

# **Town Council Meeting Minutes November 14, 2018**

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

## **Roll Call**

All Councilors were present and answering roll call.

## **Item 1                    Resolution to establish a trail maintenance and development fund.**

Chair Hemphill said the Town has received over \$50,000 in donations from members of the community, mostly mountain bikers, for trail development and maintenance in Falmouth. Town staff have suggested establishing a fund for these monies and this purpose. He discussed the history of trails in Falmouth. The mountain biking community has been in the forefront of developing and maintaining trails in town and held a fundraiser to support the trails.

Councilor Svedlow commended Allspeed Cyclery and the mountain biking community for their efforts. The trails in Falmouth are the best in the area and these funds will go a long way to maintaining the multi-use trails.

Councilor King asked about the fundraiser that raised the \$50,000. Chair Hemphill said there was a seed donation and a challenge grant. There was also a fundraising event.

Chair Hemphill opened the public comment period.

Amanda Henson of Meadow Creek Lane thought it was wonderful that the biking community has done this fundraising to maintain the trails. She uses them and said Falmouth is lucky to have so many trails.

Chris Carleton from Allspeed Cyclery said it is great to work with the Town. They were surprised that they were able to get to this level of fundraising. He was grateful to the Town for being a good partner with the mountain bike community.

Chair Hemphill closed public comment.

Councilor Cahan moved the resolution; Councilor King seconded. Motion carried 7-0.

Councilor King asked if there were any other targeted maintenance funds. Town Manager Nathan Poore said there are not.

## **Item 2                    Discussion about the Greater Portland Transit District (Metro Bus) preliminary FY 2019 budget.**

Greg Jordan, General Manager of the Transit District, gave a presentation on the 2019 Metro Bus budget. In 2018, ridership has continued to be strong. The expansion of service in Gorham, Westbrook, Portland and South Portland, as well as adding the USM pass system, has led to increased boardings. He said they have added new, larger busses with wi-fi installed. In 2019, they want to examine how to improve Route 7 in Falmouth; a new, automated pay system; and a potential fare increase and fare capping. The total budget is increasing 13%, mainly due to expansion and programming improvements. The revenue sources are diversifying, including an increase in federal monies. The percentage of the total budget from local communities is going down. Falmouth's portion is going up by 8.9%; this increase is due to phasing out the subsidy the Town received when Route 7 was instituted. The Board is changing how costs are allocated across the communities as well, moving from miles to hours. This means the rate will more closely reflect the actual costs, most of which are staffing. They are also going to allocate fare revenue based on ridership.

Chair Hemphill asked what the traditional increase for Falmouth has been. Mr. Jordan wasn't sure, but he thought it was typically 3-5%. Without phasing out the subsidy, he thought the increase this year would have been closer to 1%.

Councilor Kuhn asked about ridership in Falmouth. Mr. Jordan said that ridership has increased across the district but has reduced slightly on Route 7. It operates every hour, which isn't appealing, and the hours aren't appealing either. They want to look at both the frequency and the scheduling in order to increase ridership.

Councilor King asked about what they are looking at to improve Route 7. Mr. Jordan said they will look at frequency, schedule, and coverage. He talked about some ideas they have and said they would conduct a public process to get feedback on some of these concepts.

**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 a discussion on the Council's review process for this project.**

Chair Hemphill explained that the Council requested additional information on stormwater, traffic, noise and light when they met with the developer at the end of June. The Town received this material and sent it out for peer review. The materials and the peer review reports are attached to the online agenda.

Mr. Poore discussed the submittals and the peer reviews. The peer reviewer said the lighting specifications submitted were acceptable. The materials submitted for noise were more informative of the standards and acknowledged that some mitigation would likely be needed. The town staff reviewed the stormwater material and felt that, if the Council includes a requirement in the zoning that the stormwater system on site be brought up to today's standards along with the amount of impervious area being removed with the ramp system, the stormwater treatment would be significantly improved from what it is today. The traffic report and its peer review were more informative of what the standards are. At a meeting with the engineers, Mr. Poore said the majority of traffic would be using two intersections, the new Spur/Route 1 intersection and the Bucknam Rd/Route 1 intersection. The impact would be mostly adding additional capacity for left turning movements. Staff has been working to examine the financial impact of the development if built out as proposed and captured in a TIF district. They thought they could expect \$100 million in taxes received over 30 years from this development. Staff reviewed several options for using that money, including funding infrastructure improvements, moving capital improvements from the town budget, and buffering the expiration of the two Route 1 TIF districts, which will happen 12-15 years from now.

Chair Hemphill explained that the developers are requesting zoning for the lot that would mimic the existing VC-1 zoning, with some specific exceptions:

- Light poles on specific field allowed to be 80 feet tall so long as the lighting impact/performance meets a very specific standard.
- Car wash to be moved to a very specific location and will meet current VC1 design guidelines
- One tenant area to be allowed to exceed 50K to 70K sf in one specific location for one specific use (single floor with no retail front required).
- Housing limited to 100 units that are not age restricted (55+) with no limit on age restricted housing.
- A minimum of 15% of all new building floor area and at least 50% of all first-floor tenancy, (not including parking garages) shall be retail, restaurant, etc. At least 50% of all retail, restaurants, etc. to be no larger than 15K sf tenant area each.

- On new construction except for 55+ housing and hotels, ground floor area of a larger multiplex would not be required to have retail/restaurants on ground floor provided the buildings are located at least 500 ft from Route 1.
- Outdoor recreation allowed from 6am to 11pm
- Any storm water treatments required for future development shall require the entire site to be brought up to current standards
- Maintain masterplan vision and accountability by including a basic masterplan (plan sheet graphic) but with flexible commitments.

Mr. Poore said the goal of the requirement that *“A minimum of 15% of all new building floor area and at least 50% of all first-floor tenancy, (not including parking garages) shall be retail, restaurant, etc. At least 50% of all retail, restaurants, etc. to be no larger than 15K sf tenant area each.”* was to ensure that there was the mix of types of uses and the pedestrian feel of the village center.

Councilor King asked if that meant that 50% of the retail, restaurants, etc. could be larger than 15K sf. Mr. Poore said that was correct; those would still be limited to less than 50K sf, according to the zoning.

Councilor Cahan wondered if the information that was provided met the request of the Council. She felt the material was more of an explanation that the standards would be met, and not what the actual impacts would be. She didn't get enough information from the noise and traffic materials.

Councilor Kuhn agreed; she said there were specific questions about the pellets for the sports field and how those would impact stormwater, and they didn't receive that.

Councilor King thought they would need information in the master plan whether there would be mitigation for noise.

Mr. Poore said they could put anything in the master plan. He felt the developer's goal is for the Council to establish the zoning, and then rely on permitting moving forward.

Councilor Asherman said the information from the developer said that the noise, lights, traffic are mitigatable. He said traffic and stormwater are a permitting process. These will go through Planning Board and the state permitting process; all these details will be dealt with at that level. He wondered if the Council can get to those levels at this point.

Councilor Svedlow said the developer is asking for a number of changes to the current zoning; if it was meeting VC-1 zoning, the minutiae would be less important. With the changes they are requesting, the layers of zoning make this a complex project. He agreed that the Council doesn't have the expertise to look at this at the same level as the Planning Board.

Chair Hemphill argued that these are not substantial changes to the VC-1 zoning. The sports complex would be allowed in VC-1, but not on the section of the property that is zoned BP. They do have significant influence on how this project impacts the community.

Councilor Cahan said any time a land use zone change is proposed, it is an opportunity for the Council to review whether the changes are appropriate for the town. There has been a vocal portion of the community that has said that it isn't. They requested some specific information and did not receive it. The lights and noise are significant to the community members. They asked for a baseline of what it is now, and what the development would bring it up to.

Chair Hemphill argued that the information they have received is sufficient to tell him that the items are suitable for review at the permitting level.

Councilor King asked what parameters they should put into the master plan. There has been no baseline test on the noise level that is there now. She asked what the responsibility of the Council regarding statements

that are included in the master plan to protect the community. She wondered if the master plan is where the Council puts in boundaries to protect the community.

Mr. Poore thought she was looking for some idea on what is currently in zoning that protects the community, what isn't there, and where there is flexibility. The master plan typically addresses form, where things are laid out. Traffic is very complicated, but if the area is at a level D, they can't make it any worse, so they would have to do some mitigation, perhaps by adding a left turn lane. The DOT might require that, but it might be waiveable, and if so, the Council could add a requirement to their zoning.

Councilor Kuhn thought there is more accountability in the zoning than in the master plan. Mr. Poore said it is clearer.

Councilor Kuhn agreed that they can't review this at the level of the Planning Board, but they have to evaluate what the community wants in this area. She said she needed more information on the noise and the traffic. She wondered what data the traffic material used.

Councilor Ferrante was interested in the peer reviewer's expertise regarding traffic and mitigation.

Tom Errico, the town's traffic engineer, from TY Lin, said the applicant has been following MaineDOT methodologies to estimate the trip generation. This is a requirement of DOT. He said there are instances where a land use is unique, but he felt in this case the estimate is probably pretty good. He agreed that the number of trips, 1100, is large, but the fortunate thing with this project is the location and its access to I295. There will be impacts at Bucknam Road, there will be requirements for mitigation, and there are already improvements planned for the intersection at Bucknam which will help. They are also proposing new access at the current spur location. 75% of the traffic is expected to get onto the Turnpike and I295, leaving 25% of the traffic to impact local roads. He said this is the first step in their methodology; the next step is to submit a traffic movement permit and have that reviewed.

Councilor Cahan wondered if this would shift the local traffic down to Depot. Mr. Errico said it is possible. He said there are specific standards they need to meet with traffic. For example, there could be intersections that are currently level B that could degrade to level C; according to DOT they would not be required to mitigate those since they would still be above level E.

Councilor Svedlow said that was a place where they could add a standard to require mitigation.

Mr. Errico said he cannot recall any community requiring mitigation of an intersection that degraded to a still acceptable level to come back up to its previous level. Increasing the size of an intersection has other impacts, including environmental and pedestrian. Having a slightly longer delay during certain peak hours is okay in order to ensure safety the rest of the day. Safety is another factor, and they would have to consider that.

Councilor Ferrante wondered about an intersection that degraded from an A to D. Mr. Errico said the level is based on delay. He said queuing is another statistic that they need to consider when reviewing the traffic at an intersection.

Councilor King mentioned the traffic backed up on the exit ramp from 295 and wondered where their responsibility lies with regards to that issue and the zoning. Mr. Errico said the DOT would take a hard look at the impacts to I295. That would be part of their review process.

Councilor Cahan thought this traffic material would include a review of each intersection and what the impact would be. Mr. Errico said it is difficult to determine how much information to provide for a zoning change. The information Councilor Cahan mentioned is more like a traffic study.

Councilor Asherman pointed out that there is a difference between a zone change and a development review.

Councilor Cahan felt the two are tied in this instance. She said there is the possibility that the zone change could be approved and then the land is sold. The new owner would benefit from any zone change they make.

Councilor Ferrante felt the in-town traffic is what most residents are concerned about.

Councilor Kuhn felt it was important to look at the in-town diversion. This is broader than a couple intersections.

Mr. Errico said the study area hasn't been defined, but it will probably be a two-mile radius.

Councilor Svedlow said the studies did a good job describing methods, but didn't really answer questions, and didn't give the Council the data they asked for. Studying the particulars at this stage isn't helpful, to his mind. He said they should be discussing thresholds that they want to establish. He agreed with Councilor Cahan that they need baseline data in order to do that.

Bruce Munger, of HNTB, traffic engineer for the project, said he used to review these types of projects for the DOT. He said the traffic movement permit requires them to look at the baseline and then the impact of the project. They have submitted an application to DOT, and the Town has a copy. They use a standard method to determine the traffic increase. He discussed the process for the application and the permitting review. They are now collecting volume data for the review. He spoke about improving signal technology that can mitigate impacts.

Councilor King asked how long it would take before they have more information. Mr. Munger said they have to go through the process with DOT; they met with them a few weeks ago and DOT requested more information. When DOT is satisfied with the data, they will accept the application and they can move forward with a scoping meeting.

Mr. Munger clarified that the application does not include the analysis of the intersections yet. He pointed out that this development is at the crossroads of the three major routes in Maine: I295, the I95 and Route 1. There is major capacity here; the goal is to determine where people are coming from and going.

Councilor Cahan thought the majority of peoples' concerns is that the development is providing a local draw.

Mr. Munger said the sports complex has different peak traffic times than the local peak commute times. Any mixed use will be a draw during am/pm peaks. Mr. Errico agreed that, traditionally, sports fields have different peak times than am/pm peak.

Councilor Cahan thought this type of information was going to be included in the report that was presented. Councilor Svedlow requested a memo that summarized the application. Mr. Munger asked what pieces they would like to look at. He said they cannot provide a traffic study until that process is complete. He said the sports complex alone would not trigger a traffic movement permit.

Mr. Poore asked if there would be an impact if transit is increased in the area. Mr. Munger said they don't typically analyze transit in Maine. Mr. Errico said in Portland they do see a reduction, due to the density of development. He thought the density of this development might warrant a reduction.

Mr. Poore said the traffic study typically looks at the M-F am/pm peak hours and designing for those. He asked if designing for those peaks is considered to be sufficient to accommodate increased traffic on Saturday. Mr. Munger said idea is to design to mitigate for the worst-case scenario, usually that is M-F peak hours. In some cases that is Saturday, but the data for Falmouth reveals that worst-case is pm peak.

Councilor Svedlow wondered why the Council would want to act prior to the traffic study being submitted. He felt they needed to establish a threshold in the zoning across which no development should be allowed to cross.

Chair Hemphill felt they could send this request to staff to draft ordinance language for the Council to review.

Councilor Svedlow said he had no issue with the stormwater. He said the noise and light concerns are tied to the sports fields.

Councilor King wondered about the impact of the exhaust fans on buildings; Mr. Poore felt those would be far away from the residences and can be addressed with current zoning language.

Councilor Cahan asked if there were any comparable lights to those that are proposed for the field lights, and if a site visit could be arranged so that the Council can review them.

Steve Bushey of Stantec thoughts the new lights at the Freeport athletic field are comparable to the technology that is proposed for this facility.

A representative of Musco Lighting spoke about lighting levels. He said the level of the lights are at 0 at the property line; the community will not be impacted by the lights at all. This is why they are requesting the 80-foot poles, with controls that direct the light and shield it.

Mr. Poore asked what they closest neighbors will see through the vegetation when the lights are on. The gentleman from Musco said the measurements show that the readings will be at 0 at the property line.

Jonathan Cohen, developer, said there is a line of evergreens along the property line that do not lose their leaves. Neighbors will not be able to see the fields at all.

Councilor Cahan repeated her request that they see similar lights; Mr. Cohen said they will try but this is the latest technology and he wasn't sure if there was a similar installation in the area. The Freeport fields are lighted for football, where the balls are in the air. The sports they are lighting for have the balls on the ground; the lighting requirements are different.

Mr. Cohen spoke about the traffic; a residential development does not have to do a movement permit nor mitigate for changes. He argued that the infrastructure project, which made the Route 1 corridor more beautiful, degraded the traffic. He said the only chance they have to mitigate that without the Town paying for it is this development. He said they need to understand what VC-1 and BP allow right now. He argued that without development, the town traffic situation gets worse and the Town doesn't get the tax revenue. He said they are looking for the Council to agree in theory and allow staff to work on zoning this "VC-3". He discussed the few changes they are asking for in this zoning from VC-1.

Councilor Ferrante said she got her needs met tonight. She didn't feel they needed the thresholds; she felt they needed general language to identify what they're concerned about. She had a lot of faith in the rest of the process. She agreed that the noise and lights were from the outdoor fields and was more concerned with the noise than the lights, and felt they can make changes, tweaking hours of use for example, to address those concerns.

Chair Hemphill agreed with Councilor Ferrante. He suggested that they send this to staff to draft ordinance language for them to review.

Councilor Asherman said he was comfortable with the stormwater. He was grateful for all the discussion about traffic, and felt their concerns were well documented. He said his property abuts the high school, which does not have modern light technology and does have PA systems. Occasionally he hears noise during a football game, but it does not concern or bother him. He said the parking lot lights here at Town Hall are not at this standard and he is right next door; they don't bother him. He felt the noise and lights can be dealt with.

Councilor King was not concerned with the stormwater. She was willing to go to Freeport to review the lights. She said someone suggested that the lights be off at a certain time. She lives near the high school, and felt the lights are a problem. She was grateful for the discussion on the traffic.

Councilor Kuhn is still concerned with the lights and would like to have a trip to view some. She felt that specifics would help them move along.

Mr. Poore discussed a proposed process. If the Council directs staff to draft ordinance language, he felt the easiest thing would be to draft a "VC-3" zone. There could be a master plan component, but there is very detailed underlying zoning in this area already. Part of the zoning would be more restrictive, binding them to do certain things that are not addressed in VC-1. Staff would identify policy areas where Council would need to make a decision, outdoor operating hours for example. He thought they would bring in a first draft before

a formal introduction. He didn't think it would be a lot of drafting work, since they can use VC-1 as a base. When VC-2 was drafted, it also used VC-1 as a base. He mapped out the process beyond that; there would be two opportunities for public comment during the Council process, and several during the Planning Board permitting phase. He would like to meet with Mr. Errico regarding the Council's concerns on traffic impacts at the intersections, as well as meet with engineers on the light impacts.

Councilor Cahan said she got good information at this meeting. She still has questions about noise, and wants more information on where the traffic is currently, in order to evaluate the thresholds they want to enforce.

Councilor Kuhn asked whether the zoning is for the sports complex, or the whole development. Mr. Poore said it would be for the whole development.

Councilor Kuhn asked if there were any financial arrangements between the Town and the developer; if so she would like to see those details. Mr. Poore said he thought she was thinking of the TIF development plan and that would be in a contract.

Councilor King would like to see a picture of the benefit the Town might see from the development. Mr. Poore said he will try to bring a draft TIF plan to a future meeting but cautioned that there would be a lot of assumptions in such a plan at this point.

Councilor Ferrante wanted to mention phasing; it was a conversation she wanted to have. She pointed out that the impacts would happen over time.

Councilor Cahan agreed; according to the schedule the construction might extend through 2025. That is a long time for construction to be going on in the area. She felt it was important to communicate that to the community and explain why they might agree to that if it is approved.

The Council asked staff to develop draft language and bring it back to the Council for review.

**Item 4                      Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).**

Councilor Svedlow moved to enter executive session; Councilor Asherman seconded. Motion carried 7-0.

The Council entered executive session at 9:49 pm and did not return.

Respectfully submitted,

Melissa Tryon  
Recording Secretary