

# **Town Council Meeting Minutes December 12, 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 arrived late.

## **Pledge of Allegiance**

Chair Farber led those present in the Pledge of Allegiance.

## **Item 1            Public Forum**

There was no public comment.

## **Item 2 (Consent Agenda)**

- **Order to approve the minutes of the November 14, 2016 Town Council Special Meeting.**
- **Order to approve the minutes of the November 28, 2016 Town Council Meeting.**

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

Councilor King moved the consent agenda; Councilor McBrady seconded. Motion carried 7-0.

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

Councilor King said the Library has surpassed the half-way mark for fundraising. They have raised more than \$1.5 million. She discussed the 1718 Society – an effort to enlist 300 people or families to donate \$600 each year for 5 years to the capital campaign.

## **Item 4            Report from the Appointments Committee relative to filling various vacancies on Boards and Committees.**

Councilor Svedlow reported that the committee has met with a number of candidates for various vacancies. They are nominating the following for appointment tonight:

- Bruce Kaplan & Rich Jordan – Regular Member of the Planning Board
- Erin Mancini & Jay Meyer – Regular Member of the Board of Zoning Appeals
- Karen Jacobsen – Conservation Commission
- Ellen Snyder – Tercentennial Committee

- Merrill Barter - Metro Bus Board of Directors

They are also nominating the following for re-appointment:

- **Board of Assessment Review and Sewer Appeals:** Lois Lengyel & William Lunt
- **Falmouth Economic Improvement Committee:** Pamela DiPietro Hale & Sandra Lipsey
- **Harbor Waterfront Committee:** Emmanuel Kourinos & Richard Craven
- **Human Service Committee:** Diane Moore
- **Long Range Planning Advisory Committee:** Thomas McKeon & Breana Behrens
- **Parks And Community Programs Advisory Committee:** Andrea Mittleider, Karen Jones
- **Recycling & Energy Advisory Committee:** Cathy Nichols
- **Shellfish Conservation:** Richard Garrett & Frank Soule

Councilor Svedlow moved the slate of appointments; Councilor Ferrante seconded. Motion carried 7-0.

**Item 5                      Public hearing on a zoning amendment to permit subdivision identification signs in the Tidewater Master Plan District.**

Chair Farber opened the public hearing.

Cliff Gilpin of Heron Point spoke as the President of the Tidewater Homeowners Association (HOA). The owners have been consulted about this amendment and are supportive. With the construction of the Rivalries restaurant, he felt it was fair to the citizens to let them know that some of these are private streets so they are not available for parking.

Bob Isler of Farm Gate Road is also a member of the HOA board. He thanked the Town staff who helped them with this amendment.

Chair Farber closed the public hearing.

Councilor King said they are going to add a clarifying word to the amendment before it is approved.

The order was scheduled for January 9, 2017.

**Item 6                      Presentation of a Resource Conservation Zoning Overlay District Report prepared by the Long Range Planning Advisory Committee (LPAC).**

Kurt Klebe, representing LPAC, gave the presentation. The Council charged LPAC to review this overlay district and determine how it can inspire growth in the growth areas and preserve open space and rural character in the rural areas. The reviewed four areas in particular – the required minimum percentage of common open space in subdivisions; the waiver allowance for streets exceeding the maximum dead end length; the dimensional lot requirements; and the application of this zoning to all residential development not just single-family homes. They have two specific recommendations. The first is that the zoning should apply universally to all residential development – single-family as well as multi-unit developments. They also recommend changes to the minimum open space acreage amounts. They felt the rural and growth areas should be treated differently in regard to this requirement. In the rural area, they recommend increasing the net residential set aside to 50%. For developments in the growth area with 3 or more lots or a project area greater than 1 acre, they would suggest leaving it at 30%. For developments in the growth area involving 2 lots or less, or with a project area less than 1 acre, they recommended a 0% required set aside of open space given that, due to their small size, developments of this nature usually result in very small, non-contiguous open space areas that don't serve the purpose of the open space requirement. These recommendations have already been reviewed by the CDC.

Councilor Hemphill felt it would be appropriate to send this to CDC. He thought this was a well-reasoned adjustment. Councilor McBrady agreed.

The consensus of the Council was to send the recommendations to CDC.

**Item 7                      Presentation of a Street Standards Report prepared by the Long Range Planning Advisory Committee (LPAC).**

Kurt Klebe, representing LPAC, gave the presentation. The Council charged LPAC to review this as part of their workplan. During the comp plan process, the committee met with various members of the public and a number of people expressed desire to have the Town review its current street standards especially as they apply in the rural area – some people felt they were too suburban. After an exhaustive review, LPAC has concluded that no large-scale changes need to be made to the current street standards. The current ordinances grant a great deal of flexibility to the Planning Board in approving street design and the waiver process works well as it is. Staff did a comprehensive review of the ordinance and raised some technical issues that could be better expressed; removing redundancies and enhancing consistencies for example. The committee recommends that the Council ask staff to review and make recommendations for amendments to address this issue. They also recommend that the criteria for waivers be clarified to state that waivers are available and under what circumstances waivers could be granted, to make it easier for people navigating the ordinances.

Councilor King asked how this recommendation to improve the consistency of these ordinances would relate to the current effort to reorganize the entire zoning ordinance. She wondered if there was some overlap.

Nathan Poore, Town Manager, said he would communicate with the staff managing the reorganization effort later this week.

The Council discussed next steps. Theo Holtwijk, Director of Long-range Planning, felt the next step was for staff to work on this, and then bring it back for committee or Council review.

The Council agreed to send this to staff.

**Item 8                      Resolution regarding the Ad Hoc 260 Foreside Road Committee's recommendations for a public input process that will allow the Council to make decisions regarding the Town-owned 260 Foreside Road property.**

Mr. Poore discussed the process to date. The committee gave a report to the Council at their last meeting including their recommendation for a public input process.

Chair Farber opened the public hearing.

Matt Pines of Underwood Road wanted to make sure that the public will have a chance to have input on the survey and the input process at the January 9 meeting. He wanted to make sure that the process isn't too narrow.

Chair Farber closed the public hearing.

Councilor McBrady said the committee's goals are to have an open transparent process, but also to have a streamlined process. They are open to any suggestions at this point and there is no rush to do anything.

Councilor Hemphill said they won't have an organized public event, but there will be an effective means for people to communicate with the Council about their thoughts and ideas.

Mr. Poore said the January 9 discussion is meant to be a Council discussion only, to draft ideas that they would then test through the survey. Public comment was planned for January 23, after the survey process is completed.

Councilor McBrady said this is triggering conversations in the neighborhood what they are going to do with the area and not just this parcel.

Councilor Ferrante was interested in allowing public comment on January 9. Councilor McBrady said it wouldn't be a bad idea to have a public meeting in the neighborhood, for those who can't come to a Council meeting. There are many people who don't drive at night, or in winter weather, that are interested in this issue. Councilor Kitchel felt the ad-hoc committee could hold a daytime meeting to capture those people.

The Council discussed public comment opportunities in this process. Mr. Poore recommended that the ad-hoc committee meet at 3:00 pm on January 9 at Town Hall, with staff tracking public comment. The committee will then report the outcome to the Council at the meeting that night.

Councilor McBrady moved the resolution; Councilor Kitchel seconded.

Mr. Poore said staff will amend the memo attached to the resolution to reflect the addition of the ad-hoc committee meeting on January 9.

Resolution with amended memo carried 7-0.

**Item 9                      Order to authorize the Town Manager to execute an easement deed from OceanView to grant the Town permission to maintain a public sidewalk that will be partially located on private property, owned by OceanView, such sidewalk to be constructed and paid for by OceanView.**

Chair Farber explained that during changes made to the Oceanview plan last year, there were discussions about extending the sidewalk from Lunt to Blueberry. An attached map shows the proposed route of the sidewalk. The plan is for the Town to maintain the sidewalk; this easement is required to grant the Town access since the sidewalk will cross private property.

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

Councilor McBrady moved the order; Councilor Svedlow seconded.

Councilor Hemphill asked where the sidewalk would start; Mr. Poore said the sidewalk would start at the intersection of Lunt and Middle. The Town doesn't need an easement for the portion from the intersection and across the Mason/Motz property. Oceanview is paying to construct the entire sidewalk. He discussed some of the design of the sidewalk, including details on the lighting. The Town will maintain it through the winter.

Motion carried 7-0.

**Item 10                      Council discussion on recent referendum to allow recreational marijuana and a possible moratorium.**

Mr. Poore said Code Enforcement Officer Justin Brown has researched the subject with the assistance of Town Attorney Amy Tchao. Tonight's discussion is about land use and what home rule authority they have to regulate retail, agriculture or cultivation, laboratory testing, and private consumption facilities aka "social clubs". It is highly recommended that the ordinance be amended to address all these different land uses. Staff and the Town Attorney are not recommending a moratorium at this time, since it would only

be valid for 180 days, with one 180 day extension allowed. Since the referendum is under a recount, it doesn't seem wise to start a moratorium until the final decision has been certified. Staff would like the Council to offer direction as to who they should work with on this issue – CDC or the full Council.

The Council discussed the timing of this issue, that it would likely be several months before the statute language is finalized, and the importance of including the public in this process. The debated whether to send this to CDC or keep it at the full Council. The majority of the Council felt they should hold these conversations at the Council level and not in committee.

Mr. Poore said they should be ready with ordinance language for when the statute is final. The Codes Office is already receiving calls from people with interest.

Councilor Svedlow asked if the Town can prohibit any of these uses; Mr. Poore said they can, similar to the way they prohibit the sale of fireworks in Town.

Councilor King asked what would happen if the Town did nothing. Mr. Poore said, in the absence of clear ordinance language to govern a use, it would be up to the Codes Office to determine, based on a broad interpretation of existing ordinances, whether a use would be allowed in a particular district or not. That decision would almost certainly be challenged.

The Council felt they needed more education on the issue. They scheduled a workshop of the item before the next Council meeting.

## **Adjourn**

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

The meeting adjourned at 8:36 pm.

Respectfully submitted,  
Melissa Tryon  
Recording Secretary