

Town Council Meeting Minutes December 10, 2018

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

Roll Call

All Councilors were present and answering roll call.

Pledge of Allegiance

Chair Hemphill led those present in the Pledge of Allegiance.

Special Item Recognition of Police Chief Edward J. Tolan on the occasion of his retirement.

Representative Teresa Pierce presented a sentiment from the State of Maine to Chief Tolan.

Chair Hemphill read a recognition from the Falmouth Town Council.

The Council and members of the Falmouth Police Department congratulated Chief Tolan on his retirement.

Chief Tolan thanked everyone for their kind words, the Council, the members of town staff, the Department, and the citizens of Falmouth for their support over the years.

Item 1 Public Forum

Dan Glover, a member of the Archangel Committee, presented the Town of Falmouth a Patron certificate and plate in thanks for their support of the photo exhibition the committee hosted to commemorate the 30th anniversary of the city sister relationship between the Greater Portland Area and Archangel, Russia.

Item 2 Consent Agenda

- **Order to approve the minutes of the November 14, 2018, Town Council Special Meeting.**
- **Order to approve the minutes of the November 26, 2018, Town Council Meeting.**

Councilor Asherman moved the consent agenda; Councilor King seconded.

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

Motion carried 7-0.

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

Chair Hemphill said ecomaine is looking for nominations for their eco-excellence awards. Individuals and groups can be nominated for recognition.

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

There was no report. The committee will meet on January 7.

Item 5 Discussion about required documents that will need future action by the Town Council, which are associated with the transfer of certain land referred to as TF1, TF2, TF3 within the Tidewater Master Planned Development District to the Falmouth Land Trust.

Mr. Poore said the Council discussed the draft of these documents at their last meeting. The Town Council will hold a special meeting on December 20 at 7:30 am to vote on the final documents.

In response to Councilor King, Mr. Poore explained that the Town would purchase the properties known as TF1, TF2, TF3, and TV5. The Town will transfer TF1, TF2, and TF3 to the Land Trust and retain TV5. TV5 will be further subdivided at a later date to provide the opportunity to buffer and/or expand the wastewater treatment plant and the remaining land would be held for possible wetland mitigation in the future.

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

Councilor Asherman moved to move forward on this item; Councilor Kuhn seconded. Motion carried 7-0.

Item 6 Update from the Long Range Planning Advisory Committee (LPAC) on residential growth and density and recent zoning changes.

Breana Gersen, Chair of the Long-Range Planning Advisory Committee (LPAC) gave a presentation. She noted the following take-aways:

- The 2013 Comprehensive Plan and its Growth and Rural Areas provide the policy basis for the zoning rules.
- The Plan and subsequent zoning were carefully established.
- Overall growth in Falmouth has not reached annual growth caps.
- New growth enabled by July 2016 amendments has been modest and is spread out.
- The Residential A (RA) district is quite varied. Work remains to examine how well each new project fits within the RA neighborhood.

Councilor Chair Hemphill noted that LPAC's presentation had recently been attached to the Council agenda item and encouraged people to take a look at it. LPAC has done a lot of work.

Councilor Ferrante stated that she appreciated LPAC's work and the gathering of data, public responses, and public meetings that had been held. She felt that that work started to matter. She felt that the 32 opportunities that had been created in two and half years did not result in a crisis mode for her. She was interested to see a list where the potential problem areas were. She felt that a lot width change in the RA district may address the concern there. She also liked the idea of breaking the RA district into smaller zones.

Councilor Kuhn stated that she appreciated the thoughtful work by LPAC. She noted that the RA district is quite varied compared to other districts. She felt that, by accommodating the smallest lots in the RA district and making them conforming, other problems had been created. She thought that different accommodations could be made for different parts of the RA district. She sensed urgency to address this as there were a lot of places on the market.

Councilor Ferrante asked Councilor Kuhn if she felt the urgency was in the RA district. Councilor Kuhn said yes, but that there may be other areas that should be looked at as well.

Councilor Cahan said that she liked to see a division of the RA district and that she had visited the sites that had been enabled by the new zoning. While doing that she saw various other properties that could be developed and that concerned her. She requested input from law enforcement and the fire department. She wondered if access to some of the narrow streets would still be adequate if twice as many homes were there. She suggested LPAC investigate development mitigation fees for schools. She wondered what the tipping point was where they would need such fees. She said she was interested in a second public forum. She noted that one of the goals is to have a walkable community but felt that required destinations to walk to. She said that in the Foreside that could be to one's neighbor or to the water, but otherwise was limited. In the Flats it would be great to have a coffeeshop to walk to, but that walkability may be limited as destinations to walk to are limited. Seniors do not walk far. She said that the presentation stated that the growth caps had not been met, but that the total amount of new development was higher than the caps. She felt that the growth cap data was misleading.

Councilor Chair Hemphill thanked LPAC for its work and for gathering community input. He thought that useful and surprising information had been presented. He said he was involved in crafting the 2016 zoning amendments and that unanticipated consequences had been expected. He noted that the perception is that Falmouth is growing fast and felt that any drastic changes should be mitigated. He hoped that agreement on any zoning amendments could be arrived at. He said he was intrigued with having multiple RA districts.

Councilor King said she appreciated the past work by LPAC and the work to date, including the data analysis. She felt that a good start had been made on the RA district. She thought that identifying the problem may be difficult. She felt the problem was not the rate of growth in Falmouth, but was not sure if it was lot size, lot coverage, lot width, or something else. She thought it was important, if changes were going to be made to the RA district, to relate that district to the other districts. In response to Councilor Cahan's comments, she felt the Foreside was very walkable and that people walk there for exercise, walk their dog, or to go the store. She also noted that the growth cap exemptions for housing for older persons and for affordable housing were a policy decision by the Council, one that she supported.

Councilor Asherman said he appreciated the work by LPAC and found it very informative as he had not been involved in that earlier effort. He was surprised to see the rate of growth data. He felt that elderly housing and affordable housing should be promoted and not limited. He said that he had lived, so far, all his life in Falmouth and knew it well. He agreed that the RA district was very diverse, and that each street had its own character. He felt that more detail should be looked at, but that LPAC was going in the right direction. He thought that frontage was an aspect to look at closely.

Councilor Svedlow stated that he generally agreed with had been said. He saw nothing alarming and felt that growth was not the issue. He realized the Town is trying to direct development but wondered if certain areas had been over-incentivized. He commented that the RA district was a diverse zone. He felt that going to a single lot size for the entire RA district was a fundamental flaw. For example, he said, making all lots conforming by making the minimum lot size 5,000 sf was not a solution. He felt that adjusting lot widths may provide a quick fix. He did not believe that the zoning regulations in the rural area should be revisited.

Councilor Ferrante said she wanted to direct LPAC based on what the Council had said. She said it seemed that the RA district needed urgent attention, and that LPAC should not concern itself with building height or home design issues but should focus on lot width in trying to achieve greater conformity and relate it to the Residential B district as well. For a Phase 2, she wanted LPAC to tell the Council what the other concerns were. She thought that a second forum should contain education of the public as it does not know the data and should have the ability to ask questions about it. She said that it was normal for a knowledge gap to exist between Town Hall and the rest of the town.

Councilors stated that they concurred with Councilor Ferrante's summary.

Councilor Chair Hemphill stated interest to see where RA 1, 2 and 3 may be. He agreed that reviewing home designs may be difficult and that quantifiable measures were preferred.

Councilor Svedlow said he agreed with Councilor King. He said that it seemed that LPAC likes numbers and that figuring out median lot widths would be informative.

Councilor Kuhn said she could list the densest streets in the RA district. She urged LPAC to keep it simple, and that the RA district should be addressed first.

Councilor King reminded the Council that public comment from one person was pertaining to the Residential D district.

Councilor Cahan stated that she too wanted to thank LPAC for its work and providing historical documentation. She felt the second forum should start with that information.

Chair Hemphill reminded the Council that the momentum to look at growth and density issues had stemmed from some large developments that had been proposed in West Falmouth, such as Homestead Acres. While that project had nothing to do with the 2016 zoning amendments, Chair Hemphill noted that the Council did promise to address those concerns and he did not want the Council to forget that.

Councilor Ferrante said the RD district pertained to the area west of the Turnpike. She felt it was highly unlikely that that area would ever have public sewer. She felt that LPAC should include an opinion survey in its data gathering as many people do not come to meetings.

Councilor Chair Hemphill asked if LPAC members or staff had any feedback on the Council's comments.

Theo Holtwijk stated that the direction of the Council was clear: focus on the RA district and lot width. He felt that the RD district issue was straightforward. As far as large development proposals are concerned, he felt that the tool to handle those was the growth caps that the Town has in place. He commented that it was important for the Council to be on same page about how to use growth caps as some felt they worked well and others had stated they represented misleading data. As far as what other issues may exist, it seemed to him that neither LPAC or the Council was completely clear on that and that more discussion was needed.

Councilor Cahan clarified her position on the growth cap data. She stated that one way to represent all growth is including the current exemptions in the cap but providing incentives for those types of housing and prioritizing them. She stated that the Town should continue its current policy towards these uses.

Councilor Kuhn asked Theo how the schedule looked like based on the Council's direction. Theo stated that some outside GIS help by Judy Colby-George would be needed to analyze lot widths in the RA district. Judy has helped LPAC in doing that work before in coming up with the Year 1 recommendations. He noted that another update to the Council may be helpful before a second forum is held.

Item 7 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.

Councilor Kuhn said there is Council buy in on the comp plan goals. After the recent development forum she looks at the Falmouth Center project differently. She has a foundational concern about the project that might not be resolved with delving into specific details tonight. She thinks Portland is bursting at the seams and becoming unworkable and that Falmouth is in the first ring of suburbs to absorb development pressure. She is concerned about making zoning changes for one project. She hears excitement about parts of the plan, like the restaurants and hotel, but thinks people want it to happen within the framework of current zoning and not in the BP area. Recent Council discussions about residential growth has impacted her view of this project.

Councilor Cahan said she has similar concerns to Councilor Kuhn. Many of aspects of the project meet what was asked for in the comp plan but the scope of the project seems overwhelming and she is grappling with scope and traffic impacts.

Councilor Asherman said he thinks the existing shopping center has been a blight for 20 years. He thinks this is a great opportunity for a single developer to put the Route One vision together instead of having the vision develop piecemeal along Route One. He thinks the project can be done well with minimal impacts to the community as a whole.

Councilor King said she agrees with Councilor Asherman. She thinks the developer can develop the land now and thinks the Council can develop zoning for it. She thinks development needs to be allowed proximate to Portland. The Council can play its part and then put trust in DOT, the Planning Board, and the developer to do the best job they can.

Councilor Svedlow generally agreed with Councilors Kuhn and Cahan. The developer has a right to develop property consistent with existing zoning. Anything beyond that is an ask that needs to be developed carefully.

Chair Hemphill said the Town engaged in a previous process to look at this area. There is an “ask” since the property is bisected by a zoning district line. The Council should be aware of what can happen under the existing BP zone without the same mixed use that the developer is proposing and that he thinks the Town is interested in encouraging along Route One. He was interested in learning about how to mitigate concerns and what economic benefits this project could have. He echoed Councilor Asherman’s thoughts about the advantage of having a large coordinated development instead of an incremental approach along Route One.

Steve Landry, State Traffic Engineer, said DOT is at the beginning point of Traffic Movement Permit process. The developer would have to mitigate impacts on the traffic system. The scoping meeting will review where trips are coming from, what roads they are on, set up the study area, and ask the applicant to study intersections and roads in that area. Then it will look at what mitigation needs to happen along that roadway. The statute has criteria that govern process. They are not yet at the point where they know what fixes might be required.

Councilor Ferrante asked how the scoping area is decided. Mr. Landry said total number of trips is developed and those trips are assigned to roadway network. One trip is in and one is out. The study area goes out to where there are a threshold number of vehicle trips in a particular type of turning/travel lane. Normally the area is maximum of a two-mile radius. This would cover almost all of Route One.

Councilor Ferrante said she’s not at a stage to put parameters around traffic. She wants to know that the concerns of the Town will be navigated well and asked what kind of trust the Council can put in DOT. She thinks there are already traffic issues on Route One and wonders if it could be even better after build-out than now. Mr. Landry said he isn’t sure what she means by looking out for the Town’s interests but there are rules in place that define a Level of Service (LOS) D as being acceptable. He cannot at this time point out a specific intersection as needing attention and he cannot at this time say if that will be better or worse as to what’s out there today. He knows that mitigation might be needed but you cannot hold a developer to a higher standard than what is in the rules.

Councilor Ferrante thinks what is out there now for existing conditions doesn’t work well in her opinion. Mr. Landry said congestions is relative to where you are from. If you are from Washington D.C., you wouldn’t necessarily think Falmouth has traffic problems. He said the DOT doesn’t take into account quality of life issues.

Councilor Svedlow wondered about mitigation. Mr. Landry said if the LOS declines below D you can look at traffic demand management options (e.g. busing, shuttles, widening road by adding lanes; look at existing signals – are they working properly, can they be timed better to allow more efficient traffic flow; can use signals to make adjustments by time of year; can look at traffic when school is in session vs out of session). Until DOT has data he can’t know what the best solution will be on Route One.

Councilor Asherman asked if DOT recommends mitigation or if the developer proposes solutions. Mr. Landry said as part of the traffic study, the applicant’s engineer makes recommendations. DOT will talk to

the Town before finalizing the permit and offer potential alternatives. At the end of the day it will need to be mitigated.

Councilor Kuhn asked if, at the end of the day, DOT is the decision maker. She said we've spent a lot of money creating a "Main Street" on Route One. She asked if DOT could decide it needs to be a 4-lane road. Mr. Landry said yes.

Councilor Cahan asked for confirmation that DOT could force Route One to be widened to accommodate the development. Mr. Landry said he would talk with the Town about different solutions. If the Town doesn't want its roads to be superhighways then the Town can look at other alternatives like building parking lots at entrances to Town and shuttling people in. Portland is building garages downtown which attract cars because it gives cars a place to park. If the Town doesn't want that then the Town can develop policies and ordinances to reflect that. DOT is only a permitting agency. Sometimes denials come in the form of mitigation that cannot be built.

Bruce Munger, the developer's traffic engineer said they have to conform to DOT rules but the Town is a participant in the process. They will look at LOS and present to DOT, the Town, and its peer reviewer. He worked on Scarborough Gateway and that project is still building out after 15 years. Biddeford Crossing was another large project that didn't have as much traffic impact as projected. This project will not be built all at once and mitigation will happen over time. DOT also has a lot of projects already programmed for Falmouth including improvements that will mitigate existing problems on Bucknam Road. The next step in the process is setting the scoping meeting.

Councilor Asherman said a lot of people would like the traffic study completed before the project is farther along. Mr. Munger said a TMP was submitted to the Town. They are engaged in a back and forth with DOT currently. They are assuming a 2-mile radius for the study area at this point. Once DOT accepts the application they will set a scoping meeting date. Once the data is set, the study area will be discussed.

Councilor Svedlow asked what the developer is assuming for a date of DOT approval. Mr. Munger said the goal is to get the application accepted by DOT by the end of year.

Councilor Svedlow reiterated the question and asked when the developer expects to have the DOT permit in hand. Mr. Landry said after the scoping meeting the ball is back in the developer's court. Once the traffic study is complete the DOT has 120 days to issue a permit. Timing of issuance of permit depends on how complicated the project is. DOT has a new staff person, so this permit may take longer.

Councilor Svedlow asked if six to eight months is a realistic timeframe for issuance of the permit. Mr. Munger said he's seen permit issuance take up to 18 months.

Councilor Svedlow asked, based on information collected to-date, whether Mr. Munger expected or could speculate what the degradation of LOS will be. He asked if Mr. Munger expected LOS D or below for something not already D. Mr. Munger said Bucknam Road is F currently but DOT is working on that. He said minimum standard for developer for full build is that nothing works worse than it does now.

Councilor Svedlow asked Mr. Munger to confirm that that only is true if the LOS is D currently but that if LOS is higher conditions can degrade to as low as LOS D. Mr. Munger said that was correct.

Councilor Ferrante asked if the Town has to agree with that. Mr. Poore said the Planning Board has a process too. Councilor Kuhn said tying the Planning Board's hands is tricky because the Town wants to also maintain the look and feel of its investment in Route One while still maintaining LOS.

Councilor King said traffic should be going slowly where you have a walkable village center.

Councilor Cahan asked for confirmation that there will be a mitigation plan to address construction related impacts. Mr. Munger said yes. Mr. Landry said when DOT does construction on their roads they go through traffic assessment and evaluation to determine impacts on roadways. If delay is unacceptable DOT mandates

night work or other time of day restrictions. Regarding shuttle as mitigation, that could be in there, but the amount of mitigation accomplished will need to be acceptable. Shuttle alone might not be adequate.

Mr. Poore said, with the Route 100 project, DOT weighed in with limitations on when lane closures could occur and the timing of construction. For the Lunt Road project there will be a traffic signal across Lunt Road. The Bucknam Road signal is coming back and will likely be there permanently. Lots of Town staff get involved in those discussions.

Councilor Cahan wondered about smart signals. Mr. Poore thinks mitigation might call for that advanced signalization.

Councilor Ferrante asked Mr. Croce about the Planning Board permitting process for MDOT. Mr. Croce explained the process where the DOT TMP is required to be obtained prior to the Planning Board considering final approval so the Planning Board is able to review and provide input on the traffic component of projects prior to issuing any final decision.

Chair Hemphill referenced the lighting field visit in Freeport earlier in the day where the Council saw similar height lights to what is proposed. Councilor Asherman said the Freeport lights were 50 footcandles (fc) and this developer is proposing 30 fc.

Mike Berry from Musco lighting said there isn't a similarly lit field as what they are proposing until you get south of Boston. The Freeport fixtures are the same type however and the pole locations are similar. There will only be 7 fixtures per pole in Falmouth as opposed to the 12 to 14 fixtures per pole in Freeport. Within 60-90 feet of the field the light levels drop to about 0.2 fc.

Councilor Svedlow asked if abutters from Meadow Creek will be able to see the field at night. Mr. Berry said he can't be sure. He would venture to say no but you would only be looking at a lit field not looking at the lights.

Councilor Cahan said the lights in Freeport didn't spill outwardly and that was good to see but you can still see a well-lit field. Mr. Berry said he can't confirm what the lines of sight will be from abutting properties.

Councilor Kuhn said she was impressed as to how quick the light fades off on the side of the field. She pointed out that the entire area will look very different with a lot of new light sources, so she isn't sure how helpful it is to review just the impacts of one field when the overall impact will be bigger than that.

Councilor Svedlow asked about DEP Site Law permitting and whether they have talked to DEP about how this will get evaluated by DEP on that criteria.

Steve Bushey with Stantec said site law permit is triggered with over 3 acres of developed area. A visual quality standard applies but after doing 20 to 30 of these over his career he thinks the visual standard with wind farm projects has been where the standard has been most difficult to meet. He said that a local standard sometimes has tighter regulation.

Councilor Svedlow said, for him, this is a contrast to the issue of traffic impacts where it is appropriate for the Council to be putting faith in the DOT review.

Mr. Croce explained that the Town has different lighting standards in its ordinances and that, because the proposed outdoor fields would be considered a conditional use, issues of light trespass and glare would be reviewed by both the Board of Zoning Appeals and the Planning Board. He mentioned that the proposed 7 am to 10 pm restriction on use of the outdoor fields has not been thoroughly vetted by the Council and that restriction can be the subject of further discussion.

Councilor Svedlow said he isn't keen on the outdoor fields and wouldn't consider allowing any field use outside of the hours between 8 am and 8 pm.

Paul Willis, President of Seacoast United, said the Epping N.H. location has four outdoor fields and he can't remember ever turning the lights on in the morning. There are also many nights when the lights aren't on.

In winter time there isn't typically anyone playing. They get many requests to allow play until 11 pm. At the end of play, lighting is reduced to one light per field for a limited period of five minutes just to allow people to safely exit the field then the lights shut off completely. 10 pm is an important time for play to go to because that is how they accommodate groups like adults and co-ed leagues.

Councilor Asherman asked about the seasonal use patterns. Mr. Willis outlined a typical season: in August, kids play on preseason teams/practices. In fall, younger age groups play because high school kids are playing in high school. When high school sports finish in October/November, kids will come back to play until the end of November. In March, they start tournaments. In April, kids can start playing with their school teams. Soccer finishes in June. Lacrosse and other sports occur more in the summer.

Chair Hemphill mentioned hearing concerns about exclusivity of the fields and wanted to know about community use of the fields. Mr. Willis said they cannot be exclusive because it would be detrimental to their business model. They do offer time to high schools and community programs and sometimes make arrangements to allow schools to use their fields in exchange for schools letting Seacoast use school fields during heavy tournament times when more field capacity is needed. They do this with Epping where they trade field time and provide special deals.

Councilor Svedlow asked about the nature of the lines on the fields. Mr. Willis said they have both inlay lines and painted lines.

Councilor Kuhn inquired about exclusivity in the context of financial accessibility for participants. Mr. Willis said they have a scholarship program and financial aid opportunities.

Councilor Kuhn asked for confirmation as to whether the fields would be used throughout the winter. Mr. Willis said they will use the fields if they can, but it is purely dependent on the weather. December, January, and February are the least used times of the year. The fields are plowable.

Mr. Berry said all sports will be low ball sports and so there is no need to provide different lighting.

The Council discussed the composition of the turf. They have expressed concern about the impact of granulated rubber and other materials on the environment as well as human health related issues.

Harlan Michaud from NET sports group said the resiliency of shredded tires is the best and numerous fields have this mixture, including in Falmouth. A lot of research has been conducted about synthetic turf and they haven't found any conclusive indication that the infill material causes harm to athletes. This past summer they installed this material at Biddeford High School and have recently completed Portland and Deering High Schools with this product. The consumer is always aware of alternatives.

Councilor Cahan inquired about coconut husk and cork options. Mr. Michaud said they have done two of those fields. Those materials are relatively new. He imagines longevity will not be as good since the materials are organic and will probably break down quicker, but it is an option.

Councilor Cahan thought using recycled tires where people inhale can't be good. It can be hard to make a connection with a cause of cancer but a large number of people with cancer were goalies in a study she reviewed. Previous studies used to say that cigarettes didn't cause cancer. She is also concerned about the rubber going into waterways. She is really concerned about the outdoor fields. If the developer goes with the organic material that would go a long way to making her feel better about the project.

Councilor Asherman inquired about containment of the pellets near the watershed. Mr. Michaud said the infill mixture is put in a sand layer that is stable and stays together. Everything is designed to stay in place, so it doesn't move. They have completed numerous fields and some water testing he's seen has shown that the infill acts like a filter and the water exiting the field is cleaner than water coming in.

Councilor Asherman asked about weather extremes and whether the material can flow outside of the field boundaries. Mr. Michaud said if everything is done right it should be stable. Mr. Willis said they had a record

rainfall of 30 inches last year and they never missed a game due to weather and there was no degradation of field conditions.

Councilor Cahan said when she visited the Epping fields the plow driver there told her they can't help but plow some pellets over the side of the field. Mr. Willis said he was referring to rain not being a cause of pellets migrating off the field.

Chair Hemphill asked about perimeter containment. Mr. Michaud said the field is set up to slope to the perimeter of the field. It's highly unlikely a rubber particle will wash through the middle of the field and it's insignificant how much ends up on side of field due to plowing if done correctly.

Councilor Asherman asked about a perimeter drain. Steve Bushey said the field is underlain by a system of underdrainage. There are lots of gravels underneath and beneath that drainage. Around the perimeter is a drainage collection system. The DEP considers the field impervious surface, so they have to collect that runoff and run it through a treatment system. If pieces flowed off the field they would go through treatment and not be discharged out. Regarding snowplowing, they usually designate a spot on the site plan where they plow to. They want meltwater to go through treatment systems. He expects the Planning Board will be interested in this.

Councilor King wondered if the system freezes up in winter. Mr. Bushey said the field material is well drained material similar to how porous pavements are filled with well drained granular material to prevent frost.

Councilor Kuhn said she lives 7 miles from the High School and lots of pellets would be in her house and laundry machine. It's not realistic to say a properly installed field doesn't result in pellet migration. She said the Town should have a real conversation about what that means.

Councilor Cahan wondered about kids sledding down a snowpile full of rubber pellets. Mr. Michaud said they have also installed non-tire rubber and did this recently at Hampden Academy. They're using organic material. There is even a walnut surface material. Whatever material is proposed they would want to see the testing done on the material first. In Wellesley they used a TPE product which is extremely expensive. He is not sure about the playability of the surface without infill.

Councilor Svedlow asked about whether the Planning Board would give scrutiny to this. Mr. Croce said yes to the effects of snowplowing but likely not to the issue of migrating pellets going home on clothing.

Councilor Ferrante had to leave the meeting but indicated she is ready to move forward with drafting zoning, has confidence in the Planning Board process and will personally stay involved in that process as a Councilor.

Scott Bodwell, of from EnviroAcoustics in Brunswick, said he has been doing acoustic studies since 1987. He has not done a full study of this project yet but is familiar with local ordinance and DEP regulations. There will be loading, service areas, and other sound impacts beyond just the fields where they will be required to figure out the cumulative impact of the development. DEP's regulation came out in 1989. It used to be a limit of no more than 10 db over the existing conditions. The DEP still has limits that are dictated by baseline conditions. There is a property line limit, but he doesn't believe that will be the controlling limit for this project. Rather, the "protected locations" limit will apply for development next to conservation areas and residences. In this case, it looks like the protected locations will be the residences on the back side of the project. DEP has a more stringent standard for these areas and different standards for day and night time. (60 db daytime, 50 db at night) Spikes in sound get more weight. These limits apply either at the property line or 500 feet from a house. The impact at the actual dwelling in this case will be less since the dwellings in this area are not located right on the property line. There are special sound limits for tonal sounds like whistles and where one frequency of sound is much different from the ones around it. DEP applies a penalty to those sounds and requires them to be 5 db lower. Repetitive sounds also have a 5 db penalty. Part of the plan is to do ambient sound monitoring with permission of the property owners. That would help determine which DEP limits would apply. A quieter base limit would be 45 db at night. You then put that information in a

model based on conditions on the ground (e.g. vegetation; ground surface, etc). He found a range of sound levels for fields in his research, so he would want to find a representative sample and use that. Mitigation could involve earth berms or fencing for example.

Councilor Asherman asked about examples of what 45 or 50 db sounds like. Mr. Bodwell said a passing car going 30 mph at 100 feet might be 50 db. The best thing is to go out with a sound meter and correlate that with what you're hearing at any given time. Indoor sound level examples don't translate well to outside examples. Crickets and peepers can exceed those limits but don't seem loud because people like to hear those sounds. You need to block the line of sight to the sound to mitigate. The trick about fields and parking lots is figuring out where the noise centers and hot spots are. In fields, that would likely tend to be more around the goals.

Mr. Willis said on the fields in Epping they oriented the bench seating in a way so as to direct spectator sound away from property lines. They also don't have a PA system.

Councilor King wondered how mitigation is determined. Mr. Bodwell said they will show how they need to comply with the DEP standard. He said if you have 40 field participants that generate 40 db you'd need to have another 40 to increase levels to 43 db. It's a logarithmic formula.

Councilor Svedlow made a motion to adjourn due to the late hour and the amount of discussion still remaining. There was no second.

At Councilor Cahan's request, Mr. Poore summarized the developer's proposed zoning changes. Additional guidance from the Council will be needed on setting hours of operation for the fields, the size of the retail/restaurant uses, and the need for a master plan.

Councilor Svedlow would like to see an analysis of what the zoning "asks" would be if the project was compared against the BP zoning. Perhaps a tabular comparison on the difference of asks between VC1 and BP. This would demonstrate that the applicant is not just asking for variances from VC1 but also BP. Councilor Asherman would like to know how the property could be developed under BP zoning.

Item 8 Discussion about treatment plans and options for controlling the Browntail Moth infestation.

Mr. Poore explained that there is a regional group working on the legislative route to fund research to combat this infestation more effectively than the application of insecticides. No one has expressed interest in aerial spraying and no one thinks it would be effective. Staff recommend continuing the streetside spraying program, which took some of the edge off last year. If the Council supports this proposal, staff will bring a supplemental appropriation for them to approve the cost of the program at a later date.

Councilor Kuhn asked if there was a survey of town to guide the spraying; Mr. Poore said yes.

Councilor Kuhn asked if there was any way for people to appeal if their street is not included in the spraying area; Mr. Poore explained that the Town can only spray public streets.

Councilor Kuhn thought that would be less effective at combating the problem; Mr. Poore agreed, but the Town is not allowed to spend Town money on private property.

Councilor Kuhn wondered if there was a way for private property owners to contract with and pay for their property to be done along with the Town's. Mr. Poore said the Town asked for that last year, but the contractor did not have the capacity to do it. Residents should be calling to make arrangements for their property right now.

The Council supported the proposal.

Item 9 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 Asherman moved to enter executive session; Councilor Svedlow seconded. Motion carried 6-0.

The Council entered executive session at 11:27 pm and did not return.

Notes prepared by:

Ethan Croce, Community Development Director

Theo Holtwijk, Long range Planning Director

Melissa Tryon, Recording Secretary