

Town Council Meeting Minutes September 30, 2020

Chair Kuhn began the meeting at 7:00pm.

Roll Call

All councilors were present and answering roll call.

Pledge of Allegiance

Chair Kuhn led those present in the Pledge of Allegiance.

Item 1 Public Comment Period.

Chair Kuhn opened the public comment period.

Linda Dyer of 16 Mountain Road expressed concern about John Winslow not being appointed to the Planning Board. She asked that residents have input on the vision and values project survey questions. She suggested that anything involving Future iQ be postponed until we can meet in person.

Valentine Sheldon of Route 88 discussed concerns related to the Homestead Acres development density and Blue Bird Trail sight distance. He discussed concerns related to the 2016 RA, RB, and RD zoning and growth caps. He felt that town staff opinion should have zero weighting in the vision and values project and that the Council should be weighted as residents. He also felt that voting age resident opinions should outweigh those of other stakeholders. He asked that the upcoming staff planning meeting be made public. He asked that residents be allowed to provide input on the vision and values survey questions.

Lee Hanchett of 21 Stone Ridge Road described the responses he received from reaching out to municipalities that had employed Future iQ in the past. He felt it was important for the Council to encourage resident owner participation. He felt that resident owners should provide input to the early stage research of the project. He felt that the upcoming planning meeting must be made public through zoom or a town recording.

Bob Hunt of Foreside Road said he had seen the town change from very rural to what it is now. He expressed concern about the 2016 RA zoning changes. He felt that only property owner, voter, taxpayers should be able to participate in the vision and values process. He expressed concern about having stakeholders participate. He expressed concern about the Council meeting via zoom.

Lisa Joy asked that the upcoming vision and values planning meeting be made public. She asked that residents be allowed to provide input on the survey questions. Future iQ has allowed. She felt that end to end resident input was critical to a successful outcome. She asked what controls Future iQ had in place to prevent multiple survey responses from one individual.

John Winslow of 253 Gray Road expressed concern regarding the Town's transparency and communication with residents. He expressed concern about the Town's assessed value and the postponement of the revaluation. He expressed concern about Harbor/Waterfront Committee members' term lengths. He expressed concern about the Council meeting via. He felt that the upcoming vision and values project planning meeting should be open to the public. He discussed concerns related to the 2013 Comprehensive

Plan. He expressed concern that the LPAC members were not being included in the vision and values process.

Scott Walker of 8 Rogers Trail suggested changing the Zoom view to gallery view. He discussed concerns related to the rate of growth in Falmouth. He was disappointed that John Winslow was not recommended for appointment to the Planning Board. He expressed concern that the large developments were claiming all of the building permits. He asked how the Town would issue next year's building permits.

Marjorie Getz of 33 Old Powerhouse Road discussed concerns related to Future iQ's proposal. She desired for residents to be weighted more heavily than other stakeholders. She expressed concern about how the Town was receiving feedback from residents.

Keith Noyes of Gray Road expressed concern that John Winslow was not recommended for appointment to the Planning Board.

Jack Uminski of 7 Mackenzie Lane asked about the outcome of the School Board's negotiation with the teachers' union. He discussed concerns related to the new contract.

Robert Kline of 47 Seaside Way thanked the councilors for their service. He asked about the status of the Seaside Way street acceptance application review process.

Chair Kuhn closed the public comment period.

Chair Kuhn said that the upcoming vision and values planning meeting would not be open to the public as it is just a working meeting. She thought residents weighing in on the survey questions were a good idea. She said that a draft of the survey questions would be presented at a Council meeting for public comment.

Councilor Johnson said that the Appointments Committee had spent three meetings interviewing applicants for various committees. He said all the candidates seemed very qualified and willing to participate. He said that the Appointments Committee considered applicants' history with the Council and town and level of collaboration and cooperation. She said that there was consensus amongst the Committee surrounding all candidates who were being recommended for appointment and all candidates not being recommended for appointment.

Chair Kuhn said she recognized that zoom meetings are hard for residents who are not familiar with the technology but on the other hand it is making access easier for residents. She did not see the Town having in person meetings in the near future. She thought that changing to gallery view was a good idea.

Ethan Croce, Community Development Director, said Falmouth's growth cap system has always been a first come, first serve basis. He said the system had served the Town well over the years notwithstanding several large developments that have occurred during similarly heated markets. He said permits needs to be deemed complete to be considered. Councilor Trickett asked if the Town had reached the growth cap this year. Mr. Croce said the Town was ten permits away from the limit. He said the Town usually issues several permits during the summer, but things slow down during the fall. Councilor Trickett asked when the last time was that the Town hit the growth cap. Mr. Croce said he did not recall the year but that the Town has come close to it numerous years.

Councilor Trickett felt that in-person meetings were superior overall but that the Zoom meeting have been getting good participation and he has heard that it is easier for many residents to participate in Zoom meetings. He agreed that the Council is responsible and accountable to its voters. He said most voters are not engaged but the Council still represents them. He felt that the Council was committed to preventing any small

group of people from putting their thumbs on the vision and values project scale. He said there have already been multiple opportunities for public comment on the project. He said that the Council selected an outside consultant to manage the process based on public feedback. He felt Future iQ were experts and had the best proposal. He felt that the Council needed to be careful about the extent to which this process is influenced by a self-selected group of people. He said participation in the thinktank would be an open invitation. He said town staff did reach out to each reference from Future iQ and the selection committee discussed their feedback.

Chair Kuhn said during Item 8 there would be a discussion about how to approach the street acceptance applications that had been submitted. She said there would not be public comment on that item.

Item 2 Consent Agenda

- **Order to approve the minutes of the August 24, 2020 Town Council Meeting.**

Councilor De Lima motioned; Councilor Asherman seconded.

Chair Kuhn opened the public comment; there was no public comment.

The motion carried unanimously.

Item 3 Report from staff, Council committees, and Council liaisons regarding updates on assignments and projects.

Councilor Cahan said the Ordinance Committee met on September 17 and 29 to discuss the noise and dust ordinances and short-term rental. She said the Committee discussed the current dust and noise ordinances, other towns' ordinances, and the differences in the complaints the Town has received for dust versus noise. She said town staff discussed complaints received and what would be helpful for assisting them with enforcement efforts. She said the Committee asked staff to draft ordinance language that restricts construction noise to the hours of 7:00am to 7:00 pm, Monday thru Saturday, excluding major holidays. She said development projects are already required to have erosion control plans reviewed by Cumberland County Erosion Control. She said the Committee thought that additional general language about dust control and on-site construction vehicle speed limits should be reviewed further. She said staff will come up with standard operating procedures for dust and will look at tailgate noise. She said the developers of the two large projects in West Falmouth are willing to work with the new time limits and dust control efforts. She said staff had visited the construction sites almost every workday over the past two weeks. She said Justin Early, Town Engineer and Erin Cadigan, Education and Outreach Coordinator created an educational brochure to be distributed with issued permits. She said the Committee began reviewing the feedback from the March public forum to determine what short-term rental regulation should focus on. She said the next meeting will be October 14 at 8:00am. She said the Community Development Committee met on September 21 to discuss the ability to keep animals in RD and HL districts and the Route 100 land use recommendations. She said the next meeting will be October 5 at 8:30am.

Councilor De Lima said the Finance Committee met that day. She said Chief Rice provided an update on the new Fire-EMS Department hires. She said the average number of people responding to calls has increased with the new hires. She reviewed the intention to hire 14 additional employees in phase two of the plan. She said Pete McHugh, Finance Director, provided an update on the FY20 yearend and how things are going in the current fiscal year. She said that Mr. McHugh will provide an update on the current fiscal year in January. She said the Committee discussed whether the mooring fees are well balanced between residents and non-residents. She said the Committee agreed to keep the fees as recommended by the Harbor Committee. She said there are over 150 residents on the mooring waiting list. She said that the Finance Committee will have further discussions with the Harbor Committee around the balance between resident and non-resident

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mooring holders and whether there are un-used moorings that could be released. She said the Harbor Committee met on September 17. She said the Committee discussed installing a webcam at Town Landing to gauge weather conditions.

