

**Town Council Special Meeting
Minutes
February 9, 2015**

The meeting was called to order at 7:00 pm

Roll Call

All Councilors were present and answering roll call.

Item 1 Order to authorize the Town Manager to enter into a amended agreement with the Portland Water District to allow an increase in the peak flow contribution Cumberland may contribute to the Mill Creek pump station as a consequence of the planned upgrade of Mill Creek pump station and force main, and obligating Portland Water District to contribute to the capital costs of the planned upgrades proportional to the increased capacity allotment.

Chris Dwinal of Wright-Pierce Engineers, discussed the proposed upgrade to the Mill Creek pump station and the effect these upgrades will have on the existing agreement. The current pump station is the largest and most important pump station to both Falmouth and Cumberland, handling all of the flow from Cumberland and Falmouth's flow from the Route 88/Route 1 area. He discussed the analysis of future needs for development in both communities. They are accounting for a doubling of the current flow in their plans for the new station. They project that the limiting factor for growth in the future will not be the pump station, but the treatment facility. The proposed amendment to the agreement would change the capital cost share only, not the operating and maintenance agreement. The current share is 65/35 Falmouth/Cumberland; they are proposing changing that to 56.3% Falmouth and 43.7% Cumberland.

Councilor King asked what part of Route 1 this pump station handles; Mr. Dwinal said it handles everything from Waldo's Store north to the Cumberland town line.

Councilor Hemphill asked if gravity took care of most of the flow to the station

Mr. Dwinal said most of it; there are some pump stations along the water that pump up to Route 88.

Councilor Goldberg asked if infiltration is getting better or worse; Mr. Dwinal said both towns have studied their systems recently and are moving forward, but if they do nothing it will get worse.

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

Councilor Hemphill asked if Cumberland has evaluated this. Mr. Dwinal said they have reviewed the amendment, but he didn't think they have formally approved it yet.

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

Item 2 Public Hearing on an amendment to adopt the maximum levels of income and expenses for the General Assistance program, Chapter 6, Article 6, Section 6.68, Appendices B & C of the Falmouth Town Ordinance.

Chair Farber opened the public hearing; there was no public comment.

An order was scheduled for February 23.

Item 3 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 an additional six months.

Councilor Mahoney said he, Councilor Hemphill and Mr. Poore met with Nathan Bateman of Tidewater LLC to discuss the history of the property and what remains to be done. These issues require more time for the Council to consider. This amendment will extend the master plan for up to six months, during which time the Council will work with Tidewater LLC, members of the public and others to clarify the intentions of the master plan. This will grant them some time to carefully consider these proposals.

Councilor Hemphill felt it was important not to rush into a full ten year extension; this will give them time to look at the master plan and get a better understanding of what needs to happen.

Councilor Anderson wondered if they would still be able to make changes to the master plan during this extension. Councilor Mahoney said yes, amendments can still be made during the extension.

A public hearing was scheduled for March 9.

Item 4 Introduction of amendments to the Tidewater Master Plan Development District and the Tidewater Village Design Guidelines in order to accommodate development at TV-3.

Nathan Bateman of Tidewater LLC said they have not been able to complete development on these parcels due to market conditions. The requests they are making are in response to requests from potential tenants. He showed a concept elevation of the proposed two-story medical building. The first amendment they are requesting would increase the allowable building footprint from 8,000 sf to 11,000 sf to accommodate the proposed 22,000 sf medical office building. The mass of the building and its location are similar to what is on the master plan. Buildings 2 and 3 are shown as separate on the master plan; they are proposing to connect them with a shared stairway/elevator, similar to the building on TV-2. They are also asking for some additional residential units. They have not been able to attract a retail user for this area in the last 10 years. If they are stuck with the 45% retail requirement, they will not be able to locate the proposed medical user in TV-3.

Mr. Poore asked about the location of the medical office building. Mr. Bateman clarified that the medical user for building 1 wanted to be in a more visible location, so they are proposing to flip the location of the buildings as shown on the master plan.

Councilor Goldberg asked if the flip for building 1 would be included in the amendment. Mr. Bateman said the building envelopes shown on the master plan were supposed to be conceptual layouts, limiting the square footages, building footprints and green space on the lot but not the exact configurations of the buildings.

