

Town Council Meeting Minutes February 27, 2017

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

Roll Call

All Councilors were present and answering roll call.

Pledge of Allegiance

Chair Farber led those present in the Pledge of Allegiance.

Item 1 Public Forum

No one spoke at public forum.

Item 2 (Consent Agenda)

- **Order to approve the minutes of the January 9, 2017 Town Council Special Meeting.**
- **Order to approve the minutes of the January 23, 2017 Town Council Meeting.**

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

Councilor Kitchel moved the consent agenda; Councilor McBrady seconded. Motion carried 7-0.

Item 3 Report from Council Committees and liaisons regarding updates on assignments.

Councilor King said that REAC has two new members, and they are still looking for one more. The annual individual ecomaine eco-excellence award for Falmouth was given to Cathy Nichols, chair of REAC, for her work on the bag ordinance, and the commercial award was given to Oceanview. The Falmouth Memorial Library is now hosting their annual Beauty and the Books silent auction fundraiser. It will run until March 30, with a finale on that day at 7pm. Handmade items of all kinds are available. They are still looking for people to join the 1718 Society and donate \$3000 over the course of 5 years; they are looking for 300 members, and so far they have 100.

Councilor Hemphill clarified that Oceanview won the business eco-excellence award for their work in sustainable design, procurement and recycling practices. He said the ceremony honoring the ecomaine excellence awards will be on March 14.

Councilor Kitchel said LPAC has been working on their workplan for the coming year.

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

Councilor Svedlow moved the slate of appointments; Councilor Hemphill seconded. Motion carried 7-0.

Board of Assessment Review & Sewer Appeals: Roland Beaudoin

Board of Zoning Appeals - Alternate Members: Jay Trickett and Anthony DeRice

Economic Improvement Committee: Mindy Schwartz

Conservation Commission: Sue Shane

Route 1 North ad-hoc Committee: Jay Trickett

Item 5 Order to authorize the Town Manager to execute documentation to allow Maine Audubon to construct a 15'x24' greenhouse on its property.

Town Manager Nathan Poore said the Maine Audubon received this property in the 1970's; the Town has several controlling easements over the property. This parcel is the most flexible. In 2013, the Town granted a partial release to allow the Audubon to construct solar panels on the property. The proposed greenhouse is intended for some programming related to native species. The Audubon needs this partial release in order for the project to proceed to the Zoning Board for approval.

Councilor Hemphill asked if they had been before the Council with this same project before; Mr. Poore said no, this specific greenhouse and location has not been requested before.

Chair Farber asked if they have discussed these plans with the abutters.

Mr. Peter Baecher, facilities manager for the Audubon, said he has spoken with a couple of the abutters, and there has been some word-of-mouth. Abutters have been noticed as part of the Zoning Board process. They are looking for a way to increase awareness of the value of native plants for wildlife and they want to increase the amount of native plants on their property. Native plants are important for the insect and butterfly populations that feed native birds. They intend to use the greenhouse to grow "plugs" both for a one-day sale, and to plant on the property.

Councilor McBrady said this structure will be an improvement to the Audubon property, and he wasn't concerned with the impact given the size.

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

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

Item 6 Presentation by the Falmouth Land Trust and Cultivating Communities regarding programming for the Hurricane Valley Farm property.

Tommy Johnson, President of the Falmouth Land Trust (FLT), gave a presentation on the history of the parcel. It has been used for farming and agricultural purposes since the late 1800's. It is an iconic parcel and connects several parcels of open space. The FLT purchased the property in 2015, preserving it from development as a subdivision. In the future, they want to maintain natural open space, continue trail access, use it as a venue for community connection, and use it for agricultural purposes. They conducted an RFP process to identify potential uses and users. They had several strong applicants, and selected Cultivating Community. The property is a farm, and they intend to use it as a farm.

Leslie Heiser, Director of Communications with Cultivating Community, discussed the organization's missions and history. They support people in growing healthy food, helping them find and use the land, and providing a supportive community. They work with a broad cross-section of people of different ages, ethnicities and background. They were founded in 2001. Currently they work with refugees and immigrants to incubate farm-based enterprises; manage community gardens; work with teens to grow and donate food; support affordable access to healthy food with a mobile farmer's market; and host farm-to-table events.

Craig Lapine, Executive Director, presented their proposal for the property. They are planning to use the land for agricultural purposes and will build in educational opportunities for the community as well as farmers. They want to make the farm an educational resource for Falmouth and the surrounding communities. They plan to work with the Resource Hub to plan a participatory design process to develop the plans for the farm.

They envision a space to incubate farm businesses, where people would come to the farm for 3-5 years to get their business started and they move off the farm when they had established a revenue stream. They would have a section for people to trial livestock as well. They would maintain the space FLT uses for events, staging educational activities there. Not all of the land is suitable for row-cropping due to the slope and drainage, but it would be suited to orchard crops. They envision using the existing barn for on-site retail sales if possible. They would need an on-site structure for washing and storing produce, and might need an additional structure for educational uses, but all this is in the design stage. Any actual site plan they develop would have to come back for review by the town.

Chair Farber pointed out that the existing MOU between the Town and FLT is clear about the agricultural uses; if this plan proceeds there might need to be changes made to that document and perhaps some changes to zoning.

Councilor Kitchel asked where the operating capital would come from, and how they would make money going forward.

Mr. Lapine said their annual operating budget is about \$1 million right now, and that comes from a number of sources including 40% from the USDA; grant money; individual donors; and some from fee-based educational programming. Any revenue from produce goes back to the farmers. There would likely be a capital campaign for this project.

Councilor McBrady said that capital campaign would be with them and not FLT; Mr. Lapine said they have briefly discussed it, but they are not there yet. They don't want to make presumptions on what they can and cannot do on land they haven't leased yet.

Councilor McBrady thought this parcel seems challenging, and he wondered how much work or engineering they have put into this proposal.

Mr. Lapine discussed some of the challenges of the parcel. They have put some thought into what to put where on the property based on its topography.

Councilor Hemphill asked how big an operation this would be in relation to their entire program. Mr. Lapine said it has been a long-term goal of theirs to acquire a Cumberland County property similar to their other property in Androscoggin County. Their goal was to hold an incubator farm in Androscoggin County, an urban farm in Portland, and an incubator farm in Cumberland County; this is the last piece of that puzzle. He thought this farm would be a third of their organization's work in 10 years' time.

Councilor King liked this proposal, but it looks ambitious. She thought it would take at least a decade to realize. She asked what this might look like in a couple years. Mr. Lapine thought the first things to happen would be to get 3-5 farmers on incubator plots building their businesses. This would require a washing station and a way to cool and hold produce. That infrastructure would be installed this year. Then they would install the community garden and start the livestock program, likely with chickens. They would get an educational program for schoolchildren started in the first year as well.

Councilor Hemphill asked if he has worked with the land trust before. Mr. Lapine said they have worked on land trust land before, but those have been family-owned with land trust easements. They have never worked with a land trust as a landlord before, but in some ways it is easier. The goals of the FLT for this piece of property dovetail with his organization's goals very well.

Councilor Kitchel asked what the public will see on the property, and whether there will be a farm stand available. Mr. Lapine said that is the hope; it will depend on zoning.

Mr. Johnson echoed Mr. Lapine; the goals of the two organizations are very much in line with this property. The next step for FLT is to discuss potential zoning changes with staff, in order to allow some of the proposed uses on the property.

Councilor McBrady supported the plan and thinks it will be a great use of the property.

Councilor King wondered about the Council's role in this process. Chair Farber agreed; she would like a clear list of the Council's role.

Mr. Poore said their role would be to review and possibly amend zoning as well as the MOU.

Amanda Stearns, Community Development Director, discussed the proposed uses that would not be allowed under the town's current farming definition. Also, they need to review the Town's large-scale outdoor events ordinance to see if the proposed events would be allowed under the current language.

Chair Farber asked about any structures and how those would be allowed. Ms. Stearns said the farm itself is unlimited in terms of structures. The washing and prepping structure would fall under the farming use. They would have to review the use of the barn for retail; the current ordinance limits farm stands to 400 sq. feet. She said that farming is allowed in many districts in town; in reviewing any potential changes, they would also evaluate the impact on those districts.

Mr. Johnson clarified that they have had a tenant in the house since they acquired the property. The current tenant is an employee of Cultivating Community, and would be the farm manager, but renting the house represents real, necessary income for FLT.

Councilor Kitchel spoke in favor of supporting the project moving forward. Councilor King asked whether proposed amendments should go to CDC or directly to Council. Councilor Hemphill felt it would be more efficient for staff to work directly on this instead of sending it to CDC. The consensus of the Council was for amendments to be drafted by staff and then brought back to the full Council for review.

Item 7 Resolution on extending public water as part of the Middle Road reconstruction project.

Chair Farber summarized the item to date; after the road reconstruction project was approved without the water line, several residents voiced their concerns with the water quality. The Town had water tests done on 11 of the wells in the area, and the Council discussed the results of those tests at their February 15 meeting. The goal of this resolution is to give clarity to the Council's decision on this matter.

Chair Farber opened a public comment period.

Norm Poirier of Middle Road had his water tested. The sodium content in his water was six times higher than normal. He asked if it was the price that was holding the water line back. The estimate for the water line to be installed is \$500,000. He thought it would be wonderful for Falmouth to connect to the line from Cumberland. It would be great for fire protection. Cumberland's price for water line is under \$150/foot, which would bring the cost for the Falmouth line to \$300,000. He would like town water.

