

Town Council Meeting Minutes November 14, 2016

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

Roll Call

Councilors Kitchel, Ferrante, King, Hemphill, Farber, and McBrady were present and answering roll call. Councilor Svedlow was absent.

Item 1 Presentation from the Northern New England Passenger Rail Authority (NNEPRA) regarding an upcoming construction project in Falmouth and Cumberland known as "Royal Junction Siding" and Public Forum.

Patricia Quinn, executive director of NNEPRA provided an overview and update on a construction project that is planned for Falmouth and Cumberland. NNEPRA is a quasi-governmental agency formed by the Legislature and is the "business manager" for the Amtrak Downeaster train. She discussed the current Downeaster service and the major capital investments they have overseen since before passenger service began. Much of the track between Portland and Brunswick is single-track, which means that only one train can be on it at a time. There is also no place for trains to meet or pass. In order to increase the service to 5 trips a day between Brunswick and Portland, they need to add more track infrastructure. The proposed project, named Royal Junction Siding, is a 4 mile section that leads to Royal Junction. It will begin just north of Field Road and will impact Woodville, Muirfield, Logwoods, Greely and Tuttle roads. The project is fully funded; construction will begin in spring 2017 and last about a year.

Councilor King asked if only passenger trains will use the siding. Ms. Quinn said it would be for all trains.

Councilor Hemphill asked if this is for passing trains, or only for moving trains. Ms. Quinn said it is not a holding track, but for trains to pass while they are moving. It will be signaled.

Councilor King asked about the impact of train noise on the neighborhoods. Ms. Quinn said the schedule will be changing soon and not all the trains will be during the day.

Chair Farber asked if this area used to have a double track; Ms. Quinn said yes, and at some point the second track was removed. The railroad owns the property and all the work will be within their right of way.

Councilor Hemphill asked if the current track will be moved. Ms. Quinn said the existing track will remain and the new track will be installed to its south.

Chair Farber opened the public forum.

Erik Greven of Carnoustie thanked the Council for the quiet zone. He was glad to see that one of the goals of the Downeaster is to increase the quality of life; it would increase the neighbors' quality of life if they could stop the whistle at the Muirfield crossing. He understood that since it is a private crossing it is a different rule than the public crossing; he asked what could be done to improve the Muirfield crossing and make it a quiet crossing.

David Gagnon of Field Road asked if the work would start at his crossing. It was hard to tell from the graphic and he needed to know if he had to move his signs. He didn't want them to throw their debris on his property like last time. The existing track is the original location.

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Mark Perry of Carnoustie Drive asked what width they are going to use for the additional track. He wondered how many trees they are going to lose. He said the neighborhood needed a buffer for noise and visual impacts.

David Kennedy of Muirfield asked how long the construction will take and if there are any plans to increase the trains to more than five. He also asked if this would allow more freight train traffic.

Eileen Gill of Carnoustie Drive asked if they had studied the demand for more train traffic.

Ralph Lancaster of Woodville Road asked if anyone has considered the effect on property values from the train noise. He said the whistles blow all the time even though it is a quiet zone.

Tim Ferris of Turnberry Drive in Cumberland asked for more detail on the signal upgrades at the crossings and whether that would facilitate the creation of a quiet zone in Cumberland.

Ms. Quinn said neither NNEPRA nor Amtrak determine whether an engineer blows the whistle. They are governed by federal rules. It is not within their purview at all. There are different rules for private crossings and public crossings. She suggested that the residents of Muirfield continue to work with Cumberland. The engineers blow their whistles at that crossing and at Route 9. The trips will increase to 5, and that is all the Downeaster will operate for the foreseeable future. They do have plans to increase to 6 trips someday, but she didn't know if that would continue all the way to Brunswick. Freight train traffic ebbs and flows with the economy; Pan Am will continue to run their trains as they need to and she couldn't speak to that. The Downeaster service is intended to be a Brunswick to Boston service; the more trains they run the more riders they get. Adding more frequency will increase ridership. About 50,000 people ride north of Portland; there is market and demand here.

Jim Russell, project manager for NNEPRA, said the construction will start between Field and Woodville roads; at the moment it is not fully designed. Field Road will not see any change; Woodville Road will be a double crossing. The tracks will be 14 foot centers, meaning there will be 14 feet from center track to center track; this is as close as trains can be to pass safely. There will not be any clearing outside of Pan Am's property lines. There was a second track there in the past, so the bed is still there. They are going to raise it up slightly to bring it to the same level as the existing track. The signal upgrades that will be installed will likely not be recognized by the public; the gates and lights will stay the same but the computer system that controls the signals will be upgraded. The construction will start next spring, and may run into spring of 2018. Building the track should be complete in summer 2017, but the full cutover of the signal system will take longer.

Councilor Hemphill asked about a private crossing north of Field Road; Mr. Russell said there will be a second track going through there.

Councilor Hemphill asked if that private crossing will remain; Mr. Russell said that would be up to Pan Am. There is nothing in this project that proposes to close that crossing.

Chair Farber asked if abutters are noticed about the construction or not, since the work will be on Pan Am's property. Mr. Russell said this presentation tonight is part of their effort to notify people. He didn't know of any plans to notify people individually, since the work will be entirely on their right of way.

Councilor King asked about impact on the neighbors and how the railroad will address those concerns, especially noise and debris. Mr. Russell apologized if any debris was thrown onto private property and they will make sure that doesn't happen again. All the construction work will happen during daylight hours but there isn't anything that can be done to mitigate the noise of a train.

Councilor Kitchel asked who would do the actual construction. Mr. Russell said Pan Am will do the majority of the work, and they will hire local contractors to do side work such as paving the crossings.

Mr. Poore said Mr. Gagnon's property has a private crossing; in creating the quiet zone, Mr. Gagnon had to install signage. It would be helpful if they could review that signage and the crossing with Pan Am and make

sure it would not be impacted. Mr. Russell didn't think it would change if the signage is outside the right of way. There are a series of farm crossings and Pan Am typically holds up those agreements.

Mr. Poore said that, due to the regulations, it would be up to Cumberland to extend the quiet zone in order to bring Muirfield into the quiet zone.

Ms. Quinn said this project is in its early stages of design. They would update their website to keep people and the town up to date. Pan Am is in the process of picking up the ties from the last project but this project should not result in any ties being left behind.

Chair Farber asked when the more detailed design will be available. Ms. Quinn felt it would be sometime after the first of the year.

Item 2 Discussion about the Greater Portland Transit District (Metro Bus) preliminary FY 2017 budget.

Greg Jordan, General Manager of Metro, gave an overview of the bus service in Falmouth, which represents 6% of their ridership. Ridership is approaching record levels this year. The student pass program in Portland has been a great success; the revenue from this program benefits the entire system. He spoke about the new transit tracker system and the Breez express service, and plans for upcoming projects including expansion of the Breez to Brunswick, a pass program for USM students, and increasing ADA compliance at bus stops. They are also working to institute electronic fare collection. The proposed 2017 budget is a 14% increase, but not all of that is funded by the municipalities. 10% of the increase reflects the expansion of the Breez which is funded by a federal grant as well as the towns served; and the addition of RTP services, which also receives federal funding. The increase to Falmouth's contribution is 6.5%; due to a long-standing agreement to provide grant funding to Falmouth, the town's contribution would be \$159,000.

Chair Farber explained that Falmouth doesn't approve the contribution; rather they have 30 days to refuse the budget, in which case Metro would take it to the PUC.

Councilor Kitchel asked when the service starts and ends in Falmouth; Mr. Jordan said it is roughly 7am to 7pm, 6 days a week. Sunday service is roughly 8-5pm.

Chair Farber asked if every bus stop has a number on the tracking app. Mr. Jordan said every bus stop should have one.

Councilor King asked when ridership reports come out. Mr. Jordan said they report ridership monthly to a ridership committee of the Board. Total ridership on Route 7 is 70,000-75,000/year; boardings of that Route in Falmouth are 35,000-37,000/year. Route 9 has about 225,000 boardings/year, with much of that traffic in Portland; Falmouth's piece of Route 9 is about 6,000-8,000 boardings/year.

Chair Farber asked if a stop in Falmouth was always planned for the Breez. Mr. Jordan said it was envisioned as a commuter based express service to connect Freeport and Yarmouth with Portland. They widened the scope of the project and that is when they added the Falmouth trips. They have surveyed both riders and non-riders and have received great feedback. They will continue to analyze that feedback.

Item 3 An order to authorize a license agreement with the Greater Portland Transit District (METRO) to locate a bus shelter in the Route One Right of Way.

Mr. Poore said Metro approached him about this shelter a few months ago; they are trying to upgrade their stops for ADA access and would like to locate this stop within the right of way, which requires the proposed license agreement. The agreement has been reviewed by the Town's attorney and staff and will be used as a model agreement in the future. This stop will be located near the Falmouth Shopping center and includes direct curb access.

Greg Jordan, General Manager of Metro, said the location represents a shift from direct access to shopping centers, which is not ideal, and toward stops along the main line. This will shorten transit time as well as improve safety. Operating within the shopping center is more dangerous. Their obligation will be to install and maintain the stop to the satisfaction of the Town.

Councilor Kitchel asked if they would subcontract the installation and maintenance. Mr. Jordan said they will contract out the construction of the pad, but their employees will construct and maintain the shelter.

Councilor Kitchel asked if the shelters are aesthetically consistent with the look of Route 1. Mr. Jordan said it would be consistent with the shelter at Clearwater, which he felt is quite attractive.

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

Councilor Hemphill asked if there would be a bike rack, and if so, who would install it; Mr. Jordan said it is part of their contract with their shelter provider. He thought this one would include a bike rack.

Councilor Kitchel moved the order; Councilor Hemphill seconded. Motion carried 6-0.

Item 4 The Land Management and Acquisition Committee presentation on options for possible regulations of pets in parks and public lands.

Lucky D'Ascanio, Director of Parks and Community Programs, and Ted Asherman, chair of LMAC, gave a presentation on the work to date. The committee paired with PACPAC; they held two public forums and have reviewed the data they received. She discussed the assumptions they started with, the definition of the different types of public spaces available, and the different concerns about dogs in public spaces.

Mr. Asherman discussed the committee's recommendations. The first is a proposed ordinance change to require that pets be leashed within 300 feet of parking lots and trailheads on all properties. Their reasoning is that this is the most congested part of a public space; it spreads out after 300 feet and they would propose signage at that point. Their second recommendation is to differentiate the rules according to specific properties. Some properties might be off-limits to pets; some would require leashes at all times, and others would allow no leashes. He detailed those recommendations saying they would continue the current ordinance prohibiting dogs at child play areas, fields and during activities; that certain conservation property should not allow pets at all, including the River Point Conservation Area; and that leashes should be required at all times during the breeding season at other important wildlife conservation properties: North Falmouth and Hadlock Community Forests and at Suckfish Brook Conservation Area. Woods Road Community Forest should be closed to pets from December 1 to March 31, since it is a state-sanctioned deer wintering yard.

Ms. D'Ascanio said they are proposing these restrictions for town-owned properties; the Land Trust may incorporate them on their properties. She pointed out that they tried to provide places for pet owners as well as places for those that didn't want to be around dogs. She said staff will continue to evaluate the issue of dog poop bags and how best to address it; it is not a problem unique to Falmouth.

Mr. Asherman said they also discussed the possibility of limiting the number of dogs one person could have but they decided not to address that issue at this time.

Councilor Kitchel asked if dog walkers are coming from Portland to use the trails and whether the trails were for residents only. Ms. D'Ascanio said the committees wrestled with that issue; both Yarmouth and Cumberland limit the number of dogs per dog walker, which could drive the professional dog walkers to Falmouth. Staff have seen professionals bring dogs to Falmouth and there was some discussion about having them register as a business in town and pay a permit fee, but it hasn't left the discussion stage. There doesn't seem to have been an increase in professional dog walkers. Limiting the trails to residents only would be an enforcement issue.

