

# **Town Council Meeting Minutes July 9, 2018**

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

## **Roll Call**

Councilors Svedlow, Kuhn, Asherman, Hemphill and Ferrante were present and answering roll call.

Councilor Cahan participated by phone.

Councilor King was absent.

## **Item 1      Public Hearing on amendments to the Code of Ordinances, Chapter 8, regarding temporary signs.**

Amanda Stearns, Open Space Manager, discussed the work the CDC did to draft the proposed ordinance. This language is designed to be compliant with the Supreme Court's ruling in Reed v. Gilbert as well as the Maine Travelers Act.

Councilor Kuhn asked how they determined the 42-day limit. The Council received some comment from the Farmer's Market. Ms. Stearns said that is one of the elements of the Maine Travelers Act; their maximum is 42 days per calendar year in the right of way. The limit on private property is 122 days to make accommodation for real estate signs. A sign could be replaced with a new sign. The ordinance must be content neutral; determining what constitutes a new sign will be an enforcement issue.

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

The Council was concerned about the restriction on locating signs in the esplanade on Route 1 and any effect that might have on the Farmer's Market.

Town Manager Nathan Poore said that element was added to the ordinance due to maintenance concerns for the esplanade on Route 1.

Ms. Stearns recommended that if they allow signs in the esplanade, that they continue to prohibit signs in the median.

The Council asked staff to contact the Farmer's Market to discuss any concerns they have and discuss how to incorporate some flexibility for signs in the esplanade on Route 1.

The Council asked to postpone the Planning Board's MRA hearing and the final order. Staff will review the proposed language and the discussion from tonight's hearing.

## **Item 2      Public hearing on amendments to the Code of Ordinances, Chapter 8, relative to food service establishments.**

Ms. Stearns said there are three classifications for food service establishments: permanent; periodic such as churches and schools, which serve periodically from a permanent location; and mobile food vendors, which have to have wheels and the ability to be moved. The current ordinance only addresses location for mobile food vendors, and does not address sanitation or other site concerns. The Town relies on the State food safety permitting and does not have a food safety inspector. The Ordinance Committee reviewed the entire Food Establishments Ordinance and have proposed merging permanent and periodic classifications, maintaining the mobile food vendors, and adding a classification for caterers.

Councilor Svedlow said the committee tried to focus their work on creating a simple ordinance but also on allowing mobile food vendors to operate in town.

Councilor Kuhn asked what criteria the Council would use to approve the licenses. Ms. Stearns said the ordinance outlines the process. The application would be reviewed by multiple town departments prior to the Council's review. The Council would determine the dates a mobile food vendor could operate, the location, hours of operation, and suitability of the site.

Councilor Svedlow said there is an application form that will be available for mobile food vendors.

Chair Hemphill asked about the application fees. Ms. Stearns said they reviewed other communities, as well as other application fees Falmouth collects to determine the fees.

Councilor Asherman asked for clarification on the requirement that the mobile food vendor be self-contained, and how the signage would be regulated. He wondered what would happen if the church had a fair and asked food trucks to come and the church wanted to put tables and signs out.

Ms. Stearns said in that example, the hosting organization would apply for an event permit to include food trucks. Tables and chairs would be included in that permit. Typically, a food truck will have a sign on it. Signage for these vendors is referred out to the code of ordinances.

Councilor Cahan asked about tables and chairs for food trucks; she wondered if it was all seating types. Ms. Stearns said the trucks are typically going to be sitting in a parking lot and taking up parking spaces that are needed for the permanent, permitted use. The intent was not to allow them to become sit-down, eating establishments.

Councilor Cahan asked for that intent to be documented somewhere for the future.

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

The order was scheduled for July 23.

**Item 3            Workshop discussion on a proposed mixed-use development at the Falmouth Shopping Center property and Turnpike Spur Ramp area by 122 PTIP, LLC and 20 Thames Street, LLC and the Council's review process.**

The Council discussed the options for moving forward and whether to schedule an order for the requested zoning amendment. At their MRA hearing on July 2, the Planning Board recommended that the Council deny the map change as requested and defer the discussion of the zoning change absent the presentation of a master plan.

Councilor Kuhn did not support a piecemeal process. She supported a full master plan process. She felt that this cannot be rushed. The Council agreed. Chair Hemphill said there is a large amount of information the Council needs before they can comfortably allow this large a development to proceed.

Ethan Croce, Community Development Director, gave an overview of master planning and the process to review and approve one. A master plan can look at just the general location of the buildings, infrastructure, and open spaces on a site, but can also regulate development parameters, the various uses that go in each building on the site, and even design features. He identified the differences between contract zoning and master plans, but pointed out that contract zones are not allowed in VC-1. A master plan follows the same process as an ordinance amendment; at a minimum, the plan would be introduced at the Council level, receive a public hearing at both the Council and the Planning Board before a Council vote. The Council can schedule additional public hearings if they would like. There is no application form for master plans; the Council would decide on whether a master plan would be an appropriate way to address concerns they have, in conjunction with zoning amendments. A master plan would regulate a parcel of land more strictly than the

underlying zoning but allows more predictability to the Planning Board review process. There is less for the Board to review once the plan is approved.

Councilor Kuhn asked how long the process took for each of the four master plans that the Town has approved. Mr. Croce said three of the four were approved prior to his time with the Town; the fourth, for Avesta, was a simplistic plan for a parcel that was mostly built out. All the master plans in Town were approved in conjunction with either new zoning overlays or zoning districts.

Councilor Asherman asked how the master plan would come into play in this instance where there is already a zoning district. Mr. Croce said that, since this lot is bisected by a zoning line, it is still in question whether a new zoning district would be needed for this development. Master plans can either relax some zoning requirements of the underlying district or be more stringent; it is a flexible tool that can go either way.

Councilor Kuhn pointed out that a master plan would not trigger a town-wide referendum. The referendum regarding the redevelopment of Mason-Motz was triggered because the Town was spending money. This is a private development.

Councilor Ferrante asked if the master plan process includes a finding that there is a public benefit, similar to contract zoning. Mr. Croce said that is not a written requirement of master planning, but the Council could require it.

Councilor Ferrante wanted to see dialogue opportunities if they hold public forums. She thought there was an opportunity for public engagement. She supported the parcel being all one zone and for the project to be well-planned. She asked how the process gets started.

Mr. Poore said the question is whether the developer wants to proceed with this type of process. If so, the Council has expressed an interest in studying this. The Council should discuss what studies they might want and also make a list of their concerns and their desires for the plan. The Council could also ask other committees to review and weigh in on a master plan.

Councilor Ferrante was interested in developing a timeline to guide the process to be fair to the developer. She didn't want to rush anything either.

The Council did not schedule an order for the zoning map amendment.

The Council supported drafting a timeline. There was concern raised that this process is continuing over the summer, when many people, including Councilors, are away. Councilor Ferrante requested a facilitated process for dialogue, and a collaborative process. The Council agreed with hiring a facilitator to conduct a workshop meeting.

Mr. Poore asked what studies the Council might be interested in having done. Options include but are not limited to traffic, light, noise and stormwater. He cautioned that studies on a conceptual plan would not be as informative as at the permitting level, but the concept plan could provide good guidance for studies, and the studies could provide information on what standards the development would have to meet based on current regulations and identify what the concerns might be.

The Council discussed the potential benefits of the studies, and at what point in the process to conduct those studies to be most helpful. Councilor Svedlow thought a traffic analysis of the concept plan would be helpful along with an economic impact study. Councilor Kuhn would like to see a high-level environmental impact study, beyond just stormwater. She was concerned that there might be wildlife impact since the parcel abuts the Nature Preserve. Councilor Ferrante pointed out that the developer did a traffic study already; she asked if there were any plans or proposed changes to traffic that came out of the study. Mr. Poore said no, the study has not been evaluated by the Town's peer reviewer. There will be a traffic impact; some of the analysis will review the extent of the impact and will inform their design.

Councilor Cahan asked if the environmental impact study would evaluate wildlife corridors, pollution impacts, and the impact of the artificial turf. For an economic impact study, she would like to see an

economic viability study of the incoming businesses. She was concerned about building all these buildings and then the local economy couldn't support them.

