

**Town Council Meeting  
Minutes  
January 26, 2015**

The meeting was called to order at 5:58 pm.

**Roll Call**

All Councilors were present and answering roll call.

**Item 1                      Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider the acquisition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).**

Councilor Goldberg moved the order; Councilor Mahoney seconded. Motion carried 7-0.

The Council returned from executive session at 7:00 pm.

**Pledge of Allegiance**

Chair Farber led those present in the Pledge of Allegiance.

**Item 2                      Public Forum**

Brian Dench, an attorney representing David and Carrie Costello of Marigold Lane, spoke on behalf of his clients in support of an extension of the Tidewater Master Plan. They wanted to make sure that the Council and Tidewater, LLC carried out the plan as originally approved, especially for TV-4, which was originally limited to commercial office space. He said the Town and the developer would need to demonstrate a need for that change based on land use considerations, not on convenience or economic advantage. He pointed out that there is a lack of Class A commercial office space in Falmouth. His clients' property is closest to this site; they will be looking right at it, and they were promised a commercial office building. He asked if the Town and the developer should go back on the promises made in the original plan. The use of the site for a commercial office building would be much different than a full-scale restaurant.

Clifford Gilpin of Heron Point, president of the Homeowners Association (HOA) for Tidewater Farm, discussed the history of the Tidewater master plan. A prize-winning report on compact development set the stage for this development. He thought the Town should identify what is most valued in the existing Tidewater neighborhood and what should be preserved.

Tom Mundhenk of Marigold Lane, a member of the Board of Directors at Tidewater Farm, said he enjoys places like Rivalries and looks forward to them coming to town, but he opposes the proposed location. A restaurant on that corner is not what he bought into when he bought his property. He said people have to be able to rely on what is in the public record; for this lot that is a limitation of "commercial office use" only. All the property owners in Tidewater understood that this lot was going to be an office building. He asked them to think twice about changing it.

Tom Emery of Foreside Architects, representing the HOA, argued that a restaurant on TV-4 is unsuitable because it is a small, stand-alone parcel, with limited floor area. TV-2 and TV-3 are different, and restaurant use is allowable on those lots. The Design Guidelines state that TV-4 is supposed to serve as a

gateway, facing TV-3 to serve as an anchor. The current proposal shows 2/3 of the parking necessary for the restaurant has to be provided on other sites. He was concerned with the impact of that on TV-3.

**Item 3 (a)                      Order to approve the minutes of the December 8, 2014, Town Council Special Meeting.**

**Item 3 (b)                      Order to approve the minutes of the December 22, 2014, Town Council Meeting.**

Councilor King moved to approve the minutes; Councilor Mahoney seconded. Motion carried 7-0.

**Item 4                              Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.**

Councilor McBrady said there are openings on BAR, BZA, Harbor Committee, Library Board, PACPAC, Planning Board, FEIC, Connector Committee, Route 100 Committee, Senior Citizen Advisory Committee, and the Zoning Committee, and encouraged people to apply.

**Item 5                              Report from Council Committees and liaisons regarding updates on assignments.**

Councilor King said CDC and LPAC met jointly this morning to review the comp plan recommendations. There will be a public outreach meeting February 26 at the elementary school in the multi-purpose room at 6pm. All Falmouth property owners are invited to attend. Materials will be posted to the website prior to the meeting.

Chair Farber said the library has issued the RFP for the detail design for the renovation/expansion project. There will be an RFP issued for construction management in early March after an architect is chosen.

**Item 6                              Order to approve a supplemental appropriation and transfer in the amount of \$22,400 from the Open Space Reserve Fund for stewardship fees payable to the Falmouth Land Trust, and for the baseline documentation of three donated easement properties associated with North Falmouth Community Forest.**

Chair Farber opened a public comment period; no public comment.

Town Manager Nathan Poore explained that this is for three properties in the northern end of Town that were purchased with grant money; this is the only out of pocket expense for these properties.

Councilor Hemphill thought this is based on a recommendation from LMAC. He said the stewardship funds are for management of the land in perpetuity.

Councilor Goldberg asked about the annual amount for stewardship on these parcels.

Analiene Larson, of the FLT, said that would vary by property based on the trails and bridging. It could be \$2000/year. Easements are forever, and when they take one, they take responsibility for the land forever. She spoke about the six components of their stewardship program. They hold baseline documentation on all their properties. It records the conservation values of the property; ensures they are in compliance with the IRS; describes what the property is, how it is to be used and how it is to be conserved; operates as evidence in the future if there is litigation; provides a foundation for future monitoring; and it enables

the Land Trust to maintain its institutional knowledge of the property. All these properties were purchased with grants. Part of the stipulation of those grants was that the stewardship money for these properties must be held in separate accounts.

Councilor Mahoney moved the order; Councilor Goldberg seconded. Motion carried 7-0.

**Item 7                                      Discussion with Town staff of the Planning Board Site Plan Review process.**

Amanda Stearns, Community Development Director, gave an overview of the Planning Board's site plan review process, which concerns nonresidential and multi-family residential development. She spoke about site plan standards, waiver authority of the Planning Board, and the impact of master plan districts on site plan review. She answered several questions from the Council. In answer to Councilor Goldberg's question she clarified that the expiration dates included in both the Tidewater district and the WFC district would only apply to those parcels that are undeveloped at the time of the expiration. If WFC is fully developed within the 10 year period, then the expiration date would have no effect.

**Item 8                                      Introduction of amendments to the Code of Ordinances, Div. II-2-3-5. *Conservation Commission* in order to update the charge of the Conservation Commission.**

Nancy Lightbody, Chair of the Conservation Commission, explained that, when they looked at the charge they realized that there was some overlapping that had been created when LMAC was formed. They wanted to make sure their charge accurately reflected their work, as well as supported the goals of the comprehensive plan. The commission voted unanimously to accept the revised charge.

Councilor Hemphill introduced the amendment. There is a need to better describe the responsibilities of the Commission since LMAC's work is similar. He thanked the members of the commission and staff for their work on this item.

A public hearing was scheduled for February 23.

**Item 9                                      Ordinance to amend the Code of Ordinances Section 17-9 *Certain Vehicles Prohibited from Certain Streets*, which restricts trucks on Brook Road.**

Councilor Hemphill moved to amend the amendment, adding the following provisions;

1. Removing the exemption for public utilities;
2. Allowing for trucks or buses which are owned by and registered to persons or by corporations controlled by persons who reside within the restricted areas if such trucks or busses are stored at their residence;
3. Add the language *and are transiting to or from the residence* to the allowance above; and
4. Changing the restriction to Class 5 instead of Class 6.

Councilor King seconded.

Motion carried 7-0.

Councilor Mahoney moved the amended order; Councilor Goldberg seconded.

At Councilor Anderson's request, Mr. Poore discussed the enforcement process for this ordinance.

Motion carried 7-0.

**Item 10                                      Introduction by Councilor McBrady of an amendment to the Zoning and Site Plan Review Ordinance Section 19.1-3, to create a special overlay district for 60 Gray Road.**

Councilor McBrady introduced the amendment. This property owner is not able to redevelop his property due to setback difficulties caused by development of the turnpike exit. This amendment seeks to allow him to develop parking along the Route 100 side of this parcel.

Chair Farber pointed out that this would create a special district for this lot alone and would not impact any other lot in the MUC district.

Councilor King wondered why they couldn't get a waiver from the Planning Board. Ms. Stearns said this is a zoning standard and the Planning Board doesn't have any authority to waive it.

Chair Farber said this would create a larger space to allow more parking around the building; she wondered if it would change the underlying parking requirements for the MUC. Ms. Stearns said that is correct. If the building is removed, this allowance for parking would remain.

Mr. Poore said the landscaping and buffering standards will remain on this lot and the Planning Board will still have to review and approve those.

Chair Farber wondered about a provision that would limit this for only as long as the building exists. If the property was developed in the future and the building moved, the owner wouldn't necessarily need this provision anymore.

Ms. Stearns said they could place condition on when this applies and when it doesn't. If they wanted to amend it so that parking is only allowed in the front setback so long as the existing buildings remain on the site, they could do that.

Councilor Anderson said this was to allow for parking closer to the road setback; he wasn't sure why they would want this to expire.

A public hearing was scheduled for February 23.

**Item 11                                      Introduction of an amendment to the Zoning and Site Plan Review Ordinance section 3.18.11, in order to extend the Tidewater Master Plan Development District for another 10 years.**

Councilor Anderson asked what happens to the undeveloped parcels if they do not extend this. They would revert to the underlying zoning and he wondered what that was. Ms. Stearns said staff would have to research that.

Councilor Anderson felt they should consider the other proposed amendments to master plan in conjunction with this. It didn't seem right to extend the expiration date only to amend the master plan soon after.

Mr. Poore said bundling them together could delay the proposed amendment for TV-4.

Ms. Stearns said the current master plan and zoning requirements are the basis they are using to review the proposed changes for both TV-4 as well as the potential changes discussed for TV-3. Extending this allows the foundation of the Tidewater district to stay the same, so that discussions of future amendments

can move forward with the same basis. Combining them would lead to the broader discussion of what to do with the master plan becoming confused with the amendments requested at TV-4.

The Council discussed how to proceed. Chair Farber was uncomfortable proceeding with an extension for another 10 years without a discussion of the permitted uses of TF-2. She suggested a reintroduction/workshop to discuss this request with the property owners, and also suggested a short-term extension, 6-12 months for example, to buy more time to discuss this, since the expiration date is so close.

The Council scheduled a new introduction and workshop for this item on February 9. Councilors Mahoney and Hemphill will work with staff and the applicant.

**Item 12                      Order to establish an ad hoc Tercentennial Planning Committee to advise the Council on planning, funding, and implementation of event(s) to celebrate the Town's 300th birthday in 2018.**

The Council agreed on a committee of 7 people, with a report back date of February 1, 2016.

Chair Farber opened a public comment period; no public comment.

Councilor Anderson moved the order; Councilor King seconded. Motion carried 7-0.

**Adjourn**

Councilor Mahoney moved to adjourn; Councilor McBrady seconded. Motion carried 7-0.

Meeting adjourned 9:07 pm.

Respectfully submitted,

Melissa Tryon  
Recording secretary.