

**City Manager's Report
City Council Meeting
Tuesday, December 15, 2009
City Hall at 7:00 p.m.**

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

FROM: Joseph J. Slocum, City Manager

DATE: Friday, December 11, 2009

Non- Agenda Items:

Winter is here!

I would like to remind everyone that the City does not have enough staff to plow or remove snow 24 hours a day. For Wednesday's storm the entire Public Works crew started at 7:00 a.m. and worked until midnight- 17 straight hours. They went home, and returned at 4:00 a.m. The roads were not clear so they had to plow everywhere before they return to remove piled up snow in the downtown. Our first obligation is to clear roads and we only begin to haul snow from the downtown when that task is finished Citywide. We will also have to constantly evaluate the public works employee's need for sleep against the next weather report. That could indeed mean that we send people home for sleep and get to those downtown snow piles as soon as we can afterward.

I am not surprised that we had a couple of complaints after this first major storm but I do hope that everyone will take a deep breath and remember winter has returned. We have to clean up downtown before most businesses are open and while we are doing that we will be disturbing those who reside in the downtown with our large vehicles and their noisy back up beepers. We need everyone's cooperation and when parking or sidewalk rules are broken we have the unpopular responsibility for enforcement action. I am asking everyone- including City employees to do everything we can to work through winter together. We could spend a lot more money and have some happier people but that is a cost benefit consequence that I do not recommend. Patience, cooperation and a little courtesy on everyone's part are a better way for all of us. My thanks to the Public Works crew for their much appreciated effort.

Agenda items:

10.B Follow-up discussion of the drainage issues on Cedar and Charles Streets.

Over the last two years several residents in the neighborhood of Cedar, Charles and Bradbury Streets have come forward and raised concerns about the increasing problems of surface water drainage in their neighborhood. The issue was placed on the council agenda for September 15th, and after some discussion the Council requested that an engineer look at these drainage issues and identify a cost to remedy them. Attached to your packet is a letter from Mandy Olver of Olver Associates, consulting engineers. The cost to remedy all of the problems identified is in excess of \$200,000. Mandy also notes the increasing amount of rain the City has experienced in the last 4 years. Since this is an issue of first

impression to two of our Council members, I repeat that portion of my September 15, 2009 Manager's report as follows:

"Discussion on surface drainage options and responsibilities in Belfast.

I am not asking for council resolution of this complicated issue at this meeting. Rather I seek to provide information to you for you to think about so that you can eventually help me understand whether we need to change our practices or change our responsibility for drainage issues on private property in Belfast.

Last year we have had a large increase in the amount of complaints about residential drainage. The number of complaints directly correlated with the increasing number of rain events, the volume of rain that actually falls within a 24 hour period, the amount of rain that falls in an hour, whether or not snow melt is an issue and whether or not the ground is already saturated by pre-rain conditions.

Citizens have stepped forward and asserted that it is the City's responsibility to address residential drainage issues from a variety of viewpoints:

1. The City has allowed people to build homes or expand homes in the City, which has shifted drainage onto other lower adjacent property owners.
2. The City has allowed landscaping, fill additions, installation of underground drainage systems and such for existing residential structures which they contend has had the effect of shedding one neighbor's drainage problems onto another -who is usually downhill and in a lower lying portion of that same hill.
3. When the rain runs down the street and there is no curb- it washes out the dirt, grass etc. leaving exposed stone and a ditch.
4. The City ditch alongside the street is too deep.
5. The City culverts are too small or more recently -too large.
6. The City ditch has grass in it.
7. The City Storm drains are not deep enough to let basement water drain by gravity into them.
8. The water comes over the curb.
9. There are no storm drains or not enough storm drains on our street or in our area.
10. City Plows push sand with snow into ditches.

What is the City's responsibility here- legally- politically or financially?

First, I know of no legal obligation of any municipality to drain private property. Storm drains are not installed to drain neighborhoods- they are installed to take water away from the roads in those

neighborhoods so that the ground water does not undermine the surface of the road. When you see alligator cracks in a road then you are looking at a road with far too much water underneath it.

Nevertheless, most municipalities, including Belfast, have traditionally allowed residential property owners to drain their property into existing municipal ditches and storm drains which has contributed to the expectation that a City should have these resources everywhere for everyone, and that these drains will handle all storm water and storm events.

Ditches are part of the drainage problem in Belfast. Like many communities we have filled them in over time and constrained our ability to remove water to the size and configuration of the underground culverts, which, have replaced them. Ditches are the most effective drainage system there is. People just don't like the looks of them and they don't like to have to cross them. As we have eliminated ditches we have worsened our ability to drain water away.

What do Belfast Ordinances say about drainage requirements for property owners?

First, Belfast has had a regulation Ch 102, Art IX Section 102 -1124, which reads

“Surface water runoff shall be minimized and detained on site if possible. If it is not possible to detain water on site, downstream improvements to the channel may be required to prevent flooding. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible. The storm water design shall be for a 50 years storm, that is, the largest storm which would likely to occur during a 50 year period.”

This is a standard for storm water management that is applicable for both residential and nonresidential uses. To comply with this standard one needs to hire an engineer who can mathematically calculate the storm water capacity of an existing area and then identify the amount of additional water runoff that would occur from the new development on the property. A homeowner would then be required to ensure that the amount of new runoff will not exceed a 50 years storm. For Belfast, Maine a 50-year storm event is 5.5 inches in a 24-hour period. This Belfast zoning ordinance “standard” has been in effect since 1985.

This standard has not been strictly imposed upon any construction of a single or duplex residential development within the city since 1985, mostly because of the cost and difficulty associated with requiring all individuals to use engineering services for improvements to their property. It has however been imposed at every development that requires site plan review which is essentially everything larger than single or duplex construction.

If the house is already in place- there is no requirement under Belfast ordinances that the home owner secure building or construction permits when they bring fill onto their property or add in drainage improvements to their properties. Hence, every existing residential property in the city- outside of the “shore land zone”, which has changed the surface of its property and related drainage-, has not needed a permit to do so.

The catch is that while they're not required to get a permit –they are nevertheless required to comply with section 102-1124 recited above. This is a fact that they may likely be aware of. In fact it has been very rare when a residential property owner has used civil engineering services to consider storm water concerns.

The problem our ordinance creates is a lack of an obligation to secure a permit coupled with a reasonable likelihood that property owners were not aware of their legal obligation to spent thousands of dollars to hire engineers to calculate the impacts of their storm water runoff. We likely have a lot of properties would be pretty surprised if we knocked on their doors and told him to remove the thousands of dollars in improvements that were made years ago until they spend even more money to comply was what is essentially a very hard if not onerous compliance standard. The vast majority of properties out of compliance with this standard involve homeowners were not obligated to get permits in the first place but nevertheless were required to observe standards that is hard to believe they were even remotely aware of. As a practical matter, in most cases, the cost of standard compliance through the cost of individual engineering analysis would likely have been greater than the cost of the actual work.

Would Belfast today pass a law that requires a citizen to spend thousands of dollars on an engineer in order to drop 10 yards of fill into their back year for which no permit is required?

I would tend to doubt it.

Did the City just let people flagrantly violate the Ordinance?

I don't think so particularly when most situations never required permits in the first place.

Did we snoop around to see who was doing what and when over the years?

I think that's unlikely given the amount of staff and the amount of work that has gone on in Belfast since 1985.

Do I think the ordinance creates legal liability for the City?

No- I do not for a host of reasons including the unique immunities that all municipal entities enjoy under the Maine Tort Claims Act.

What are the political concerns?

We have a number of citizens who want their property to be drier and they are looking to the City to resolve the issue.

Can they sue their neighbor?

Sure but they don't want to or they couldn't afford to if they did want to sue them.

What's the answer then?

1. Do what we can to maintain existing drainage and improve upon it where we need to, based upon road considerations alone- OR.
2. Commit as a City to a policy of providing private property drainage through out Belfast. Once we start to help one neighborhood we would be politically obligated to do the same for any other. We can identify the 10 or 15 worst areas in the City, prioritize them and attack them at a rate of about 1 per year for the next 15 to 20 years. I would suggest minimum annual budget allotments of \$100,000 per year based upon brief conversations with an engineer. We are talking digging, hauling, pipe laying, catch-basin construction. Backfilling with proper fill and in most cases- repaving the street where we tore it up.
3. We also need to consider ordinance standards that establishing more practical approaches to managing storm water
4. The City could propose the creation of a storm water master plan similar to what was done for the sewer in 1999.

There are definitely residents who have neighborhood drainage impacts where the roads themselves are just fine and hence we would not ordinarily install catch basins and drainage systems along those roads because there is no benefit to the road itself. This means that if we chose #1 above then there will be residents who have drainage problems on their property, which will not benefit from option #1 above.

This is an issue that could be as much as 50-years in the making. I can understand why there has been hesitancy to fix it long ago. I am prepared to move in whatever direction the Council chooses. I look forward to your thoughts and I understand this will take some time to think over that is why I am not looking for Council action at this time.”

I have provided several copies of this engineering report to the neighbors who will likely be at the meeting. This is a very difficult issue. Neighbors think their City did not protect them against their neighbors. Private property drainage and our history with it-is a problem everywhere in the City- not just in the more concentrated residential areas.

10.C Update from Alan Hinsey on the Knox Waldo Regional Economic Development Council.

Alan Hinsey has returned on a part time basis to work for the Knox Waldo Regional Economic Development Council or KWRED. He has asked for a few minutes to re-introduce himself and update the Council on KWRED direction and effort. KWRED is supported by both public and private dollars and there is presently an effort underway to secure additional private sector financial support and participation.

10.D Discussion and action on the range ways survey bid opening.

We have put the survey work out for the eight (8) locations where we lack survey detail on range ways and rights-of-way to the ocean. We had a spirited response as you can see from the 9 bidders and we are pleased to recommend that Good Deeds be awarded the contract.

10.E Discussion and possible action on the Coastal Walkway Project.

There was a Council Workshop on Wednesday, December 2, 2009 between the City Council, the Parks and Recreation Commission, the Harbor Advisory Committee and the Hiking, Biking and Pedestrian Committee. What follows is a general summary of what I believe to be the conclusions of a majority of the City Council, which, is acting directly as the lead body that will be overseeing this project. This meeting involved a two-hour exchange of ideas, thoughts and concerns with full participation of those involved. Since we do not take formal action in work session I am asking the Council to address two questions.

First, does the following outline indeed represent the majority view of the Council so that we can proceed with confidence?

Secondly, will the majority of Council identify this as a priority project such that the City Planner, Wayne Marshall will have sufficient time to manage this project first, resulting in some delay (mid-April) on the anticipated 2 to 3 year effort to update our zoning laws to comply with recommended changes to the Comprehensive Plan? Please note that the estimate of 2 to 3 years reflects the numbers of recommended changes, the arduous drafting process and the high likelihood of significant public participation along the way. It is common that communities implement various components of their ten-year comprehensive plans over a period of many years.

General Agreement:

Overriding thoughts:

1. The remaining Railroad tracks are coming up with steel to be sold for project resources.
2. We want the walkway to be attractive so we will impose on a couple of members of the Design Review Committee to help us and make recommendations on aesthetic features.
3. The path will essentially be at ground level.
4. There is concern whether there will be enough money to do all of this within the \$440,000 budget because of the expanded scope for the project. Start looking for additional resources.

We have conceptually separated the project into four (4) sections:

A. The Stinson Section- (Footbridge to City property line near Thompson's Wharf).

Ø Approximately 1,000 ' of bike and walkway;

Ø Constructed to a temporary standard to a width of 10 to 12 feet;

- ∅ Stone dust type construction;
- ∅ temporary-inexpensive-lighting the entire length- possibly on the adjacent buildings;
- ∅ Generally follows area where rail tracks are;
- ∅ consider whether shoreline stabilization is needed, and possible needs of funding from other sources.

B. The Central Waterfront Section- City Line Thompson's Wharf to southerly corner of Heritage park where it touches Front Street).

- ∅ approximately 1,650' walking and biking path.
- ∅ constructed to a permanent standard to a width of 10 to 12 feet.
- ∅ asphalt surface with markings to suggest walking and biking direction and to identify outer edges of path as it crosses road access points.
- ∅ ensure there is sound gravel base everywhere that can handle heavy truckloads at all driveway intersections.
- ∅ safety signage at all potential intersections and crossings.
- ∅ underground conduit feeding downtown lantern style lighting entire length.
- ∅ some subsurface conduit to accommodate for future needs, electric, water, sewer etc.
- ∅ accessory benches where practical.
- ∅ continued encouragement for thru bikers to use Front Street.

C. Consumers Fuel Section- (South edge of Heritage Park where it intersects Front Street then along Front Street behind Consumers Fuel property and the French & Webb building to the City owned property that starts Steamboat Landing Park).

- § approximately 400 feet of narrower walkway.
- § encourage bikes to stay in street.
- § path essentially marked by painting street surface.
- § look for a low cost path along existing or potentially widened street.

D. Steamboat Section- (Running along Front Street from the back of the French & Webb building down to the Boat House).

- § approximately 600 feet;

§ asphalt surface- to a permanent standard- something less than 10 feet wide that will fit between existing maple trees and retaining wall such that it will leave an esplanade between the walkway and Front Street;

§ new walkway will connect to existing walkway along the water with appropriate surface markings as it crosses the parking lot driveway;

§ lower or remove tall arborvitae bushes that block view of Steamboat Landing from new walkway and Front Street;

§ relocate the fence (new?) to keep people from falling over the high retaining wall;

§ lighting to match Central Waterfront section with underground conduit;

§ stairs descending into Steamboat Landing Park may be part of this project or planned for future funding to enhance connectivity;

§ biking encouraged on Front Street.

10.F Discussion and action on formally appointing the Recycling Committee.

David Crabiel and Scootch Pankonin have both volunteered to serve on this committee. There is an attachment with some thoughts from Dave about their mission and the timetable he would like to meet for recommendations on how we might improve our recycling efforts. Scootch brings valuable experience from her work with the St. George recycling program. We need the Council to approve of their appointments to this committee.

10.G Clarification on the amendments to the City Code of Ordinances regarding Taxi Stands.

The City Clerk is seeking some clarification from the Council on this Ordinance and she will discuss this with you at the meeting.

That is about it for this last meeting of the year. Happy Holidays Belfast and thanks to all of you who make an effort to help others during this time of the year and throughout the winter months. This is a wonderful time of year but it is also, hard, costly, stressful and for many-a lonely time as well. When I ask him how he is, my friend always says: "gainin". I hope that we are all "gainin" and that the season and days ahead are healthy and safe for all. On behalf of all City employees-Best Wishes to each of you.