

Town Council Meeting Minutes March 25, 2019

Roll Call

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

Pledge of Allegiance

Chair Hemphill led those present in the Pledge of Allegiance.

Item 1 Public Forum

Michael Doyle of Portsmouth, NH discussed the Council's rules and complained that Councilor Cahan violated the rules. He asked the Council to require her to make satisfaction for that breach of the rules. He said they can't enforce their rules against members of the public unless they enforce them against each other. He said he would sue the Town to make any action they take invalid until they do so. He said there are no republicans on the Council, only democrats or unenrolled. He claimed that Councilor Svedlow was not registered to vote.

Bruce Flaherty of Augusta spoke about the Spirit of America Foundation which was established to encourage volunteerism by recognizing people for their volunteer service. He spoke about the number of municipalities that participate and encouraged the Council to select an awardee.

Fred Chase of Stagecoach Road wondered how his name was used in a recent Forecaster article; he did not agree with the comments that were attributed to him. He apologized to Sam Rudman and Sandra Lipsey for the confusion.

Karen Farber of Foreside Road spoke about the changes to the RA district. She felt the changes to lot widths and sizes would likely address the community's concerns. She encouraged the Council to make changes to RB and RD as well if they make changes to RA; the intention was for lot sizes and dimensional standards to increase from east to west, instead of a homogenous lot size all the way across. She also suggested a maximum lot coverage for two and multi-family buildings, at least in RA. She felt the visual effect of these homes is part of peoples' concerns. At the time the amendments were passed, the Council envisioned these as two small homes that were attached, not two large single-family homes doubled. She did not support complete repeal of the 2016 zoning amendments, but realized it is a possibility. If they do repeal them, she encouraged them to retain accessory dwelling units as a permitted use in all districts and keep the language defining them. She also encouraged them to retain the growth caps as they are now, especially the rural cap in Farm & Forest and Highland Lake. She said the HL district should remain, and not return to RB. She said they should retain the rezoned area along Falmouth Road as Farm & Forest. She also suggested that they retain the language in Section 16.77 regarding alterations in RA lots outside the WVOD which state that lots of 5000 sf be considered conforming with regards to lot size for conditional use approval. Some change is needed, but she encouraged the Council to consider how to handle the lot splits that have already occurred that don't have building permits.

Valentine Sheldon of Route 88 said his recent comments about LPAC membership were not an attack on the committee members, but an attack on the process. He didn't understand why they are not allowing comment on the upcoming forum agenda tonight, nor why the invitation to the forum was only sent to residents in the RA. This forum will impact all residents, and changes in RA will impact the entire town. He felt this would disenfranchise residents. He spoke about the Homestead Acres project. Abutters were notified last week but there was no notification to any other residents. Residents should not be left in the dark about development that may affect them. He said the town's website does not have a notification about the Town Council nomination process. He said the town needs better representation; the majority of current councilors ran unopposed. The councilors currently seated didn't receive 50% of the votes from registered voters. He felt the town is an oligarchy.

John Winslow of Gray Road applied to be a member of LPAC. He felt the town needs to hit the pause button. He felt there ought to be a moratorium until they get this sorted out.

Amanda Rand of Meadow Creek Lane spoke about the LPAC forum on Thursday; she felt they are trying to cover too much in one night. She said the people in town want to be heard. She thought the 2016 amendments are designed to super charge growth; they are growing the heck out of the Route 1 area in exchange for maintaining the rural area and the lake. She supported a moratorium, though she did want to do something for those who had split lots already.

Item 2 Consent Agenda

- **Order to approve the minutes of the February 11, 2019, Town Council Special Meeting**
- **Order to approve the minutes of the February 25, 2019, Town Council Meeting**

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

Councilor Asherman moved the agenda; Councilor King seconded. Motion carried 5-0.

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

Councilor Svedlow said the Conservation Commission has met with the Ordinance Committee to discuss pesticide and fertilizer restrictions. The current focus is on educating the public. On Wednesday, April 10 from 8-10 there will be a free workshop on healthy lawn care, conducted by the CCSWCD. On Tuesday, May 7 from 6-8:30 pm there will be a presentation by Nancy Olmstead on mapping, identifying, treating and disposing of invasive plant species.

Councilor King said this Thursday, March 28 there will be a public forum on growth, density and development at the elementary school at 7pm. The draft recommendations are on the Town's website.

Councilor Ferrante said FEIC business forum last Thursday went very well.

Town Manager Nathan Poore said the website does need more information on the election, and staff will address that tomorrow.

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

There was no report.

Item 5 Order to authorize the Town Manager to execute a quit claim deed for Map R04-047, R04-048, R04-051, upon receipt of full payment of all taxes and fees.

Chair Hemphill opened a public comment period.

Jack Uminski of Mackenzie Lane said it was hard to determine where these lots are. He asked what was happening here.

Mr. Poore clarified that the current property owners are paying off the back taxes.

Chair Hemphill closed the public comment.

Councilor Svedlow moved the order; Councilor King seconded. Motion carried 5-0.

Item 6 Public hearing on a proposed revision to the Town Charter, Section 402.

Chair Hemphill said this revision would correct a provision in the Charter that prohibited employees of the Town or the Library from serving on the School Board. The Town Attorney determined at the eleventh hour that this provision is unenforceable.

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

Item 7 Order to put a question on the June 11, 2019 Municipal Election Ballot regarding a modification to the Town Charter.

Order to schedule the Public Hearing for the referendum regarding the proposed amendments to the Town Charter in accordance with M.R.S.A 30-A § 2528 (5).

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

Councilor Asherman moved order 88-2019 and 89-2019; Councilor Ferrante seconded. Motion carried 5-0.

Item 8 Introduction of amendments to the Code of Ordinances, Section 17.92.d regarding seasonal parking restrictions on Greenway Drive.

Chair Hemphill said Chief Kilbride issued a memo recommending this change. Under this ordinance, parking would be restricted from May 1 to October 31 from 6am to 6pm between Route 1 and Fern Ave on Greenway.

Councilor King asked if parking would be restricted on both sides; Chair Hemphill felt the language implied that it was.

Councilor Svedlow asked if anyone had spoke with the state about the parking situation on Mackworth. Councilor Asherman said Sen. Breen and Rep. Pierce have been contacted.

A public hearing was scheduled for April 22.

Item 9 Ordinance to rescind Ordinance Number 82-2018 related to the Conditional Rezoning granted to Verizon Wireless on January 22, 2018.

Councilor Svedlow moved the ordinance, Councilor Ferrante seconded. Motion carried 5-0.

Item 10 Introduction of ordinance amendments to implement recommendations of the Highland Lake Leadership Team related to water quality in Highland Lake.

Councilor Asherman said the Leadership Team recently presented their five recommendations to the Council. These amendments address three of those five recommendations. Staff have said they need more time to implement the last two.

Councilor Svedlow asked why they haven't addressed the manure recommendation. Councilor Asherman said there are state regulations. The specific pile of manure that was a concern has been mitigated.

A public hearing was scheduled for April 22.

Item 11 Introduction of an Ordinance that will amend Sec. 18-131 Connection Charges; permit fees; accounting and Sec. 18-233 Exemption from connection charges.

Mr. Poore said the Ordinance Committee has been meeting on this item. Staff have been discussing updating the fee schedule for years; it has been a flat amount for a long time. They have discussed instituting a system that is based on estimated use, calculated by the number of fixtures. The Ordinance Committee liked the structure but was concerned about raising the fee too much at once, so they backed it down to 80% of equity and added a cap. The proposed ordinance would be a more equitable in terms of fee structure and connection charges.

Councilor Svedlow asked if this would result in an increase in revenue.

Pete Clark, Wastewater Superintendent, said they average 50 new connections per year. Mr. Poore thought that would result in a slight increase, but the focus was to modernize and have a more equitable structure, not increase the fees.

Mr. Clark said the intent was to develop a fair system and it alleviates a component in the old ordinance that based fees on lot size, which they found to be inequitable. If you built the same size building on two different size lots, the fees would be different. It also ties to the financials, so it is tied to the unappreciated cost of the system. He felt it was a logical and timely update.

A public hearing was scheduled for April 22.

Item 12 Discussion about the format of the March 28 public forum on residential growth and density and possible options for ordinance amendments related to residential density and lot dimensional requirements in the RA zoning district.

Mr. Poore said the Town has hired a facilitator, Susan Gallant, who submitted an overview of the forum format late this afternoon.

Councilor Ferrante was glad they were having a facilitator for this forum and appreciated the format. It will give everyone the opportunity to be heard equally. Not everyone is comfortable speaking at a podium. She said LPAC has a recommendation, as the Council requested. She said the Council wants to take action quickly, but also wants to take into account those who have lot splits but not a building permit. She felt the 50-foot lot width is the glaring issue that she wants to address.

Councilor Asherman supported a more interactive format, where there can be give and take. He supported an open dialogue.

Councilor King agreed. She wanted to hear more constructive criticism and also wanted to take action.

Councilor Svedlow said the Councilors agree that the communication process is not ideal; he would like to see these public forums become an annual thing. He agreed that the scope of this is pretty broad. He wondered if they should have another follow-up forum soon after, once they address the RA issue, to deal with the broader topics.

Councilor Ferrante thought a lot of them wanted to stick with RA, but they received several letters and felt the goal of the forum was to hear about the broader topic. That is why the focus changed. She said they have received input from members of the community. There will be another forum. This is the main work they are focusing on right now, along with the methods they use to communicate with the public.

Councilor King said the Town only knows about building permits and doesn't know about lot splits until 3 months after they happen. They have the opportunity to make a zoning ordinance amendment effective as of the date of its introduction, which could be April 8, or they could wait until the vote as is typical. She would support making it effective as of the date of the introduction.

Councilor Asherman clarified that there are no proposals currently before the Council. Any proposals to be introduced on April 8 will be drafted after the forum on March 28.

Item 13 Discussion regarding conceptual amendments to the development site known as TV3 in the Tidewater Master Planned Development District.

Nathan Bateman, of Bateman Properties LLC, said this proposal would make zoning changes to the last developable piece of Tidewater, known as TV-3. It is a 2-acre parcel and is not yet developed. There have been a number of changes and modifications to the plan since the district was approved in 2005. They are selling the TF-2 and TF-3 parcel to the Town; originally those were supposed to include a 75-room inn and a commercial event site. They are also selling an empty portion that was part of the residential development to the Town. They are asking to have a residential component for the TV-3 parcel. They are asking to increase the square footage of the buildings; the footprints would stay the same. These buildings would be substantially similar to the buildings at TV-2.

Councilor King asked how many stories would be allowed with the change proposed.

Mr. Bateman said he thought it was 45 feet; it would be no taller than the existing TV2 building that is already there. Its 3 floors with a habitable attic, with the dormers.

Chair Hemphill said there was an expectation of a certain number of residential units across the TV lots; they are removing any residences on TV-5 and are asking to add 10 to TV-3. He asked about the request to reduce open space and whether that refers just to the TV-3 parcel.

Mr. Bateman said that is correct; in order to build the amount of parking necessary there was a greenspace reduction.

Chair Hemphill said there is an interest to allowing restaurant use to the retail uses on the first floor.

Mr. Bateman said they have found that retail has been difficult to put in this area. They have had no success in finding a retail tenant for TV-3. They are optimistic that this change will allow them to fill it.

Councilor Svedlow asked what the net change in the number of dwelling units. Mr. Bateman said originally there were 22 units planned on TV-5 and they are asking to add 10 units on TV-3. This is a total reduction of 12 units.

Councilor Ferrante asked if restaurant would be a use category on all the buildings on the first floor. Mr. Bateman said yes; they would do residential on the other floors.

Councilor King said there would not be any office space in TV-3; Mr. Bateman said to maximize the number of units, the goal is to come forward with a residential project.

The amendments would come forward for introduction on April 8.

Item 14 Order to authorize the Town Manager to execute an amendment to the Tidewater Conservation Easement.

Mr. Poore said the Atty General is responsible for approving all changes to conservation easements. They have now approved this one. This amendment will also add the new boundary survey that was recently done, which more clearly delineates the boundaries of each of these lots. The closing on this property is scheduled for Thursday morning.

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

Councilor Asherman moved the order; Councilor Svedlow seconded. Motion carried 5-0.

Councilor Svedlow moved to waive council rules to add an item to the agenda; Councilor King seconded. Motion carried 5-0.

Order to appoint John Winslow to LPAC for a regular term of three years.

Chair Hemphill opened a public comment period.

Valentine Sheldon supported John Winslow's appointment to LPAC. He said Mr. Winslow has done a lot for the Town.

Keith Noyes of Gray Road asked whether there has been any clarification on the status of Sam Rudman and Sandra Lipsey as members of LPAC.

Mr. Poore said the town received word from the Town Attorney that it is fine for them to serve on LPAC.

Chair Hemphill closed the public comment period.

Councilor Svedlow moved to appoint John Winslow to LPAC as a regular member. Councilor Asherman seconded. Motion carried 5-0.

Adjourn

Councilor Ferrante moved to adjourn, Councilor King seconded. Motion carried 5-0.

The meeting adjourned at 8:43 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary