

**Town Council Special Meeting
Minutes
July 10, 2017**

The meeting was called to order at 6:00 pm.

Roll Call

All Councilors were present and answering roll call.

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

Councilor Farber moved the order; Councilor Kitchel seconded. Motion carried 7-0.

The Council entered executive session at 6:01 pm and returned at 7:04 pm.

Item 2 Order to appoint members to the Sewer Board of Appeals and to reappoint members to the Board of Assessment Review (BAR).

Town Manager Nathan Poore explained that there was a change to the ordinances in 2004 that was inconsistent with the Charter. In order to address this inconsistency, staff recommend splitting the Sewer Board of Appeals and the BAR until the Charter can be amended.

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

Councilor Farber moved the order; Councilor Svedlow seconded.

Ms. Stearns clarified that the terms should be spelled out on the order. She recommended two year terms for the Sewer Board members, expiring in December 2019, and reappointing the BAR to their current terms. Councilor Farber and Councilor Svedlow supported this proposed amendment to the order.

Mr. Poore said all BAR members were contacted regarding their interest in serving on the Sewer Board.

Amended order carried 7-0.

Item 3 Public Hearing on amendments to the Code of Ordinances regarding permanent signs.

Chair Hemphill opened the public hearing.

Chris Considine asked if this only applied to private signs or if it applied to municipal signs as well. Chair Hemphill clarified that it applied to private signs only.

Chair Hemphill closed the public hearing.

Councilor King explained the Supreme Court decision that sign regulations could not be based on content, which mandates this amendment.

The order was scheduled for July 24.

Item 4 Public Hearing on an amendment to the Code of Ordinances, Chapter 19, Zoning and Site Plan Review Ordinance regarding uses in the VC Districts.

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

The order was scheduled for July 24.

Item 5 Public hearing relative to extending the Town's rights to 35 portions of road rights-of-way known as 'paper streets'.

Councilor Farber asked if the order they will consider in this process will be similar to the one the Council adopted in 1997. Mr. Poore said that was correct.

Chair Hemphill opened the public hearing.

Chris Considine of Amerescoggin Road asked if any of these are scheduled to be closed as part of this action. Chair Hemphill clarified that this action would keep things as they are. They will review and might consider changes in the future.

Christopher Hickey of Greenway Drive asked if there has been any sorting of the different streets, or are they being moved forward as a group. He said that the idea of street connection is important and requires reconfiguration on the part of the developer. He suggested that this committee could perhaps review the paper street connection requirement in the zoning ordinance; it can be burdensome on the developers and lead to oddly shaped lots.

Mr. Poore said at their last meeting on this topic the Council discussed that they are not ready to make changes to these roads at this point. They discussed forming a committee to review the streets and make recommendations on how each should be addressed. The State statute that gives the Town the right to do this will only allow this last extension; after this 20-year period, the rights-of-way will automatically expire.

Chair Hemphill closed the public comment period.

The order was scheduled for August 14.

Item 6 Introduction of an amendment to the Code of Ordinances to establish residency requirements for certain boards, committees and commissions.

Councilor Farber said the Appointments Committee has discussed residency requirements for committees; some committees have strictly laid-out membership requirements in their charges, but others have nothing stated. This amendment clarifies that, when not specified otherwise in the ordinances, all committee members shall be Falmouth residents.

A public hearing was scheduled for August 14.

Item 7 Ordinance to amend the Code of Ordinances, Chapter 19 to permit farm and animal husbandry related uses.

Ms. Stearns discussed some minor changes made to the amendment language based on Council discussion at the public hearing; the goal of these changes was to clarify the definitions of permitted uses. These changes are not substantive and do not require an additional hearing.

Councilor Farber was grateful for the changes that were made. She is comfortable with the proposed language.

Councilor Svedlow moved the ordinance; Councilor Kitchel seconded.

Councilor King pointed out that the Planning Board unanimously supported this amendment. During their discussion, the Board asked about the processing of meat raised on the premises. She said this ordinance does not address or allow that.

Motion carried 7-0.

Item 8 Ordinance to amend the Zoning and Site Plan Review Ordinance to categorize the Falmouth Memorial Library as a municipal use.

Mr. Poore explained that the Library is investigating moving into Town Hall during the renovation of their building, if it becomes necessary. This amendment would clarify “library” as a municipal use.

Councilor King moved the ordinance; Councilor Ferrante seconded. Motion carried 7-0.

Item 9 Resolution regarding the Route 1 North Vision Report as prepared and recommended by the Ad Hoc Route 1 North Committee.

Chris Wasileski, Chair of the Route 1 North Committee, gave a presentation of the work the committee has done. The study area includes 323 acres from, but not including, the Turnpike Spur north to the Cumberland town line. The Committee reviewed the potential buildable area in the study area, removing elements such as steep slopes, and conducted a market conditions analysis, which concluded that this area should not look to compete with the southern area of Route 1 or the spur development area, and that it has limited retail potential and should focus on build-to-suit owners/users. The recommendations from this study were to focus on end users and tech users for the west side, and a mix of residential/non-residential uses for the east side of the road. He discussed the public outreach the Committee did, including 3 public workshops and an on-line survey. They had good public response to each outreach effort. He discussed the goals of the Committee: Encourage development in the Route 1 North area; Provide safe mobility transportation choices; Build a sense of place for live, work and play; Improve aesthetics; Complement Route 1 South area; Protect environmentally sensitive areas; Make open space connections; and how they addressed those goals with each section of the study area. He said the Committee had a majority and a minority report, and the recommendations reflect a compromise between those two groups. They recommend continuing to allow current BP uses; amending the zoning ordinance to allow residential uses, small scale retail and restaurants, and hotel use in certain areas; developing Route One residential design guidelines; minimizing new curb cuts along Route 1 North and mandating shared driveway access. He discussed the conceptual uses for each site in the study area. He said they recommend improving the Route 1-Johnson Road intersection; installing a sidewalk, shared use path, and bike lanes; installing a sidewalk on the south side of Johnson Road from Route 1 to Middle Road; making “gateway” improvements in select locations; making bus stop improvements and streetscape improvements along Route 1 and Johnson. They discussed adding a lane to Route 1, but reduced it to a dedicated left turn lane onto Johnson Road, making three lanes in just that one area. They chose to keep the overhead power lines, in consideration of the cost. They recommend developing a Norton Brook watershed management plan, making trail improvements to connect

trails at the Nature Preserve and Underwood Park, and reviewing tree preservation and landscape requirements in BP. Based on these recommendations, the committee developed some very preliminary cost estimates: the total of these improvements came to \$9.3 million. The Route 1 North TIF district expires in 2022 and at that time will contain \$3.6 million. It could be extended for 7 years in which case it would expire in 2029 with a balance of \$6.1 million. The Committee recommends the Town develop a preliminary engineering plan, detailed cost estimate, and preliminary financing plan and that the Council authorize the Town Manager to expend funds from the TIF to support these next steps. The Committee phased the project in two parts based on priority; second phase projects include the Middle Road sidewalk connection and its associated streetscape improvements, the force main project and part of the gateway improvements. They also moved the Norton Brook trail and Underwood Park trail connection to funding from other sources. With this approach, the cost estimate was reduced to \$6.1 million; allowing the project to be paid entirely with TIF funds.

Councilor Farber asked how they estimated a balance for the TIF if it is extended; Mr. Holtwijk said they have a fairly conservative estimate of valuation and tax rate growth. This project also takes into account the staff that are partly funded by the TIF.

Councilor Farber asked why there are different visions for the east side and west side, other than the environmental challenges. They would almost be different zones. Mr. Wasileski said the west side is all ledge and there is an elevation change; the east side contains a lot of wetlands, and there is a residential component nearby. They felt that the recommendation for tech/end users on the west side complemented the businesses that are already there. There was a diversity of interest in the public input for flexibility in open space and recreation on the east side, while maintaining the flexibility to create commercial businesses to complement those that are already there. They didn't want to make the existing businesses non-conforming. There was a lot of discussion regarding the treatment of lot 5 (the northernmost lot on the west side); they had a 5/3 split in the committee regarding that lot and allowing more flexibility there.

Chair Hemphill asked if these recommendations consider development of nearby lots in Cumberland. Mr. Wasileski said yes; they took a bus tour of the area at the beginning of the project, which included crossing the town line and looking at development in Cumberland.

Councilor Kitchel asked how wide Route 1 is in this area. Dave Woodward of VHB said the pavement is 44 feet wide with 12 foot lanes and 10 foot shoulders.

Councilor Kitchel said there will be significant upfront costs to this, and TIF funds accumulate over time. He asked how the upfront costs would be covered. Mr. Poore said it would be similar to how they did it for Route 1 South; they would do some long-term borrowing.

Councilor Ferrante asked about the timeline moving forward. Mr. Holtwijk said if the Council authorizes the next steps tonight, they would aim to have an engineer on board in early fall with a preliminary plan and more detailed cost estimates by spring of next year. The amendment of the TIF could take some time. There would also be a voter referendum to approve the project.

Mr. Poore said there are other major infrastructure improvements scheduled for the Town already, and the goal is to only do one of those a year due to traffic impacts and staff capacity. Given that, this project wouldn't likely be constructed for 3-4 years.

Chair Hemphill opened a public comment period.

Michael Vance, vice-president of the Falmouth Land Trust and a resident of Blackstrap Road, asked if anyone has discussed the terminus of the trail/connection with Cumberland.

Mr. Holtwijk said they haven't discussed the trail connection, but they have included the Cumberland Town Planner in all committee communications. If there is a trail connection, they would like to take advantage of that.

Peter Kennedy, owner of the 50 acres indicated as "Site 5" on the conceptual plan, agreed with the market statement, but disagreed with the consultants' treatment of and recommendations for his lot. He argued that there is no need for more office space in Falmouth. He has received interest from distribution warehouses, boat storage facilities, and others. These permitted and conditional uses are the only option he has for his lot under the BP zoning. He asked the Council to give him the flexibility to create something innovative on his lot. He presented the Council with some handouts.

Councilor Svedlow asked him his vision for his property; Mr. Kennedy wanted the flexibility to add some uses, particularly in the health care industry, and some senior housing. If someone comes along and wants all the property for business use he would support that too, but he didn't think it would happen.

Steve Woods, owner of TideSmart and a member of the Committee, spoke as a landowner and business owner and not as a member of the committee. He supported Mr. Kennedy's desires for his lot, but the committee had to look decades into the future. This is the only area for BP development left in Town. In his experience developing property, he believed that this area is the most powerful economic engine for commercial development in town. To fragment it would lead to losing the power of Route 1. It is close to the highway, fiber optics, natural gas, the retail district, and the three best school departments in Maine. The market for tech businesses is there. He encouraged the Council to look 10-20 years ahead; he felt they should target technology and development.

Chair Hemphill closed the public comment period.

Councilor Farber suggested postponing this, in consideration of the multiple infrastructure improvements pending and the complexities of this report. She said there is no rush here; unlike Route 100, the condition of the road is fine. She didn't want them to do the design work and then sit on it; the numbers will age.

Councilor Svedlow felt there was a need to amend and update the TIF which would take some time. At a minimum, they should start that process sooner rather than later. They decided it was important to move forward with this work at their retreat last year. They would lose momentum if they don't at least accept the report and move forward with the TIF amendment. The infrastructure improvements are separate from the zoning recommendations.

Councilor King said the timeline and phasing are about the street and the amenities; the zoning would be separate. She was concerned about the upcoming street projects and the burden on staff. She thought they should slow down somehow but wondered if the preliminary engineering plan and its cost estimates would get cold if they didn't take any action for two years.

Mr. Poore said the typically the engineering firm will estimate when construction will take place based on the client's schedule. He didn't think they should be too worried about that.

Councilor King asked if that plan would be necessary to develop a budget in order to extend the TIF, or can it be extended without that plan. Mr. Poore thought they would want to do the preliminary engineering first; if they did the amendment based on their best guess and then the plan

came in different, it would require another round of amendments. They could have a review from the State but not go through the formal amendment process.

Councilor Ferrante liked the plan, but would like to discuss it at the retreat, and then review it again in a month. She supported postponing this a little.

Councilor Kitchel supported the resolution; he liked the vision of the plan and the energy of the committee. He needed a better grasp of the big picture of the project, especially as it regards site 5.

Chair Hemphill thought this project had a different impact on the town as others; he understood the desire to postpone it and discuss it at the retreat. He thought they could table this and discuss it again at a later time.

Councilor King said that, despite her concern for the number of street projects scheduled in the next couple years, she thought it might be the right time to take the next step of the preliminary engineering plan, in order to begin the TIF amendment process.

Councilor Farber pointed out that the TIF doesn't expire until 2022; they have 5 years. The other amendments they have done took months, not years. She didn't think they had to rush. She proposed tabling this item to a future meeting.

Councilor Svedlow wondered if they would do this project if the TIF amendment is denied. He wondered if they could address this resolution without going to preliminary engineering.

Mr. Poore recommended approving development of a plan budget to be considered as part of the 2019 budget process. This would allow them to discuss it at the retreat, and for staff to draft and develop a RFP process and generate an estimate of the cost of the preliminary engineering plan.

Councilor Svedlow moved the resolution as amended; Councilor Farber seconded. Motion carried 7-0.

1. The Town Council, has reviewed the report and recommended actions; and
2. The Town Council supports the report, but not necessarily every recommended action, and does not yet commit to the allocation of funding that will be required to implement specific construction; and
3. The Town Council supports, as the next step, the development of a Preliminary Engineering Plan budget to be considered by the town council during the FY2019 TIF and CIP budget development process.

Item 10 Resolution to authorize the construction of landscape improvements at the Town Green and to authorize up to \$15,000 from Contingency Funds toward the expenses for this project.

Councilor Svedlow moved the resolution; Councilor Kitchel seconded.

Mr. Holtwijk explained that the Council amended the development agreement between the Town and Oceanview; part of that development addresses improvements to the Town Green. Oceanview developed a proposed landscape plan, which has been reviewed by Town staff and three Town committees. All three committees were in favor of the plan. The Town Green is still Town property, but Oceanview is responsible for installing and maintaining the improvements on the Green. Oceanview has allotted \$35,000 for the installation but the proposed plan exceeds this amount. The Council can either scale back the proposed landscaping to the \$35,000 level, or cover

the additional amount. Staff are recommending covering the overage; they don't feel that scaling the plan back is a good solution. Oceanview will also install landscaping around the Plummer building and between that building and the Motz building. That landscaping is outside this project; it is part of the Planning Board approved site plan. The use of native plants will make this an educational showcase. Both the Friends of Casco Bay and Maine Audubon expressed interest in participating in the education component.

Councilor Kitchel thanked Oceanview for their work on this plan. Chris Wasileski of Oceanview gave credit and thanks to David Haynes, who designed the plan.

Councilor Ferrante asked which area is covered by the landscape plan; Mr. Holtwijk said they are looking at the Village Green as shown on the master plan. Mr. Haynes developed his plan based on that master plan.

Councilor Ferrante asked about the seating. Mr. Holtwijk said it is rustic-style seating; they envisioned concrete blocks with wooden planks. The Town owns some old granite blocks from the Presumpscot River dam and have considered repurposing those. That might also help to reduce the expense.

Councilor Farber pointed out that Oceanview also granted a public easement around the retention pond, so it will all feel like one space. Oceanview returned the Ann Lamb circle to the Town when the Plummer building was approved. She felt the users will feel the scale of the whole space.

Chair Hemphill opened a public comment period.

Steve Woods supported this project. He pointed out that the Council didn't discuss safety in their discussion about Route 1 North. He said the Johnson Road intersection is dangerous and the proposed improvements address that issue.

Chair Hemphill closed the public comment period.

Councilor Farber thought the Council was supposed to put something in writing regarding the treatment and care of the Lamb circle. She asked staff to research that.

Mr. Wasileski said Oceanview put about \$2500 worth of improvements into the circle prior to its transfer back to the Town.

Motion carried 7-0.

Adjourn

Councilor Kitchel moved to adjourn; Councilor King seconded. Motion carried 7-0.

Meeting adjourned at 9:10 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary