

Town Council Meeting
February 11, 2021

The February 11, 2021, Town Council Meeting was called to order by Denise L. DiFranco, President, via Zoom™ in Foster, RI at 7:02 p.m.

The following members were present:

Denise L. DiFranco, President
Heidi Rogers, Vice President
Chris Stone
Cheryl Hawes
David Paolino

Also present:

Mark Tourgee, Solicitor
Julia Chretien, Solicitor
Kelli Russ

- I. PLEDGE OF ALLEGIANCE** The Pledge of Allegiance was recited.
- II. PUBLIC COMMENT** None
- III. CONSENT AGENDA**
1. Approval of Minutes for January 14, 2021 and January 28, 2021
 2. Approval of Payroll Warrants
 - a. #29- \$35,525.89 b. #30 - \$35,112.42 c. #31 - \$36,991.21
 - d. #32 - \$38,225.27
 3. Approval of General Warrants
 - a. General Warrants #10- \$ 186,835.51
- Chris Stone moved, Cheryl Hawes seconded, to approve the Consent Agenda as presented.
Discussion: Heidi Rogers said a correction was needed on January 28, 2021 and she wanted to pull those minutes.
Motion passed 5 - 0.
Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.
- Heidi Rogers said the correction was to change \$2,000 to \$62,000 regarding the Town House repairs.
Heidi Rogers moved, Cheryl Hawes seconded, to accept the January 28, 2021 minutes with the correction.
Discussion: None.
Motion passed 5 – 0.
Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.
- IV. PUBLIC HEARING**
(Moved)
2nd Hearing for
Proposed Hawkers,
Peddlers, Mobile Food
Establishments and
Door to Door
Salespersons
- Denise L. DiFranco said she was getting texts from people who wanted to come in to the meeting but cannot. She asked Atty. Tourgee what his suggestion would be. Atty. Tourgee said his thought was to move it lower on the agenda if people are still trying to get on unless Susan has them all on. If Sue has everyone on in the meeting, it's like people coming into a meeting late it's just part of the deal you can just go on, because it is not like they are trying to get in to the meeting and can't get on. Denise L. DiFranco said that that is the issue, they cannot get on. Atty. Tourgee suggested having somebody make a motion to move the agenda item.
Heidi Rogers moved, Chris Stone seconded, to move Old Business up and the Public Hearing behind.
Motion passed 5 – 0
Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.
- V. OLD BUSINESS**
- A. License Renewal
Coastal Atlantic
d/b/a Foster Auto
Parts (MOVED)*
- Denise L. DiFranco noted that Jeff Lykins was not present.
Heidi Rogers moved, Chris Stone seconded, to move the Police Building Update ahead of Item A.
Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye;
Cheryl Hawes, aye; Denise L. DiFranco, aye.

B. Police Building
Update (moved up)

Denise L. DiFranco said they police building committee had a meeting last week. The deed has been recorded. They are in the process of submitting an application to the Planning Board to change the zoning from General Business Mixed Use to Municipality. They also discussed continuing with presentations, a financial town meeting and how to move forward with that.

C. Foster Preservation
Society: Town
House Repairs

Chris Stone moved, Heidi Rogers seconded, to move the Preservation Society up.

Discussion: None.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye;
Cheryl Hawes, aye; Denise L. DiFranco, aye.

Denise L. DiFranco said that previously they had received last meeting communication from the Foster Preservation Society regarding repairs to the Town House. There was discussion regarding getting new estimates, Chris was going to speak with Gordon about contacting Ed Robinson, and there was a flooding issue.

Gordon Rogers said he met with Mr. Robinson at the Town House. The sump pump had been unplugged but there was no flooding at that time. What was thought was salt stains was not. There is paint peeling from upper and lower ceilings, there may have been an ice dam. The outside needs to be scraped and painted. It looked as though the paint inside was not prepped correctly inside. They discussed the possibility of getting a new "Friends of the Town House" together to raise money. It is going to take a lot of money. The roof is in excellent shape. Mr. Robinson said he would contact one of the three people who are certified for that kind of restoration work and consult with them.

Denise L. DiFranco said there was money set aside to match a grant, but we didn't get the grant. Kelli Russ said that \$62,500 was set aside to match the grant. It would have been 135,000 split of two years but we didn't get it. Mike Antonellis suggested we put it toward the rec field. If we resubmit for the grant this year and reassess it again we could get good estimates for the Town House which would help with the funding going forward. We did get the Red Field grant. We can reappropriate the \$62,500 to complete the Rec Field because we have to fund that \$650,000, and then we can resubmit for the Town House next. Overall we didn't want to draw too much down from capital because the police building would require a bond and that would need a certain fund balance of ten percent. The planning board voted to reappropriate it for the Rec Field. Lynne Rider said she had spoken to Ed about the gaps between the tops of the windows and the sash. He didn't think this would take a year. He was thinking of a Champlin Grant, but we would need some kind of matching money. These problems have already been noticed for a couple years now and if they come in we could lose the easement. She said the leak looked like it might be soap residue.

Denise L. DiFranco agreed this is a town treasure and needs to be addressed.

License Renewal
Coastal Atlantic d/b/a

Mr. Lykins had not joined the meeting. Cheryl Hawes said she did not think the license should be granted. Denise L. DiFranco

*Foster Auto Parts
moved here*

said the State Fire Marshall could not go out until the 17th. We had granted a temporary license to today. Atty. Kane said Mr. Wilbur is recovering from surgery and requested moving this item to the first March meeting. He is going to submit a plan to the building official.

Heidi Rogers moved to postpone this item to the next meeting. There was no second.

Acceptance of the
Capital budget moved
from New Business,
Item 4

While waiting for Jeff Lykins to join the meeting, Denise L. DiFranco asked for a motion to accept the Capital Budget. Heidi Rogers moved, David Paolino seconded, to move Item 4 of New Business to this point in the meeting.

Motion passed 5 – 0.

Heidi Rogers, aye; Chris Stone, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

Denise L. DiFranco said she did not received a letter from the Planning Board yet, but she did want to go on record that they received it but not for discussion yet.

Cheryl Hawes moved, Chris Stone seconded, to accept the submitted capital budget.

Discussion: Linda Tibbetts said they had not submitted theirs yet. Heidi Rogers said this was just for capital.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

License Renewal
Coastal Atlantic d/b/a
Foster Auto Parts

Jeff Lykins joined the meeting. He stated that he had made inspections and followed up with the owner. They discussed screening / plantings. Mr. Lykins said he needed a plan and he said he would do that but Mr. Lykins has not yet received it. Fire Marshall will be coming out on the 17th.

Atty. Kane requested the meeting in March to give his client time to respond.

Heidi Rogers moved, David Paolino seconded, to extend the temporary license to March 11th to receive the report of the Fire Marshall, and plans submitted to the building official.

Discussion: Cheryl Hawes asked Jeff Lykins asked about other issues. Mr. Lykins mentioned tires that will be considered. Ms. Hawes wanted to know if that would be part of the plan. Mr. Lykins said he did not need a plan for the tires; they just needed to be gone. Julia Chretien said those remedial actions which could rise to the level of zoning violations could be part of the stipulations for granting the license.

Atty. Tourgee said at some point you have to have an end point; circumstances alter things in life but life still goes on and consequently things have to be done. The issues in the report didn't just get there last week. Mr. Wilbur needs a drop-dead date and if he doesn't get it done, revoke the license. Cheryl Hawes agreed; March 11 should be the deadline

David Paolino suggested to Jeff that he would attend that meeting as well and convey the feelings of the council that the remedies be made. Atty. Kane asked for a copy of the report. David Paolino said there are no surprises in what needs to be taken care of.

Denise L. DiFranco said we have a motion to extend the temporary license to March 11, 2021 and includes rectifying those items. She asked Mr. Tourgee if they had to expound upon Heidi's motion to include the tires, junk cars, several buildings, and a shed. Mr. Tourgee said they had to get done and have to be remediated at a certain point.

Mr. Lykins said that in his conversation with the Fire Marshall he had requested an access road for a fire truck and that was two years ago. Chris Stone stated that there were two junkyards. Heidi Rogers said, yes, she thought the access road was for the other one.

Denise L. DiFranco said the motion is to extend the temporary license until March 11, 2021, and it would include the cleaning up of the property that Jeff has listed, and we can discuss what the Fire Marshal has at the time and the plan for the screening of plantings.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye;

Cheryl Hawes, aye; Denise L. DiFranco, aye.

Denise L. DiFranco said Julia would get the list to Atty. Kane.

1. Building & Zoning
Official's
Recommendation:
Updating
Ordinances

Heidi Rogers moved, Chris Stone seconded, to move Item 1 under New Business Building & Zoning Official's Recommendation: Updating Ordinances to this point in the meeting.

Denise L. DiFranco said that Jeff Lykins has a recommendation. Mr. Lykins noted that while doing inspections and referring to the Zoning Ordinances, he realized there was a lack of definitions of the uses. This limits his enforcement. For instance, for commercial parking which is allowed in the Use Table but there was no definition regarding plantings or shrubs. Usually there are parameters around Uses. He feels it would be helpful for enforcement and for constituents if they are about to do a business.

Denise L. DiFranco stated that for him to do that, it would take 100+ hours. She spoke to Mike Antonellis about the Planning Board doing it, and he stated it would take a few years. There are law firms or businesses who do this particular thing. Cheryl Hawes says she agreed that the ordinances need updating.

Mr. Lykins suggested sending it out for an RFP. David Paolino asked if 50 or 100 hours is in the ballpark. Mr. Lykins said it would be though some of it could be done by staff. Mr. Paolino said he would be happy volunteer to help Jeff and Mike do the beginning work because it could be a \$25,000 proposition. Gordon Rogers said it would be important to consider setbacks. Patti Moreau asked where the money would come from with everything else that is going on. Heidi Rogers said it would have to come from Capital. Kelli Russ said it couldn't come out of capital.

David Paolino said they would be able to determine what needs to be done. Lynne Rider said she thought it was wise not to do it entirely in-house, that's been the problem in the past. You need to be objective and not tailor it to certain elements in town.

Denise L. DiFranco asked the solicitor if it would have to come to a public hearing. Atty. Tourgee said it would. He suggested there are firms that do that and suggested doing the most important ordinances first and do it over a number of years piecemeal.

Cheryl Hawes moved, Chris Stone seconded, that Jeff, Sue, Mike, and Dave look at the ordinances and pull the most important ones and send them out for a bid.

George Sackal volunteered from the Planning Board to assist. Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye;

Cheryl Hawes, aye; Denise L. DiFranco, aye.

Cheryl Hawes asked about open government on the memo (regarding the State online permitting system). Mr. Lykins said he met with the state and it was very good. He should have it ready for the next meeting.

PUBLIC HEARING

(Moved here)

2nd Hearing for

ARTICLE IV. Proposed
Hawkers, Peddlers,
Mobile Food
Establishments and
Door to Door
Salespersons

Denise L. DiFranco reviewed the public hearing procedure. Susan Dillon explained that currently we do not have a mobile food ordinance and the State requires one. A lot of it came from Gloucester. Susan Dillon said that she, Susan Sprague, Carol Sholly and Julia Chretien discussed it, and there were some suggestions to remove some things such as door-to-door salesperson because it is not something we do in Foster. She also said there should be a separate procedure for Foster Old Home Days and grandfather them in, and also to remove the license requirement for home products like eggs or wood that people sell from their homes. Those are the three biggest. Julia Chretien mentioned time limits as well, removing the four-hour limit and leaving it up to the town council.

Discussion:

Allyson Wojtasek, Salisbury Road. She stated she has a home business where she usually ships out product, but sometimes local people will ask to pick up from her house, would this apply to her? Julia Chretien said there is no payment on the end of the driveway, then you can get around the hawker definition and you wouldn't need a license. However, there is a concern that people who sell their own products at the end of their driveway and we were working on an exception. Julia Chretien said there is no cash transaction. Ms. Wojtasek also asked about Borders Farm stand. So they have to get a hawkers license for their meat? Ms. Chretien said this is the problem with the definition and that needs to be changed.

Denise L. DiFranco said that right now it is in the ordinance but we don't enforce it because that is what we do out here, so basically we do not have an answer at this time because definition is broad. Julia Chretien didn't realize it was in there until we began working on the food truck ordinance.

George Sackal notes that it doesn't mention Girl Scouts or Boy Scouts, etc. and would like to see them exempted.

Tammy Steinkamp asked what events were considered mass gatherings. Julia Chretien said the food truck events. Ms. Steinkamp asked if the fees were for each event. Mrs. Dillon said that would be up to the council to determine the fees. Ms. Steinkamp wanted to know if it was any event where food trucks are added. Julia Chretien said any event where there is more than 500 people and where there is alcohol served. It's defined by the R.I. Dept. of Health as to what those events are. Atty. Tourgee said not to overthink the ordinance. No one is going to come down on the Girl Scouts. You can add an exclusion of farms. If things got out of hand, the council can change things. No one is going to bother you. The concerns are if someone sets up a food truck by the side of the road by somebody who is not paying property taxes and the restaurant next door is and that's what the worry is

Ms. Steinkamp asked when we issue a license it will be an event fee plus a fee for each truck. Ms. Chretien said if it is on private property. Ms. Steinkamp says there are other events which have food trucks.

Zachary Bain spoke as the operator of Borders Farm, he asked for clarification for a business on private property vs. a town road. Denise L. DiFranco said this was one of the things Mr. Tourgee mentioned. Julia Chretien said this is being bogged

down with the hawker / peddler definition from 1990. We want to edit those. It hasn't been enforced.

Denise L. DiFranco said this has been in effect from 1990. Mrs. Dillon needed to update it only to add to the ordinance for mobile food establishments; that is where we started. We have never served a fine on anyone selling eggs. Mr. Bain had suggestions for revisions: Under Division II Licenses, remove D, H, and M.

Gordon Rogers said the townspeople like the food truck community events and there should be a way to waive the fees. Kaylyn Shippee, of 7A Paine Road says she is a small business owner from home business and though she realizes the ordinance is not being enforced, but the fact that they are on record and do exist is difficult for small business owners because there is the possibility that they could be enforced.

Denise L. DiFranco explained that that is why they want to change it. Ms. Shippee was concerned about the number of license granted. Cheryl Hawes says that is what they want to remove; they are not voting on a complete document now.

Lynne Rider said the scope of the ordinance is so broad that perhaps they should break it up and do a little at a time. Ms. Chretien said they are considering making exemptions for residents.

Eric Weiner (food truck manager) said that \$75 is the maximum amount the state allows to charge a food truck. To put us in line with Providence is horrendous. For Foster it should be \$0. You are complicating it more than what is done by other towns and it is not required by the state. You don't have to charge anybody anything.

Gordon Rogers said the town needs to stop hammering businesses with sledgehammers.

Susan Sprague explained the regulations according to the State Department of Regulations. One of the things she found out was that the \$75 maximum fee that the town could charge an MFE, cannot have on top of that charge an advertising fee for a public hearing. Julia Chretien said the public hearing would only be for a mass gathering, and that was because alcohol was being served at them.

David Paolino said he was worried about someone parking a food truck at 6 and 94. Susan Dillon says there is nothing we could do about that because there is no ordinance.

Denise L. DiFranco says this was the second hearing and we still have work to do. Heidi Rogers noted the legal language where it says that the town "shall" should be "may". Chris Stone agreed. She felt that charging them a fee would just cause them not to come anymore, so the council should have a way to waive that. Chris Stone agreed.

George Sackal asked if we could separate food truck events from general food trucks. Cheryl Hawes said there was a concern that if we continue it would get into the season where it will already start happening. Mrs. Dillon said it could go back on the agenda on March 25th.

Cheryl Hawes moved, Chris Stone seconded, to continue the public hearing to March 25th.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

VI. NEW BUSINESS

2. Town Solar Arrays on Theodore Foster Drive

Denise L. DiFranco said that Walter May, Gordon Rogers, Mike Antonellis, and Jeff Lykins have discussed this. What has been proposed are solar arrays that will provide the town with

power. Walter May explained that what they are proposing is sending out an RFP to lease the property to a solar vendor. This could generate about \$25,000 of income. The goal was to restore the perpetual care for the cemeteries. After the first year, the dollars could go back to the town and we could put a good dent in the funding of the police stations. Gordon Rogers said he was thinking of supplying power to the town, and expanding it to include the Paine School. We could borrow to install it, and then after ten years we could be generating \$30,000 and covering our electric bill on top of that. Denise L. DiFranco said one of the questions we had was if the grid is already saturated. Mike Antonellis said he spoke to Chris Kern at the state dept. of energy and that he would help prepare the RFP. Lynne Rider said that was five or six years ago so things may have changed. To borrow money to install even though it would come back it might not be a good time to do it now. Chris Stone moved, Heidi Rogers seconded, to continue this item until February 25th meeting.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye;
Cheryl Hawes, aye; Denise L. DiFranco, aye.

3. Regional School
Budget Presentation

Dr. Barnes said that on Tuesday, March 2nd at 8 p.m. will be the public hearing, and the regional financial meeting will be Tuesday, March 16th at 7 p.m.

Dr. Barnes presented the draft Regional School Budget and answered questions with Bridget.

VII. EXECUTIVE SESSION
TOF v Saint 23, LLC

Heidi Rogers moved, Chris Stone seconded, to go into Executive Session pursuant to RIGL 42-46-5 for a work session regarding Collective Bargaining / Negotiations or Litigation according to RIGL 42-46-5-a (2) 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.

Motion passed 5-0. Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

**RETURN TO OPEN
SESSION**

Denise L. DiFranco stated that there were no votes taken.
Ms. DiFranco listed Future Agenda Items
Wind Turbine Ordinance moratorium expired Feb 8, 2021
Upgrading Permit Database

VIII. ADJOURNMENT

Chris Stone moved, Heidi Rogers seconded to adjourn.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; David Paolino, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

Meeting adjourned at 10:01 p.m.

Submitted by,

Susan M. Dillon, Town Clerk