

MANAGER'S REPORT  
City Council Meeting  
Tuesday, August 17, 2010

TO: Mayor Walter Ash Jr. and Honorable Members of Belfast City Council

FROM: Joseph J. Slocum, City Manager

DATE: Friday, August 13, 2010

**Agenda items:**

**10.A Consideration of a possible city ordinance supporting participation in an energy efficiency loan program (PACE program).**

The US Department of Energy has funded a Property Assessed Clean Energy program (Pace Program) through the State's Efficiency Maine program. This program makes it possible for a homeowner to receive a loan for home energy savings improvements and for that loan to follow the property after it is sold to a new owner. This encourages current owners to investment in energy conservation now and collects the financial savings now, without having to worry about paying off the entire amount of the loan because it can continue beyond the sale of the property to someone else. The new owner gets a more energy efficient home to begin with and just picks up the payments. This overcomes a worry that the current owner will not receive the full payback benefit of the improvements because they may not live there long enough to secure all of those benefits.

The Belfast Energy and Climate committee has supported this program and further discussions with efficiency Maine have learned that in order for participation to go forward, Belfast, as a municipality must adopt a Clean Energy ordinance to enable property owners within the City to participate. Attached in your packet is a copy of a model ordinance for your consideration. Your packets also include several pages of frequently asked questions and other information which further explained both the energy-saving loan program as well as the reasons underlying the requirement for the adoption of a local ordinance. I just received this and will have to review it for further comment at the meeting on Tuesday.

**10.B Discussion and action on the Public Works "Heavy Truck" bid.**

In your packet you'll see copies of two bids we received to purchase a new truck for the Public Works Department. Colwell Diesel submitted the low bid in the amount of \$68,944. Public Works Director Bob Richards recommends we accept these bids and award the bid to the lowest bidder Colwell Diesel. The money for this purchase will come from account number 410-535.

**10.C Discussion and possible action on Public Works Dump Body bid.**

In your packet you'll see that we received three bids for furnishing a dump body for the new truck for Public Works. Public Works Director Bob Richards recommends you accept the low bid of \$19,895 from H.P. Fairfield Inc.

We asked that you move to accept the bids as submitted and award the low bid to HP Fairfield Inc. in the amount of \$19,895. The money for this purchase will come from account number 410-535.

**10.D Discussion and action on a request by the Belfast Maskers to keep their stage in Steamboat Landing Park over the winter.**

Generally we are charged to the responsibility and I have not been privy to any discussion of this. Generally we have the responsibility of preserving public property for all the citizens of Belfast. Steamboat Landing is a Park that was given to the City by MBNA. While I fully support the efforts of the Belfast Maskers I do not support the City property being used as a storage space for any group or entity. Steamboat Landing Park gets used for many things and the volume of that use is only expected to increase. It is my hope that the extra revenues that the Maskers' hopefully made by having extended performances in the park this summer would enable them to procure appropriate storage space for all their needs. I note that the Celtic Celebration stage was set up and they paid to have it dismantled after the Celtic Celebration. It is now going to be reassembled by the Belfast Rotary for the Harbor Festival.

**10.E Consideration Harbor Committee appointments.**

Several veteran members are up for reappointment. Your packet includes their applications.

**10.F Update on Master Waterfront and Downtown Plan- including possible selection of a consultant.**

The City is pursuing an effort to update its Master Plan for its Waterfront and its Downtown area. Change, and the challenges that go with change, are surely on the horizon. It is important to update our Master Plan because of the inter dynamics between the harbor as a multi faceted resource, abutting City property that is experiencing ever expanding uses, abutting private properties that are likely to see new ownership and significant investment over the next 15 years, our increasingly active downtown region that works as an economic, cultural and residential hub, a new coastal walkway and all of the pedestrian, parking, signage and traffic issues that will come into play. You plan in order to have some level of to control over your future rather than be at the mercy of chance.

The Council has authorized a committee to review proposals. That committee has met with various consultants as compared to make a recommendation to the Council on which consultant the city should hire to help guide is in this planning effort.

**10.G Update on City owned access points to the water. Range ways and Rights-of-way, etc.), with discussion of next steps to be taken.**

The City owns or controls multiple access points to the water. Those that are called range ways are part of the original City mapped out in the 1700s. These range ways are own completely by the City.

Rights-of-way to the water, on the other hand, are a little different. The City owns certain rights-of-ways in various locations over privately owned property. City ownership of the right-of-way means the City has complete control over the right-of-way. Most of the City streets are rights-of-ways. Abutting property owners may have their actual boundary line run to the middle of the right-of-way but the City's right-of-way over that property provides the City with complete and exclusive control of that land.

For example Main Street in Belfast is a right-of-way. The City has complete control over the street and sidewalk area running from the brick face of the stores on one side of the street to the brick face of the stores on the opposite side of the street. Complete control means just that the City can close the street off prohibit parking relocate parking spaces change the direction of travel and even limit the time to get when it can be accessible to the public.

The City, through the Parks and Recreation Department and in cooperation with the Parks and Recreation Commission have recently completed eight additional surveys of both City owned rights-of-way and range ways. This effort flowed from a 2009 report, which summarized 17 locations in the City where there may be access points to the water. These access points include range ways, rights-of-way, places where there are both and in one case- a street that the City owns completely right to the water.

We are collecting both these new surveys and reducing copies of old surveys of these properties and putting them together in a single package. They should be available to the Council, the Parks and Recreation Commission and the Public within a week. We will also include a narrative from the City Attorney to help everyone understand the legalities associated with these issues.

As we proceed to address these access points to the water there are a series of determinations we need to address. Last night I mentioned this to the Parks and Recreation Commission and asked them to attend your meeting so that we can establish some threshold understandings of how we are going to proceed. The questions are as follows:

*1. Under the City Charter the Parks and Recreation Commission was provided with responsibility over range ways. Traditionally the Public Works Department addressed rights-of-way. The question is does the Council want the Parks and Recreation Commission also to look at rights-of-way access points to the water when they look at range ways?*

**Here is the list of each:**

Rights-of-way Range ways

Allyn Street Commercial Street

Delemos Street Condon Street

Pierce St. Footbridge West Footbridge East

Huntress Street Highview Terrace

Highview Terrace Road Mitchell Street

Mayo Street Parish Strout (by Moorings Campground)

Race Street Stephenson Lane

Upper Bridge East

Upper Bridge West

Upper Mason Pond

## 2. The Role of the Parks and Recreation Commission

As the preservation of water access points has been discussed there seems to be a consensus that the Parks Commission should be looking at signage and making sure that the access points are open and maintained. Some of the access points are mowed and kept open by neighbors and an "adopt a range way" program was something formerly suggested by the Mayor. Mowing a range way or right of way does not remove the property from public ownership.

Upon inspecting some of these access points they can range from a few feet above the beach and to as much as 60 feet above the beach. The question is whether in our effort to preserve access are we actually prepared to spend the money to build and maintain stairs down these steep embankments. The shelf life of coastal Maine beach steps can be rather brief.

*3. Parks and Recreation Commission involvement has raised some concerns with neighbors. Jim Bell and I've personally inspected the areas that were most recently surveyed. In general the neighbors we spoke to did not see these access points as "Parks".*

As the Parks and Recreation Commission looks at access and maintenance are we as a City going to be considering items such as placement of garbage cans, benches, picnic tables etc. There is also the question as to how far away from the access point signage will be placed.

For example if you put a sign all the way up on High Street directing people to an access point at the bottom of Race Street we will likely inspire the opposition of the neighborhood and unwittingly invite the passerby to try to gain beach access off a 35-foot embankment. Several neighbors pointed out to me the good and safe beach access by the general public offered at City Park.

As we evaluate these access points are we talking about maintaining and preserving what they are or are we talking about changing the character of these facilities to make them more Park like? Before we engaged the neighborhoods further we should perhaps identify the breadth of our intended collective review.

## 4. Placement of Artwork

You may recall that this Spring- Waterfall Arts expressed an interest in combining artistic expression with recreational pedestrian travel. The last discussion on this with the Council made clear that the Council wants to see strong engagement with the neighborhood before the Council considers the

placement of art any of these locations. This is an effort that is being pursued by both Waterfall Arts and the Parks and Recreation Commission. At least one meeting with neighbors has already started. The question here is how can we best have one neighborhood discussion on all of these issues?

#### 5. Regulation of public access on a Range ways or Rights-of-way to the water.

While this does not need to be determined now, it is important for the Council to start thinking as to whether there will be a need to regulate the scope and level of public access at these water access areas. Many of these access points are very close to existing residential buildings and neighborhoods.

Here are some possible regulatory issues:

If a right-of-way is actually 50 feet wide should the public have open access to all 50 feet or should they have access to a narrower band of access (15-feet?) in order to provide a greater buffer to abutting property owners?

