

Town Council Meeting Minutes February 15, 2017

The meeting was called to order at 7:02 pm.

Roll Call

Councilors Kitchel, King, Hemphill and Farber were present and answering roll call.

Councilors Ferrante, Svedlow and McBrady were absent.

Item 1 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).

No action was taken on this order.

Item 2 Public hearing on an amendment to the Zoning and Site Plan Review Ordinance to amend minor site plan review thresholds.

Chair Farber explained the amendment proposal, which will allow properties of 2000 sf or less to take advantage of the minor site plan review process.

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

Councilor King reported that the Planning Board held their MRA hearing on February 7; the Board voted unanimously in favor of the amendment. Councilor Hemphill said the CDC unanimously supports the amendment.

The order was scheduled for February 27.

Item 3 Review of survey results regarding the Town-owned 260 Foreside Road property.

Theo Holtwijk, Director of Long-range Planning, gave a presentation on the Council's consideration of this parcel since the Town acquired it in 2009. The Council appointed a sub-committee to draft a public input process in 2016. Two surveys have been issued for public comment, and a parking evaluation was done. In November 2015, the subcommittee reported back to the Council that the property was a good open space addition to Underwood Park, that minimal, additional seasonal parking might be helpful, and that some minor landscaping and additional playground equipment would be welcome. Another survey was conducted in January, and 439 responses were received. More than half of survey respondents indicated that they lived in the neighborhood. More than 70% said that the parcel should be added to Underwood Park. Responses were more mixed on whether parking should be added to the parcel and on the question of how many spaces were appropriate if parking was considered. On the question of types of parking lot surfaces, gravel and grass pavers were preferred over asphalt. Survey respondents were in favor of limiting parking to cars and trucks and not allowing boat trailers, but did not favor parking time limitations. Responses were mixed on whether to make improvements to the playground equipment at Underwood Park, but were strongly in favor of installing dog waste bag dispensers. He presented some take away suggestions from the survey results: retain the entire 260 Foreside Road parcel and integrate it with the park; create some parking on the site, perhaps 10-12 spaces with a gravel or grass surface, no trailers and no overnight parking; reconfigure the parking

circulation at Underwood Park; improve the existing play equipment; consider the installation of a gazebo or platform for small events; and to install dog waste bag dispensers.

Chair Farber opened the public comment period.

Debbie Cain of Studley Street felt there was a big lean toward the parking option in the survey and that's why there may have been many comments in the survey responses. She doesn't support more parking and thinks there is plenty of parking already provided. Many people she has talked with talked about a community swimming pool in this area. It would be beneficial for overall fitness and health.

Mara Sanchez of Knight Street somewhat agreed with Debbie Cain about the survey design. She appreciated the survey very much and hoped the Town continues to use this tool. She thanked the Council ad-hoc committee and staff for a phenomenal process. There was a lot of hard work involved and she felt the residents had their voices heard. She doesn't think parking is necessary but if it happens it should be well thought out.

Cyrus Noble of Foreside Road said the parking is only an issue on three weekends in the summer. The rest of the year there are no issues. If they need new spaces, he thought they should add it on the street. The back should be an open play field with no permanent structures. It's a valuable open spot in this part of town. He has heard from others with the same opinion.

Ted Vail of Field Road said he feels strongly about this issue and has experience with recreation facilities in town. He urged the Council to retain the property and extend the park by adding moderate facilities. The former Huston School and park area is a great example of nice facilities. He didn't think there is any parking problem. He felt strongly that one or two tennis courts are necessary. It would make the park a lot more useful. A great deal of mothers and children have and will use this park. There is no other place to play basketball or other sports in this part of town. The Nature Preserve is also a great asset and much appreciated. There is a need to expand facilities at Underwood.

Matt Pines of Underwood Road agreed with Ms. Sanchez's comments and thanked the town for the process and the opportunity for public input. It's hard to please everyone. Open space and inviting spaces are important for all ages. He thought they need to give teens great spaces to exercise and gather. It's a vital community asset. Having some facilities will also help. The Bike/ped plan can help encourage more pedestrian amenities along Route 88 and having a safer park would be a great asset.

Robin Noble of Foreside Rd agreed with keeping it as open space. She asked if they were going to consider "non-resident" or "resident-only" parking, and encouraged no overnight parking. She loved the ideas for additional recreation facilities.

Zach Noble of Foreside Road said they need to take down the fence and put up picnic tables. That would leave room for a pool, tennis courts or basketball courts, which would also be nice.

Tommy Johnson of Underwood Road said this is a great location for the neighborhood. The town's direction is to grow in this area. West Falmouth gets all the open space and there should be some balance and consideration for some public property in the Foreside area. Connecting parcels of open space for people is important. The survey indicated 230 people were from the neighborhood. He found that interesting. He asked the Council to please pay attention to those that responded from the area but he recognized that all input is important.

Stephanie Fairchild of Kilborn Way proposed that some of the land should be designated for a community garden. She did a survey a year ago and found that 30 people in the area were interested in a community garden. A garden would help reduce the town's carbon footprint which is a goal of the Green Ribbon Commission Report. It would offer a way to grow food locally, build community, and perhaps donate some to the food pantry. A harvest dinner could be held at a new gazebo. It would bring kids in contact with earth and support local businesses like Skillins. It could have fifteen, 10'x10' plots located where the backyard of the house was; they would need access to water. Having it in the back would allow for parking.

Rowen Morris of Foreside Road, lives across the street from Underwood Park. This issue was discussed in 1981, when the school burned down and the park was established. The town talked about how to use the property and after months of discussion, they ended up with limited parking, open space and limited play equipment. It has served well for the last 36 years. It's a neighborhood park, not a destination park. She thought gazebos don't get a lot of use. There are a lot of other destination parks in town. In 2006, the Town bought the Brown property for \$600,000 without public input. There was no answer at that time on how to use the property. She doesn't think there is a need for parking and the Town shouldn't have bought it. She thought it should be turned back to a residential property. The back part of the property could be added to the park. Only basic improvements are necessary.

Amy Meader read her son Chase's letter. In the letter, he argued that the park should have a basketball court for people who want to play, to inspire others to play, and it could be used for other sports too. The park has many other things but it needs a basketball court. Ms. Meader felt it was important to have a place for kids to play outside independently.

Lyman Kennedy of Foreside Road lives next to the parking lot. He has lived in the area for a long time. He wanted them to put parking in the back because it will be needed in the future. Parking is not enforced at Underwood, and long term parking in there is mostly people from Sturdevant and it is not enforced. He has called the police and not gotten a response. He has seen drug dealing in this area. More parking should be seasonal; he didn't want the Town to sell it so they lose the chance later. The park needs facilities for active recreation. The rangers don't enforce well enough. It's out of control and we need more parking spaces.

Chair Farber closed the public hearing.

Councilor King asked about the strength of the response to the parking questions.

Councilor Kitchel served on ad-hoc committee and referenced the parking study performed by Gorrill-Palmer, which didn't identify any compelling need for additional parking. The couple of peak days they identified don't necessitate a need for expanded parking. He thought the current parking area can be reconfigured to add a few more spaces. The survey showed 10-12 more spaces and he doesn't think there is a need for any more than that. As a simple open space it has appeal. He said he lives in the area; his daughter played there growing up and he currently walks his dog there. He doesn't think there will be a proposal for an overwhelming parking project.

Councilor Hemphill also served on the ad-hoc committee. He said the property was bought originally to expand parking. The survey showed an occasional parking crunch, more for people from out of town. If the Town does something subtle with grass pavers on a seasonal basis it would provide some additional access to the area. He doesn't think there is a plan for a large parking lot.

Chair Farber asked what the next steps should be, since there are only four Councilors present. They can put this on a future agenda to discuss next steps. She felt the ad-hoc committee has done its job.

Councilor Kitchel said he felt there are two next steps: 1. accept the concept, in general terms, to keep the Brown property; and 2. to create a master plan for how the property will look in the future both short and long term. He would like to get moving on these two items. The ad-hoc committee won't develop the design but could review it.

Chair Farber said the Council doesn't have to be involved with the details of a master plan; that might be better to send to a committee. The larger, more immediate question is whether to keep the property and incorporate it into the Underwood Park.

Town Manager Nathan Poore discussed the options, and recommended an ordinance approach to reach a decision on whether to incorporate it into the park. Chair Farber agreed with this approach.

Councilor King thought a lot of the findings were easy to accomplish, such as making it safer, cleaner, etc. These are things that don't have to wait.

Chair Farber suggested they schedule an introduction for an ordinance to establish this property as a park. They could also ask PACPAC to create a master plan sketch for short and long term improvements and report back to the Council. She feels as though they and the support staff have the expertise to take this to the next step.

Councilor Kitchel suggested that the Council let the ad-hoc committee meet again and make a list for next steps. Councilor Hemphill agreed.

Chair Farber asked for the ad-hoc committee to report back to the Council in April.

Item 4 An update from the Conservation Commission on Council work plan items CP 67 & 68, relating to a review of the Zoning and Site Plan Review Ordinance for wetlands protection.

Nancy Lightbody, co-chair of the Conservation Commission (FCC), offered a presentation of the work the committee has done to review recommendations LPAC made in 2009 for ordinance amendments regarding wetlands protections. The FCC reviewed the recommended ordinance changes and now recommends that 1. The Council move forward with adoption of the 2009 report and 2. Assign the FCC to work with staff and LPAC to draft ordinance language.

The Council discussed next steps. Councilor Kitchel wanted to wait until the full Council was present to discuss this. Councilor Hemphill recommended that the council move forward with this effort. Councilor King thought the effort is great and that it is appropriate to take it to the ordinance amendment stage. Chair Farber recommended that Council schedule a workshop on this item to discuss this with FCC in April or May.

A workshop will be scheduled for a future date.

Item 5 Introduction of amendments to the Subdivision Ordinance, the Street Acceptance Ordinance and the Zoning and Site Plan Review Ordinance to address invasive terrestrial plants.

Councilor Hemphill asked if this was focused on contamination of new areas or eliminating existing plants. Ms. Lightbody said it's the former. She said it's about ensuring soils used in new subdivisions don't have invasive seeds.

The public hearing scheduled for March 13.

Item 6 Discussion and update on the Middle Road reconstruction project and inquiry into extending public water.

Mr. Poore explained the work conducted by staff to offer well water testing to current residents, to evaluate the potential build-out of the area, and to examine the bid results for the Cumberland project. Staff asked Wright-Pierce to review the bids, and they reduced the estimate for a potential project in Falmouth to \$500,000. There aren't really any large parcels in the area for potential build-out; they project a maximum of 40 additional units, but that would be a higher density than is currently there and it would only be developed over many years. The town offered water testing to 18 homeowners; 11 residents accepted the offer and had their water tested. He discussed the results of the water testing; including sodium, radon, uranium, and arsenic levels. The test results were mailed to the homeowners.

Chair Farber opened the public comment period.

Axel Bird of Middle Road has public water at his house. He was sympathetic with his neighbors up the road but wondered what the new timeline might be for road construction if the water was added, as well as the addition to the budget. This addition would send the project to referendum and he asked what would happen if it didn't pass. The road cannot be opened for five years after the road is done, but they could install water then.

Wayne Newland of Middle Road thanked Council for reconsidering this. He said they started talking about this proposal two years ago. He tried to convince staff that the estimated cost was too high. This came back up last month at the public forum for the road project. Cumberland is proceeding with installing water to just shy of the Falmouth town line. If they can do it, Falmouth can do it. It's important. He questioned the new \$500K figure. He thought there might be other ways to install the line using town crews to save money.

Tom Doherty of Middle Road thanked town for the effort so far. He never had water in West Falmouth when he lived there. When he relocated to Middle Road, he was interested in extending the water; he thought this should be a slam dunk. He hoped the Town will consider this. He spoke about fire protection; this area is serviced by a dead end hydrant, which can get clogged.

Chair Farber closed the public comment period.

Chair Farber asked about the time line if they decide to install the water. Mr. Poore reported that it would be 3 to 5 years, due to conflicts with scheduled DOT and Town construction projects. He didn't recommend putting a trench into the road after it was reconstructed; it would compromise the long-term integrity of the road. There is a lot of ledge in this area, which contributes to the cost and requires a professional crew. The Town doesn't do large-scale construction jobs at the public works level.

Chair Farber asked about whether this would be considered a part of the overall reconstruction, or a separate project. Mr. Poore discussed it with the Town Attorney, but she would need to do more research to make a clear determination. She thought the might be able to do it, but it would raise questions on how the public would respond to that.

Chair Farber asked how many residences could be served by this line at full build-out; Councilor King said it is 64, based on full build out at current zoning.

Councilor King wondered if it made sense to put water along this road. She didn't think this was unhealthy water. She pointed out that each residence would have to pay to connect to the line; she wondered about the cost of that as opposed to installing filter systems. She wondered how long it would be before they saw build out; if the road would be opened again within 15 years, they could do it then. The cost is substantial and she wondered about the need for a water line now.

Chair Farber heard people express concern about their water quality at the public forum. People have told her that they drink bottled water and that information was not captured in the water study that was done. She felt it was important to test the water. Based on the results, she doesn't think there is a substantial health risk in this location. She thought the only way to do this project would be if a developer or land owner wanted to share the cost of the project. She appreciated the interest in town water but it has never existed in this location and she couldn't justify the expense.

Councilor Kitchel asked about the cost per unit with 18 home owners and whether the homeowners would bear a portion of the \$500,000. The cost per unit comes to over \$27,000/home and Mr. Poore said the homeowners would not pay any of that; they would have to pay to connect to it. The only option for cost sharing would be either a developer, or a cost-sharing agreement with the homeowners. They would likely want to know how many of them would connect once it was installed. If the Council is interested in moving forward, they need to have some conversations with the residents about these questions.

Chair Farber asked how this area compares with other parts of town with regards to a need for public water. Absent a water quality issue, she thought they should proceed with the road construction.

Councilor King pointed out that if they think this investment is appropriate, the next step is to see what the real interest is for connecting to the system. Her inclination was to wait; they will be back on this road in 15 years and can look at it then.

Councilor Hemphill was sympathetic to the interest and thought maybe someday the town can do this but he didn't see a compelling reason to do it now. The costs are substantial and aren't justified by the number of homes impacted. He felt they should proceed with the road project as planned.

Mr. Poore recommended a resolution at the February 27 meeting to formalize the Council's decision. Public comment will be taken at that time.

Item 7 Introduction of an amendment to the Code of Ordinances to establish a licensing process for the permitting of farmers' markets.

Councilor King explained the proposed amendment to permit farmers markets. The code of ordinances doesn't have specific language regarding farmers markets. The Ordinance Committee met with Cumberland Farmers Market and has proposed this amendment. The proposed language will accommodate the current market and allow it in all zoning districts, lays out a reasonable review process to ensure a safe and functional market, reflects statutory regulations and current practices, and outlines reasonable fees. The market will be regulated through licensing and not through land use ordinances. This license will be issued to the market organization and not the individual vendors, and will be renewable annually.

A public hearing was scheduled for March 13.

Item 8 Introduction of an amendment to the Subdivision Ordinance related to underground utilities in subdivisions.

Chair Farber explained that this came out of the rezoning of the RB district into the RD and HL districts. This amendment will create consistency across all districts.

A public hearing was scheduled for March 13.

Item 9 Introduction of an amendment to the Zoning and Site Plan Review Ordinance to clarify the minimum net residential area required per lot in the VMU District.

Chair Farber explained that this provides clarifying language and adjustments to the net residential area requirements in the VMU. The current language had the unintended consequence of lowering the required net residential area in this district.

A public hearing was scheduled for March 13.

Item 10 Introduction of amendments to the Code of Ordinances, Coastal Waters Ordinance in order to decrease the number of dinghy permits.

Police Chief Edward Tolan said this is a safety issue. A few years ago they banned motors on dinghies at the harbor; that was then changed to allow them. Recently, people have begun using inflatable dinghies, which take up a lot more room. They are lined up at the float two and three in a row, and people have to walk across them. They are not stable, and he has seen someone fall into the water. Rain and wind will cause them to fill with water or even sink, and the staff have to salvage them or bail them out. While they sell 90 permits a year, at the height of the season the Harbormaster reports that there are only 50-60 tied to the dock. They still allow people to bring dinghies and do not charge a launch fee. The Town also provides 5 dinghies for

public use. These recommendations come from the Harbor Committee; they have another meeting scheduled for March 23.

Councilor King asked if this will keep some people from getting to their boats. Chief Tolan said they can use a town dinghy or bring their own.

Councilor Kitchel asked about the fee for a permit. Chief Tolan said the current fee is \$50 for residents and \$100 for non-residents. They will be coming back to ask the Council to raise that. Councilor Kitchel said in his experience at other harbors dinghy fees are substantially higher.

Councilor Kitchel asked if there is a launch service; Chief Tolan said no.

Councilor Kitchel asked about the town dinghies. Chief Tolan described the dinghies; they are a high-quality, wood dinghy. They are stable, but people don't like the rowing.

A public hearing was scheduled for March 13.

Item 11 Update by staff on the West Falmouth Neighborhood Sketch Plan project.

Chair Farber moved to adjust the agenda and move this item to a subsequent meeting. Councilor King seconded. Motion carried 4-0.

Item 12 Order to authorize the Town Manager to execute an option agreement to purchase a fifty foot wide strip of land between Route One and Clearwater Drive for a future public road.

This item was postponed to a later date.

Item 13 Order to authorize the Town Manager to execute a purchase and sales agreement to purchase five acres of land between the School Campus and Community Park, such property to be used for future connectivity between the two publicly owned properties.

Chair Farber moved to enter 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 seconded. Motion carried 4-0.

The Council went into session at 9:45pm and returned to public session at 9:49pm.

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

The Council expressed their appreciation to the Connector Committee for their work. Chair Farber appreciated the effort on alternative connection opportunities for the short and long term.

Councilor Kitchel asked if a bridge at this location was feasible; Mr. Poore said the committee and engineer have confirmed that it is.

Councilor Hemphill moved the order; Councilor Kitchel seconded. Motion carried 4-0.

Item 14 Order to reschedule the April 10 special Council meeting to Wednesday, April 12, 2017.

Chair Farber explained that April 10 is the first night of Passover, a Jewish holiday. They try to avoid public meetings on those nights.

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

Councilor King moved the order; Councilor Kitchel seconded. Motion carried 4-0.

Adjourn

Councilor Hemphill moved to adjourn; Councilor Kitchel seconded. Motion carried 4-0.

The meeting adjourned at 9:55 pm.

Respectfully submitted,

Melissa Tryon

Recording secretary