy - Interdigitate to:

Comprehensive Plan Wetlands State Plan Heritage Corridors

must address more clearly rural and open land forestry preservation

Encourage Solar in locations that provide greatest potential energy generation while minimizing visual and topographic impacts

Town energy interests?

- Community Solar – never mentioned in mtgs. Should Town ask for some of this back to reduce our own bills
- Goals in meeting energy independence? We use x kWh – are we trying to meet, exceed or % thereof?

Add flexibility (vs. one size fits all re: Minor v. Major):

- Should there be flexible, different lot coverages for landfills, gravel pits, commercial and industrial v. undeveloped or sensitive sites. Minimize forest and habitat disturbance. Locate to take advantage of existing cleared areas.
- Solar covered parking? A height exception of 15-18 ft? Height measured from ground or system pedestal to highest point of the system, including the support and panel.
- Special Use Permit to Allow on conservation easement or land where development rights have been sold?

Process For any and all Major Land Development proposals: EDUCATE the public as to all the steps. Can even make the Applicant create the Mail Serve group. At the Master Plan stage: if Planning deems that this can go forward:

Joint work session of ZBR Planning Town Council and members of the Public; at which time the Town Council or the Planning Board may appoint a Technical Review Committee

Planning Board to have authority to waive or modify provisions?

Plans: must include Overlays

Due Diligence and Study:

Is the category of Medium system needed? (more than 1750 sq ft but less than 40000 sq ft) inclusive of inter row and panel spacing. Does medium larger than 20000 sq ft require Minor Land Development approval

Landscape Plans; Siting and Preservation:

topography; limit use of herbicide (MSDS Material Safety Data Sheets)

Clearing limited; re-seeding per URI native plant database or weed barrier and crushed stone or suitable

Identification of USDA farmland of state importance; of RI DEM Natural Heritage Areas

Stone walls and items identified in the Comp Plan to be of interest or value

Minimize negative aesthetic impacts on neighboring properties or prominent view sheds

Glare mitigation

Construction time frames and damage containment during construction in vulnerable areas - surface water must remain on site and clear statement of erosion contained during construction

Town may order independent studies to derive addl expert testimony : costs to be borne by Applicant - such as Noise Study, Environmental Impact Study which is different that Soil Erosion and Sediment Control; Technical Review

Roof mount – any design issues? (Shape and proportions should not conflict with shape and proportions of roof).

Roof mounts exempt from screening and masking.

guidelines for how close to roof edges and at pitch roof lines? And not increase the footprint of the structure. Flat roof angles (30 degree is common)?

Lighting

shielded from shedding light onto abutting properties,

directed downward and incorporate full cut off to reduce light pollution.

Fixtures either approved by IDA (International Dark Sky Association or meet such criteria.

Enforcement

Should there be a specific Taxation Ordinance? Specify that arrays and accessories are structures

- Establish violation \$500/day for each violation

De-commission – facility idle or abandoned for 250 days failing consent of Council and Planning re: land use;

Town has authority to do the decommission with rights to impose a lien for charges. Removal includes all associated facilities accessories (such as cement basins, etc.) unless Town grants a variance thereto, disposal of solid + hazardous, earth disturbance associated with removal to be mitigated, Restoration Plan submitted to ___?

Inoperable Small systems removed prior to change of ownership.

Emergency Response Plan: in writing –include all means to shut down the installation. Authorized contact person throughout life of project, kept current on file with Town Hall and Fire Depts annually

Change in ownership + authorized field personnel updated within 45 days of change, and biennial filed with the Town affirming changes and contact information. Define Energy System Operator and Energy System Owner.

Modifications over the life of the project: to the Planning Board. Define material alteration - may be subject to Technical Review.

Not all agreements transfer with ownership. How to address from the purchaser POV? “Any memorandum of lease, easement, or utility agreements must also be submitted for review, and shall be recorded in land evidence in the Town of Foster upon approval”