Where, how should people park who choose to drive to these access points? Should that parking be limited by time or volume?

Should these access points be closed after a certain hour (dark etc.) ? Him

#### 6. Addressing issues of Encroachment.

This is a matter for the Council who by law has ultimate control over all municipally owned property. These are issues that will take a little bit more time to resolve. We have both minor and some significant encroachments in some of these areas. I also note that some of the paths leading from these points of access also stray onto the private property of abutting property owners. There are many options to preserve what the City owns or controls.

One option is to enter into an agreement with any abutting property to contractually define the level of encroachment the City will permit and further provided for the removal of that encroachment upon whatever conditions the city seeks to impose Such an agreement would make clear that the abutter, by being given permission to continue that encroachment, is not attempting to take or remove from public ownership any portion of the property. These agreements are typically recorded in the county registry and provide notice to future owners that the encroachment (shrub, fence, tree etc), which appears to be on their property --actually is not and hence, not a part of what they are buying or own. If in the future the City desires to have the encroachment removed they can so.

The Council indicated in the past that they would review them on a case-by-case basis and I mention this here to give a heads up to all.

This is a lot to think about and I encourage everyone top breath a little and to keep the lines of communication open. People understandably want to make sure these public access points are preserved. Neighborhoods understandably are concerned about City Plans or intentions. There is also a

misguided effort out there trying to suggest that no one is addressing any of this, which is obviously quite untrue. We are moving forward, building upon the work of others, to preserve the past in a reasonable way for the future.

**10.H Update on fire protection agreement with the Town of Swanville.**

During the budget deliberations, the Council elected to raise the cost of the charge back to the Town of Swanville for supplying them was fire protection services. At the time the Council raised the rate, the Town of Swanville budget had been adopted for the year. They have no surplus. The Town has signed a contract with the City at the increased rate but is unable to pay half of the rate until after next year's budget cycle. In fact, the City of Belfast would receive payment next year after July 1, 2011 for services rendered between July 1, 2010 and July 1, 2011. The signed contract with the Town obligates him to pay this but I thought it best to get the Council to approve the fact that the payment may come outside the fiscal year in which the service was rendered.

**10.I Consideration acceptance of a Small Community Septic System Grant.**

Not everyone in Belfast is on the sewer system. In Belfast, as in other areas of the State, we often find situations where people's septic systems are failing but they lack the financial resources to replace them. From time to time the State does have some small grant funds available for this purpose. We applied for two grants and received one in the amount of \$9,000. I'll ask the Council to approve acceptance of the grant and permit us to proceed to help and identified location upgrade their septic system and prevent further pollution.

**10.J Discussion and update on Council Directed Goals and Tasks.**

At the July 6<sup>th</sup> council meeting one of the councilors brought forth a list of ongoing council goals and asked which ones had been completed and the status of those that had not. It was also suggested in subsequent meetings that the council members identify and prioritize these goals on a continuing basis. Given the large amount of time I've had to dedicate to finding a city clerk in the last four weeks I did not have enough time to do a list of these projects for your packets. I will make every effort to bring a list to your meeting for discussion on Tuesday. In the meantime council members should update their own list of goals and priorities.

**10.K Consideration of a request from the Parks and Recreation Commission to allow the consumption of alcoholic beverages at Belfast City Park on Sunday August 29<sup>th</sup> in conjunction with a Rock Concert put on by the City.**

This is a last minute request and I have very little information on this to share. The Parks and Recreation Department does put on park concerts. They have planned one for August 29<sup>th</sup>. They expect about 200 people. The concession stand and a local restaurant have teamed up to sell lobster dinners and offer alcoholic beverages. The plan for the concession stand and the restaurant are to give 50% of the profits to the Parks and Recreation Department for the Tot Lot.

City Council has said that they will review applications for alcohol use on a case-by-case basis. Until a few years ago we did not allow the sale of alcohol in the parks. We have allowed the Celtic Celebration and the Harbor Festival to sell alcoholic beverages as part of their event.

Since I have no paperwork on this request I cannot support it. I am also concerned that we are allowing 50% of the profits to go to private businesses. I just do not see city property- that is open to the general public-as a vehicle for private enterprise.

**10.I Consideration of the going into executive session discussed human resource matter in accordance with Title I Section 405 MRSA Subsection 6D.**

This is the end of this Manager's Report. Enjoy your weekend and think about safety in everything you do.