

Town Council Special Meeting

Minutes

January 13, 2020

Councilor Kuhn called the meeting to order at 6:00 pm.

She announced that Nathan Poore, Town Manager, was ill so Amy Lamontagne, Assistant Town Manager was attending on his behalf. She also said that Item 6 will be tabled until the January 27, 2020 Council Meeting due to illness. Additionally, previous versions of the agenda included two items related to street acceptance. Those items will be placed on a future agenda. Finally, Councilor Kuhn asked Councilor Asherman to serve as chair for this meeting as she is recovering from an injury.

Roll Call

All councilors were present and answering roll call.

The Councilors briefly discussed the difference between special and regular Council meetings. Councilor Hemphill announced that an additional meeting will be added on February 3, 2020 due to a very busy Council schedule and several upcoming agenda items.

Item 1 Staff presentation on short-term rental regulation. The Council will be asked to provide high level policy direction for the Ordinance Committee.

Chair Asherman said that there has been some confusion regarding this item since the agenda was posted last week. The Councilors have received a large amount of correspondence. He said that there is no planned ordinance at this time and no decisions have been made. This is the first time it has been brought up by the Council. This agenda item is intended to serve as an opportunity for the Council to discuss whether they would like to refer this topic to the Ordinance Committee and, if so, provide guidance to the Ordinance Committee. Councilor Cahan noted that the Ordinance Committee has seen this presentation and were provided with research notes to review. The Ordinance Committee began looking at short-term rentals because of complaints that had been received. There are a lot of considerations and the Committee did not want to move forward without providing the full Council a chance to review the presentation and provide more direction. Chair Asherman noted there will be plenty of opportunities for public comment before any action is taken.

Marguerite Fleming, Administrative Analyst, delivered a presentation on her research on the short-term rental landscape in Falmouth and short-term rental ordinances developed by other Maine municipalities as well as national municipalities. She reviewed data on short-term rentals in Falmouth. Ms. Fleming's research included seven Maine municipalities' ordinances and those of Boston, San Antonio, and Seattle. She reviewed commonalities across the ordinances. She described owner-occupied versus non-owner-occupied rentals as a consideration when developing ordinances. 5 of the 10 municipalities require proof of residency in registering owner-occupied rentals. Most of the municipalities consider accessory dwelling units to be owner occupied if the owner lives in another unit on the property. She described how Portland and South Portland have placed restrictions on where non-owner-occupied rentals can be located. She described how Seattle and Boston's ordinances include requirements for listing platforms. She reviewed the different towns' registration fees, enforcement authority, enforcement action, and violation penalties/fines. She discussed how enforceability is an important consideration in developing short-term rental ordinances. She reviewed the services and pricing structure for Host Compliance, a short-term rental regulation enforcement company.

Councilor De Lima asked if Maine has any regulations around short-term rentals? Ms. Fleming said not that she knew of. Massachusetts recently passed a law focused on tax collection. Maine charges a 9% lodging tax

that short-term rental operators must pay. Councilor De Lima asked if the platform collected the taxes. Ms. Fleming said that she thought so. This question came up when the Ordinance Committee met with the Host Compliance representative because host compliance helps municipalities collect local lodging and sales taxes. Councilor De Lima asked if the Towns that have developed regulations are achieving compliance? Ms. Fleming said that she needed to come back to the Council with more information. She shared anecdotal information regarding compliance with South Portland and Cape Elizabeth's ordinances. Councilor De Lima noted that managing compliance would require a significant administrative cost.

Councilor Johnson asked about similarity between the towns that Ms. Fleming researched and Falmouth. He asked if the units in other Towns were in strictly residential zones or mixed used commercial/resident zones. He also asked if they were primarily located by the water? Any similarities or discrepancies regarding mixed use versus residential? Ms. Fleming said she would need to do more research to provide an answer. Councilor Kuhn asked if in restricting non-owner-occupied units in residential zones, South Portland grandfathered in pre-existing units in? Ms. Fleming said she thought South Portland required non-hosted home-stay operators in residential zones to cease operation by a certain date.

Councilor Hemphill clarified that the Ordinance Committee included himself, Councilor Cahan, and Councilor Asherman. He said that the Council is aware that there are a lot of responsible short-term rental operators in town but that the Councilors have received several complaints over the years where things have gotten out of hand. He felt that the Council is looking to see whether Falmouth is poised to enact some kind of regulation and get a better understanding of what is happening in Falmouth's short-term rental environment. He hoped that there was a way forward to manage this in a better way.

Councilor Kuhn asked about connections between the increase in the number of units with the 2016 zoning changings and the short-term rental market. She asked how many of these units were in accessory dwelling units or recently completed properties. Ms. Fleming said she would reach out to the Host Compliance representative to see if the company could provide more data.

Councilor Kuhn said she was glad that the Town is looking at this issue. She said there has been a substantial increase in the number of units in one year. She suggested holding a public forum. She suggested having the Ordinance Committee present a draft at the forum.

Councilor Cahan suggested having stakeholders work on solutions at the forum. She suggested tabletop exercises.

Councilor Trickett agreed with Councilor Cahan's suggestion. He said that Ms. Fleming's research and presentation was a great first step but did not feel like he had enough information to provide direction to the Ordinance Committee. He desired to first hear public feedback from all stakeholders. He desired for staff to schedule a public forum or workshop and to work to provide answers to Councilors' questions. He suggested that the forum could be a dual informational meeting and public forum.

Chair Asherman said that he heard agreement that the Council did not feel comfortable providing policy direction to the Ordinance Committee until it had received public input.

Councilor Cahan asked for clarification on the structure of the public forum. She asked if the Councilors intended for it to be a workshop where people could sit down and roll up their sleeves together or more of a presentation. Chair Asherman said he saw it as a vigorous public forum with plenty of opportunity for public input. Councilor Kuhn suggested using the recent Route 88 Intersections public forum as a model. There was a presentation at the beginning, a table-top exercise and then a clicker exercise. Chair Asherman agreed and

said that staff could incorporate the questions addressed in tonight's meeting into the presentation. Councilor Cahan asked that staff follow up directly with residents who have reached out on this subject.

Item 2 A Resolution for the Town of Falmouth to Join the Earth Day 2020 Network and to Celebrate the 50th Anniversary of Earth Day, and Maine's Bicentennial Through a Calendar of Events in Late April-Late May 2020.

Councilor Cahan said that this year marks the 50th anniversary of Earth Day and the State of Maine Bicentennial. The Council has previously discussed wanting to do something significant to celebrate the 50th anniversary of Earth Day. The Conservation Commission and the Recycling and Energy Advisory Committee are working together with the Town to plan events and educational programs.

Councilor Johnson read the resolution into the record.

Councilor Kuhn moved the resolution; Councilor Cahan seconded.

Chair Asherman opened the public comment period;

Susan Gilpin of Heron Point Road told a story from the first Earth Day in 1970 about two Falmouth residents who took a dingy down the Presumpscot River from Westbrook to Falmouth and observed the pollution. The Press Herald ran an article about them. Congress passed the Clean Air and Clean Water Acts in 1972 and in the same year banned DDT. She described how the pollution in the Presumpscot has been reduced since the first Earth Day. She encouraged the Council to pass the resolution.

Councilor Asherman closed the public comment period.

Councilor Trickett noted that the resolution includes reference to the pesticide and fertilizer ordinance that has not yet been voted on. He expressed concern that the Council would be resolving to do something that it has not yet acted or received public comment on. He asked about the budgetary impacts of the calendar of events. Councilor Cahan said that Kimberly Darling, Energy and Sustainability Coordinator, is working on securing sponsorships. Ms. Gilpin said that most of the planned events are events that were already in the works such as the planting of a Bicentennial pine grove. Councilor Trickett said that he appreciated Ms. Gilpin's story.

Kimberly Darling said that a budget for the calendar of events has not yet been developed. The planning committee will partner with the FEIC to work with the business community to offset costs through sponsorships. She said that the resolution gives the planning committee the greenlight to continue its planning efforts.

Councilor Trickett moved to amend the resolution to strike the final clause in the fourth whereas, "while also requiring lawn care companies to report their annual use of pesticides and fertilizers;" Councilor Hemphill seconded.

Councilor Cahan asked if Councilor Trickett intended to leave in the portion of the whereas regarding the Living Lawns program? Councilor Trickett said that he did not think that the Council needed to approve the Living Lawns Program so that part could stay in. Councilor Johnson suggested changing the verb requiring to considering in the clause regarding the pesticide and fertilizer ordinance rather than striking it. Councilor Hemphill felt that striking the last clause would not substantially change the intent of the resolution and would solve the potential cart before the horse issue. Councilor Cahan asked Councilor Trickett if he desired that a report be made to the Council if the calendar of events spending exceeded a certain amount? Councilor

Trickett said no, but that he did not want to commit to the Council having to make a supplemental appropriation in the future.

The motion to amend the resolution to strike the final clause of the fourth whereas. Motion carried 5-2. Councilors Johnson and Cahan opposed.

Councilor Cahan said that she opposed the amendment because there has been so much work that has gone into the reporting requirement of the pesticide and fertilizer ordinance. She acknowledged that striking the clause would not impact the overall resolution, but she wanted to have a reflection of the years of hard work that have gone into the requirement. Councilor Johnson agreed.

The resolution as amended carried 7-0.

Item 3 Ordinance amendments to Sections 7-7, 7-8, and 19-128 of the Code of Ordinances relative to abutter notification requirements for Planning Board site plan and subdivision applications.

Councilor Cahan provided background information on the proposed amendments. She said that the Planning Board supported the amendment at its MRA hearing. In addition, the Board recommended that the Council consider adding other means of increasing public notice including posting Planning Board agendas in the Forecaster in addition to the Portland Press Herald and requiring signage on properties under consideration by the Planning Board.

Councilor Cahan said that she did not know if the Council had the option to add to the proposed amendments at this point. Amy Lamontagne said she was not aware that the Council could add to the amendments at this point. Chair Asherman said that the options would be to either table item to allow the additional recommendations to be added or the Council could vote on the proposed amendments and further amend the ordinance later. Councilor Trickett agreed. He liked the Planning Board's recommendations and desired to consider them further and get separate public feedback. He did not think adding them to the ordinance was something that the Council would want to do on the fly. He said that he would rather vote on the proposed amendments so that the additional notice could be provided to abutters as soon as possible. He was open to making subsequent adjustments after the Council considers the Planning Board's recommendations. Councilor Kuhn said that this is a real win for the community and gets the Town up to par with what is happening in other communities. She was intrigued by the Planning Board's recommendations but did not want to hold up voting on the proposed amendments in order to consider them. Separate public comment will be needed. Councilor Hemphill felt that this is a welcomed improvement in informing residents of what is going on where they live and what impacts they can expect from these projects. It broadens the scope of work for the Planning Department significantly but it is a needed change.

Councilor Trickett moved the ordinance; Councilor Cahan seconded.

The motion carried 7-0.

Item 4 Public Hearing on an Ordinance for Pesticide and Fertilizer Regulations.

Councilor Cahan reviewed the proposed ordinance. She said that the intention behind the reporting requirements is to allow the Town to get a good understanding of what is being applied. This detailed information is being required because in the future the Town wants to be able to test water. To test water, one must know the chemicals for which they want to test. She said that the Councilors have received public comment over the past several days that the proposed ordinance does not go far enough. The Councilors and

Town staff have had many conversations about this over several years. The Ordinance Committee did not want to surprise people and they did not want people to be confused and not know how to react. The Ordinance Committee felt that providing an intense education campaign for the community would help people better understand what is happening with pesticides and fertilizers. The Committee felt that if a ban was put in place without an education campaign then people would be confused and possibly just ignore it. Councilor Cahan added that the Ordinance Committee wanted to get the ordinance in place before the commercial applicators start their spring season. Councilor Hemphill added that there is an expectation that the Council will re-address this ordinance and its effects in the future.

Chair Asherman opened the public hearing.

Mary Cerullo spoke on behalf of Friends of Casco Bay. She delivered a presentation on Friends of Casco Bay's concerns about pesticides and fertilizers getting into Casco Bay. She described the organization's bayscaping program. The organization sampled stormwater as it was entering Casco Bay for nine years and identified 14 different pesticides that were entering Casco Bay. She described the effect of pyrethroids pesticides on crustaceans. She described how excess nitrogen from fertilizers can trigger nuisance algae blooms. Nuisance algal blooms smother marine life. She supported the education campaign component of the proposed ordinance.

Nancy Wanderer, a resident of Oceanview at Falmouth, said that Nancy Lightbody, Conservation Commission Chair, presented at a meeting of the Oceanview women's discussion group last Monday. She presented 96 Oceanview resident signatures in support of the ordinance. The Oceanview residents are very proud of what is happening at the Council level and they hope that the proposed ordinance and many stronger ones will be passed. They plan to meet with the Oceanview management to request that Oceanview stop using pesticides and fertilizers.

Isabel Denham, a resident of Oceanview at Falmouth supported the proposed ordinance. She asked, "which was preferable for your children and grandchildren? To see dandelions or to drink poisoned water?"

Mollie Heron, a resident of Oceanview, said that she owns property on a lake in Orland, Maine. She does not use chemicals on her property. She described her prior work in Pittsburg with an organization, Group Against Smog and Pollution. She urged the Town Council to adopt the ordinance drafted by the Conservation Commission. She asked the Council to please listen to taxpayers and join Portland, South Portland, and Hancock County in instituting an environmentally safe law for Falmouth.

Valerie Greenberg, a resident of Oceanview, described her efforts to investigate the ingredients in the pesticide that is applied at Oceanview. She said that the key ingredient is Dicamba. She felt that the proposed ordinance was important because otherwise it would be too difficult for people to understand what is in these chemicals and how it could be affecting them. She urged the Council to move forward.

Mabel O'Brien of Applegate described the brown tail moth spraying that had been conducted in Applegate. She described her conversation with the contractor about the chemicals in the spray. She was glad that the Town is going to crack down on these people and find out what is in the pesticides and fertilizers that they are applying. She hoped that if the applicators did not know the contents of the chemicals, they were applying that they would not be able to apply them. She said that we need to stop straying toxic chemicals. She urged the Council to strengthen the current pesticide proposal by adopting at least a strong Portland, South Portland style ordinance to restrict pesticide use.

Sarah Boudreau of 291 Gray Road said that she operates an organic farm and is a member of the conservation commission. She read from an email that her son Max wrote to their farm's CSA members

about their practices of permaculture and no-till farming practice. She said that citizens expect help with minimizing risks to their families, pets, environment, waterways, and oceans. She said she and the other operators of Winslow Farm have an obligation to protect the land and soil. She said that as government officials the Town Council has the responsibility to protect citizens.

Cynthia Henriques, a resident of Oceanview, described her research on Dicamba, a chemical in the pesticide used by Oceanview, True Green. She said that what she found was frightening. She felt that the chemical should be banned and that it would help the Council in making a decision if they researched it. She felt that the ordinance needs to be strengthened and that pesticide/fertilizer use should be banned in Falmouth and in Maine.

Rachel Horton White of Stone Ridge thanked the Conservation Commission for developing an ordinance that addresses pesticides. She has two young children. She does not use pesticides and fertilizers in her yard. Her family created a campaign to encourage their neighbors to have bee friendly yards. She encouraged the Council to develop a stronger ordinance than what is being proposed. She said that in her conversations with people in Portland it seems that stronger requirements are necessary to encourage people to change their behavior. She described how pesticides use is correlated with cancer in dogs. She encouraged the Town Council to look to what Portland and South Portland have done to come up with a stronger ordinance that bans pesticides for at least homeowners.

Art Batson of 13 Maple Street is the CFO and one of the owners of Lucas Tree, a Falmouth business. He felt that the approach that Falmouth is starting with is the correct approach. He said that most of Lucas Tree's business is working for the power companies. He discussed three concerns: 1) the definition of commercial applicators, 2) the data that is being submitted, and 3) the baseline for testing. He said that there are approximately 1500 applicators licensed in the state of Maine. Based section 21-6 of the proposed ordinance, 254 of the applicators will be exempt for their types of uses. Lucas Tree currently represents about 9% of all licenses in the state of Maine. Lucas Tree has three times more licensed applicators than any other company in Maine. He said that commercial applicator licenses are company affiliated so if an employee leaves a company that license is no longer valid at the state level. Commercial applicators do not submit data to the state. Master commercial license holders submit data to the state. At Lucas Tree there are ten master commercial applicators and if a company has more than one master license applicator a business only must submit one application. There is some confusion there in terms of the application and the data that the Town is trying to collect. The fee of \$50 per commercial applicator is 42% higher than the fee that applicators pay to the state to be licensed. The concerning part is the collection of that data and how the Town is doing it. He felt that having every commercial applicator that a company has report that data individually is the wrong approach. It was indicated at the December 9 meeting that all the information that the Town will be collecting is all the data that is submitted to the state. That is not true. At the state level, companies do submit the target site, the pesticide band, the EPA registration, the undiluted total pounds or gallons, and the total area submitted. Companies do not submit the date and location of the application. Most of those logs are probably paper. Companies are required to maintain that information, but most do not aggregate it that way to the state. He said that the information that companies would be submitting to the Town would be thousands and thousands of records of every date and location of application. He asked if the Town has the resources to aggregate and analyze that data? He felt that the Town could achieve the same goal by accepting the information in more of a summary form. He expressed concern that the Town was not adopting a baseline out of the gate. We might not necessarily know all the chemicals that are being used but that information is public. He felt it would be important for the Town to set a baseline to begin with and then grab that information to see whether that information is changing. He asked if the problem was certified licensed applicators or individual households. He said that 70% of the market is currently done by individuals and not hired contractors.

John Winslow of Gray Road said he was not sure that the ordinance is the right path. He felt that educating homeowners and individual property owners will be more effective. He did not believe that it was the commercial applicators who were the problem. He felt that it would be more advantageous to educate the public rather than to adopt another ordinance. He felt that it would be advantageous to identify dug wells on properties and use those to establish a baseline water quality.

Elwin Hanson of 261 Woodville Road said his family owns Idleknot Farm. He defended his use of pesticides and fertilizer on his farm. He said there are at least three things needed to be a farmer: 1) land to grow your crop, 2) help to get the crop in, and 3) the customers to buy it. He said that he began using pesticides after seeing his father lose his crops to insects. He has used pesticides for over 40 years with guidance from the Maine Board of Pesticides Control. He is opposed to Falmouth adopting ordinances like those of Portland and South Portland. He would like to see Falmouth work with the Board of Pesticides Control. He felt that the Board has done an excellent job guiding commercial and private growers with pesticide use. He would like to see Falmouth and every other Town take this approach. He felt that we need to do this at the state level. He felt that pesticide use is necessary for successful farming. He asked the Council to think about how banning pesticide and fertilizer use will impact farmers. He discussed the practice of rotation. Councilor Cahan said that agriculture is exempt from the proposed ordinance.

Bob Maurais, President of Mainely Ticks, said that there is a fine balance in terms of the stewards of the environment and protecting one's health and welfare. He said that people 65 and over had the highest incidence of Lyme disease in Maine. The highest incidence is children ages 5-14. Ticks and tick born illnesses are not going anywhere soon. He said that we all encounter pesticides every day, but we have come to trust the EPA in telling us that the level that those are being used at is safe. He felt that it is important that we educate first and exterminate last. He felt that people needed to trust the professionals when it comes to treating properties. Commercial applicators are regulated by the Maine Board of Pesticide Control. They are doing the very best that they can to not only protect the environment but also protect the people. He said that he would add "and citizens" to the whereas on the resolution about protecting natural resources.

Ryan Minzner, Director of Greens and Grounds at the Woodlands Club. He said that he is required to have over 200 hours of continuing education to keep his applicators' license. Homeowner can go to a store and purchase pesticides with no application training. He expressed concern that the Town was targeting commercial master applicators but there is nothing in the ordinance aimed at homeowners. The Woodlands' is 95% organic. They believe in promoting good bugs. Their fertilizer program is 100% organic. They do have to use some synthetic pesticides.

Jessie O'Brien of Downeast Turf Farms in Kennebunk. He has been involved in the pesticide ordinance development that has been occurring in Southern Maine. He serves on the Pesticide Management Advisory Committee in South Portland, is the Chairman of the Portland Pesticide Committee, and is also working on developing South Portland's fertilizer ordinance. He discussed integrated pest management or integrated plant management. He felt that members of their industry would rather not spray pesticides and that integrated pest management is a way to do that. He said that increasing the health of the soil is also important. Soil is the basis of healthy plants, so soil tests, organic matter, and things of that nature are important elements of this discussion. He said that the Board of Pesticide Control is updating its files to be electronic. He felt it would be important for the Town to reach out to the Board. He said that there was no license for fertilizer application and no reporting requirement. He felt that it would be important for the Southern Maine communities to collaborate on this issue and to share authoritative information. He supported the information gathering goals of the proposed ordinance.

Palmer Higgins of Mainely Grass said agreed with Mr. Batson's comments. He felt that structuring the registration aspect by company instead of individual achieves the Town's goal without being incredibly expensive or burdensome for commercial applicators. The requirement for date of application and location of

application those two data points combined will lead to a dataset that is very long. He felt that taking out the date of application and just keeping the geographic areas of application would help synthesize the data in a much more digestible format. He agreed with the point about the amount of use by commercial applicators versus home applicators.

Lucia Connelly of 60 Field Road discussed brown tail moth spraying on the Foreside, Woodville, Winn, and Woods Roads and the playing fields. She said that the drift has been devastating. She felt that registering pesticide companies would not help. She felt that a voluntary registration of private ownerships alleging to be pesticide and herbicide free is better. She felt that spraying from roadside trucks is crude and is not best practice.

Councilor Asherman closed the public forum.

Councilor Cahan said that the Town does not have control over agriculture, so it is exempt. She said that the Committee recognized that ticks and misquotes were an issue that the Town was not prepared to start regulating. She felt that the Town would have to hire many staff to start collecting data from homeowners about what they are putting on their lawns. She said that the Committee's thinking was that if that Town can collect the data from the commercial applicators who already have data and then look at testing it could show that commercial applicators are only putting a certain amount on but the tests are showing a larger amount therefore it is probably the homeowners who are being the most impactful. The hope is that education over the next year will result better understanding amongst homeowners around improved application practices. She said that this is not a perfect ordinance. The Ordinance Committee did not view it as being final. It is a step. She hopes that the Council will join the Ordinance Committee in committing to continue education, data collection, and monitoring efforts with the goal of furthering a better result. This is more of a somewhat living document that will be revisited on a regular basis.

Councilor Kuhn said that she appreciated the idea of starting with a reporting requirement. She said that the Council cannot be trying to regulate a problem until it understands what the problem is. She would like to know the impacts that are happening in Falmouth. In a few years when the next step is taken the Town will have established a baseline that can be used to measure results. She was interested in some of the commercial applicators concerns during the public forum that maybe the reporting requirements are not asking the right people to report and not receiving the data in a way that user friendly for staff. She asked if those things were comments that the Ordinance Committee or the Conservation Commission heard and considered or if this is a first impression on those? Kimberly Darling said that the commercial/master applicator would need to be tweaked in the definition. The Ordinance Committee's intention was to have one report per company. Ms. Darling said that having the date and location of application would be helpful for fertilizer. She understood the lump sum as required by the state. She said that it was helpful to hear the commercial applicators' feedback during the public comment period. Mr. Minzner provided the example said that the Woodlands spoon feeds organic fertilizer on 30 acres. Spoon feeding requires going out almost daily so there would be a significant amount of data if the Woodlands was required to report that data by date. If it were grouped together the Woodlands could provide the total amount that was applied of each chemical this year. Ms. Darling said that this was an attempt to look at fertilizer and pesticides in one ordinance understanding that there are different use requirements for each so the feedback is very helpful on the registration and reporting side of things.

Councilor Trickett said his understanding was that the Town could not regulate or restrict commercial agricultural use of pesticides and fertilizers. He asked if the Ordinance Committee looked at whether that would prohibit the Town from asking commercial growers to report their usage? Ms. Darling said that her understanding was that agricultural uses do not have to report their use to the Board of Pesticides Control. That is why the proposed ordinance exempts that industry from reporting. Mr. O'Brien said that is correct.

Horticulture and agriculture production do not have to report their use; however, they maintain their records and for production to Board of Pesticides Control inspectors upon request. Councilor expressed concern about exempting commercial agriculture from the reporting requirement if the goal of the reporting is to figure out where the pesticides entering the waterways are coming from.

Councilor De Lima felt it would not be wise for the Town to try and capture the entire spectrum of activity. She viewed the proposed ordinance as the first step in recording and monitoring before the Town steps back and examines the significance of the problem. She felt it was worthwhile for the Town to make measured steps. This is some opportunity to make revisions based on the commercial applicators comments but let's take measured steps and get it started. She felt that if the Council included every aspect possible in the ordinance they might not get very far. She said that a theme in the public comments was personal responsibility. She applauded the Oceanview residents' commitment to meeting with the Oceanview management. Falmouth would be a better place if people heard this testimony and were inspired by it. She applauded the Ordinance Committee's effort to take the first small step through the proposed ordinance. She supported working with the commercial applicators to refine it. She also supported returning to the ordinance in a year to assess next steps.

The Councilors and Town staff discussed possible procedural next steps regarding scheduling the ordinance or sending it back to the Ordinance Committee for revision. The also discussed whether the revised ordinance would need to be re-introduced and the timeline.

The Council discussed having the Ordinance Committee consider revising the proposed ordinance to reflect the feedback received during the public forum. This could be added to the Committee's January 16 meeting agenda.

Councilor Trickett said he felt that there was consensus amongst the Councilors around working with the commercial applicators to revise the proposed ordinance. He sensed that there was very little opposition in principal to any kind of ordinance if it is reasonable given the way the commercial applicators operations and the state law work. He said he would not be in favor of voting on an ordinance with substantive changes without an opportunity for public comment.

Mr. Batson said that there seems to be a push to want to roll out the reporting process before companies start applying pesticides and fertilizers. He said that because commercial applicators are collecting the data to report to the state, the Town does not need to rush to pass the ordinance before the season starts. Chair Asherman said a big part of the pressure was to get the education campaign in place.

Councilor Hemphill asked Mr. Batson if Lucas Tree could accommodate the geographic location of application as it is written in the proposed ordinance. Mr. Baton said it would depend on the company and whether their data was electronic. The point he wanted to stress is that requiring the date and location of application will result in the Town having to analyze a lot of data. He said that when his employees are applying along a utility corridor it is sometimes hard to know which town they are in.

Councilor Cahan said that it was more important to know the date of application for fertilizer than for pesticides. She asked Mr. Batson if requiring the date of fertilizer application by month would be less burdensome. Mr. Batson said that it would probably depend on how the Town intends to use the data. It is important to consider other conditions like weather in analyzing the data.

Councilor Kuhn said she felt like the Council could send this back to the Ordinance Committee for them to meet with the interested parties and figure out these implementation details. She felt it was important for the

Council to take their time and do this the right way. She thanked everyone who gave public comment. She felt that the focus was on implementation.

Chair Asherman asked if he heard consensus that the order will not be scheduled and instead send the proposed ordinance back to the Ordinance Committee? Councilor Cahan asked if the Conservation Commission could move forward with the education component? Councilor Asherman said he thought the Council could direct the Commission to continue working on an educational component.

Councilor Johnson asked about section 21-6 D regarding insect repellents. He asked if brown tail moth spraying was included in insect repellents. Mr. Batson said the ordinance does not exempt a company to provide brown tail moth or mosquito spraying. He said that exemption was related to personal use insect repellent. Mr. Maurais ask whether the section in reference exempted applicators for reporting or if it exempted them from restrictions against application? Ms. Darling said that Mr. Maurais' company would be required to register and report to the town. The intent of the ordinance is not to prohibit the use of applications it is to require registration and reporting. She said those were common exemptions in other ordinances to help define pesticides. Ms. Darling clarified that commercial agriculture will not be asked to report.

Councilor Asherman said he saw consensus around sending the ordinance back to the Ordinance Committee.

Item 5 Order to approve a supplemental appropriation from the Property Revaluation Special Revenue Fund and Unassigned Fund Balance to fund a statistical market analysis and the townwide property revaluation.

Chair Asherman provided background information on the property revaluation project. It was determined last week that if the Council were to decide to contract with Vision Government Solutions to conduct the statistical market analysis it would not be complete in time to stay schedule for a revaluation with a 2021 end date. This is due to an assumption that the Town has been regularly collecting income and expense data relative to commercial properties however such data has not been regularly collected and is not needed to maintain current assessments. Chair Asherman said that, at this point, the Council can go a number of ways: 1) move forward with a revaluation starting this year and ending in 2021 without the statistical market analysis, 2) push off the revaluation end date until 2022 with or without a statistical market analysis, or 3) not do the revaluation at all. He reviewed the two options included on the supplemental appropriation order noting that the Council did not have to approve either option.

Councilor Trickett said that he agreed with the options that Chair Asherman put forward. He said that what has always driven his interest in the market analysis is the desire for the Council not to take actions that affect people without doing the best that it can to figure out what the consequences of those actions will be but now that the Council has learned that it is not going to be feasible to do the market analysis and still move forward with the 2021 revaluation deadline he did not think option A on the supplemental appropriation made sense. He felt that the only logical option to consider is option B if the Council did want to appropriate funding to move forward with starting the revaluation this year. Chair Asherman agreed. He said option B would be funding a revaluation to commence this Spring 2020. If the Council voted option B down that would mean the Council could defer the revaluation indefinitely or to next year.

Councilor Trickett moved option B; Councilor Kuhn seconded.

Chair Asherman opened the public comment period;

John Winslow of Gray Road was opposed to the statistical market analysis and delaying the revaluation. He quoted Ben Thompson's, Cumberland County Assessor, comments from the December 9 Council meeting

regarding the need for a revaluation in Falmouth. He presented his research on home sales data in Falmouth last year. 48 sales in his sample fell below the 70% assessed ratio. 57 sales in the sample fell below a 74% assessed ratio. 81 sales in the sample fell below a 79% ratio. He expressed concern that residents would lose homestead and veteran exemptions.

Lee Hanchett of Stone Ridge Road in Falmouth followed up on Mr. Winslow's presentation. He reviewed the distribution of sales prices above and below the 70% ratio. He said that there were very few expensive homes that were valued more than the 70% ratio. He also reviewed data on sales at less than the 70% ratio. He said that many of the expensive homes are significantly undervalued. He felt that the data confirmed that the two groups of homes that would be most affected by the revaluation would be most expensive homes and the lower priced homes. He read from Chapter 5, Administration of Maine State Property Tax. He said that the Town is right at the threshold of falling under the 70% assessment ratio. He said there are very serious consequences to falling below that ratio. He said that the Town needs to start the revaluation now versus a year from now. He opposed the statistical market analysis.

Bill McKinney of Bucknam Road expressed opposition to conducting a statistical market analysis. He felt that it was reasonable and prudent for the Council to forego the statistical market analysis and proceed with the revaluation at this time.

Chair Asherman closed the public comment period.

Councilor Trickett thanked Mr. Hanchett and Mr. Winslow for their presentation. He felt that Mr. Hanchett's charts illustrated the overall fairness of the current ratio as it compares with what real sales are looking like. He felt that the data illustrated that there was a fairly large disparity amongst sales over the past year between properties that are selling for close to assessed value and properties that are being sold for nothing close. He has concluded that despite reasons for deferring the revaluation fairness demands that the Town proceed with the revaluation now.

Chair Asherman said that this is really about a fairness issue. A revaluation is about the inequities that exist between properties. Councilor Hemphill added that some people's taxes might go up and some might go down, but it is unknown. Councilor Kuhn said that we do have some idea based on information that staff learned during the RFP process and through the information that Mr. Winslow and Mr. Hanchett brought forward that it will probably be the higher end and the lower end that will most be impacted. She said that concern about the ability for those people to prepare was what initiated the idea of the market analysis. Now it seems clear that the market analysis does not make sense. She felt that that the Council agreed on that. She felt that it seems like it is time to do the revaluation the Council has an obligation to act as good fiduciary stewards. She would only consider a delay of one year because of the timing of potentially creating changes in people's tax bills at the same time that changes in the budget could occur due to changes in the Fire-EMS Department staffing. Although it seems like the Fire Department issue will be phased in over several years, so she is less concerned about moving forward with the revaluation now than she had been previously.

Chair Asherman said that the Finance Committee has been working on preparing the budget for next fiscal year and one of the areas where the Committee is seeing potential increases in the budget is the Fire-EMS Department. The Department may need to bring on full-time employees due to challenges with staffing the department with volunteers. Chief Rice's presentation on January 27 will provide more information on that issue. A staffing study is currently being completed. The results of that study will likely be presented at the first Council meeting in February. He shared Councilor Kuhn's concern regarding people's tax bills increasing alongside increased budgetary needs for the Fire-EMS Department but agreed that the Department's challenges might be addressed over a period of several years so the Council perhaps should not defer the revaluation.

Councilor De Lima thanked Mr. Hanchett and Mr. Winslow for their presentation. She agreed that postponing the revaluation is not going to change much. It might allow people to become more aware that the revaluation is coming and do some planning. The more the Council can make people aware that the revaluation is coming the greater the opportunity for them to get involved and to better anticipate what might be coming. She supported getting this done sooner rather than later because of the consequences of the Town falling below the 70% minimum assessed ratio.

Chair Asherman asked Ben Thompson, Cumberland County Assessor, about the timing of the revaluation and in what budget year it would impact taxes? Mr. Thompson said the plan is for the revaluation to be completed for the 2021 tax commitment so fiscal year ending FY2022; the Fall 2021 tax bill.

Mr. Thompson added that he did not have the state valuation analysis when he and Nathan Poore delivered the initial Council presentation in July. The most current state valuation is 83%. He can adjust the certified ratio by another 10% or 93%. This is a 6% decline in valuation since last year.

Councilor Cahn asked about how the certified ratio impacts the budget? Mr. Thompson said he can adjust the overall certified ratio by 10%. It affects homestead and veterans' exemptions. People will not receive the full exemption credit. The biggest pinch will be personal property and utilities. Instead of getting 100% value of all the personal property that is out there it will be gauged against the certified ratio. Councilor Cahan asked about the utility impact. Mr. Thompson said utilities are multiplied by the certified ratio as well.

Councilor Kuhn asked what a 6% reduction means to the actual dollars of a homestead exemption. Mr. Thompson said that the \$20,000 homestead exemption times this year's 99% assessment ratio would be a \$19,800 credit. Were the homestead exemption staying at \$20,000 this year it would drop to \$18,600 with the 93% assessment ratio. Since it will be a \$25,000 credit this year, instead of the full \$25,000, residents will receive \$23,250. Instead of \$6,000 for veterans it would be \$5,580. Councilor De Lima asked if the town was at the correct valuation if residents would get the full exemption credit? Mr. Thompson said that is correct. Councilor De Lima said so potentially that tax bite could be somewhat reduced with the full valuation.

Councilor Cahan said that she felt like the Town was in a no-win situation. She thanked Mr. Hanchett and Mr. Winslow for their presentation. She said that she knew that this will hit the lower-income homes and that it would come alongside potential impacts to taxes due to increases to the Fire-EMS Department budget. She did not want to support the revaluation because she did not want to hit them, but she also did not want to decrease people's exemptions. She said she would reluctantly support moving forward with the revaluation if the Council desired to, but she wished there was a better way to support the Town's lower income residents. She would like the Council to consider increasing up the Town's assistance program. Chair Asherman said that the Council has time to address that. Councilor Kuhn added that there is a whole budget cycle in between the start and completion of the revaluation where the Council could add to the assistance program. She said it would help people plan to begin the education component immediately. She suggested getting a plan from the communications team and Vision.

Motion carried 7-0.

Item 6 Presentation and discussion on Falmouth Fire-EMS Department current and past staffing structure and pending staffing study.

This item was tabled until the January 27 Council meeting due to illness.

Adjourn

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Councilor Hemphill motioned to adjourn; Councilor De Lima seconded.

Motion carried 7-0.

The meeting adjourned at 10:00 pm.

Respectfully submitted,

Marguerite Fleming
Recording Secretary