

Town Council Meeting Minutes March 11, 2019

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

Roll Call

Councilors Kuhn, Asherman, King, Hemphill and Cahan were present and answering roll call.

Councilor Ferrante arrived late.

Councilors Svedlow was absent.

Item 1 Order to schedule a public hearing on the FY20 Municipal and School Department Budget for April 3, 2019.

Chair Hemphill announced that the meeting will be held at Town Hall in Council Chambers this year, and not at the Elementary School. The municipal portion of the budget is posted to the Town's website and the school budget will be posted to their website soon.

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

Councilor King moved the order; Councilor Kuhn seconded. Motion carried 5-0.

Item 2 Update from the Town Manager and resolution regarding the purchase and sale agreement to purchase certain land referred to as TF1, TF2, TF3, and TV5 within the Tidewater Master Planned Development District.

Chair Hemphill explained that the Town has entered into a purchase and sale agreement with Tidewater, LLC and Falmouth Land Trust was included as a party in the agreement. Following a request from the Historical Society to review the house and barn for historical value, it was discovered that the buildings may have historical significance.

Nathan Poore, Town Manager, said the original intent was for TV5 to be made available for future expansion of the wastewater treatment plant as well as provide a buffer to the abutting houses. TF1 is already under conservation; TF-2 and -3 are next to each other and are developable. TF2 includes the farm buildings, and the plan was to demolish them. The Trust planned to purchase the property from the Town and construct a headquarters and learning center. The final amount of that purchase was determined to be \$243,000 based on the appraisal; the Town would also pay the Trust \$50,000 for stewardship of the land. Now that the Town's due diligence has uncovered potential historical value in the buildings, the question is how the Council wishes to proceed: they could stay with the original plan or ask staff to try and find a partner to preserve the buildings. Mr. Poore said either option would cost essentially the same amount.

Councilor Ferrante arrived at the meeting.

Ford Reiche, former resident of Falmouth, has done extensive research on the history of the Presumpscot River corridor and has reviewed the building a couple times now. He discussed some of the history of the mouth of the river and the location of the home. The property originally belonged to Silas Merrill. He thinks the home was built before 1800. The house is in bad shape, and if it wasn't for its beautiful location, it would likely not be salvageable. There are a couple of interesting features in the home, including a couple ship's knees built into the structure of the home and an addition on the house that is made of sawn lumber with marks that indicate the boards were cut at a water-driven saw mill, typically used for ships. Miraculously, the roof is in pretty good shape. He presented several photos of the property to the Council.

Greg Paxton, executive director of Maine Preservation, spoke about his non-profit which seeks to preserve historic places, buildings, downtowns and neighborhoods throughout Maine. Last year they helped 150 projects across the state of Maine. They visited the Tidewater buildings last week. They are 1% partners with Bateman Partners (the developers behind Tidewater) on three other historic preservation projects. There are not a lot of pre-1800 Georgian style homes in Maine. Many of the features in the house appear to be from that period, including raised panels above the fireplaces. There are some overlaps with the Federal style as well, including Federal moldings around windows and doors, and a fan shutter over the door. Unfortunately, the house has trash and vandalism all over it. The foundation was surprisingly sound except for an 8-foot section, which could be rebuilt. The roof is in failing condition, but most of the beams they saw were excellent, and they could only observe two holes. Most of the woodwork and wood framing around the windows and doors are sound. The windows are not original. It would need all new plumbing, heating, wiring, etc. They think the building could be rehabilitated for contemporary use, but not without a subsidy.

Sarah Hansen, director of preservation services for Maine Preservation, discussed some of the programs they have. The preservation easement program preserves historic property while allowing modern uses. It would run with the deed. With the protect and sell program they take an option to buy a property and then market the property, taking a preservation easement once the sale goes through. She discussed several projects they have done in the last few years.

Mr. Paxton said almost all their projects had been abandoned for a period of time. There is a market for people who are interested in purchasing historic homes for rehabilitation. Given the early date, the current condition, and the location of the Tidewater property, the conservation value of this property is significant. They support the partnership with the Land Trust for conservation of the land. He felt that, since the Town is purchasing it for below market price, there is opportunity for a subsidy. He felt it was worth the test to see if there is a buyer interested in the property.

Councilor King was curious about possible partners. The property has value, both historic and to the Town. She said they have wanted this area to be a public, community place, with trails. She wondered about maintaining that public value with this suggestion.

Mr. Paxton said a preservation easement can work with a conservation easement. Most easements require some public access. Interior easements can require it to be open to the public on occasion, perhaps 1 or 2 days a year, or photos can be displayed.

Mr. Reiche clarified that he is not interested in purchasing the property. He felt this house would have the most value as a residence. A competitive process allows the Town to pick the bid that has the best opportunity. It is going to be very expensive to restore this house.

Mr. Paxton said there isn't a lot of money in their field; they mostly rely on the private sector for preservation funds. Historic buildings have to be maintained, and the owners must be willing to take that on. Non-profits don't hold maintenance as their mission and can't maintain it as it needs.

Chair Hemphill said he toured the house in 2005 and it was in bad shape, but it was better then it is now. There has been no effort by the current non-profit owner to pay more attention to the building before now. He felt it was a tragedy. He supported preserving old buildings but had a hard time considering this in context with the proposal they have from the Land Trust. He was concerned about taking this property away from public use, especially the tip of the point, which is controlled by this property. If the building is so valuable, he wondered if it could be moved to a new location.

Councilor Asherman was troubled with losing the public access piece. Private ownership of this piece of the land would prevent public use of the point. The value of the property is the site and the view. He felt the value of this is the public value. He lives in a 200-year-old home and has worked on restoring it his whole life; he loves old buildings. But they have worked hard on the agreement with the Land Trust, and if not for a glitch in the easement, it would have been settled back in December. No one has come forward in the 15 years the LLC has owned the farm.

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Councilor Kuhn asked what the impact would be to the Land Trust if they put out an RFP with a 90-day timeframe.

Michael Vance, president of the Land Trust and a resident of Blackstrap Road, agreed that the Trust is in a difficult position. They support the value of old homes, but they have been planning a capital campaign around the project as proposed. He wasn't sure what effect a 90-day delay would have.

Councilor Cahan wondered if there would be a proposal to move the building; she thought that might be a win-win solution. She was also concerned with losing the public access. She thought that had greater public benefit than keeping a historic home that would be in private ownership.

Councilor Asherman responded to the idea of moving it. He felt the house was marginal at best, and the value of it was really in its location. He didn't think it had much value to a potential buyer if they wanted it moved.

Councilor Ferrante agreed, but would want to hear from someone with more experience on that. She wanted to honor the work and the process they have conducted with the Land Trust on this project.

Chair Hemphill opened a public comment period.

Chris Considine said not every pre-1800 structure is worthy of preservation. Any historic structure that has a significant and important history is worthy of preservation. There is always regret when one of these important properties are destroyed. He said these types of post-and-beam homes are fairly easy to move, if the frame is not rotten. He has been discouraged by the lack of historic preservation in Falmouth. Having these historic homes helps people retain their sense of place. He hated to see it destroyed.

John Winslow of Gray Road was in the home 45 years ago when Dr. Finks owned it, and it wasn't in good shape then. He thought the home got moved to that location and isn't original to that site. He could see the Land Trust doing some kind of monument, with photos, to provide people a sense of the history and that would achieve the same goal. The house would never make a bed and breakfast; the rooms are too small.

Mr. Reiche said he appreciated that the Council had plans in place, but the reason this came up last minute was because no one knew about it. This all started when the Historical Society called him to view the home seven days ago.

Chair Hemphill closed public comment.

Councilor Ferrante wondered if they could find out if someone was interested in the home if they required it to be moved from the site.

Councilor King felt the site had great historic value, with or without the house. She agreed that they could have a kiosk on the site discussing the house and pointing out that the house was moved. She felt if someone was interested in moving the house, they could then keep the site.

Councilor Asherman felt the value of the property was the location. He said if they sell the property to the Land Trust, the trust isn't going to tear the building down tomorrow. If someone is interested in buying it from the Land Trust and moving it, they could negotiate that with the Trust.

Councilor Kuhn supported the Trust and the agreement they had but couldn't vote to demolish a historic house without giving it a chance. She would like to open it to proposals.

The Council was interested in proposals for the home to be a private residence if the building was moved. If it was intended to stay in place, the proposal should show public value and access.

The Council discussed the proposed resolution.

No action was taken on the resolution. The Council supported the purchase of the property, asked Mr. Poore to hold off on the agreement on the Land Trust and to draft an RFP for preservation of the buildings and bring it back to the Council for review.

**Item 3 Concept discussion of an ordinance amendment to the Code of Ordinances
Section 17.92.d regarding the addition of seasonal parking restrictions on
Greenway Drive.**

Chair Hemphill said residents on Greenway have expressed concern that people use the street as overflow parking for accessing Mackworth Island. Residents on Andrews Ave expressed similar concerns which led the Council to approve seasonal parking restrictions on that road.

Councilor Asherman said Greenway is a very narrow street, especially in that section and people regularly park on both sides of the street. In that instance, emergency vehicles could not get through. It is disturbing that the State doesn't do more about parking on the island.

Councilor Ferrante wondered if there was a way for them to follow up on that with the State on the parking situation.

Mr. Poore said the Town is already in touch with the legislators regarding uses on Mackworth; he will pass along the Council's interest on parking on the island.

Councilor Ferrante didn't oppose parking restrictions on Greenway, but it feels like a band-aid. The problem will only spread. Councilor Asherman agreed.

Chair Hemphill allowed public comment.

Keith Noyes said the lot at the top of Greenway is a vacant lot. He wondered if that lot is available to put parking on.

Christopher Hickey of Greenway Drive said he originally asked Councilor Asherman about this. This neighborhood is a closed loop; this is the only way in or out. There is a small park on the corner of Whitney and Phillips; he wondered if that would be an opportunity to build 5-6 spaces in front of that to provide parking both for Mackworth and the park itself. He said the residents of Andrews are very protective of their street; they may not agree with improvements to Mackworth that increase traffic on Andrews.

Chris Considine owns a business on Route 1. The whole front of their lawn on Greenway is trashed by people parking there to use Mackworth. People also use the parking lot of his business, whether they are closed or open. He supported posting the right side of Greenway; he didn't think people park on the left as often.

Chief Kilbride said people could park down the side streets and walk to the island.

Chair Hemphill closed public comment.

Councilor King thought both sides of the street along this section would be posted. Chief Kilbride said that was correct.

Councilor Asherman didn't see this as a seasonal thing; people are parking along the side in the winter, and with the snow banks it makes the road even more narrow.

Mr. Hickey said he felt seasonal was appropriate; he is inconveniencing himself if he has guests. He said it is not an issue in the winter.

Councilor Ferrante asked if restricting it on both sides would inconvenience the residents. Mr. Hickey said people park on both sides to access Mackworth. He supported restricting it on both sides.

The Council supported an ordinance amendment which mirrors the language on Andrews Ave.

Item 4 Resolution to formalize the expansion of LPAC's membership to support its evaluation of residential rates of growth and density and consistency with the Comprehensive Plan.

Mr. Poore said there have been some questions on how LPAC+ is formed and how the Council appointed its latest members. When the LPAC ordinance was created, it allowed the Council to expand its membership to support projects related to the comp plan. This expansion of the committee was informally referred to as LPAC+. The committee was previously expanded twice, typically by resolution. The intent of this resolution is to formalize the expansion of LPAC for the current project of reviewing growth and density. This action would ratify what the Council has already done in January.

Councilor Kuhn asked if the members that were placed on LPAC+ were placed on to complete the current project; once that project is complete, their term would end. Mr. Poore felt there could be more specificity included in this resolution relative to the project.

Councilor Asherman served on LPAC+ to help with the update of the open space plan. It was very clear then that their term would end with the completion of that report. He was not involved with any other projects that came before the committee during his time.

Councilor Kuhn said her understanding was that these people termed out in the middle of an intense project that the Council was pushing them to finish and the goal was to keep them until this project was complete.

Councilor Ferrante said the Appointments Committee heard from both the members and the rest of the committee; all were in agreement that it would be important to keep those two people through the completion of the project. She agreed that the terms of the project need clarification but thought perhaps LPAC should have some say in what those parameters should be.

Councilor Kuhn said the intention was not to circumvent the normal process by any means; it was to keep them working on this rush project.

The Council discussed the parameters of the review of growth and density, and whether the plus members would stay through the RA piece, or through the whole project.

Chair Hemphill opened a public comment period.

Keith Noyes of Gray Road said LPAC is a three-year term. He said the two members stated in October that they would like to stay on LPAC to advise on the process. They termed out. He wondered where it would stop. The appointments on LPAC are staggered to preserve institutional memory already. The original charge of LPAC's recent work was to reduce non-conformity of lots; in the rush to bring their recommendations to Council they started throwing out numbers. He didn't support keeping the members past the end of their terms.

Valentine Sheldon of Route 88 was confused by the Council's desire to keep these two members on LPAC. They have both served 9 years already and they worked on the original amendments. He argued that they have termed out as members on LPAC, and so they can't serve as ad-hoc "plus" members. He said the ordinance says they can only add members to LPAC to help with the drafting of the comprehensive plan, and not other projects. He said LPAC has not enforced the ordinance that requires members' attendance at meetings for continuing membership on the board. He wondered how members are making informed decisions when they don't attend the meetings.

John Winslow of Gray Road didn't support the resolution. He felt LPAC has lost all credibility since completing the comprehensive plan. He felt the Town should institute an ad-hoc zoning review board to look at all the neighborhoods. This committee has been involved with the comp plan for so long, they are not able to disengage and work on these other projects. He argued they should roll the zoning back to 2016 and start doing it the right way.

Bob Hunt of Foreside Road has watched the changes in town since 1945. He didn't know the two members under discussion, but he knew they were part of the 2016 zoning amendments, which he described as "disastrous". Reappointing the same people over and over is counter-productive. He supported rolling back the 2016 amendments.

Fred Leighton of Bayside Lane wondered what is happening in the town. He hoped the Council would get back on the right track and go back to what they have done in the past.

Mr. Noyes asked for confirmation that if they add two seats to LPAC+ that would mean there would be two seats available on LPAC, bringing the total seats to 9. He was confused whether they were voting members, and what their roles were.

Chair Hemphill closed the public comment period.

The Council did not take action on the resolution. They asked for a review from the Town Attorney as to the status of the "plus" members and said they need more discussion as to the charge for the "plus" members. This will be scheduled on a future Council agenda.

Councilor Ferrante voiced her support of the volunteers that serve these committees, and all the hard work they do on their own free time.

Mr. Poore said he would like to discuss section 2.42 which governs attendance with the Town attorney as well. He would also discuss it with staff. It is a very rigid provision.

Item 5 Discussion about purchasing 1.25 acres of land to provide permanent protection of a portion of the Cross Falmouth Corridor.

Chair Hemphill said the Council previously met in executive session to review this proposal. This spot on the map represents a gap in the Cross Falmouth trail corridor. There was an agreement with the landowner for use, but nothing binding. The Town has now discussed and reached an agreement with the current landowner to purchase this small portion of the property to preserve the trail connectivity.

Councilor Asherman supported this purchase; the town's residents value the open space and preserving recreational use.

Council actions on this purchase were scheduled for March 25.

Adjourn

Councilor Asherman moved to adjourn; Councilor Ferrante seconded. Motion carried 6-0.

The meeting adjourned at 9:33 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary