

# **Town Council Meeting**

## **Minutes**

### **February 25, 2019**

The meeting was called to order at 7:02 pm.

#### **Roll Call**

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

Councilor Svedlow arrived late.

#### **Pledge of Allegiance**

Chair Hemphill led those present in the Pledge of Allegiance.

#### **Item 1                      Public Forum**

Councilor Svedlow arrived at the meeting.

Valentine Sheldon of Foreside Road spoke about the LPAC update on their research on growth and density in Falmouth. Their report states there has been modest growth in Falmouth in the last couple years, but when compared with the last 8-9 years he argued the growth has been much higher than historical averages. In 2018, 95% of the units allowed in the growth cap were built; only 3 units remained at the end of the year. He spoke about the impact of growth on the schools in the last two years. He said the current rate of growth is reckless.

John Winslow of Gray Road said in 2005 the State issued a guide for towns on how to develop a comp plan. The I295 Corridor Study that was written in 2010 is the most current study. In the Corridor Study, Bucknam Road is listed as 6th most accident prone in the stretch between Portland and Brunswick. This study is 9 years old at this point. This is part of the problem: this is old data, but it is presented as current and present. Over the past five years there has been such a dramatic change in traffic, in growth, in houses being built. Zoning has worked well in the past with amendments; he wondered why they didn't continue doing that instead of a complete overhaul. The City of Portland is looking to develop workforce housing on 13 acres of property they own in Falmouth; Falmouth would pick up the tab for that because they will be using Falmouth services. He said they have to be looking far down the road to see where they are headed. He liked the zoning that was developed in 1980's and the tweaks they did; he didn't know why they needed to reinvent the wheel with the comp plan and the new zoning that came out of it.

Michelle Sheldon of Foreside Road spoke about the 2016 RA zoning change. She asked for the Council to implement a moratorium while they review the problem. She felt this could be accomplished with fairness to those who are in the process of splitting their lots while also protecting the character of the town.

Keith Noyes of Gray Road agreed with the last three speakers. He spoke about the lack of opportunity for the public to speak at Council meetings.

Lisa Joy of Middle Road supported the idea of a moratorium as mentioned by a previous speaker. She felt the speakers were more informed than the members who serve on LPAC. She wondered why the comprehensive plan didn't include a forecast of the tax impact of increased growth on the Town. She spoke against the tenure of people serving on committees. She would like to see more detailed analysis from LPAC and the Council.

**Item 2                      Consent Agenda**

- **Order to approve the minutes of the January 14, 2019, Town Council Special Meeting**
- **Order to approve the minutes of the January 28, 2019, Town Council Meeting**

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

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

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

Councilor King said she and Councilor Cahan serve on MMA's LPC committee. That committee has a two-year term, but when Councilor King's Town Council term ends in June, there will still be one year on her term at MMA. April Humphrey, a Yarmouth Town Councilor has requested to serve as Councilor King's alternate and will take her place for that last year. Councilor Cahan will continue to serve, with Councilor Kuhn as her alternate.

Councilor Kuhn said the Library is winding down operations to prepare for their move. They will be closed from March 9 to April 1. They will host a large moving sale on March 28 and 29. More information is on their website.

Chair Hemphill reported that ecomaine is hosting a "Recycling as a Work of Art" competition for those who are interested in painting a silver bullet. Applications are open until this coming Wednesday.

**Item 4                      Report from the Appointments Committee regarding various vacancies on Boards and Committees.**

There was no report. The committee will meet again next week.

**Item 5                      Resolution to recognize the Falmouth Tercentennial Committee and their work on Falmouth's 300th anniversary celebration.**

Chair Hemphill read the resolution into the record.

Chair Hemphill opened a public comment period.

Marge Devine, chair of the Tercentennial Committee, recognized Erin Cadigan, Tercentennial Coordinator, for the amount of time and effort she spent on the events. It wouldn't have happened without her.

Chair Hemphill closed the public comment period.

Councilor Kuhn asked how they honor the request of the community to continue some of these events. Mr. Poore said the staff and Council leadership need to review the report; there are some recommendations in there.

Councilor Svedlow moved the resolution; Councilor Cahan 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.**

Brianna Gersen, chair of LPAC, gave a presentation of their review of residential growth and density relative to the zoning changes made in 2016. They have reviewed dividing the RA district into two or more districts.

They would need more time to analyze this if this was the direction the Council wanted to take. In the short term LPAC is considering a single RA district modification with a hierarchy of dimensional standards to address citizen concerns. They have had a lot of public comment, done site visits, analyzed development data, and considered what zoning options might be available. They have not yet drafted any preliminary recommendations or conducted another public forum. There is a lot of variation in the RA district with regards to lot size and frontage, and the variations are spread throughout the zone instead of clustered in specific areas. They discussed the pros and cons of a keeping a single RA zone versus splitting it into multiple zones. The single zone approach could be implemented more quickly; they would want to spend a significant amount of time on the process if they were to go with a multiple zone approach. Given the Council's desire to move quickly on this issue, they focused on the single zone approach. They heard a lot of concern about multi-family housing, and they looked into developing a hierarchy of standards to balance the incentive for this type of development. She said the Committee would like some more time to review the feedback they receive from the Council tonight, draft their preliminary recommendations and conduct a second public forum with a goal to present their recommendations to the Council at their March 25 meeting.

Councilor Svedlow supported the idea of changing the zoning for the whole district; he liked the idea of having sub-zones, but it would take a long time. He felt they should put forward an amendment to the entire district quickly, but it is important that they do this right. They need to address the acute issue. He suggested a two-step process.

Councilor Asherman supported the idea of multiple-zones but acknowledged the time concern. He wondered what they meant by long term if they were talking about a two-step process.

Councilor Kuhn wondered how the Council felt about a moratorium. Councilor Svedlow felt they were better than that; he thought they could get this done quickly without using that tool.

Councilor Asherman wondered how quickly they could move a suggestion from LPAC into ordinance language and have it take effect.

Councilor Cahan wondered if the ordinance could be enacted retroactively. Councilor King said an ordinance can be dated to take effect as of the date it was introduced.

Councilor King agreed that the single solution is a quick fix, and it could be a good fix. The numbers LPAC tested represent a backing off from the 2016 amendment. This may slow development to the level most people can be comfortable with.

Chair Hemphill supported LPAC's suggestion to modify the RA zone by increasing the frontage and side setbacks. The increase in growth is not huge, but it is significant, and it is important to try to slow down the level of infill growth. He would like LPAC to review a suggestion to require lot widths to be maintained all the way to the front setback to prevent trace frontage connections to back parts of the lot.

Councilor Ferrante supported implementing something quickly. She did not support a moratorium. It sends the wrong message. She didn't support a retroactive amendment; people make plans based on the zoning in effect and she felt it was important to respect that. She didn't think the single-district amendment was sufficient; she wanted to see different standards for lots over 40,000 sf. She wanted to give LPAC a little more time to develop a second step with different requirements for different size lots.

Mr. Holtwijk said LPAC entertained the idea of creating a zone where most of the lots were greater than 60,000 sf with the thinking that most of the development would take place on those lots. There would be smaller lots in those neighborhoods. The Committee felt it would be quicker to take the single district approach. He thought it would be difficult to have a zone with different standards for larger size lots. It is a radical idea, and he is not aware of any community that zones this way. One of the difficulties is they don't have a way of knowing how large a lot is now. People do lot transactions all the time; those get recorded, but the Town doesn't always know about it until later. It takes research at the registry to determine the true size of the lot either now or in the future.

Councilor Ferrante felt it wasn't too hard to find out if they had a survey done. She asked what the current zoning takes into account for a smaller lot, 5000 sf – 10,000 sf lots.

Ethan Croce, Community Development Director, thought she might be thinking of vacant lots that were created prior to modern zoning. Those lots are protected as legally existing, non-conforming lots, and can be built upon.

Councilor Ferrante asked if someone could still build on a lot they had divided under the 2016 zoning if the Council changed the zoning. Mr. Croce said they would have to incorporate treatment of those lots into their deliberations. He agreed with Mr. Holtwijk's assessment of zoning based on lot size; they would want to spend a lot of time and thought on such a proposal.

Councilor Svedlow felt that if the density is acceptable, it would be similar no matter the size of the lot.

Councilor Ferrante said, even if the math works, she was concerned about changing the character of neighborhoods. She felt there should be flexibility, and she agreed that duplexes are a good thing, but she heard the concern of residents who don't want the character of their neighborhoods to change.

Councilor Cahan felt they need more analysis of creating sub-districts and lot size impacts. Each of the neighborhoods has different character and density; she wanted to maintain as much of the existing character as they can as well as allowing for some growth. It will take time to analyze that, and she didn't want to allow a lot of lot divisions to happen while they are doing that. They need to do that soon. She would like to create something that is retroactive to sometime close to now.

Councilor Kuhn said they need to get to the sub-zone in the long term; this is a really varied zone. This single-zone approach helps alleviate the immediate pressure but does not address the character question in the long run. She supported a larger lot width than what LPAC presented, to give people even more breathing room.

Councilor Asherman encouraged the Committee to hold further discussion on the recommendations, and to tweak the numbers they tested based on both Council and public feedback.

Councilor Svedlow said the minimum lot width for a multi-family should go up from this test case. He thought that might address some of Councilor Kuhn's concerns. Councilor Ferrante and Councilor Cahan agreed with that suggestion.

Councilor Svedlow didn't think they wanted 15 zones here; more like 3 or 4.

Councilor Ferrante wanted all the numbers for multi-families reviewed.

Councilor Svedlow wanted them to focus on frontage at this stage, for a quick, short-term fix. He also wanted them to look at "sneaky" frontage calculations.

LPAC will schedule a public forum in March.

**Item 7                      Public Hearing on an ordinance amendment to rescind Ordinance  
Number 82-2018 related to the Conditional Rezoning granted to Verizon  
Wireless per Section 19-17 of the Code of Ordinances.**

Scott Anderson from Verizon Wireless gave a brief history of the project. Verizon has withdrawn their proposed project for the property and so have requested to remove the conditional rezone the Council approved last year.

Chair Hemphill opened the public hearing.

Janice Delima of Entwood Road asked if it was true that the tower will no longer be built. Chair Hemphill said that was correct.

Chair Hemphill closed the public hearing.

An order was scheduled for March 25.

**Item 8                      Order to schedule a public hearing on a proposed revision to the Town Charter, Section 402.**

Mr. Poore explained that, when the Charter Review Commission brought their report and recommendations to the Council for the November ballot, the Town Attorney discovered that one of the provisions in Section 402 could not be enforced. The Council approved a resolution that encouraged the voters to support the charter revisions as presented and committed the Council to make a corrective amendment, as allowed under state statute, and place that amendment on the June ballot. This is the corrective change to section 402. It removes a provision that prevents employees of the Town from serving on the School Board. Since the previously approved revisions of the charter don't take effect until July 2019, should this amendment pass in June it will take effect at the same time as the November revisions. The Town Attorney has confirmed that the Council can hold the public hearing and the order to place the change on the ballot on the same night, so the hearing can be scheduled for March 25.

Councilor Svedlow wondered what would happen if the voters didn't approve the amendment; Mr. Poore said they would have an unenforceable provision in the charter.

Chair Hemphill opened a public comment

Councilor Asherman moved the order to schedule a public hearing on March 25, Councilor Ferrante seconded. Motion carried 7-0.

**Item 9                      Order to approve a supplemental appropriation and transfer of \$41,000 from unassigned fund balance for a spraying program on town owned property and public streets to control the infestation of Browntail Moths.**

Mr. Poore said the infestation of browntail moths has spread. The spraying program will have to cover 8 additional miles, so the cost of the program is higher this year. The Town is building this project into the budget for future years.

Councilor Kuhn said this is not aerial spraying, this is street side spraying. Mr. Poore agreed; the Town will spray trees in the right of way on public streets. Residents will have the opportunity to opt out of spraying in front of their property.

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

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

Councilor Ferrante left the meeting.

**Item 10                      Order to authorize the Town Manager to enter into a Purchase and Sale agreement on 45 acres of land abutting the Falmouth High School property.**

Mr. Poore said the Town and seller have reached agreement on all the provisions in the purchase and sale agreement. There were some changes made today to the proposed subdivision plan. The next step is to authorize the Town Attorney to work on the issues surrounding the CMP easement, to make sure the Town has the right to cross it.

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

Councilor Svedlow moved the order; Councilor Kuhn seconded. Motion carried 6-0.

**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 Svedlow moved the order; Councilor Cahan seconded. Motion carried 6-0.

The Council entered executive session at 8:55 pm and did not return.

Respectfully submitted,

Melissa Tryon  
Recording Secretary