

Town Council Meeting

August 10, 2015

Minutes

The meeting was called to order at 7:00 pm.

Roll Call

All Councilors were present and answering roll call.

Councilor Farber moved to suspend Council rules in order to add an executive session to the end of the agenda; Councilor Hemphill seconded. Motion carried 7-0.

Item 1 Order to authorize a supplemental appropriation in the amount of \$245,000 from the West Falmouth Crossing Tax Increment Financing District for Preliminary Engineering Services for the Route 100 Infrastructure Plan.

Councilor McBrady, liaison to the Route 100 committee, said the Town recently interviewed several engineering firms, and are recommending Fay, Spofford and Thorndike (FST) Engineering.

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

Mr. Poore explained that this is not for the full engineering for the whole project. They have just completed the visioning process, and are looking for preliminary engineering to give them good cost estimates before going to referendum. If the project were approved at referendum, they would come back to do final engineering. This allows them to do enough engineering to get cost estimates, but without spending the money for full engineering in case the voters decide they do not want it.

Councilor King asked if there will be another RFP for the final design and if any of the preliminary work will contribute to the final project.

Mr. Poore said all this work will be building blocks for the next phase of engineering. This was put out to bid along with the final engineering, so they know what that phase will cost as well. The costs for both preliminary and final engineering are well within the budget estimates. This means that the Town will not have to go back out to bid for final engineering if the referendum passes.

Councilor Anderson asked if they discussed how accurate the cost estimates would be, in light of the differences between estimates and actual costs with the Route 1 project.

Mr. Poore said they discussed it at length and he felt each firm responded well.

Councilor McBrady said FST owned certain mistakes and talked about what they had learned in that experience. This was the toughest interview they did out of the three and FST did a fantastic job answering the tough questions the committee asked them.

Mr. Holtwijk said FST is familiar with Route 100 since they did the construction plan set for DOT in 2009; the work wasn't done because DOT was out of money. The design engineer from that time is the project manager now.

Councilor Farber moved the order; Councilor King seconded.

Councilor Farber would like to see a specific public outreach soon, to get public input about the public park. She suggested native plantings on the Route 100 streetscape; some people have been disappointed on the lack of native species used along Route 1.

Motion carried 7-0.

Item 2 Discussion of a possible Affordable Senior Housing Project at the former Plummer School by OceanView and the potential role of the Town in that project.

Mr. Holtwijk gave a presentation on the concept for senior housing in the Plummer School building. Oceanview is proposing an 18-34 unit senior affordable housing project, to be financed by OceanView/Developers Collaborative. The scope hasn't been determined yet. They proposed that 33% of all units would be kept affordable for 30 years for Plummer residents earning no more than 120% Area median income – these standards are based on the minimum requirements for an affordable housing TIF district. The Town can participate in the project by transferring a portion of the Village Green to permit the largest expansion of the Plummer building, and by increasing the affordability by using an affordable housing TIF. Mr. Holtwijk discussed the affordable housing TIF, which operates the same way as a conventional TIF by setting aside all or a portion of new taxes for up to 30 years. He discussed the eligible uses of the TIF funds for the project: capital improvements, operating costs, public infrastructure, support services for residents, recreation expenses, or a revolving loan fund among others. He spoke about other affordable housing districts in Maine created since 2004 and how those TIF's are structured. He specifically discussed a project in Topsham, developed by the same parties presenting this project, and how it is structured. He talked about potential scenarios for using the TIF funds.

Councilor King asked if the TIF is a tool for municipalities; Mr. Holtwijk said yes. It would not be available to the developer without the Town.

Councilor King asked how they balance out who gets what portion of the money and how they ensure the affordability of the units. Mr. Holtwijk said there would be a binding legal agreement between the developer and the Town, and the Town would have to report to the state annually on how many units are affordable.

Councilor McBrady asked if the Town would have any say in the footprint of the building and access to the Village Green if they allow the transfer of land to the developer. Mr. Holtwijk said they would have plenty of opportunities.

Mr. Teare said if they were looking at a transfer of land they would have a contract with the Town on how it would look.

Councilor Anderson asked if the Oceanview/Natural Gas TIF would already capture the values from the Plummer improvements. Mr. Holtwijk said that TIF specifically excluded the Plummer building since there was some sense at the time that there was a possibility for affordable housing.

Councilor Anderson asked what qualified as 'affordable' in this scenario. There have been many definitions of affordable that have been discussed. Mr. Holtwijk said it is defined as "spending no more than 38% of your income on housing". In rental housing that means rent alone; with homeownership that refers to mortgage, insurance and other expenses.

Mr. Teare said these all come from federal guidelines for affordable: 80-120% of area median income is moderate income housing, below 80% is low income housing, and below 50% is very low income housing.

Councilor Kitchel asked if the Town has a low income housing policy and if Oceanview has any low income housing projects. Mr. Teare said the Topsham project that Mr. Holtwijk discussed is their project. It is also a TIF project and receives federal housing dollars.

Councilor Kitchel asked how long the agreement is for affordability for the Topsham project; Mr. Teare said it is 45 years but it automatically renews so it is effectively 90 years.

Councilor Kitchel why this project wouldn't be permanent. Mr. Teare said they could sit down and discuss that with the Town, along with the level of affordability.

Mr. Holtwijk said the Town doesn't have a policy on affordable housing. The comp plan identifies a need for affordable housing, but the Town has debated for years how that need could best be met.

Town Council Minutes

August 10, 2015

Page 3 of 7

Mr. Teare said they were encouraged to review public/private uses of the building when they purchased it and this plan is born of that. They want to make this as affordable as possible without losing money.

Chair Goldberg said both the land transfer and the TIF district add to the amount of affordable units they can create. Mr. Teare said yes. The ideal size would be about 36 units of housing. Other factors including construction costs would affect the affordability.

Councilor King said the TIF allows them to make it more affordable, but it would still be affordable despite the size; there would just be fewer affordable units. Mr. Teare said the smaller it gets, the harder it gets to make the numbers work. The TIF money to the developer goes directly to subsidizing rents.

Councilor Farber asked if the AMI changes every year; Mr. Holtwijk said it does. The developer is required to evaluate it to make sure they are meeting the requirements.

Councilor Farber asked how the senior portion is met; Mr. Teare said it would be part of their discussions with the Town.

Councilor Farber asked if they would be seeking historical tax credits for this project; Mr. Teare said they would.

Councilor Farber pointed out that the original agreement between the Town and Oceanview specifically lists affordable housing as a possible use for this building. She said this would not be the first affordable housing project in Falmouth; the other two projects are also for seniors. She said there is a need to provide for seniors to stay within the community and it is an appropriate goal for the community. She is not enthusiastic about the transfer of land from the Village Green and would prefer the scenario for 28 units.

Councilor Anderson asked if the intent is for the project to be for seniors; Mr. Teare said yes, it would be age-restricted.

Councilor Anderson pointed out that a TIF limits the flexibility on the money the Town gets from the growth; it allows them to do more of these specific projects, but less on general fund items. There is a benefit, but there is also a trade-off.

Chair Goldberg asked the difference between an affordable housing TIF and a conventional one. Mr. Holtwijk said with this TIF they can use the funds for operating expenses, case management and/or social services for residents, and recreational facilities. They could use these TIF funds for operating expenses at the Mason/Motz Activity Center. He has spoken with Anne Perry at Maine Housing, and the eligible expenses are quite broad.

Councilor Anderson felt it was in the Town's interest to facilitate the renovation of this building. He felt affordable housing for low-income residents is in the public's interest, but he felt that affordable housing for the moderate income level is not.

Mr. Teare said that, without any partnering from the Town, they plan to provide housing for the 80-120% AMI level. With the TIF, they would be able to lower it further. They would have to report on those numbers and amounts to the State, but all the state would require would be under 120%. Anything beyond that would be governed by their contract with the Town.

Councilor King asked if this would be less flexible and subject to amendment than a conventional TIF. Mr. Holtwijk said no; if they wanted to amend it they could. They would have to renegotiate the contract. It is similar to having a credit enhancement agreement with a developer. The Town has amended TIFs on two aspects: the development program and term length.

Councilor Farber said there are two elements: the TIF and the contract with Oceanview.

Councilor Hemphill said he was not comfortable with the proposed building on the Village Green; it was not envisioned during the original development. He felt it would have a significant impact and would not serve the Town's greater interests.

Chair Goldberg said they don't have a good sense of what that addition would look like and wondered about renderings. Mr. Teare said they could do them, but would like to have a good sense of the Council's feeling on the proposed transfer first.

Councilor King said it would help to see what it might look like. Councilor Anderson agreed.

Councilor Farber asked what would give the Councilors the information they want. She thought it was unfair to ask Oceanview to draw out the addition this early in the game.

Councilor Kitchel said he has heard from members of the public that they do not like the transfer option; he was not in favor of it.

Councilor McBrady would like to see an elevation of both option 2 and option 3. He felt a better visual would help. He liked the proposed concept but would like some more information. He would also like another site visit.

Councilor King stressed the importance of getting feedback from the public.

Chair Goldberg felt the concern of the Council regarding option 3 was more in terms of scope and scale and less about design. He wondered if there was a way to address that concern without full architectural renderings and if that would satisfy the Council.

Councilor Anderson asked to do another site walk of the new proposed layout.

Mr. Teare said they can do 3D modeling without too much trouble. He agreed that they have changed the proposed layout since the last site plan.

Item 3 Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider the acquisition and disposition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).

Councilor King moved the order; Councilor Kitchel seconded. Motion carried.

The Council entered executive session at 8:35 pm.

The Council returned from executive session at 9:00 pm.

Item 4 Order to approve a supplemental appropriation in the amount of \$214,030 from the following accounts:

- **\$169,616 from the Open Space Reserve Account**
- **\$19,414 from the Parks Acquisition Reserve Account**
- **\$25,000 from Unassigned Fund Balance**

Such appropriation to be used to purchase four parcels bordering the North Falmouth Community Forest and to authorize the Town Manager to execute the necessary documents related to the acquisition of these parcels.

Chair Goldberg clarified that the Council did not discuss this item during the previous executive session.

Mr. Poore discussed the history of the project; the Town applied for grants from the Maine Forest Service and the Land for Maine's Future program, received both grants last winter and put options on the subject parcels. Those options have since expired. The LMF funds have not been released by the State and the property owners are not interested in extending the options any longer; they all want to close within the next month or so. In order to do this the Town will have to bridge the funding gap left by the missing LMF funds. An official from LMF said that the Town would still be eligible for reimbursement if the funds are released. The Town will lose the Forest Service money if it isn't used by June 2016. This funding package was bundled in such a way as to have the least impact on the unassigned fund balance. The open space reserve account unencumbered balance is about \$177,500, which includes this year's funding and the

Town Council Minutes

August 10, 2015

Page 5 of 7

carryover from last year. The Council used most of the Parks Acquisition reserve account to help finance the purchase of the Hurricane Valley Farm property and this is the remainder. The account was dormant for many years so staff felt they could close it and use its remaining balance for this open space acquisition.

Public comment period opened; no public comment.

Councilor Hemphill moved the order; Councilor Kitchel seconded.

Councilor McBrady asked if there was any way to pick which parcels they feel are more valuable to the Town or do they have to do all of them.

Mr. Poore said they can't pick and choose because the Forest Service gave them the grant based on the packaging; it would have to be a new application if they split it up. One of the property owners is planning to use some of their funds to donate toward the Hurricane Valley Farm property and to the Fire Department.

Councilor Anderson asked what they can do with the Forest Service grant if they didn't throw any Town money into this; Mr. Poore said nothing, and they couldn't be reimbursed for the \$40,000 in soft costs they have already spent to date.

Councilor Anderson said that, since the open space referendum was passed, the Town has spent \$3.8 million on open space acquisition, while \$2 million additional land has been placed in open space through donations and projects with the Land Trust and Maine Coast Heritage Trust. The Town and its partners have acquired and set aside nearly \$6 million worth of open space. He felt that, before they spend any more money on open space, they should discuss whether they are through. He felt they have met the goals of the voters in that referendum.

Councilor Hemphill said the Town has not spent \$6 million; that has been spent through a variety of sources.

Councilor Anderson said his take on it was that the referendum expressed a desire to acquire \$5 million worth of open space. He felt that the goal has been met.

Councilor Farber disagreed; she felt the question to the voters was about the use of taxpayer money. She felt they have plans, including the *Greening of Falmouth*. She felt this project was approved last year by 6 of the Councilors sitting here. She wondered what has changed since then, other than the LMF funding.

Councilor Anderson said that is a significant change; that was over \$200,000 from LMF. He would prefer they restructure the deal until the Forest Service grant is available to them next June. He was not optimistic that the LMF funds would come.

Councilor King felt the inference in the bond was that it would be taxpayer money. They had a solid presentation on these parcels last year, and they have merit on their own despite the funding. She felt they have half the funding and a solid project; she wondered why they wouldn't go forward. They property owners have waited a long time past their deadline. She advocated for the project going forward.

Councilor Hemphill agreed that the Council approved the grant applications for these properties and the project was approved. He felt it was a reasonable thing for the Town to move forward.

Chair Goldberg agreed that they have to treat taxpayer money with all due respect. The Town, as a victim of the LMF crisis, could say that they weren't going to do the project. They are good properties and the Town vetted them. He said they have funding in the open space acquisition line item this year and it is usable. He felt this project is the best use for those funds right now. The Parks acquisition funds have been sitting unused for a long time and this is a good use of those funds. The only exposure is the \$25,000 from unassigned fund balance; this is the only risk if they are never reimbursed from LMF. He supported the proposal.

Councilor Farber wondered why they are not emptying the open space acquisition account; Mr. Poore said he wanted to make sure there was money there in case there were any unanticipated costs.

Councilor Farber felt that was the same as using fund balance monies. She would rather see less impact to the unassigned fund balance.

Chair Goldberg pointed out that if another project comes up in the rest of the fiscal year, they are not going to have any acquisition funds remaining.

Councilor Farber moved to amend the order; changing the funding to \$177,500 from the open space reserve account and reducing the amount taken from the unassigned fund balance to \$17,116. Councilor Kitchel seconded.

Councilor Hemphill disagreed with the proposal; some remaining funding in this account would allow the Town some flexibility for other transactional costs. He felt it would cripple the program to not have any funds.

Councilor Farber thought the Council could make a supplemental appropriation for funding.

Councilor Hemphill agreed but there is time lag; they would be a lot less nimble in that case.

Chair Goldberg thought the Town Manager could allocate some funds; Mr. Poore said he has some discretion if the Council has expressed interest in a project, but he could not take money from unassigned fund balance.

Amendment passed 4-3 (King, Hemphill, McBrady)

Councilor McBrady appreciated the work that has gone into this, and the landowners' willingness to sell their lands, but he was not comfortable with spending Town money on this. Councilor Anderson agreed and said what has happened in Augusta with regards to the LMF funding is unconscionable. The transaction that he had in mind when he supported the grant applications has changed, and he wasn't comfortable putting \$200,000 of Town money into this.

Amended order passed 5-2 (McBrady, Anderson)

Item 5 Order to authorize the Town Manager to execute a limited joinder of the Town of Falmouth in an easement deed between the Falmouth Historical Society and an abutting property owner.

Public comment period opened; no public comment.

Councilor Farber moved the order; Councilor McBrady seconded. Motion carried 7-0.

Councilor Farber moved to suspend council rules, section 11, in order to remove agenda item 6. Councilor Kitchel seconded. Motion carried 7-0.

The item will be rescheduled to a later date.

Item 6 Discussion of a proposed change to Council rules section 16.H, regarding "motion for the previous question".

Item 7 Discussion about future Council agendas.

Mr. Poore discussed items scheduled for upcoming council agendas.

Item 8 Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider the acquisition of real estate rights and economic development, pursuant to 1 M.R.S.A. § 405 (6) (C) and 1 M.R.S.A. § 405 (6) (E).

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

The Council entered executive session at 9:45 pm and did not return.

Respectfully submitted,

Melissa Tryon
Recording Secretary