Gene Villacci of Middle Road wished they could look at this as a larger picture. He said this is part of the growth corridor meaning the lots could be 25,000 sq feet. That is a small lot for a house, driveway, well, and septic. That would lead to contaminated wells pretty quickly. He asked if they could require future developers to tie into a water line, and whether they could require PWD to help pay for it. He wondered about the quality of future wells, the depths of them, and the cost of them. He asked them to consider how this would play out in the future.

Yilan Zheng of Middle Road asked why they don't install the water so that people wouldn't have to worry about the water when they develop. He wondered why the cost estimate changed so much. He wondered if the cost wouldn't be as much as they thought. If this is the growth area, they should install water to allow more growth.

Chuck Loker of Middle Road would like the water to be extended. He thought they could get it for less than the estimate.

Helena Hollaeur of Middle Road said when they installed their well she asked her neighbors about their wells; the range of well depths in the area was 250-500 feet. They ended up having to install a 795 foot deep well at a cost of \$8000, and they had to do some fracking to increase the gallon/minute rate. They had high magnesium and iron so they had to install a filtration system.

George Wright of Middle Road has high arsenic in his water and was concerned for the safety of his child. A neighbor had to install filtration to take out radon, and others have high levels of radon. He didn't want to see them have to pay to install systems in order to sell their homes. He felt this was a reasonable investment on the part of the town.

Wayne Newland of Middle Road felt this was a no-brainer. The road is being worked on, and they should install the water now. There is no mention of Cumberland in the draft resolution, or of the fact that the water district wants this to happen. There is no mention that the cost estimate has been reduced and is still more than Cumberland's bid. He asked the Council to move forward to extend the water. He said he buys bottled water for drinking and cooking.

Chair Farber closed the public comment period.

Councilor King discussed the cost estimate of the project, the fact that the water results are mostly within normal limits, and that many Falmouth residents are on wells. There are 18 homes in this area, and 11 were tested. The potential build out was estimate at 42 homes. Roads are opened every 15 years or so; they will have other opportunities to extend water. If they pay to extend the water, the homeowners would have to pay perhaps thousands of dollars to connect to the line, and there is no guarantee that they would connect rather than invest in treatment options for their well water. She felt it was not the responsible thing for the Town to pay to extend the water at this time.

Chair Farber said they reviewed fire protection with the fire chief, including pressure and distance, back when the project was first discussed. A growth area is identified as such in order to distinguish it from the non-growth area where you want to limit growth. It's not to encourage growth in a particular area. She didn't think they have heard anything from the water district that encouraged them to do this.

Mr. Poore said they consulted with the PWD early on in the discussion; the district does encourage avoiding dead ends, but they would not participate beyond an effort to upsize the pipe that was used. That would be an impact in the tens of thousands of dollars only. He said they do not have a clear idea of what is included in the Cumberland bid, how much ledge they are anticipating, etc.

Chair Farber said that radon is ultimately an air issue, and the water pipe would not alleviate any radon air issues that people might have. If developments came in in the future and wanted to partner with the town to install water, they could look at it. The moratorium on opening the road after the reconstruction only lasts for 5 years.

Councilor Svedlow said it is a cost issue. He said it cost him almost \$40,000 to hook up to town water when he built his house; it can be significant. He wondered how the cost to hook up would compare to the cost of a treatment system.

Councilor Kitchel asked how the water would flow. Mr. Poore said they originally looked at how to bring the water from Falmouth; with Cumberland coming in from Tuttle, he thought it would come from that direction. The pressure would be better from there.

Councilor Kitchel wondered if there was a way to determine how much ledge the contractor would have to go through to lay the water line; Mr. Poore said the engineers put in a number based on their experience in the area, but if they went over that the town would have to pay more.

Councilor Hemphill said the cost is a substantial issue; the per-unit cost of this is high. He said this is not the end of the possibility of having water in this area.

Councilor Ferrante understood the desire to have town water, but echoed Councilor Hemphill's comments on the cost per-unit. She questioned how many of them would be able to afford to connect, and none of them would be obligated to.

Councilor McBrady sympathized with the neighbors but said redoing the road and installing water are two different things. He was concerned with the cost and the possibility of running into ledge.

Chair Farber asked if they could fund this with an assessment on the properties that would benefit from it.

Mr. Poore said that they can mandate assessment fees with a sewer extension but that's a town department. The water line belongs to the Water District. He spoke with the Town Attorney and there might be a way to enter into a contractual agreement with the owners, but he wasn't sure what it would mean for the project if only a few owners entered the agreement.

Chair Farber asked about the final bid in Cumberland and where the line would end. Mr. Poore said they are coming very close to the town line, and it will be \$150/foot.

Councilor Svedlow asked if there are significant cost savings doing it now rather than waiting five years and what the final number would be five years from now. Mr. Poore said the reconstruction will go to the depth of a water line in some places, so there would be cost savings to do it now. They are only going to blow ledge if they have to. A water line has to be at a certain depth, and they would have to blow ledge if it was in the way.

Councilor King said that breaking the surface in 5 years to lay water line would compromise the road. Mr. Poore agreed, and said that the road reconstruction is intended to last far beyond 15 years.

Councilor Svedlow moved to suspend council rules to reopen the public comment period for anyone that didn't have a chance to comment previously. Councilor King seconded. Motion carried 7-0.

Sean Billington of Bentrige Drive asked if the water line extension would allow them to serve more than just these 18 people in the future, including potential growth as well as the homes on the side roads.

Chair Farber closed the additional public comment period.

Chair Farber said they looked at a build-out scenario, which showed 48 additional homes. The side streets are private roads, and those property owners would have to pay to pull the water line down their street. The town would not pay for that.

Councilor Kitchel was sympathetic but the town is not in the water business; he thought the water district would be the one to build it. He didn't think the town should be building the line; if the cost were better he might think differently. It is less costly to do water treatment than to tap into the line.

Councilor Kitchel moved the resolution; Councilor McBrady seconded. Motion carried 5-2 (Ferrante, Svedlow).

Councilor Svedlow clarified that he didn't feel that their cost estimates were sufficient for them to vote against laying the water line.

Item 8 Discussion about modernizing the current solid waste commercial hauling regulations (Part II, Chapter II-13 of the Code of Ordinances) and a proposed new regulation pertaining to collection of commercial solid waste containers/dumpsters.

Mr. Poore explained that a section of the ordinance regulates commercial solid waste haulers. When the waste-to-energy facilities were built, in order to ensure that the facility had enough waste, there was mandatory flow control so that all waste from the town went to the facility. Waste haulers had to purchase a permit and agree to this requirement. Ecomaine reviewed these requirements a few years ago, and it came to

his attention that the town hadn't been implementing this ordinance for 10 years, and that the language needed to be modernized. Secondly, the Council charged the Ordinance Committee to review all the Town's noise ordinances. After reviewing staff research, the committee decided the only change that needed to be made was a restriction on when commercial dumpsters could be serviced, in consideration of abutting residential properties. Staff has drafted possible language, but needs to review where in the ordinance this regulation should be located.

Councilor Kitchel asked where residential neighbors are disturbed by dumpsters. Mr. Poore said there are several areas and there have been some complaints. There are some buffers that can be installed, but they are not very effective.

The Council requested that staff proceed with updating the ordinance.

Item 9 Ordinance to amend the Zoning and Site Plan Review Ordinance in order to amend minor site plan review thresholds.

Councilor Svedlow moved the ordinance; Councilor King seconded. Motion carried 7-0.

Item 10 Update by staff on the West Falmouth Neighborhood Sketch Plan project.

Mr. Poore discussed how the Council could proceed with the plan, include drafting a resolution to allow for public comment.

Chair Farber was struggling with the density shown in the conceptual site plan design, and wondered how it related to what is allowed in VMU currently. She didn't want her approval of the concept to be read as approval of the density, with the lot lines as shown in the concept plan.

Councilor Svedlow agreed, and was concerned with where they would put all the cars, both traffic and parking.

Councilor Kitchel felt this would be the culmination of a lot of work to create a nice neighborhood. He said this build-out will be driven by market forces. He thought they should continue to massage this with more public input to determine what the ideal build-out would be.

Chair Farber asked about the current zoning. Theo Holtwijk, Director of Long-range Planning, confirmed that it is VMU.

Councilor King would like to affirm some of the principles of the design, include connectivity, commercial uses closer to Route 100, significant open/green space and community space.

Councilor Hemphill has received concerned emails about the town's "recommendation" to build this area out this way. He said this was not a requirement in any way. He encouraged this effort, but said in 20 years the chances that this would look exactly this way are small. He hoped some of the better elements would come to fruition.

Councilor King wondered if they could stress that this was voluntary.

Chair Farber wondered what the goal of this is. Councilor King said the goal was to work in tandem with the developer who is working on a contract zone to develop one of the lots, and to use this plan to inform both their work on the contract zone and also future zoning efforts for the area.

The council asked staff to draft a process resolution for the Council to consider at a future date.

Item 11 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 Kitchel moved the order; Councilor Hemphill seconded. Motion carried 7-0.

The Council entered executive session at 9:55 pm and did not return.

Respectfully submitted,

Melissa Tryon
Recording Secretary