**Item 4            Order to appropriate \$92,660 from the Route One South, Route One North, West Falmouth Crossing, and OceanView-Natural Gas Tax Increment Financing Districts for the installation of wayfinding signage in Falmouth as recommended by the Community Development Committee on March 20, 2018.**

Mr. Poore said staff worked with the CDC to scale down the original proposal, which included more signs than they really needed. The signs that are up currently are showing their age and need to either be replaced or removed. He asked the Council to increase the appropriation to \$100,000 to provide some contingency funds. He said the signs were sized based on the size of the lettering and he discussed how big they are.

Councilor Kuhn appreciated that they scaled down the proposal but pointed out that they might want to add signs for the rinks, Community Park and the library. These are destinations for non-residents, who are the people who most need the signs.

Mr. Poore pointed out that the rinks are not publicly owned; West Falmouth is a broad geographic area, and they are not directing people to a specific business. He felt they can add the library.

The Council did not take up the order; staff will review the request to add the signs for Community Park and the library and bring it back to the Council.

Chair Hemphill opened a public comment period.

Keith Noyes of Gray Road requested that all the signs be taken down. They are ugly and don't go with Falmouth. He didn't like the across the street banner either. He said people don't use the signs anymore; they use their GPS instead.

Chair Hemphill closed the public comment period.

**Item 5            Discussion regarding a process to create an affordable housing development on Town-owned property on Marshall Drive, off Woods Road.**

Mr. Poore said the Council considered sending out an RFQ for development on this property. Staff put out an ad to gauge interest in a potential RFQ and received inquiries from several developers. He said Council should discuss what it would like to see in development on this parcel, as well as what the process should look like. They could assign one Councilor to be a liaison to staff and developers, or could form an ad-hoc committee.

The Council decided to discuss this at their retreat.

**Item 6            Presentation and discussion about a proposal for the Town to purchase remaining undeveloped land that is part of the Tidewater Master Development Plan.**

Michael Vance, President of the Falmouth Land Trust, gave a presentation on the Tidewater Master Plan which was first approved in 2005 and has had several amendments. The proposal is for the Town to purchase the remaining parcels of Tidewater from Bateman Partners, LLC, at the request of the property owners to expedite the process. The Town would then convey parcels to the Trust. He reviewed each of the parcels and what the original development intent was for each. He said this opportunity would allow the Trust to grow and mature. The proposal includes several phases: 1. The Town would purchase TF2, TF3 and TV5, and

Bateman would convey TF1; 2. The Town would raze the structures on TF2; 3. The Town would sell TF2 to the Trust and transfer TF1; 4. The Town would sell TF3 to the Trust; and 5. The Trust would engage in a capital campaign for the purchases as well as construction of their headquarters. The parcels would be purchased at a discount, and should the Trust fail to repay the land would revert to the Town. It is likely the Town could see a profit from such a sale.

Mr. Poore said staff support the proposal. This is a good long-term strategy to manage all the open space in town, with minimal risk.

Mr. Vance said the Trust has requested the Town put forward funds in the past, for the Hurricane Valley Farm property for example. This is a different model, where the Trust is assuming more responsibility and risk for purchasing this property.

Councilor Svedlow asked how much money they would be looking to raise; Mr. Vance wasn't sure, but it would likely be a 7-figure goal.

Councilor Kuhn asked if they have done a fundraising feasibility study. Mr. Vance said not yet; they have spoken with several consultants but haven't engaged any yet.

Mr. Poore said the next step is to draft the agreement documents with the Town Attorney, and for an appraisal of the parcels. He would bring this back to the Council for a vote once those reviews were complete. There would be an opportunity for public comment at the time of the order; the Council could add public hearings if they wish.

Councilors Svedlow, Asherman, Hemphill and Cahan voiced their support for the proposal. Councilor Kuhn supported moving to the next step and getting the appraisal.

**Item 7            Introduction of an ordinance amendment to Section 19-23.11 of the Code of Ordinances relative to extending the time limits for development under the Tidewater Master Development Plan for one additional year.**

Councilor Svedlow asked if this is enough time for them to address the issue. Chair Hemphill said staff have recommended the one-year extension.

The Planning Board MRA hearing is scheduled for August 7.

The Council scheduled the public hearing for August 13.

**Adjourn**

Councilor Svedlow moved to adjourn; Councilor Asherman seconded. Motion carried 5-0.

The meeting adjourned at 9:35 pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary