

Town Council Special Meeting Minutes September 12, 2011

Roll Call

Councilor Payne, Rodden, Varney, Pierce, Orestis and Armitage were present and answering roll call.
Councilor Chase was absent.

Item 1 Resolution to recognize a local civic organization.

Chair Pierce explained that the resolution to recognize the American Legion was already presented to the Legion at the September 11 ceremony. This vote will formally adopt the resolution.

Councilor Varney moved the resolution; Councilor Orestis seconded. Motion carried 6-0.

Chair Pierce thanked the American Legion for a beautiful ceremony.

Item 2 Public Hearing on amendments to the Code of Ordinances that will update the procedures and rules concerning the use of Parks and Public Lands.

Town Manager Nathan Poore explained that the majority of the changes are minor; they clarify the role of staff. He discussed the substantive changes, including restricting dogs to leashes at certain times of the year, changes to the allowances for hunting on Town-owned lands, addressing ATV's on Town-owned lands, wording that addresses archeological digs, and a prohibition on alcohol and tobacco use.

Open Space Ombudsman Bob Shafto addressed the new language around dogs. The Town manages conservation lands to provide multiple benefits, including watershed protection, wildlife, recreation, etc. They try to balance out sometimes competing interests. Dogs can impact wildlife significantly and he discussed their impact on nesting birds specifically. Since Maine Audubon banned dogs on their property in 1992, they have seen a noticeable increase in the wildlife populations. This ordinance would leash dogs between April 1 and September 30, the time of the year when the young birds are hatching and learning to avoid predators. The forester contracted to draft the Forest Management Plan a few years ago noted the lack of wildlife in the Falmouth Nature Preserve. This property was originally given by a family with a clear intention of making it a nature preserve and Mr. Shafto felt it important to honor that intention. He felt this was a good compromise, allowing people to use the property with their dogs while protecting the wildlife.

Councilor Rodden asked why they haven't had a leash law before now. Mr. Shafto said they know more now than they did then, and the Town didn't have the capacity before now.

Councilor Orestis asked if there were any impact studies available for review.

Mr. Shafto said there isn't a lot of formal research on this; it is more observational. He has spoken with five biologists, and they all concurred with Mr. Shafto on the impact of dogs on these properties. There are also concerns with liability issues with dogs jumping on people.

Councilor Rodden asked if he had had any contact with representatives of the Nature Conservancy or the family that originally owned the Nature Preserve.

Mr. Shafto said all the heirs of that family have passed away. In response to Councilor Rodden's observation, Mr. Shafto confirmed that no one has complained about the situation at the preserve; this has come up as a part of his work on management plans for the property. In a recent survey done by the Long-

range Planning Advisory Committee, when asked what the town might manage the open space properties for, 80% of respondents said wildlife. The public clearly values wildlife.

Councilor Varney asked about the length of the leashes that would be allowed. There are some long leashes.

Mr. Shafto said there is nothing in there about the length of the leashes. They are only asking people to respect the intent.

Councilor Orestis asked about electric leashes. Mr. Shafto didn't think so.

Councilor Rodden felt the open spaces need to be shared. She asked if there was a way to designate some of the properties for total conservation while allowing dogs to run all year round on other properties.

Mr. Shafto said that was possible; it was for the Council to decide. He argued against dogs running free in the Nature Preserve.

Public hearing opened:

Laura Williams of Woodville Road spoke about dogs at Town Landing. Swimming at the Landing has been marred by people who don't take care of their dogs. She has been jumped on, there are feces on the beach, and she would like to see either a ban or an enforceable leash law at the Landing.

Carol Ward walks her dog at Town Landing, and hardly ever sees poop there. There are few places on the Foreside where people can take their dogs off-leash. She didn't think they could make the inference that the Brown family gave the property with the intent of preserving wildlife. She felt people cause more damage than dogs. She wondered if they really want deer on Rt. 88 or I-295.

Barbara Graustein of Waites Landing Rd. walks her dog at the nature preserve 5 days a week. She would like to see at least part of the preserve allow dogs off-leash, preferably the meadow, and if not, would like to see the restriction for 3-4 months only, perhaps April-June.

Bradley Graustein of Waites Landing Rd. asked the Council to focus on the issue of impact on wildlife and not poop on the beach. He would like to see the peer-reviewed literature on the wildlife that was cited. Observational evidence is the weakest standard in scientific research.

Public hearing closed.

Councilor Rodden asked about dogs at Town Landing. Chair Pierce said Town Landing was inadvertently added to the first draft of the ordinance, and has since been removed. Clarification regarding Community Park has also been added.

Mr. Poore said that, while the list is based on wildlife impact, some of the properties were based on nuisance. He recommended that Legion Field complex, Village Park and Underwood Park be stricken off the list.

Lucky D'Ascanio, Director of Community Programs, described the portion of Community Park that is undeveloped and said that area is where dogs could be unleashed. Dogs would need to be on leash while on the trails system.

Councilor Payne asked for a map to show this so he can take a look at it. Councilor Rodden agreed.

Mr. Poore said that, based on input he and some Councilors have received, he is not sure they have gone far enough. They could identify higher-value areas for protection, while leaving other portions as is. They have not gotten any legal interpretation on this either. He recommended striking 6.e, the section restricting dogs to leash, to allow staff to review this more thoroughly. The rest of the ordinance can be passed without it.

Councilor Armitage moved to strike 6.e from the proposed ordinance and schedule the remaining ordinance for an order; Councilor Payne seconded. Motion carried 6-0.

Councilor Payne asked about the sentence in section 6.d relating to removing dog feces; while he supported the removal of dog feces from areas that people are using, he felt it was unlikely that people would chase their dogs into the woods. He recommended removing that sentence.

Councilor Varney felt the intent was to get it out of the park, and not out of the woods.

Mr. Poore said they want them to pick it up off the trail itself. Striking that last sentence leaves some room for enforcement discretion. He thought it could work.

Councilor Payne moved to change the last sentence in section 6.d, changing the word "Removal" to "Disposal". Councilor Rodden seconded.

Councilor Armitage wanted staff to review section 6 entirely.

Councilor Rodden was concerned that section 6.d refers to streets. She thought it was only covering public lands. While she didn't have a problem with it, it hasn't been discussed previously that they were going to address dog feces on the streets, and she wanted the public to be aware.

Mr. Poore recommended that the Council consider section 6, minus 6.e, at the next meeting. The question of "removal" versus "disposal" could be addressed at the time of the order. Chair Pierce agreed.

Chair Pierce agreed that there are properties where they perhaps should not have dogs at all, but would like to see if there are areas where dogs could be allowed off-leash year-round.

Item 3 Discussion concerning new state laws that permit the sale and use of fireworks unless restricted or prohibited by local ordinance.

Mr. Poore asked the Council for their opinions on the issue.

Councilor Payne supported an outright ban. He felt allowing fireworks would place an undue burden on the volunteer fire department.

Councilor Rodden asked what neighboring communities are doing. She asked Mr. Poore to review the state requirements.

Mr. Poore said that Portland is working on an ordinance to ban them. The state statute would allow them year-round, but restrict the hours of use. Around July 4th and New Year's day those hours of use are extended.

Councilor Rodden agreed with Councilor Payne's observation on a volunteer fire department. She would support a ban.

Councilor Varney wondered about allowing them only over water. Mr. Poore said the missile type is banned anyway. It is only the ones that are near the ground that are being allowed.

Councilor Orestis wondered why the state has passed this now. He was concerned with the trash left behind by fireworks. He observed that fireworks are important to some cultures, but he also supported a ban.

Councilor Armitage would allow people to have them. He felt there should be a permit and some restrictions on the space needed to set them off. It is too dense on the Flats to set them off.

Chair Pierce agreed with a ban; she didn't feel it was the best use of their resources to debate the restrictions they might want to impose.

Councilor Payne said he received an email from a couple of residents describing the nuisance caused back when fireworks were allowed and their neighbors would set them off late at night.

Staff will work on language for a ban on fireworks.

Item 4 Order to set the date for the December 2011 Regular Meeting to December 12, 2011.

Councilor Varney moved to adopt the order; Councilor Armitage seconded. Motion carried 6-0.

Item 5 Discussion about the development of a Town Council "Annual Work Plan".

The Council discussed the new, proposed format for the work plan and suggested several changes. Staff will bring a new version of the work plan to the September 26 meeting for review.

Item 6 Discussion about future Council agendas.

Mr. Poore discussed the items scheduled for future Council agendas.

Adjourn

Councilor Payne moved to adjourn; Councilor Armitage seconded. Motion carried 6-0.

Meeting adjourned.

Respectfully submitted

Melissa Tryon
Recording secretary