

Town Council Meeting Minutes August 14, 2017

The meeting was called to order at 7:00 pm

Roll Call

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

Councilor Jones was absent.

Item 1 Order to authorize the Town Manager to exercise the Town's option agreement to purchase 36.5 acres of land located on Babbidge Road, and to accept on behalf of the Town U.S. Forest Service Community Forest Program grant funds in the amount of up to \$140,000 from the U.S. Forest Service in connection with this land acquisition.

Town Manager Nathan Poore said the option agreement for this purchase included two conditions: the appraisal of the property coming in between \$250,000 and \$290,000 and the Town being awarded the US Forest Service Grant. Both of these conditions have been met, and the Town is ready to move forward with this purchase.

Chair Hemphill opened a public comment period. There was no public comment.

Chair Hemphill and Councilor Farber spoke in support of the land acquisition and thanked the property owners. The grant the Town received is highly competitive; only 7 of them were awarded this year, and it will cover half the purchase price.

Councilor King wondered if the grant funds would be awarded after the purchase is settled or before; Mr. Poore wasn't sure, but said the Town has never had trouble with federal grant funds coming in.

Councilor King wondered about accessing the property; Chair Hemphill said there is an improved road already on the property that provides access and there will be a small parking area. It is very accessible.

Councilor Kitchel observed that the access road passes close to the property owners' home; he wondered how the proposed parking area will impact them. Chair Hemphill said they are willing sellers, and one of the conditions of the sale will be the creation of a driveway for their home parallel to the woods road on the lot.

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

Item 2 Public Hearing on an amendment to the Code of Ordinances to establish residency requirements for certain boards, committees and commissions.

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

The order was scheduled for August 28.

Item 3 Order to extend the Town's rights to 35 portions of road rights-of-way known as 'paper streets'.

The Council discussed the process moving forward; they want to review each of these streets one at a time to evaluate them and determine what the Town wants to do with them. The next step will be to assign this work to a committee.

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

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

Item 4 Report on Town process required for right-of-way needs on private property that is associated with the Route 100 Infrastructure project.

Mr. Poore said extensive right of way work will be required for this project because the right of way isn't as wide in this area as it was along Route 1. Most of the impacted property owners are aware of the project. 94 properties are impacted; 31 are the responsibility of the Town, and the rest will be the responsibility of Maine DOT. Some of the impacts will be temporary, but others will require a permanent taking of property. The State has a detailed, equitable process for situations such as this; staff are recommending that the Town replicate that process to ensure that property owners are treated fairly, including using the same appraiser.

Councilor Kitchel asked if the Town's process will incur a lot of staff time and legal costs; Mr. Poore said they would likely contract out much of it to the appraiser and negotiating team, but it will require significant time from Public Works staff to manage the process.

Councilor Farber felt this information should be pushed out to residents soon. Mr. Poore said there will be multiple communications sent out to the public this fall.

Councilor Farber asked if this work could be done in parallel with the DOT work, instead of sequentially. She was worried about the time this will take and wondered about the Town hiring extra appraisers and negotiators. Mr. Poore said they could look into it; the Town is working closely with DOT, since they are more experienced with this type of work.

Mr. Holtwijk said a specific letter on the right of way process will be sent to the affected property owners.

Councilor King asked if there needs to be a specific budget for this work prior to the whole project; Mr. Poore said this is a line item in the overall project budget that was approved by the voters.

Councilor Svedlow asked why the project can't go out to bid before the right of way process is complete. He also asked if the project will require a site law permit from DEP.

Mr. Poore said most construction firms will not bid a project that does not have its right, title, and interest fully settled. Also, since there is DOT money involved, a lot of it will hinge on them.

Mr. Holtwijk said Stantec is working on the environmental permitting with DEP; he didn't think it would trigger a site location of development permit. Mr. Poore said they would look into it.

Item 5 Order to carry forward \$47,800.00 of unspent funding from the FY17 Street Line Painting line item, such funding to be used in FY 18.

Mr. Poore explained that ideally street line painting is done prior to the end of the fiscal year. Unfortunately, the line painters have been very busy in the last few years. This is the same action that was taken last year.

Councilor Farber asked if the carryover from last year was used; Mr. Poore said it was.

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

Councilor Svedlow moved the order; Councilor Farber seconded. Motion carried 6-0.

Item 6 Presentation and discussion regarding long range sewer infrastructure planning.

Mr. Poore gave a presentation. This report focuses on growth areas west of I-295. Current capacity issues were the impetus for this survey. The scope of the master plan was approved by the Council in May, 2014. In

general, the study found that 1. There is little or no excess flow capacity in current system; 2. Some pump stations are reaching the end of their expected life and will need work regardless; 3. In some cases, when making upgrades, extra capacity can be created for relatively little extra cost to serve long term needs (20-40 years). Staff organized the recommended projects into three phases: current projects, near term projects (3-6 years), and long term projects (7-15 years). The four current projects are estimated at \$1.3 million and include slope repair and manhole reinforcement. Major near-term projects include the new Route 100 sewer extension, projects in West Falmouth, and adding pump stations. The West Falmouth projects will add capacity to the system, upgrade infrastructure, and serve future growth. Long-term projects include new pump stations and upgrades to the treatment plant, and would create capacity. He spoke about financing the proposed projects; the Town would need to borrow funds and would also examine user fees and modifying connection fees to make them more equitable. Next steps for the Council include authorizing preliminary engineering for the near-term projects, and then in 2018 reviewing updated cost estimates and a financing plan for those projects.

Councilor King asked about the long-term projected capacity increase. Mr. Poore said this capacity increase would reflect 25% of the capacity the system has today. Wright-Pierce looked at the current zoning and the comp plan to determine what the possible build-out of West Falmouth would be and the resulting sewer needs at that build-out.

Mr. Holtwijk said the comp plan looked at the growth of Falmouth in the last 20 years. Those trends indicated a growth of 50 units/year on average. 50 units/year over 50 years would lead to a significant number of units. The goal of this master plan is to avoid having an over-burdened system, and to maximize the efficiency of the system over a long period of time.

Mr. Poore discussed the proposed changes to the ordinance. The connection charge has not been changed in a long time; it is currently \$2000/unit and doesn't take the size of the unit into account. The goal is to make this more equitable. Staff are suggesting an equity buy-in fee, which would rely on a formula that would account for the value of the system and the projected flow from the unit. Secondly, staff recommend repealing any exemptions from connection charges from the ordinance; while the goal of this exemption was to allow for developers that were serving the public benefit by extending sewer, that has not come to fruition. Thirdly, there is some ambiguity in the ordinance regarding apartments vs. multi-plex development and staff have recommended language to clear that up. The Town Attorney has not yet reviewed the proposed ordinance language; if there are substantive changes as a result of that review, the ordinance amendments will have to be re-introduced.

Councilor King asked if a two-family dwelling is considered a multi-plex under this ordinance. Mr. Poore said it is a \$2000 connection for each unit, whether it is a duplex, condo, multi-plex, etc.

Councilor Farber asked if the base unit in the proposed amendment is based on the size of the building; Mr. Poore said it is based on the number of bedrooms. A two-family home with three bedrooms in each unit would owe two fees, each one at the 3-bedroom level.

Councilor Farber asked if there would be a required review by Cumberland for this new fee structure; Mr. Poore said Cumberland has their own fee structure. They pay Falmouth a certain amount, and how they get that amount from their users is up to them.

Councilor Svedlow asked why it's based on number of bedrooms and not number of bathrooms; Mr. Poore said it is based on the number of occupants. The plumbing code anticipates 70-90 gallons per person, per day.

Mr. Poore spoke about recent slope failures along the shore south of Town Landing. There is a public sewer easement along the private properties to maintain the sewer line. There is erosion at the ends of Mason, Burgess and Studley streets. There is an opportunity to work with some of the private property owners to stabilize these slopes and protect the sewer line.

Councilor Farber asked if they have factored predicted sea level rise in the plans for these pipes. There is a lot of infrastructure that is right along the water.

Mr. Poore said that, while the engineer doesn't think wave action is contributing to the problem, the designed work does take sea level rise into consideration.

Councilor King asked if the proposed stabilization designs are proven; Mr. Poore said the Planning Board has approved 6 or so that are similar in design to these. He hasn't heard of any failures.

Councilor Farber asked how these slopes interacted with the sewer line.

Pete Clark, Wastewater Superintendent, indicated where the sewer line runs along the top of the slope. The concern is the undercutting of the toe of the slope. This design will address that concern. While the sewer line is set back from the edge of the slope, he observed that installing a sewer line disturbs the natural soils. The intent of the project is to make sure that the slope stays where it is. They cannot conduct the repair fully within the Town's easement.

Councilor Farber asked why the sewer line is on the slope side of the house. Mr. Clark said the sewer line was run along the slope in the 1970's to avoid pumping; they were able to run gravity sewers using this pipe location. The department evaluated whether they could abandon this line, but found that all the homes along there would have to pump up to a new station and it wasn't practical.

Councilor King wondered if this design accommodates sloughing from storms; Mr. Clark said it does. If the slope is supported at the bottom, the top will not wash away. The angle of the new slope will also prevent erosion.

Item 7 Resolution regarding West Falmouth Sewer Master Plan to support the overall plan and authorize funding the next step which is preliminary engineering for recommended current and near term projects.

Councilor Svedlow asked how much of the project would be designed during preliminary engineering.

Chris Dwinal of Wright-Pierce said a lot of the work that needs to be done is survey and soil boring. A preliminary design usually brings the project to 30-40% complete.

The council discussed the wording of the draft resolution and made some changes.

WHEREAS, this study, combined with other major projects identified in the capital plan ~~and August 2017 Wastewater Report~~, provide a blueprint for major capital work in three phases that will permit, but also necessitate, strategic financial planning by the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FALMOUTH ASSEMBLED THIS 14th DAY OF AUGUST, 2017, THAT:

1. the Town Council has reviewed the West Falmouth Sewer Master Plan ~~and the August 2017 Wastewater Report~~ and supports the recommended actions; and
2. the Town Council agrees that the next step is to conduct preliminary engineering of the following current and near term recommendations contained in the plan and report: Current projects: a. Slope Repair near Town Landing and Mackworth Point, b. Manhole reinforcement along Shoreline Drive, c. Risk assessment of flood prone assets, d. Infiltration reductions, Near Term projects: a. Middle Road Interceptor Replacement, b. Falmouth Road Pump Station Upgrade, c. Falmouth Road Force Main Extension, d. Treatment Plant Dewatering System Improvements, e. Lunt Road Pump Station Interim Upgrade, f. Middle Road Pump Station Interim Improvements, g. Treatment Plant Hydraulic Capacity Increase, h. Brown Street Pump Station Interim Improvements, i. Clearwater Drive Pump Station Renewal; and

3. the Town Council requests that more detailed cost estimates for these improvements and a preliminary financing plan be prepared; and

~~4. the Town Council authorizes the Town Manager to expend Wastewater Department funds to conduct the work listed in items 2 and 3 of this resolution;~~

~~5.~~ 4. the Town Council requests a report and recommendations for further action from the Town Manager once the work listed in items 2 and 3 has been completed.

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

Councilor Farber moved the resolution, with changes as noted above; Councilor Ferrante seconded.

Motion carried 6-0.

Item 8 Introduction of an amendment to the Code of Ordinances, Article II, Section 18-2, Sewer Systems, to address several matters to support future sewer infrastructure funding and, what staff believes are, housekeeping matters.

Mr. Poore said there are three proposed amendments. The first is a change to the connections charge to both increase the fees, which have been flat for decades, and to impose a new formula to introduce equity into the fee structure. This fee structure would be based on both the size of the new unit as well as the value of the system. The second amendment would repeal the exemption from connection charges for developments. The third amendment would clarify sewer fees for apartments, multi-plexes and other developments where there is some ambiguity.

Councilor Farber asked what the connection charge is supposed to cover. Mr. Poore said it is put into a reserve fund for future capital improvements; it is not added to the user fee account and it is not used to pay for the specific unit's connection to the sewer line.

Councilor Svedlow asked if the current sewer fee is based on usage; Mr. Poore said no; it is a flat fee for residential development.

Councilor Kitchel said the Wastewater Department operates as an enterprise. He wondered if they raise their own capital for improvements, if they can go to the bond market themselves, or if the Town does that.

Mr. Poore said the Town can borrow and it would affect the Town's credit rating. They have made arrangements with the Portland Water District to do that borrowing in order to access the bond bank instead of issuing a general obligation bond. The Sewer Department is a separate agency with a separate fund and are fully separate from the tax base.

Councilor Ferrante was concerned about making these ordinance changes as part of a bigger package. She was concerned that the connection fees are going up and felt this needs more discussion and more exposure. She didn't feel this was equitable.

Councilor Svedlow agreed. He understood that the Sewer Department needs to raise additional capital for these larger projects. It surprised him that all residential users pay the same fee and it isn't based on usage.

The Council discussed the proposed sewer connection fee structure. Councilor Farber pointed out that metering sewer usage is cost-prohibitive; she supported this proposal as a way to take size and usage into account in some way.

Councilor Farber thought sewer was optional; Councilor Kitchel thought the ordinance requires a property owner to tie in if sewer in in their road. Mr. Clark clarified that the ordinance requires a property owner to tie in to the system, either at sale or within 10 years.

Councilor Kitchel pointed out that, balanced against the cost of installing a septic system, this is a really good deal.

Mr. Poore said the attached memo details why the flat fee rate system is the best fee structure for Falmouth. There are few complaints and little of the department's operational costs are actually determined by flow. Basing the rate on water usage would require property owners who used water for irrigation to install separate meters. Also, it would be a significant cost just to obtain the data on which to base the rate.

Item 9 Order to vote for MMA Vice President and Executive Committee Directors.

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

Councilor Farber moved the order; Councilor Svedlow seconded. Motion carried 6-0.

**Item 10 Order to go into Executive Session pursuant to the Laws of Maine to discuss
and consider real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).**

Councilor Farber moved the order; Councilor Svedlow seconded. Motion carried 6-0.

The Council entered executive session at 9:19 pm and did not return.

Respectfully submitted,

Melissa Tryon
Recording Secretary