Councilor King wondered if there would be any opportunity for retail in building 1; Mr. Bateman said that building would be used entirely by the medical user, but there might be retail in the other buildings.

Mr. Poore clarified that, even though the buildings are depicted a certain way on the master plan, the language of the plan doesn't limit them to those footprints. Those would be reviewed at the Planning Board.

Chair Farber thought there was a requirement on other lots as to where the buildings are facing, and she asked about that requirement on this lot. Mr. Bateman said there is a requirement that these buildings face Clearwater.

Chair Farber asked about the original proposal that there would be an interior drive for the medical building; Mr. Bateman said they plan to design around that.

A public hearing was scheduled for March 9.

Item 5 Public hearing on proposed amendments to the Zoning and Site Plan Review Ordinance, the Tidewater Village Design Guidelines, and the Tidewater Master Plan in order to accommodate development on property known as TV-4, located at the intersection of Farm Gate Road and Clearwater Drive.

Chair Farber opened the public hearing.

Clifford Gilpin of Heron Point Road, president of the Tidewater Homeowners Association (HOA), said Tidewater is the first model of a compact development plan in Falmouth. The Council approved the master plan in 2005 after two years of work. Each of the 49 property owners in Tidewater Farm received a copy of the development plan for the entire project, both the residential and commercial sections. TV-4 is small and was intended for a small office building. The current proposal for a restaurant defeats the original intention to create a harmonious relationship between residential and commercial; it is more in keeping with development along Route 1. The residents expect the Town to preserve the existing ordinance and protect the successful compact housing development. He urged the Council to reject this proposal.

Peggy Gilbert of Heron Point Road said this is a fabulous place to live; the compact development fosters a sense of community and she is grateful for the beauty and walkability of the area. She gave a brief summary of a survey done of the neighborhood residents in response to the proposed amendment. 75% of the residents responded to the survey, and a large majority of respondents opposed the proposal. There are vacant stores in the shopping centers along Route 1 that would be more suitable to a restaurant.

Bob Heyward of Marigold Lane said this neighborhood is a peaceful setting but the proposed restaurant would adversely affect this setting. The proposed parking is unacceptable, and he was concerned with noise, seasonal music, exhaust odors and trash receptacles. The Town Council specifically prohibited this use on this site, and they should stick to that.

Mark Eule of Marigold Lane said the area has been touted as a great success, even though it was built out fairly recently. This proposal would fundamentally change the plan. This change would have a significant negative impact on the Tidewater community. He argued that allowing this change would send a message that agreements with the Town mean nothing. The Town approved this plan, and the owners bought their homes with the clear understanding of what would be allowed. A restaurant use was considered and rejected for this parcel; it was decided that this use would be incompatible with the project. Presently there is no restaurant with a liquor license in Falmouth within 500 feet of residential homes; this location would be within 200 feet of homes. He asked that they honor the balance and the trust that was placed in the Council that adopted the plan. While master plans can become outdated, this plan is only 10 years old and is not outdated. This request is akin to spot zoning, benefiting the property owner only and not the surrounding properties. While the neighborhood was built behind Walmart, it was designed as a quiet neighborhood, and a sports bar is unsuitable for this area.

Emily Baker of Underwood Road voiced her support for the restaurant. It is a family friendly restaurant and would be a welcome addition to Falmouth. She is neighbors with the Meaders and is familiar with their other Rivalries location; she spoke highly of both.

Tommy Johnson of Underwood Road said the Town needs another restaurant like this; it would be good for Falmouth's economy. He spoke highly of the Meaders and their generosity to the community. There is a requirement for 45% retail development in the Tidewater village and he felt the restaurant would qualify as retail and fit this need. He felt that retail development was essential for the Tidewater area.

Mary Rand of Tanya Lane pointed out that the owners in Tidewater moved to an area near businesses, and she felt the Town needs another restaurant. She has been to Rivalries in Portland; it is a well-maintained place and is not rowdy. The Meaders are Falmouth residents and would provide another source of entertainment in Town. It would be an economic benefit to the Town; there aren't a lot of places for people to go. This would provide jobs to young people in Town.

Tom Emery of Foreside Architects, representing Tidewater HOA, said the HOA does not object to development as long as it is in keeping with the master plan. Restaurant use is allowed on TV-2 and TV-3 but not TV-4; he explained that TV-1 and TV-4 are small, isolated parcels with a maximum sq. footage of 8000 sf and a limitation to commercial office use. The design of these parcels anchors and helps define the development. An 8000 sf office building requires 16 parking spaces; an 8000 sf restaurant requires 64-150 parking spaces. The HOA retained Diane Moribito, a traffic engineer, to do a parking needs and traffic analysis for the proposed restaurant; she found a 13-fold increase in traffic over the allowed office use. The hours of operation would also be an issue, due to the proximity to the residences and the design of parking on the parcel.

Larry Henry spoke in support of the proposed restaurant on TV-4. Rivalries Restaurant attracts families and groups; this is the right kind of place to bring into the community. If they are going to build the Falmouth community, they felt it is best built from within by Town residents. He and his wife support Rivalries on lot TV-4.

David Costello of Marigold Lane owns the home closest to TV-4. As a Falmouth business owner, he applauded the Council becoming more business friendly. He felt the Council wanted to have a balance between residents and business; Tidewater is just that. It is a balance that was built through a lot of discussion. At recent FEIC meetings, they discussed developing a business-friendly environment. He owns a commercial property that he bought and developed during the same time that Tidewater was being developed. His building has been full for 3 years. He disagreed that the market is driving this change. Market research done by FEIC said there is a lack of Class A office space in Falmouth, and yet they are discussing using TV-4 for something else. He opposed the changes to TV-4. He thought there was a way for the Council to work with Rivalries; there are thousands of square feet of open retail space along Route 1. He asked the Council to hold the developer accountable to the original intent of the master plan. He hoped the Council would not turn their back on the residents of the Tidewater community.

Jim Kastificias, attorney from Perkins Thompson, representing the Tidewater HOA, said the residents are concerned with fairness. They built their homes based on the master plan, including the limitations on TV-4. The proposed use is a major change and is a breach of their faith. TV-1 and TV-4 were intended to be a gateway to the development and provide a buffer between the residents and the more intense uses on Route 1. The requested ordinance amendments must be consistent with the comprehensive plan; on page 34 of the comp plan it speaks of the types and intensity of uses and refers to the Tidewater development and the uses included in it, including office use. He argued that a restaurant is not consistent with commercial office use under the master plan and would require an amendment to the comp plan. The HOA has no objection to a restaurant being placed where it was originally proposed, but not on TV-4, which is too small for the use.

Josh Brainerd, general manager of Family Ice, spoke in support of Rivalries; he felt what they do would fit well with the use of Family Ice. It would allow families to go to celebrate wins at the rink. He looked forward to Rivalries joining the neighborhood.

Jen DeRice of Oxford Woods supported the restaurant and the Meaders' plan. She frequents the restaurant in Portland and spoke about the Meaders; they are the type of business owners the Town is looking for. She has taken groups of seniors to the Portland location for outings and said it is a great community restaurant.

Andrew Hudson of Marigold Lane valued the quietness of the neighborhood. He would like to see Rivalries in Falmouth, but in a location where there is ample parking. He would like to see them along Route 1.

Amy Meader, co-owner of Rivalries and a Falmouth resident, was grateful for the support they have received from community members for their proposal. She is a residential realtor, and has been mindful of the proximity of the parcel to the neighborhood. She said her family feels the lack of restaurant options in the town and they want to open a family-friendly restaurant.

Lance Meader, of Underwood Road, said they feel they are doing a positive thing for their community. All the land that surrounds the Tidewater neighborhood is zoned for retail, which includes restaurants; there is only this little slice that isn't. This contradicts the argument that this use wouldn't fit. While the HOA argued that TV-4 was a gateway, that plan didn't envision the extension of Hat Trick Drive. This building would face Hat Trick and feel like a part of Route 1 and not Tidewater. The design of the building, and the enhanced buffering behind it, will fit in nicely with the neighborhood. This is a not a late-night business, and Falmouth is not a late-night town. They want to work with the neighborhood. He felt they would fit in with the new, improved Route 1 area. For the Town to invest so much money in Route 1 and then defeat this proposal would send the wrong message to the business community.

Tom Mudhenk of Marigold Lane, said that none of the people from Tidewater have anything bad to say about the Meaders or their business. The only objection they have is to the location.

Andrew Stern spoke highly of the Meaders and their business. He and his wife recognize the need for more of these types of places in Falmouth. He would take his daughter here. He would like to see Falmouth encourage more small business owners. This would be a fantastic location and would tie in to Family Ice and what they do. He felt this would be a buffer between the neighborhood and Walmart.

Brian Dench, an attorney representing the Costellos, said the issue is not anyone being against Rivalries. The residents of Tidewater argue that the Town made a commitment based on land use policies. They are asking for the Town to be faithful to what they intended to do. He said the latest Boulous surveys of Falmouth are showing a 2% vacancy rate of office space in Falmouth. The issue is how the developer and the Town can meet the burden of proof to show that the original land use plan was wrong or should be changed based on land use considerations, and not the times. He pointed out that master plans are enforced by the courts, due to the fact that people rely on them and their reliance is entitled to legal protection.

Chair Farber closed the public hearing.

Councilor Anderson pointed out that the master plan had a 10 year expiration date. He thought an expiration date on the plan provides some clarity that it isn't forever; he hoped that this was made clear in the documents provided to the residents. He wasn't sure he got the breach of trust argument in light of that.

Councilor King said the only reason there is any discussion of an extension is because the plan hasn't been fully realized. She suggested that, when they review amending the master plan, they see it as part of the bigger area; up to this point it has been an island. She wondered what would make this area a better community.

Councilor McBrady said the Dotens have owned the property for some time and have tried to market it as office space. The Council has approved Hat Trick as a public way; things are changing and they need to be open to look at it. It is a market driven issue, and for the good of the whole community and Town, he felt this was a good use of this parcel.

Councilor Mahoney was interested in any steps that could provide a greater buffer or screen to the neighborhood, as well as more detail on the parking. He understood that this was more a Planning Board issue.

Councilor King was familiar with the description of Tidewater in the comp plan, but it was not included in their policy statements or recommendations. There are therefore not in violation with the comp plan.

Chair Farber said the section of the comp plan that was quoted is under the heading of description; if the interpretation offered this evening is valid, the Council could not make any land use changes to any land mentioned in that section, including Route 1 North. She found that interpretation odd. She asked the Council if they wanted this issue reviewed further by the Town Attorney.

Councilors Mahoney, Farber and Goldberg didn't see a need for legal review of the comp plan issue.

Councilor Goldberg spoke about the upgrades to Route 1; the vision was to create a commercial center that would attract business development. He wanted to be cautious about their signal to the area; this project represents willing developers and investors in the Route 1 area and he wanted to be business friendly.

Chair Farber would like confirmation on how the ordinance treats parking needs for outdoor seating. She asked about any ordinance required square footage minimums or maximums for restaurants based on seating area. She asked the Council about their views on on-street parking restrictions on Farm Gate.

Councilor Anderson thought a legal review of the argument that this violates the comp plan might be a good thing, as well as the allegation that changing a master plan approved by a prior council is a breach of trust. He felt limiting the on-street parking on the residential portion of Farm Gate to residents and guests only would be legitimate; he wouldn't want to restrict it on the section of Farm Gate that borders TV-4.

Chair Farber wondered if a building within the master plan that was developed under the master plan prior to its expiration could seek a use change after the expiration. She asked for clarification on this question. She pointed out that a land use change is for a long time.

Councilor Mahoney thought if the plan was to expire the underlying zoning would apply.

The MRA hearing will be held at the Planning Board on March 3. The order was scheduled for March 9.

Item 6 Order to approve a supplemental appropriation and transfer in the amount of \$400,000 from the Parks Land Capital Fund to assist the Falmouth Land Trust (FLT) by partially funding the acquisition of Hurricane Valley Farm, such appropriation to be conditioned upon a successful fundraising campaign for financing from other sources.

Jed Harris of Woodville Road, representing the FLT, said the trust is looking to preserve the property. They were approached by the property owner with the opportunity to purchase the property; they are estimating the total cost for purchase and stewardship of the property to be \$700,000. They are asking for \$400,000 from the Town and would fundraise the remaining \$300,000. They are under a tight timeframe because there is an approved subdivision plan for the property and, if FLT is not successful in buying the property, the owner doesn't want to miss the upcoming construction season. This is the first time in 15 years that FLT is asking the Town to assist with funding an open space purchase. This is one of the largest remaining agricultural properties in Town; there are links to other open space properties, an existing snowmobile trail, and watershed preservation located on the property. They are hoping to vacate the approved subdivision, develop the agricultural potential of the property, and build trail connections. This would be an excellent farming opportunity. A small ranch house comes with the property that could be split off.

Chair Farber opened a public comment period.

John Winslow of Gray Road asked if they are buying the horse farm or the approved subdivision. Mr. Harris said they are buying 62 acres, which includes the horse barn, paddock, shed and the development. They are not buying the riding arena, the paddock next to it, or the house.

Mr. Winslow didn't think there was any reason for the Town to fund this purchase. 40 acres of this property will already be preserved as part of the approved development, at no cost to the town or FLT. It has no direct connection to other open space. The Town already owns 3 parcels of farmland: Wilshore Farm, Zacharias Farm and River Point. This proposal does not preserve the farm.

Nicole Crandall of Shaw Road, abuts the Capall Creek Farm, values the open space, and would love the land to remain in agricultural use. She felt a lot of their community members are in support of adding this land to the trust. She thought there might be opportunities for trails on the property; there isn't an opportunity to walk along Gray Road.

Ted Asherman, chair of LMAC, said the committee has evaluation criteria that they go by whenever they review potential land for acquisition. This property scored the highest of any parcel they have reviewed. The price is very favorable. The money would come from a designated fund, and not the general fund. LMAC highly recommends this purchase as requested.

Bob Shafto of Blackstrap Road spoke of his work on the committee that drafted the Greening of Falmouth. One of the goals of that document was to preserve unfragmented habitat blocks; another was to preserve the rural character of Falmouth. Properties that contributed to that rural character were referred to as "jewel properties". He felt this parcel met that jewel property criteria. 70% of voters supported the open space fund; the money has already been authorized. He urged the Council to support this purchase.

Mila Plavsic of Mast Road, a volunteer for FLT, felt this property is striking. It is the definition of rural character. Preventing development on this property would contribute to preservation of the watershed into Casco Bay. Falmouth has done a great job of protecting forest land, but this would protect open land. Open land is an important habitat as well.

Andy Meyer, resident of Falmouth, supported the acquisition of this property. He hoped the Council would support this; they won't get this land back if they let it go to development.

Dave Gagnon of Field Road, a member of LMAC, said they want to keep this property opened

Don Morrison of Gray Road lives across the street from the farm and bought his property because of the view. He would love to have more access to the public land and he hoped the Council would support the purchase.

Peter Hubbard, Falmouth resident and volunteer for the land trust, voiced his support for preservation of this property.

Public comment period closed.

Councilor Hemphill said he is a board member of FLT. He supported the proposal but removed himself from the discussion at the Council level.

Councilor King spoke about the agricultural value of the land, and the increase in young farmers in Maine to support the local food movement. She felt having this farm would benefit the Town. She felt a residential subdivision would be better suited closer to the commercial areas; this is what is envisioned in the comp plan. While the Town won't receive taxes from those proposed lots, having agricultural land there instead will avoid expenses for the Town. She supported the proposal.

Councilor Anderson argued that the proposed development would only be 17 homes tucked into the wood line; 2/3 of the land would still be preserved. If they buy the land, they would lose the tax revenue from

17 homes, which would be approx. \$120,000. Even though the money is set aside, they don't have to use it for this parcel.

Councilor Mahoney strongly supported this proposal. The number of properties identified by the Greening of Falmouth are few; he thought there was only one other property in Town that could rival this one. He argued that 17 homes would put a burden on municipal services. He felt this was an opportunity they can't miss. It provides connectivity to trails in both Falmouth and Cumberland and has strong support. He said they have spent less than 50% of what was authorized for open space.

Councilor Goldberg said that, while he didn't support the money to help purchase Clapboard Island last summer, he supported this. It is fully accessible by everyone for a range of uses.

Chair Farber asked for something that would clarify the Town's role in this agreement but felt they could work that out. She recommended that they authorize the Town Manager to negotiate some kind of MOU around the agricultural use of the parcel. She was concerned that something could change down the road and she felt the Town needed a level of involvement. She wondered if they really wanted to take this money from the Parks Land Capital fund. She was concerned that they might want more manicured park space in the near future. She wondered if they were running a risk if they didn't use open space money for this. Other than the park fund, they would have to use undesignated fund balance.

Mr. Poore said they can't use open space designated funds for anything other than open space; the parks funds are less restrictive. This fund has been sitting without a plan, and he felt this was a good use for it.

The Council discussed authorizing the expenditure and making a decision of what fund to use to pay for it at a later date.

Councilor Mahoney moved the order; Councilor King seconded.

Chair Farber moved to amend the order, asking the Town Manager to negotiate a MOU for town involvement in the future, including the following provisions:

- FLT to agree that the majority of the property will be used for agricultural purposes;
- In the event FLT decides to sell the property, it must first offer the Town the right of first refusal to purchase the property; and
- In the event FLT decides to change the intended use of the land from agricultural, it must first seek agreement of the Town Council.

Councilor King seconded.

Councilor Goldberg thought the intention of the MOU was to make sure some of the land was set aside for agricultural uses. He asked what would happen if the decision was made in the future that it was only going to be preserved as open space.

Councilor Mahoney clarified that the MOU wouldn't bind the use of the land; it could be amended by mutual agreement by the two parties.

Councilor King asked if there would be a conservation easement on the land. Mr. Harris said no, it didn't require an easement to protect it.

Councilor King asked what protected the trust from selling the property; Mr. Harris said their mission protects it. They would be out of business as a land trust if they sold it. They would agree to a first refusal to the Town.

Amendment carried 4-3 (Anderson, McBrady, Goldberg).

Councilor Anderson said this park fund is the same as any other money; it doesn't mean they have to spend it. Last year they discussed moving the fund to the undesignated fund balance. He felt if they took \$400,000 out of the undesignated fund balance they would be perilously close to losing the AAA rating.

Amended order carried 5-2 (Anderson, McBrady).

Item 7 Order to authorize the Town Manager to execute a deed for title to 23.9 acres of open space conservation lands in the Grove Foral Baek Subdivision, map-lot R07-100, to become an expansion of the Hardy Road Conservation Area.

Lucky D'Ascanio, Director of Parks and Community Programs, discussed the proposal. This would include 23.9 acres of open space associated with a proposed conservation subdivision. LMAC scored this property last year.

Mr. Poore spoke about proposed conditions on the acquisition, including a peer review engineer that would review the dam on the property.

Councilor Goldberg asked if the review of the dam would be done with the snow as it is.

Mr. Poore thought removing the snow would allow for a sufficient structural evaluation. They can use existing topography maps and aerial photos to evaluate what would happen if the dam failed. They want to establish the condition of the dam and what would happen if something went wrong.

Councilor Anderson asked why the developer wants to give the land to the Town. Mr. Poore explained that to develop a conservation subdivision they have to set aside a certain portion into open space and find an owner for it. They could also give it to the homeowner's association.

Councilor Anderson asked about the cost; Mr. Poore said that was mostly for maintenance.

Councilor Goldberg asked about the Town's experience with dams. Ms. D'Ascanio said the Town took down the Smelt Hill dam on the Presumpscot. There are no other dams on Town open space.

Mr. Poore said this is a 10,000 sf pond, and is 6-7 feet deep on average. It is not a large pond but it creates a unique habitat. It has been on the property for about 20 years.

Councilor King thought this was a dammed stream; Ms. D'Ascanio agreed and thought it would feed into Meader Brook, which bisects the property.

Councilor Mahoney asked if the homes are going to be built around the impoundment. Ms. D'Ascanio said no. Mr. Poore thought the dam is a least 600 feet from the property line.

Councilor Mahoney thought it important to point out that this is an impoundment. If the Town chose to remove the dam, this pond would go away. Ms. D'Ascanio said since it is a pond, it will fill in from the bottom. In 50 years it will be a meadow.

Chair Farber asked if they can take the dam out. Ms. D'Ascanio said LMAC thought the dam was an asset to the property. They need to know their liabilities in relation to the dam.

Chair Farber opened a public comment period.

Dave Gagnon said he had two dams on his property and they are center pieces of his property. An impoundment does a lot for the wildlife. It is nice to have it.

Ted Asherman, chair of LMAC, said they have a number of Town owned properties that abut neighborhoods; they have not had any issues with heavy traffic or parking.

Public comment period closed.

Councilor Hemphill moved the order subject to the conditions as stated in the staff memo; Councilor Goldberg seconded. Motion carried 7-0.

Conditions are as follows:

1. Favorable peer review of the dam inspection report prepared by Risbara prior to conveyance.
2. Removal by Risbara of two existing sheds on the property prior to conveyance.
3. Blazing of all boundaries of the conservation area.
4. Town staff will work with the Falmouth Sno-Voyagers to maintain snowmobile access through the property.
5. The Town reserves the right to use both 50' road frontages as access to the property for trails and trail construction/maintenance.

Item 8 Order to authorize the Town Manager to execute all necessary documentation which will give the Town's consent to the Falmouth Land Trust's conveyance to Unitil of the Additional Pipeline Easement, and to also consent to joining Unitil, the Falmouth Land Trust, and the Maine Attorney General, in an action to obtain judicial approval of the Additional Pipeline Easement.

Peggy McGehee, attorney with Perkins Thompson, explained that Unitil has a gas pipeline that runs across the Piscataqua River under the turnpike bridge. They gained approval from the Town in 2014 to move the pipeline under the easement property. Unfortunately, midway through the project the soils got waterlogged and became unstable so they had to realign how the pipeline was going to be connected. They will be able to locate it within the previously approved temporary work zone, but it will require another easement; it is a longer piece of pipeline, and will require an open trench. The current easement only allows the soil to be disturbed for public safety and recreation purposes. In order for the Trust to convey the easement, and for the Town to approve the conveyance, the amendment has to go to court. They are therefore asking the Council to approve the conveyance of the additional pipeline easement, the filing of a complaint with the court, and bringing the additional easement to court for approval of the excavation. She described the process necessary to approve this change, which includes Council action, Planning Board action, and Court action.

Craig Campbell from Unitil showed a plan of the property, where the intended connection was located, and the location of the currently proposed pipeline. The area of disturbance will not change, since the area they want to use is already disturbed. The only thing that will change is the easement.

Ms. McGehee explained that they will be abandoning the easement in one area; this will be a one-for-one trade. She said Unitil has done much less clearing than they expected, and replaced some planned grading and gravel with wood mats.

Public comment period opened; no public comment.

Councilor Goldberg moved the order; Councilor Anderson seconded.

Motion carried 7-0.

Item 9 Introduction of an amendment to the Code of Ordinances to provide an exemption to eligible active duty military personnel from vehicle excise tax.

Chair Farber explained the proposed amendment. State law does not permit students at military academies from being exempted.

Councilor Anderson asked if this would undo the current ordinance which exempts military personnel that are stationed within the state. Staff would research that question.

A public hearing was scheduled for March 9.

Item 10 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

Councilor McBrady moved to appoint the slate as recommended by the committee; Councilor Mahoney seconded.

- Charles S. Einsiedler, Jr. to the Library Board of Trustees,
- Sally Sandler Bitan to the Parks and Community Programs Advisory Committee
- Raymond H. Jett, Sr. to the Senior Citizen Advisory Committee

Motion carried 7-0.

Item 11 Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider the disposition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).

Councilor Mahoney moved to enter executive session; Councilor King seconded. Motion carried 7-0.

The Council entered executive session at 10:25 pm and did not return.

Adjourn

Respectfully submitted,

Melissa Tryon
Recording Secretary