

Town Council Special Meeting

Minutes

September 9, 2019

Chair Kuhn called the meeting to order at 7:01 pm.

Roll Call

All Councilors were present and answering roll call.

Item 1 Report from Falmouth Memorial Library regarding the construction of the new library.

Marsha Clark, Falmouth Memorial Library Board of Trustees Member and Co-Chair of the Construction Committee, delivered the presentation. She thanked everyone who has supported the project. The construction of the new library is a collaboration between the Town and the Library. Library staff and Town staff have weekly project update meetings. She provided an overview of the project. The expansion includes a children's wing, a youth services wing, an adult collection, a quiet reading room, and a community space. The parking lot has been reconfigured. Construction work began on May 6, 2019. Trees were taken down. All the removed trees were removed due to three reasons, 1) Town zoning requirements, 2) State stormwater mandates, and 3) parking lot reconfiguration. 70 trees will be planted on the property. Excavation was conducted to level the ground. The footings have been laid and the original house and the 1964 addition have been removed. There have been water issues throughout the past four months. This problem is not isolated to the library construction project. The focus in June was site work and the foundation. In July, the foundation was poured, and the walls were put in place. The building is close to the road because of zoning requirements. Preparations were made for the parking lot including demolishing the house at 9 Lunt Road and stormwater management trenches. A change order was made as a result asbestos pipes found during stormwater work. Wiring began inside. August work focused on framing the building. The beginnings of the roof are on in the youth services wing. Work on the adult services wing has been paused until a large enough crane can be brought in to put up the trusses. The doors and air-handling system is being installed. The first base coat for the parking lot and the sidewalks have been paved. The project is on schedule and on budget.

Councilor De Lima asked about the anticipated project completion date. Ms. Clark said the project is expected to be complete by the beginning of March 2020.

Councilor Johnson asked about the kinds of trees that will be added. Ms. Clark said it will be a mix of coniferous and deciduous trees such as maples, firs, birches and apple trees.

Councilor Cahan said that she was impressed to see workers on site on a Sunday. Ms. Clark said that they are trying to stay on schedule. Ledgewood Construction has been very efficient. Chair Kuhn agreed.

Councilor Hemphill said that library staff have done well at providing project updates on social media. It is nice to see. Ms. Clark said that library staff want to let people know because it is the community's library and so many people donated to make the project happen.

Item 2 Update and discussion regarding the Town Council Annual Retreat and FY2020 work plan.

Chair Kuhn delivered the presentation. Each year the Council holds a summer retreat at which it adopts an annual work plan. This year's retreat took place on August 28. The Council spent the morning considering the resolution passed last year regarding public engagement and communications and trying to clarify how those goals will play into the work plan. The Council spent the afternoon reviewing the existing work plan. At the

end of the day, the Council had identified 40 items as being top priorities for the 2019-2020 Council year. Chair Kuhn's presentation focused on the "A" items, the items that are highest priority for the Council to address this year. The Council cannot guarantee that it will complete all the items on the list because an item might be more complicated than anticipated or it could become distracted by something happening in the community. The first set of items were items that the Council assigned to itself to work on. These items included 1) developing and implementing a comprehensive communications plan, 2) considering a need for any zoning changes in RB and RD, 3) considering GPCOG resolution to help create more diverse housing across the metro region, 4) reviewing Falmouth's 2016 Bicycle and Pedestrian Plan to consider adjustments due to current conditions, 5) engaging in planning activities leading up to an update to the 2013 Comprehensive Plan, and 6) beginning pre-comprehensive plan work by engaging the community in the identification of shared community vision and values. Chair Kuhn also reviewed priority items that were referred to committees. The PowerPoint presentation lists these items by committee. Chair Kuhn then reviewed items that had been deferred to staff to advance including 1) developing and issuing an RFP for consultant assistance to prepare a Route 1 North preliminary engineering Plan and update Route 1 North TIF, 2) Tidewater Master Plan extension, 3) reviewing intersection of Route 88 and Johnson Road, 4) continuing implementation of Highland Lake Watershed Management Plan, 5) continuing developing Blackstrap Road Concept Plan, 6) developing and launching town-wide newsletter.

Councilor Asherman said that Chair Kuhn's presentation was a great summary. Chair Kuhn added that the Council had a good retreat and there is a lot of enthusiasm to move forward on these important items. Councilor Hemphill agreed. He felt that Chair Kuhn's presentation was a good synthesis of the Councilors' thoughts and a good reflection of the retreat and the work plan. Councilor De Lima agreed with Councilor Hemphill's comments. She thanked the committees for the work that they are doing.

Item 3 Order to ratify and affirm the first amendment to a purchase and sale agreement and to authorize the Town Manager to execute the second amendment to a purchase and sale agreement, with the David G. Merrill Revocable Trust, re the acquisition of 40.11 acres of land abutting the Falmouth High School property.

Nathan Poore said that there are two purchase and sale agreement amendments before the Council. One is a ratification of an agreement that he already signed. The attorney felt it was necessary to execute about two weeks ago; it was basically to give the Town more time to essentially arrive at the terms and conditions in the second purchase and sale agreement amendment. The order includes both of those. The more substantive one is the second one. The Town needs to clarify the access easement on Field Road and originally that was not shown on the survey, so the Town had to negotiate it back in. The Town was only going to receive a fifty-foot access easement but has negotiated it to be one-hundred-feet-wide to give the Town more wiggle room. The seller owns property across the street. She was concerned about what the entrance road would look like in the future and was trying come up with ideas for how to hold the Town to some sort of design standard. That is pretty difficult so she and the Town arrived a solution of raising the purchase price by one thousand dollars and she is free to plant whatever screening that she wants on her property rather than hold the town or a future owner in perpetuity in some sort of design standard that could be difficult to enforce. He felt that this is a good resolution and not a lot of money to get the Town from zero to fifty feet and, ultimately, to a one-hundred-foot-wide access easement. He said that this is probably the last amendment because the Town is making progress on everything else. If the Council approves both amendments tonight it will likely only be six weeks until closing.

Councilor Trickett said that in the second amendment there was a slight reduction in the size of the parcel. He asked where the portion of the property that was to be excluded from the original 40.5 acres was located? Mr. Poore said that the reduction was spread out across the whole area rather than being in on specific location. Council Trickett asked if the reduction was a result of the survey having more precise measurements? Mr. Poore said that was his understanding.

Councilor Asherman moved the order; Councilor Trickett seconded.

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

Councilor Hemphill said he was glad that the Council clarified the potential access point. That would be a good convenience in the future and may allow a discrete pedestrian access to the property from Field Road which he thought would be a plus.

Chair Kuhn said she was very please to have this come to a conclusion. She felt that this is a good investment for Falmouth.

Motion carried 7-0.

Item 4 Discussion regarding a request to amend the Official Zoning Map to rezone a portion of the property located at the rear of 3 Shady Lane (portion of map/lot U59-019) from RA to BP.

Donna Larson with Sebago Techniques spoke on behalf of Arthur Batson of Addison Capital. Mr. Batson recently purchased a parcel which is about 2/3rd of an acre. He also owns a parcel on Northbrook Drive which includes an office complex. Mr. Batson would like to add the new parcel, currently in RA, to the Northbrook Drive parcel, currently in BP, so that he can expand the office park. She presented a concept sketch showing the potential expansion. She said that the ordinance currently has some buffer standards built into it. There is a requirement of a 75-foot buffer zone from a building because it is a residential property and 45 from the parking. There is a natural drainage area running through the property which makes for a natural break in terms of uses. There are currently trails on the property; informal footpaths. The designs allow for trails to be maintained.