Councilor Ferrante asked about the current leash situation. Ms. D'Ascanio said state law requires that dogs must be on leash or under voice control at all times. The Town would add the requirement that they be on leash within 300 feet of a trailhead or parking lot.

Councilor Ferrante said no one in Community Park leashes their dogs; she asked who would enforce this ordinance. Ms. D'Ascanio said the Town has an Animal Control Officer that they share with Cumberland and Yarmouth; the officers are very responsive when called.

Councilor Hemphill thanked the committees; this is a very reasonable response to all the feedback they received.

Councilor King asked where the recommendation on leashes during breeding season came from and whether there was any public feedback on it. Mr. Asherman said they came out of the committees; they did discuss those properties at the public forums. Ms. D'Ascanio said the verbiage wasn't as clear then as it is now, but it was discussed.

Councilor Kitchel asked if there is a rule about picking up feces, and a fine if it is left; Ms. D'Ascanio said the current imposed a \$50 fine for the first offense, and \$100 after that, but it is difficult to enforce.

Chair Farber asked about allowance for service animals; Ms. D'Ascanio said that is ADA so it's different.

Chair Farber pointed out that mountain biking is allowed on conservation areas, which didn't seem like passive recreation. Ms. D'Ascanio said that the uses of the conservation areas might be more fleshed out during the update to the *Greening of Falmouth*.

Councilor Ferrante asked if there is a problem with people getting hurt by dogs on public lands; Mr. Asherman said they had a lot of dog owners at the first forum who were concerned that they wanted to keep dogs off public lands, which wasn't the case. Most of the committee members are dog owners and they are trying to strike a good balance. Relatively few people have been seriously hurt; it's more that people are intimidated by the dogs and don't go again. Ms. D'Ascanio said her department gets phone calls and emails; one woman at Community Park broke her hip and leg when a dog crashed into her and knocked her down.

In response to Councilor Kitchel, Ms. D'Ascanio discussed their efforts to educate the public on the current ordinance and their guidelines for pet owners.

Councilor King asked if penalties or enforcement measures would be a part of any new ordinance language. Ms. D'Ascanio said they have not discussed ordinance language yet; after they receive guidance from the Council tonight, they will go back to the committees. The current ordinance does include fines.

The Council discussed next steps, whether to send it to Ordinance Committee, back to LMAC and PACPAC, or to staff. The consensus of the Council was to send it to the ordinance committee for further discussion and to return to the Council with a recommendation.

Item 5 Update on the Route 100 project and approve a supplemental appropriation and transfer in the amount of \$8,500 from the West Falmouth Crossing Tax Increment Financing account for the preparation of a West Falmouth Neighborhood Sketch Plan by Stantec.

Mr. Poore said part of the work of the Route 100 Committee was zoning for the area. Unlike the Route 1 effort, the ordinance committee did a more high-level conceptual vision. Staff has met with a private property owner regarding access management and a possible residential development. After talking with residents in the area, staff approached the CDC with a proposal for a neighborhood charrette for that area to review potential zoning. They are now proposing a design process, to run parallel with the CDC effort, to evaluate potential zoning changes that might benefit all the property owners in that area. Stantec has developed a proposed scope of work; they were hired for both the preliminary and final design process for Route 100.

Councilor Ferrante disclosed that she is a property owner in this area and so will abstain from this item.

Councilor King supported this proposal. She felt the design will help the CDC move forward on the zoning. She pointed out that this section doesn't live in isolation, and hoped they would explore the surrounding areas as well.

Chair Farber said one alternative to this proposal was for the developer to submit a contract zone. She felt this proposal was for the Town to decide what they are looking for in the area. This is a subsection of the area that CDC is reviewing in their zoning discussions.

Councilor King said they are looking at curb cuts and access, and the surrounding area should be considered.

Chair Farber asked how this would dovetail with the work that CDC is doing. Councilor King said evaluating connectivity is a different process than determining zoning standards but it would inform their work.

Councilor Kitchel moved the order; Councilor McBrady seconded.

Councilor McBrady felt this was a smart way to extend the Route 100 vision.

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

Mr. Poore said that this focuses on the west side due to a known potential development. As they move through this process, perhaps they would hear from property owners on the east side.

Chair Farber asked why the municipality is funding a development vision for a specific set of commercial properties.

Councilor King said the Chase plan does not serve the Town's interests in the area. The study will serve the Town's interests. She said the Town has invested heavily into the development of Hat Trick Drive, for example, to serve the public interest in facilitating traffic in the Route 1 corridor. This is very similar to that situation.

Councilor McBrady argued that this is a thoughtful way to enhance the overall picture of what the Route 100 Committee and CDC are working on. They are doing this for Route 100, and not the developer.

Chair Farber pointed out that the CDC has not begun its consideration of the committee's recommendations for this area. She asked if the underlying land use vision is established enough that it will inform what Stantec would do.

Councilor Hemphill agreed that it is motivated by the proposed development. Getting a better picture of what might happen as a result of this development would enhance the Town's management of the entire corridor.

Councilor King felt that, since the developer is agreeable to the proposal, it will be of mutual benefit to all parties. Councilor McBrady felt it was more planning.

Mr. Poore said staff see this as perfect timing; they efforts complement each other. In this case they will be able to bring potential development together with zoning discussions.

Motion carried 4-1 (Farber opposed; Ferrante abstained)

Item 6 Introduction by Councilor King of a zoning amendment to permit subdivision identification signs in the Tidewater Master Plan District.

Councilor King introduced the amendment; the homeowners of Tidewater have raised concerns about maintaining the privacy of the roadways in the subdivisions. They would like to post signs indicating where the private roads begin but those signs are not currently allowed; the more efficient way to allow the signs is to amend the subdivision section of the sign ordinance.

Amanda Stearns, Community Development Director, discussed each of the proposed amendments. She explained that the Tidewater development has not been included in the subdivision sign ordinance, since the development had its own master plan for signage. Up to this point, they have relied on the general sign ordinance. This amendment would allow for signs to be placed in the general street right of way. Other ordinance language that requires proper sight distance would prevent these signs from obstructing sight lines. This amendment would also eliminate a standard in the ordinance that limits sign content.

A public hearing was scheduled for December 12. The MRA hearing will be held at the Planning Board in January.

Item 7 Ordinance to amend the Zoning and Site Plan Review Ordinance to clarify the Net Residential Area required for certain types of residential development.

Councilor Kitchel left the meeting.

Councilor Hemphill moved the ordinance; Councilor Ferrante seconded. Motion carried 5-0. (Kitchel absent)

Item 8 Ordinance to amend the Code of Ordinances Div. II-2-3-12. *Economic Improvement Committee* to update the charge and membership of the Falmouth Economic Improvement Committee (FEIC).

Councilor Kitchel returned to the meeting.

Councilor Hemphill moved the ordinance; Councilor King seconded. Motion carried 6-0.

Item 9 Order to approve revisions to the 2016 Falmouth Bicycle & Pedestrian Plan pertaining to actions 19 and 43: Lunt Road and Bucknam Road bicycle and pedestrian improvements.

Chair Farber explained that these revisions would lift these two action items up in level of importance, since they anticipate DOT work to these two bridges in the near future.

Chair Farber opened a public comment period.

Chris Wasileski of Oceanview spoke in favor of the proposed revisions. He said the Oceanview community and management support these proposals to create a safer, wider bridge in both locations.

Public comment period closed.

Councilor Kitchel moved the order; Councilor McBrady seconded. Motion carried 6-0.

Item 10 Order to approve the sale of approximately 3,065 square feet of property located at 22 Mill Road, such sale to occur based on the authority granted to the Town Council in Section 204.12 of the Town Charter and Section 16-43 of the Code of Ordinances; to waive competitive bidding, in accordance with Section 16-43 of the Code of Ordinances, based on unusual circumstances that the size of the property is too small to develop and the only likely purchaser is the abutting property owner at 22 Mill Road; and to authorize the Town Manager to execute and deliver a Municipal Quitclaim Deed substantially consistent with the terms of this order and materials presented at this meeting on behalf of the Town of Falmouth, and to execute and deliver such other

documents as may be reasonably necessary to accomplish the transfer of the property.

Mr. Poore said staff have visited the site and recommend looking at opportunities for buffering. The property owner is aware of that. Staff are looking at trail and pocket park opportunities for this location and would like confirmation that there will still be sufficient room for a trail head and buffering at this location.

Peter Blake of RE/MAX by the Bay said Tim Higgins, the property owner, has already paid for some of the review of the property. The goal is to create enough space to add a two-car garage to the property. Mr. Higgins has agreed to some changes to address the concerns for grade, access, and buffering, but moving the garage closer to the house may create problems with drainage.

Councilor King asked about setbacks from rivers and streams; this seems like it would be right in a stream setback.

Mr. Blake said when it was built it was within the allowed setbacks. What they are proposing to buy isn't any closer to the water than what Mr. Higgins already owns.

Councilor King thought an owner could maintain or improve an existing property but she wasn't sure you could build a new structure within the stream protection zone.

Chair Farber thought this was a lot of footage for a garage; Mr. Blake said that includes the necessary setbacks. It would be a 24x24' structure.

Councilor King asked why it wouldn't be an attached garage. It was hard for her to see a garage proposed for a main access to a park.

Councilor McBrady walked the property; he felt the town is a neighbor to this house, and this would be an opportunity for the town to be a good neighbor as well as build a nice access to a great little park. He felt this was the right thing to do.

Mr. Blake said if they tried to attach the garage it would kill the layout of the house. There is 10 feet between the structures to manage the storm water from both roofs.

Chair Farber said if they approve this, all the owner would need is a building permit; Mr. Poore said that is correct.

Councilor King asked if they could put more than a garage here, an accessory dwelling unit for example. Chair Farber confirmed that once the land was sold, the property owner could develop any permitted use.

Councilor Hemphill said this benefits the property owner, but didn't see how this benefits the Town. This seems to be a large structure

Chair Farber asked if this used to be a garage and converted to a home. Mr. Blake said the property was approved for a restaurant, but the building was removed and the home was built.

Chair Farber asked if a single car garage was acceptable. The home has never had a garage before. She had a hard time with the visual on the plot plan.

Councilor Ferrante thought the house is great and she supported being neighborly. She didn't think the plan is showing them very much; she would like to see some elevations. Mr. Blake said the garage would look much like the house.

Chair Farber wondered if staff could look at the trail issue; if the Council wanted to proceed with this, staff was recommending that they do a more detailed assessment of the trail and where it is.

Mr. Poore said staff has met out there; Mr. Higgins has indicated that, while the excavators were out there they could do some work on the trail. If they had a condition that staff be on site to oversee that work, he thought the Town would be satisfied.

Chair Farber would be happier if the garage could move as close to the house and front property line as possible to preserve the sense of open space. She would like to see the distances labeled on the plans and the property flagged. She would like to get them what they need while also minimizing the amount of square feet they need. She wanted to preserve the trail, and felt the buffer would be very important down the line, to create a clear separation between the property and the open space.

Mr. Poore said he would notify the Council when the lot is flagged so they can go out and see it.

Councilor King asked if the garage could be pulled closer to the street. She asked why it is sited this way.

Mr. Blake said the road slopes down, so they have to set the garage at an angle.

The applicant will return to the Council with more information

Item 11 Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider the acquisition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).

Councilor King moved the order; Councilor Hemphill seconded. Motion carried 6-0.

The Council entered executive session at 10:00 pm and did not return.

Respectfully submitted,

Melissa Tryon
Recording Secretary