Councilor Johnson said PACPAC met on September 15 and there was also an ad hoc meeting. He said having to furlough a couple of employees due to COVID-19 budget challenges has impacted the Department's service delivery. He said the Committee is organizing a tour of parks and facilities around town. He said the Appointments Committee had begun working on its work plan items. He discussed the Committee's consensus surrounding public comment periods at Council and committee and board meetings. The Committee felt that there should be public comment opportunities at all board and committee meetings and at the discretion of committee chairs members of the public could be involved in discussions.

Councilor Cahan said that PACTS is using the CARES Act money to provide continued service for the transit agencies and to create some innovative services. She said PACTS is working with the transit agencies on trying to get some money back to the towns. She said METRO is at about 60-65% ridership as of August and would start collecting fares the following day.

Chair Kuhn said that she took a tour of the Library last week. She said that the Library will begin offering timed entry browsing periods beginning in October.

Councilor Trickett said that FEIC voted to go on hiatus until February. He said the FEIC has struggled to get quorums for the last couple years. He said that Committee members generally have an interest in economic development in Falmouth but lack an agenda that they want to pursue. He discussed potential next steps for the future of the Committee.

Councilor LaFond said that REAC will begin meeting again soon and that the Town is in the process of hiring a new Energy and Sustainability Coordinator.

Nathan Poore provided an update on the solar project. He said that Tangent was originally planning to have the project complete by January. He said the CMP approval for the initial aspects of the project had been delayed. He said that construction will be put off until the middle of March so the final completion date will be June 14. He said Tangent needs to get Planning Board approval and final DEP approval.

Marguerite Fleming, Administration Analyst, provided an update on the 2nd Route 88 Forum held on September 23.

Chair Kuhn said there was a dedicated election section in the printed version of the Falmouth Focus. She said there is a secure locked drop box for absentee ballots outside of Town Hall. She said the Senior Tax Assistance program is open for applications. She said the deadline is October 8. She said the Town is not going to cancel Halloween but will publicize the CDC guidelines.

Councilor Cahan said that some residents will be putting up orange ribbons to indicate that they will be doing trick-or-treating and following the safety guidelines. She suggested asking grocery stores to post the CDC guideline.

Chair Kuhn offered congratulations to Sarah Griffiths on coordinating neighborhood clean-up week. She said 95 residents and their families volunteered to clean-up 60 streets and public areas around town.

Item 4 Report from the Appointment Committee and order regarding various vacancies on Boards and Committees.

Councilor Johnson read the list of people who the Appointments Committee was recommending for appointment and biographical information for each individual.

Councilor De Lima motioned; Councilor Cahan seconded.

Chair Kuhn opened the public comment period.

John Winslow of 253 Gray Road expressed concern regarding Caleb Hemphill's nomination for appointment to LMAC and Seth Blanchard's nomination for appointment to Planning Board.

Lee Hanchett of 21 Stone Ridge Road felt it was important that Planning Board appointments stand up to developers. He expressed concern that John Winslow was not being recommended for appointment to the Planning Board.

Scott Walker of 8 Rogers Trail said he hoped that anyone joining the boards and committees was interested in keeping growth slow. He expressed concern about the Town running out of building permits this year. He suggested that applicants be asked to write public statements outlining their thoughts and views about the future of Falmouth and their objectives for serving on their respective board or committee.

Valentine Sheldon of Route 88 expressed concern about John Winslow not being recommended for appointment to the Planning Board.

Keith Noyes asked how many people applied for positions and how many were recommended for appointment to board/committees. He also expressed concern about John Winslow not being recommended for appointment to the Planning Board.

Councilor Trickett asked for clarification on LMAC's charge. Mr. Poore said he believed it was about land management and stewardship. He said that the Committee gets involved when there are potential acquisitions and is involved with land and forest management. Councilor Trickett expressed concern about a potential conflict of interest with someone who has prior involvement with the Falmouth Land Trust serving on LMAC. Councilor Asherman said that Mr. Hemphill has not been involved in any way with the Land Trust since before he was elected to the Council. He said Mr. Hemphill had not served on the Land Trust's committees or been actively involved. Councilor Trickett felt that if Mr. Hemphill was appointed to LMAC that he should not be meaningfully involved with the Land Trust. Chair Kuhn asked for clarification that Councilor Trickett meant that someone serving on LMAC should not be a donor to the Land Trust. Councilor Trickett felt that there could be a potential issue there. Councilor Asherman disagreed with Councilor Trickett concerns about making donations. Chair Kuhn asked if the town had a conflict of interest policy that relates specifically to boards and committees? Mr. Poore said he was only aware of the Council conflict of interest policy. Councilor Asherman said that to be a conflict of interest someone had to have a financial gain and that was not the case with serving on a nonprofit board. Councilor De Lima agreed with Councilor Asherman's comments. She said it is one thing for people to question the reputation of elected officials, but she did not feel it was right to appoint people to boards and committees who would attack other members. She said that she viewed the developer who had supported her campaign as a resident of Falmouth.

Councilor Cahan felt that Mr. Hemphill would do a very thoughtful job on LMAC. She was supportive of him being appointed. She did not view his donating to the Land Trust as a conflict of interest.

Councilor Johnson agreed with Councilors Cahan and De Lima's comments.

Councilor Trickett asked if Mr. Hemphill donated money to the Land Trust for a specific acquisition whether he should recuse himself for the LMAC scoring process. Councilor De Lima said if there is a personal financial benefit then he should recuse himself.

Chair Kuhn asked the Appointments Committee to consider whether it makes sense to have a policy in place to consider conflict of interest issues in the future.

Councilor Trickett asked to separate out Mr. Hemphill's recommendation for appointment to LMAC as he did not support it. He agreed with Chair Kuhn's suggestion to have a policy in place.

Councilor Cahan clarified that the ordinance states that LMAC members can be former members of the Land Trust.

Councilor Trickett motioned to amend the motion to exclude the recommendation of Caleb Hemphill for appointment to LMAC; there was no second.

The motion carried 6-1.

Item 5 Public hearing and order relative to the renewal of a permanent food service establishment license for Flagship Premium Cinemas.

Councilor Asherman motioned; Councilor Cahan seconded.

Chair Kuhn opened the public comment period; there was no public comment.

The motion carried unanimously.

Item 6 Concept discussion regarding recommendations from the Community Development Committee relative to developing a process for considering requests for ordinance amendments.

Councilor Cahan said that the Council desired to address the fact that the Council does not have a formal process for how to consider ordinance amendment requests except for contract zone amendments. She said that the CDC was tasked with creating a documented process for considering requests for ordinance amendments. The committee drafted a flow chart for different process scenarios. The Committee also recommended ordinance request fees, drafted ordinance language, and a checklist.

Councilor Asherman for clarification on how and where the direction initiates for the different avenues. Ethan Croce, Community Development Director, said that the first step in the process is that applicants would provide the Council with a baseline level of information about their project before the first Council meeting. He said that the Council could either refer the item to the CDC or bypass the CDC review process and keep it with the full Council. He said the intent is that after learning more about the details of the project it will start to become apparent what the best avenue is for moving forward with the amendment. He said that could be a contract zone process, text amendment, map amendment or a combination text and map amendment. He said without learning the details of the project it is impossible to make that determination.

Nathan Poore said that the proposal suggests that there will be a checklist for determining the completeness of an application. He said it states that the town manager or his designee will determine the completeness. He suggested that because ordinances are legislative actions, any checklist should allow the applicant to request a waiver for any of the items. He did not think it would be best practice to allow staff to be gatekeepers of any

kind of legislative action. He suggested checking to make sure that the recommendations are consistent with Council rules. Mr. Croce clarified that the ordinance would only apply to requests for zoning amendments that are not brought forward by the Council or staff.

Councilor Trickett felt this is intended to be more of a Council policy that is shared with applicants to make the process more consistent and object. He said that the checklist is designed to make sure that Council time is not wasted by an iterative process in which the Council does not have all of the information.

Chair Kuhn added that it would also make more efficient use of the public's time. She liked that the checklist puts the burden on the developer or the person seeking the change to have meetings with the abutters.

Councilor Cahan said this is meant to support staff.

Chair Kuhn said that the next phase for this would be to schedule a public comment period at a future meeting. The Council had consensus to move it forward.

Item 7 Introduction of ordinance amendment to Section 19-40 of the Code of Ordinances to provide certain allowances for the keeping of animals in the RD and HL zoning districts.

Councilor Cahan said that a resident in the RD district had requested to be allowed to have chickens. She said when the RD and HL districts were created there was no discussion about animals other than regular house pets. She said staff believe this was an oversight. She said that the HL district land was formally zoned RB and RB allows for non-household pets. She said the RD district land was formally zoned RB or Farm and Forest. She said the Farm and Forest allows more uses than RB. The Committee felt that it made sense to allow the same kinds of animals allowed in RB. She said it would remove the minimum lot size requirements for keeping poultry and would create a 20-foot property line set-back that would only apply to fencing to contain the poultry.

Councilor Johnson asked for clarification on the boundaries of the HL zone. She wanted to make sure that the Highland Lake Association had a voice in this if the amount of poultry around freshwater would be increasing. Mr. Croce said the HL zone is both sides of Highland Lake. He said this amendment would be restoring the same allowances for the keeping of poultry that existed before 2016.

The public hearing was scheduled for October 26.

Item 8 Update on two pending street acceptance applications that have been previously reviewed by the Town Council.

Nathan Poore, Town Manager, said that staff believe that the Paddock Way, Kilarney Way, and Cavendish Road application is complete and ready for Council formal action. He said the Alpine Drive and Sylvan Drive application is nearly complete. He described discussions regarding the application at Council meetings earlier that year. He described the remaining items with the application.

Rebecca Hatfield of 20 Alpine Drive said that their neighborhood is in a designated growth area and borders a designated rural area. She said the neighborhood is close to Community Park and neighborhood trails serve as transit links to the CMP line and other public and private trails. She said the access supports interconnectivity while also preserving open space and providing recreational benefit. She said the neighborhood's roads and trails are heavily used by the public. She said the activity has increased significantly since the first Council meeting. She said at the first Council meeting the neighborhood proposed an easement to support permanent public use of the trails and meet the requirements of interconnectivity. She said Ralph Sama, the developer, had provided a deeded easement for a twenty-foot-wide pedestrian pathway over the land. She said he has also provided an additional deeded easement for a similar pedestrian pathway over a

piece of land on the other side of the CMP line. She said that the Council had concerns about the availability of parking near the trailhead. She said Mr. Sama provided a twenty-foot deed easement near the trailhead for two parking spaces.

Councilor Johnson said that homeowners' association is well prepared and determined to do this the right way. He said he was against parking being an element of this acceptance, but if Mr. Sama was willing to provide the easement, he would be ok with it.

Councilor Asherman asked if crossing the CMP corridor was allowed. He asked if there was connectivity to licensed trails beyond Mr. Sama's ownership. Mr. Poore said Amanda Stearns, Open Space Manager, has been in contact with CMP and they were in general agreement verbally to give the Town access and were going to write up a license agreement. He said hopefully that will be secured within the next month or two. He said the trail does not currently connect to other property.

Councilor De Lima asked about the incremental cost to the town for taking over the maintenance of these two roads. Mr. Poore said that Jay Reynolds, Former Public Works Director, prepared calculations a few years ago that identify the incremental costs. He said he would find the report. Councilor DeLima felt that should be part of the Council review meeting materials.

Chair Kuhn supported moving forward on these two applications. She appreciated the addition of the easement on Alpine Drive and Sylvan Drive. She suggested trailhead and parking signage.

Councilor Asherman expressed concern that the easements go to a dead end. Councilor Johnson said that the Town is creating easements throughout the Town so that there can eventually be connections. He felt that what the applicants are offering is an enhancement to what is already there.

There was consensus to move forward with final Council action on the two applications. Nathan suggested putting Paddock Way, Killarney Way, and Cavendish Road on the next possible agenda. He said that Alpine Drive and Sylvan Drive would be reviewed by the Planning Board in November so the application would likely be on a December Council agenda.

Chair Kuhn said street acceptance is an area where the Council has discussed establishing broader policy. She asked Mr. Poore for clarification on the number of in process applications. Mr. Poore said Seaside Way is nearly complete but has not yet been in front of the Council. He said that connectivity is less of an issue because Seaside Way connects with two public streets. Justin Early, Town Engineer said that Mr. Reynolds completed a first review of the Stone Ridge Road, Hilltop Trail, and Rogers Trail application in February. He said he had just received the responses to the questions that arose in the first review.

Chair Kuhn asked the councilors whether they wanted to ask the applicants to pause the process while the policy for broader application was developed or move forward on the two applications. Councilor Trickett felt that the Council could move forward with the two applications. He felt that the basic question is given the fact that taking on a public street will cost the Town money what is the public benefit that is being received in exchange. He felt if there is an application that does not benefit the town then taxpayer money should not be spent on it. He asked staff to think about whether there is a way to quantify the cost or create a scoring criterion.

Councilor De Lima asked for clarification on the status of the Stone Ridge Road, Hilltop Trail, and Rogers Trail application. Mr. Early reviewed the application review timeline. Councilor De Lima felt that the Stone Ridge Road, Hilltop Trail, and Rogers Trail application is more complicated as it involves much more

roadway. She said she would be reluctant to move forward on that application without a better understanding of the cost.

Councilor Asherman was in favor of moving Seaside Way a long and putting a hold on Stone Ridge Road, Hilltop Trail, and Rogers Trail. Councilor Lafond agreed.

There was consensus to move forward with the Seaside Way application under current guidance and to pause on the Stone Ridge Road, Hilltop Trail, and Rogers Trail application. Chair Kuhn asked for clarification on who would be assigned the policy review. Mr. Poore said there had been some frustration on the part of Town staff, the Town Attorney, and applicants with the process. He said he had invited one of the applications to join some of the discussions on the procedural aspects of the applications. He asked that the Council also consider the process. He suggested having CDC or another Council committee work on this with staff.

Item 9 Update from the Falmouth Land Trust on the possible acquisition of a 52-acre parcel located on the corner of Johnson Road and Route 1 and a potential request for a supplemental appropriation and order by the Town Council.

Michael Vance, Falmouth Land Trust President, delivered the presentation. He described the Underwood Springs parcel's location, connectivity, and ecological value. He said the Trust negotiated an extension on the purchase and sale agreement. He described the Trust's fundraising initiatives and progress. He said based on their projections, the Trust will meet their fundraising goal and no longer needs a contribution from the Town.

Chair Kuhn congratulated the Land Trust and thanked the members of the community who stepped up to make this a reality.

Councilor Cahan echoed Chair Kuhn's comments.

Chair Kuhn encourage members of the community to help close the gap.

Councilor Trickett asked for clarification on whether there would be a public comment opportunity. Chair Kuhn said there would not be public comments since the Council would not be taking action.

Adjourn

Councilor Cahan motioned; Councilor De Lima seconded.

The motioned carried unanimously.

The meeting adjourned at 10:37pm.

Respectfully submitted,

Marguerite Fleming
Recording Secretary