Chair Kuhn asked if any outreach had been done with abutting neighbors? Mr. Batson said he lives on Shady Lane. There are three or four houses that would be immediately impacted. He has mentioned his plans to develop the new parcel into a parking area with a new building to the abutting owners, just informally. He does not know whether there are strong objections or not. The trails are very informal and run through the whole property. He owns all the property alongside Johnson Road and Route 1; half is residential, and the other half is commercial. He said that he already had buildings and parking near the new parcel. He could make accommodations with the building and parking. It is a Monday thru Friday, 9 a.m. to 5 p.m. business so it is low impact. He has considered putting a basketball court on both ends of the parking lot for neighborhood use. He can accommodate the lights so that they are not an issue in the evenings. It is a nice office park; it is currently two buildings and there is demand to increase the usage. There are deep valleys. There is a good divide between the commercial and residential properties; a fifteen-foot-deep gully. There are a lot of gullies running through the property, so a lot of the developable land is not developable.

Chair Kuhn asked if the office park contained any electric charging stations. Mr. Batson said there are not currently any but that it sounds like a great idea. None of the current business tenants have requested charging stations. Chair Kuhn recommended that, if the project moves forward, Mr. Batson install the underground electrical components. Mr. Batson said that is a good idea.

Councilor Asherman said that it looked like the lots along Shady Lane had a lot behind them. Was that in fact the case? Mr. Batson said that the land by each of the Shady Lane properties was all one piece at one point. The lots behind the houses were offered for sale to the Shady Lane property owners in the mid-1980s. Most of the owners purchased the lots except for the lot behind the Nappi's. That lot was included in the parcel that Mr. Batson purchased. Councilor Asherman asked if they were in effect separate residential building lots?

Mr. Batson said that was correct, each is a separate piece. Councilor Asherman asked, if by virtue of being sold to the residents, the lots are buildable lots. Mr. Batson said they are buildable residential lots but might not have access.

Councilor Johnson asked how the conceptual building would compare to the surrounding buildings? Mr. Batson said the existing buildings are 12,000 square feet. The conceptual building is designed to be identical.

Mr. Poore clarified that the buildings are 6,000 square foot footprints. Mr. Batson said that is correct. They are two-floored.

Councilor Cahan asked whether Mr. Batson planned to include trees in the parking lot to canopy it? Mr. Batson said he plans to buffer the areas that abut any residences. He said that whether trees could be included in the parking lot itself would depend on the parking lot design and the space requirements.

Councilor Asherman asked for clarification that the conceptual building is 75 feet from the left side of the plot and is 125 feet from the Nappi residence. Mr. Batson said that is correct. Councilor Asherman asked if the perimeter of the parking lot is 45 feet? He said it does not look like the parking spaces are that close. He asked if there was a perimeter around the parking lot? He was trying to calculate the distance in total from the new infrastructure to the new residences. Ms. Larson said that the zoning ordinance required a 45-foot set back for parking areas.

Chair Kuhn asked whether the parking lot is a lower elevation? Mr. Batson said no, it is an upward elevation. The building would be lower.

Councilor Hemphill said that if the Council were interested in additional discussion in the future, it seems like a reasonable request. It would be spreading the BP zone where it had not been before, but he would not be against additional consideration of the request.

Council Trickett said that he lives on Shady Lane. This project would not impact him. He believes that many people who initially populated the neighborhood bought buffer lots behind their homes. There are informal trails that are widely used and have been for decades. He felt that the trail issue was an important one. He and Mr. Batson served on the Route 1 North Committee. He thought it would be interesting for the Council to proceed with the discussion. It might be possible to formalize the trails because there are connections all the way to the Falmouth Town Preserve. The Route 1 North Committee discussed establishing more of a formal trail system that is maintained. This could be an opportunity to take a step towards formalizing those trails and preserving them in perpetuity.

Councilor Johnson agreed. He often runs on the unofficial trails. There are a lot of great trails out there. With the connectivity to Underwood Park, the Woodlands Preserve and along the trails that are proposed in the Route 1 North Plan, there is a great deal of trail connectivity. If the developer was willing to serve as a leader to the other property owners in that area to preserve some of that trail connectivity, it would be brilliant.

Councilor Cahan was also interested in if the Council moves forward with this how the trail can be formalized, and clear markers can be added especially across that parking lot. She hopes that heat sinks can be avoided in creating new parking lots. To be able to add things to it like trees that would make it feel more like a continuation of where you want to be walking if you are on the trail and also make it less of a heat sink and provide some shade in the summer for cars. She would also like, at a minimum, to hook up for a charging station. When you are designing is when you want to be thinking about those things. She also suggested a solar or reflective roof on the conceptual building.

Councilor Asherman asked whether changing the zoning to BP was the right approach or should it be approached from a contract zoning standpoint? Chair Kuhn said it is worth putting a place holder in so that the Council can continue to think about that. She said that with a zoning change there is no enforceability. If it turns out that maintaining the trails and connectivity is important to the Council, there is no way to enforce that with a zoning change. That would be done by way of contract zone. Although, that process is a lot more complicated and time consuming. It is at the discretion of the Council. Mr. Poore said it would be an item that would be added to the CDC work plan. That is mandated in the contract zoning process. Councilor Asherman asked for clarification that the element of complexity is that it would go to CDC rather than directly to the Council? Mr. Poore the Town only have one experience so far with the contract zoning process and it was not always pleasant, but it was a very complex project.

Councilor Trickett said he was also thinking about the contract zoning approach particularly given that this is at least theoretically a one off. Whether Council wants to establish a precedent for making zoning changes or, where this is a potential alternative use for property for which it is not zoned, use contracting zoning if the Council concludes it might be an appropriate use but would actually like to exercise say in how it is developed. It may be that this could be an opportunity to take another shot at doing a contract zone where the Council does not make it into a hair ball and shows that it can be done effectively. The alternative would be to potentially create conditions with respect to rezoning or granting a trail easement. There might be a way that the Council can handle it more informally with respect to the process while still establishing formal protection for the trail. This might be appropriate for CDC regardless to take up and work with the developer and be able to present a proposal to the Council.

Councilor Hemphill said that there would an opportunity for public comment. Regarding trees, he felt Mr. Batson knew trees very well. Chair Kuhn was also interested in moving the issue forward and hearing public comment. She wanted to hear how the neighbors feel about it and would like the Council to do more thinking on what the right instrument is to accomplish this. She felt that it seemed like a compatible use in the adjacent lot. It seemed like something the Council ought to be able to do depending on neighborhood sentiment.

The Councilors decided by consensus to refer this project to CDC to explore what the right instrument could be used to get more protection for the trails and perhaps green building initiatives in the parking lot.

Item 5 Discussion regarding zoning standards for residential development in the RB and RD Districts.

Ethan Croce, Community Development Director, reviewed a table included with the agenda showing a comparison of the zoning that was in place prior to the July 2016 zoning amendments for the RA, RB, and RD zoning districts. There was a substantial reversion to the zoning standards for the RA district back in May of this year so that the current RA zoning is identical to the zoning standards that were in place prior to the July 2016 zoning amendments. Mr. Croce also referenced a chart included with the agenda showing the dwelling units that were enabled by the July 2016 zoning amendments. These are lots or developments or dwelling units that only became possible as a result of the July 2016 zoning amendments. There has been other development that has occurred in the RB and RD zoning districts, but staff wanted to highlight the enabled properties to give a sense of the impact of the July 2016 amendments on the two different zoning districts.

Councilor Cahan asked for clarification that most of what has come before the Planning Board in the past two years has been two-family dwelling units. Mr. Croce said that he counted eight single family projects and eleven two-family projects, so it has skewed slightly more towards two-family.

Councilor Trickett said there are a few projects that resulted in net density in an increase of two. He asked if he was correct in understanding that there are other two-family dwelling units but that they only increased by one? Is the distinction that the two-unit increase projects are entirely new structures whereas the one-unit is either dividing or adding on to an existing dwelling to create a duplex? Mr. Croce said he was correct.

Councilor Asherman asked where Silver Stone and Eagles Lane were located. Mr. Croce said he knew where Eagles Lane was but did not know where Silver Stone was. Eagles Lane is located near Brook Road by the Westbrook Municipal Boundary. There is a property that was the subject of a Planning Board subdivision application two or three years ago when the developer had proposed around 15 housing units there. The developer withdrew that proposal and instead built two duplex units there. Eagles Lane is the name of the common driveway that serves the two duplex units.

Chair Kuhn said it is hard to look at the numbers out of context and know what meaning to ascribe to them without a bigger picture. She asked if the numbers represented a significant uptick or a typical amount of development during a strong economy that would be seen in these districts anyway? Mr. Croce said he would be hesitant to answer without pulling in all the other permits that have been issued. The growth cap plays into it. Sometimes the amount of growth will be capped in different areas of town that would have otherwise materialized if there had not been a growth cap. He was hesitant to make any judgements about trends but there are clearly 21 or 27 dwelling units that have occurred in the last three years that would not have occurred but for the July 2016 zoning amendments. Averaging that out, nine extra dwelling units a year that likely would not have occurred or would have occurred but potentially in some reduced fashion had the July 2016 zoning amendments not been in place gives a flavor the impacts of the zoning change.

Councilor Asherman said that some that were previously in the Farm and Forest Zone are allowable by virtue that they became in a new zone not because the place they were had changes in setbacks and so forth. If there was a change introduced in RB or RD it may or may not change those because they have moved from one zone to another. Mr. Croce said the table only captures dwelling units that could not have otherwise been built but for the zoning changes and some of those do include situations where areas were rezoned from Farm and Forest to either RB or RD. The chart does not reflect the eighteen dwelling units that were permitted but have not yet been constructed at the Tuscan Way project nor one dwelling unit that was permitted by the Planning Board and has not yet been constructed off Greta Way. That helps fill in the picture on the full scope of units that have been constructed that could not have otherwise been constructed without the July 2016 zoning amendments and projects that had been permitted by the Planning Board not yet constructed and which otherwise could not have been permitted without the July 2016 zoning amendments.

Councilor Cahan asked for clarification that those are two-family and multi-family. Mr. Croce said all two-family in Tuscan Way. She asked if there was more of a heavy weight towards two-family? She felt that when you get to two- or multi-family that just an additional oversight of having conditional use as being part of the process is important to make sure that an area is not being overburdened. She felt like that was something that the Council should be thinking about. Chair Kuhn clarified that Councilor Cahan meant moving two-family and multi-family to conditional use. Councilor Cahan said yes.

Councilor Asherman said that he does not see any crises occurring but that it certainly can happen and that was discussed over a year ago. If RA setbacks changed, there could be a sweep to the other side of town. He wondered if it made sense for the Council to ask LPAC to keep an eye on this and watch it on a regular basis in terms of looking up what permits are being requested and to keep an analysis on this and if in their minds it becomes a significant issues bring it back before the Council. Chair Kuhn asked if he meant specifically the two-family and multi-family increase or more generally. Councilor Asherman said more generally increasing

density in those districts in terms of setbacks and the conditional use issues; whether it becomes the crisis that some people anticipated.

Councilor Trickett asked a follow up question about the Farm and Forest identified properties. He asked if a RD property that had previously been in the Farm and Forest district would be nonconforming under the pre-2016 zoning standards or only be non-conforming as a Farm and Forest property? Mr. Croce said that the creation of the RD district came out of the July 2016 zoning amendments. Prior to July 2016, there was no RD. The RD district was a combination of both the RB and Farm and Forest districts. It would likely be non-conforming under the pre-2016 zoning because it would have been in Farm and Forest. If it were to revert back to Farm and Forest, it would become non-conforming. Councilor Trickett asked if that was the case for both RB and RD in that both zones were all Farm and Forest? Mr. Croce said there was always an RB district, but it had different dimensional standards. There were portions of Farm and Forest which got converted to RD and portions that got converted to RB. Councilor Trickett asked if a property in RD that had been in RB would be non-conforming if there were a roll back to the pre-July 2016 RB dimensional standards? Mr. Croce said that would be an analysis that would have to be done on a case by case basis. Because it is in the RD now, if you went back to RB as RB is currently constituted it would be conforming but if you went back to pre-2016 RB there is a chance that it could become non-conforming but that would be on a case by case basis.

Councilor Trickett said that there is a distinction with properties that are in neighborhoods. The Town changed the zoning to include them in a residential district in part to take the existing use pattern into account. He is fine with the idea of referring it to LPAC but he earlier requested some information and it would be helpful to him to have more context in terms of growth and development patterns and the impacts of the 2016 zoning amendments. He hoped that, as part of this process, the Council will have an opportunity to hear from impacted residents as well as residents who are looking for ways to stay in Falmouth by converting homes into duplexes and whether or not that is a kind of use that we want to prohibit or make more difficult. Given the challenges that Falmouth faces with neighborhood character, land use and an aging population, changes to our Town that are going to happen regardless of the zoning changes we make.

Chair Kuhn said she really appreciates wanting to get deeper into the data and getting more context around the status. Some of that relates to the comprehensive plan update and evaluating how the situation played out. She was reluctant to do spot fixes all over town on small things. She wanted the Council to be paying attention and intervening when there is a serious problem, but she did not think the Council wanted to make changes that might follow a comprehensive plan update.

Councilor Asherman said that a lot of the things that Councilor Trickett suggested should be components of the comprehensive plan update process but he did not think it was something that the Council could take on. It needs to be done by another Committee. The charge to LPAC right now is gathering that data prior to a comprehensive plan review and what Councilor Trickett is talking about is part of the data and information process.

Council Cahan agreed that an overall deep dive and evaluation should be part of the comprehensive plan update. She was not opposed to assigning a committee or staff to keep an eye on the issue. She was concerned about determining what scale of development would be considered a serious problem. That is why she suggested moving two-family and multi-family to conditional use. Chair Kuhn asked if other Councilors agreed with the specific concerns identified by Councilor Cahan?

Mr. Croce explained the BZA conditional use process. Councilor Cahan said that all of the conditional use criteria were things that she wanted to make sure that the Council was monitoring and making sure that developments are following; right now, they would not be.

Councilor Trickett said that one of the things that the BZA struggles with regarding conditional use applications is that a lot of it is subjective. It ultimately introduces a political component to every development. It depends on who sits on the BZA. It can get very expensive for developers to satisfy concerns. He felt that there is a stigma around duplexes that he does not share but that has a potential to create an issue for the BZA that every project becomes a big deal with all the neighbors weighing in on what they think the project should look like. He would personally rather approach the duplex issue as a policy matter that does not involve having a board evaluate every propose in the context of neighborhood input. If we want duplexes to be a development option in our Town, we should have objective rules around where they are allowed.

Councilor Johnson asked if the BZA review criteria is progressive (if a proposal does not pass item A it does not move on to item B)? Mr. Croce said that the BZA could deny an application if an applicant failed to identify an individual criterion, but he would be surprised if there were many occasions in which the BZA denied applications based solely on the neighborhood character criteria. Councilor Johnson asked if that might be a consideration when they are considering projects at the BZA level to say does this fit the character of the neighborhood? Maybe there is an opportunity to hit the pause button there and ask if this is something that the neighborhood wants? Maybe the Council should think about if that is a step in the process that might eliminate some of the need to get further down the line?

Councilor Asherman said that it appears that there are only two properties on the list of properties that could not have been built but for the 2016 zoning amendments that are anything but a one off-220 and 221 Middle Road and the Eagles Lane duplexes. The process of doing that for one-offs becomes laborious. He does not have the knowledge or background to be making those kinds of decisions. He suggested that LPAC can keep an eye on it and bring it forth with staff input if problems come about.

Chair Kuhn was concerned with LPAC keeping an eye on it because, like Councilor Cahan, said is not sure what the measures would be for determining that there was a problem. She did not want the issue to get away from the Council, but she did not want the Council to act prematurely in response to a specific acute problem.

Councilor Hemphill appreciated the opportunity for the Council and the public to take a look at what is going on. A lot of these new units are probably not unexpected given the 2016 zoning amendments. A lot are infill which was the purpose. He felt that the Council should keep an eye on it. He did not see a need to react.

Councilor Trickett was concerned about asking LPAC to keep an eye on the situation because the kind of data that he desired to contextualize this and to develop opinions is data that LPAC would largely rely on staff to develop. LPAC has a role to play but will be relying on the same kinds of data that he is looking for to monitor the situation. He desired to ask staff to start working on gathering this data. This data is necessary to equip the Council with context to understand what has happened in the past and be able to understand the consequences of policy decisions that it makes going forward. He desired to have that data directly rather than through LPAC. This is something that staff can put together.

Chair Kuhn would rather see the Council hang on to the issue than give it to LPAC. She asked if the Council could table the discussion for now and get more data collected from staff and continue to review this. She was personally interested in the impact of moving conditional use in RA into RB and RD. Councilor Cahan asked if Chair Kuhn was thinking giving it a few months; maybe January or February so that staff has time to compile data? Chair Kuhn said that she was thinking before the end of the year. She suggested putting together a subgroup to work with staff to determine what data is reasonable to collect short of doing an entire comprehensive plan update. Councilors Trickett and Cahan volunteered to work on this. Councilor Trickett

said that he sent Mr. Croce questions over the weekend. Mr. Croce provided feedback. He was willing to share his questions and encouraged the other Councilors to think about what their questions were and what they would want to know.

Councilor De Lima said that she was struggling with the discussion because there have been on average nine units each year over the last three years that have come about with the revised zoning. She questioned what problem the Council was trying to solve. She liked Chair Kuhn's idea of incorporating it into a comprehensive plan update. She was not sure that the Council could arrive at consensus around how many permits was a problem. She felt the need to step back and get the visioning and comprehensive plan work done before revising what is currently in place.

The Council agreed to gather more data and return to this item again for further evaluation.

Item 6 Introduction of an ordinance amendment to Section 19-23.11 of the Code of Ordinances relative to extending the time limits for development under the Tidewater Master Development Plan and removing the prohibition on filing for Site Plan Review within the areas known as TF2 and TF3 within the Tidewater Master Planned Development District.

Councilor Hemphill said that the Council has been extending the time period to allow the master plan to be extended. It was originally ten years from 2005 to expire in 2015. There was a series of extensions of that master plan in order to allow the developer to fulfill some of the requirements for the master development plan. The Council has been doing six month and one-year extensions. The current extension expires on October 19, 2019. There is a lot that has happened at Tidewater in the past year. The Town has worked out an agreement to purchase the property with the hope of perhaps transitioning it over to the Land Trust. The Town has also established a better plan for TV3; new residential development expectations for that property. There is a belief from staff that the need for a short leash on these extensions has really diminished with the change in status at Tidewater. He and staff are making two recommendations, 1) that the master plan be extended for ten years and 2) remove the prohibition on the filing of site plan applications on the TF2 and TF3 sites (the farmhouse and the property adjacent to the farmhouse that was going to be a senior housing development). Those are off the table now. He believed that this allows additional flexibility on what disposition would be provided for in the future. He recommended that the Council consider it and that the Council schedule a public hearing.

Councilor Trickett clarified that, since the Town owns the property, nothing will happen with it without Town approval. Councilor Hemphill said he was correct. Councilor Trickett asked if there was any risk to extending the master plan by ten years? Mr. Croce said he was correct. In the unlikely event that the Town decided to sell the property to a developer, then that might be a different context but technically speaking the Town would have control over that sale so as it stands now the Town maintains control over what would happen there. He did not want to use the term eliminate in case the Town sold the property.

Councilor Johnson said that he thought the original master plan was adopted with the idea that there would be a complete buildout within ten years and that was not the case. There was an economic downturn in 2008. Things did get developed but not completely. The developer went back for five or six different extensions over the course of three plus years. He felt that this was a plan to apply the ten-year extension so that the Council did not have to keep granting annual extensions. He thought it was a great idea. He saw no harm in putting an extension for another ten years versus the alternative which has been to go back constantly and asking for extension after extension.

Councilor Hemphill clarified that any changes to what happens on Tidewater would come back to the Council.

A public hearing was scheduled for the October 17 meeting.

Adjourn

Councilor Cahan moved to adjourn; Councilor Asherman seconded. Motion carried 7-0.

The meeting adjourned at 8:53 pm.

Respectfully submitted,

Marguerite Fleming
Recording Secretary