

Town Council Meeting
DRAFT Minutes
July 25, 2011

Roll Call

All Councilors were present and answering roll call.

Pledge of Allegiance

Chair Pierce led those present in reciting the Pledge of Allegiance.

Public Forum

Mike Doyle of Shady Lane discussed his recent candidacy for School Board as well as events during the Council election last year.

**Item 1 (a) Order relating to the abatement of uncollectible personal property
(Consent Agenda) taxes.**

**Item 1 (b) Order to approve the minutes of the June 20, 2011, Town Council
(Consent Agenda) Meeting.**

Councilor Rodden moved to adopt the Consent Agenda; Councilor Orestis seconded.

Councilor Varney moved to amend the minutes to correct an error. Councilor Rodden seconded. Motion carried 7-0.

Consent Agenda adopted 7-0.

**Item 2 Report from Council Committees and liaisons regarding updates on
 assignments.**

Councilor Armitage said the FEIC has been meeting regularly with developers and business owners about what works and what doesn't. They should have a cursory list prepared for the Council to review in August.

Councilor Chase said the Harbor Committee met to discuss charging people \$10/year to maintain their place on the mooring waiting list. The fee would be credited toward the mooring permit fee once the person got one. He commended Harbormaster Al Twombly and the crew down at Town Landing on a great job. Later in the meeting he clarified for the public that he is not a voting member of the Harbor Committee, but a Council liaison. If anyone has been denied a mooring permit they should contact the Councilors or Nathan Poore.

In response to a question by Councilor Rodden, Nathan Poore, Town Manager, confirmed that the Council will have to approve the fee change.

Item 3 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

The Appointments Committee has not yet met. Councilor Armitage pointed out that the renewals of committee member terms are not due until December.

Ellen Planer, Town Clerk, announced that there is a vacancy on the Shellfish Committee.

Item 4 Request from staff to amend the Edgewater Street name to Edgewater Road and Laurel Street to Laurel Lane.

Councilor Varney moved to adopt the amended names; Councilor Payne seconded.

Chair Pierce opened a period for public comment; there was no public comment.

Motion carried 7-0.

Item 5 Discussion and update about the Martin's Point Bridge replacement project status and process.

Jay Reynolds, Parks and Public Works Director, explained that the Martin's Point project is a Maine DOT project. A Martin's Point advisory committee was convened in March/April 2010 and has been meeting since June of that year. It includes representatives from stakeholders such as METRO, Martin's Point, Mackworth Island, PACTS, MDOT, Federal Highway, staff from both the City of Portland and the Town of Falmouth, and neighborhood representation from the Flats and the East Deering Neighborhood Association. The committee has drafted a problem statement, a needs statement and a vision statement and has advised the DOT on design aspects of the bridge, including a multi-use pathway. This is a design-build project: parameters will be provided in the RFP and bidders will be asked to design the project within those parameters. DOT and Town staff met in June to discuss lighting, as the Town would be required to pay the electricity for lights on the bridge. In response to a question from Chair Pierce, Mr. Reynolds confirmed that there is no lighting currently on the bridge, just on the approaches; that lighting is not required by law, and that the Town, the City and the advisory committee all requested that the lighting be as minimal as possible.

Mr. Poore clarified that the Town would only be charged for the energy to run the lights; the municipality would actually own the light fixtures, unlike the streetlights elsewhere in Town.

Mr. Reynolds said there will be a public meeting on August 9 at 6:30pm at Martin's Point Healthcare Facility. The advisory committee will meet the following week on August 16, which will likely be the final committee meeting before the RFP. He discussed the anticipated timeline of the project: the Request for Qualifications went out last week, and the Request for Proposals will be completed around September 7. The bid closing date is anticipated to be in January 2012. The scoring process will be in February 2012 and the awarding of the bid will be in March 2012. Construction should begin in July 2012 and completed in 2014.

In response to a question from Councilor Payne, Mr. Reynolds discussed the alignment of the bridge on the Falmouth side. The conceptual alignments provide an "envelope" for bidders to locate the bridge. While there is one property that could potentially be impacted by locating the bridge on one side of that envelope, he has not heard any discussions regarding eminent domain.

Councilor Rodden asked about the bridge design. Mr. Reynolds explained some of the discussions about the design. In response to a question from Councilor Varney, he clarified that the bidders would be designing the bridge in accordance with the recommendations of the advisory committee.

Councilor Rodden asked how they were going to increase the size of the bike lanes without widening the bridge. Mr. Reynolds explained how they were going to redesign the travel lanes to provide that extra space.

Item 6 Order to hold future discussions with private parties about ideas and proposals regarding the future use of the Plummer-Motz and Lunt School property in public session, except in situations where the discussion is about competitive negotiations or other reasons which require an executive session, and to release any information that was part of the executive session discussion held by the Town Council on July 11, 2011.

Councilor Rodden moved to approve the order; Councilor Varney seconded.

Councilor Rodden explained that she brought this forward because, since the meeting in which the Council met in executive session with OceanView, no other developers have come forward. She wanted to make it clear to the public that they practice open government and she felt the public had a right to know what was discussed in that meeting. She was concerned that there was an impression that OceanView had an unfair competitive advantage.

Councilor Orestis was concerned that no other potential bidders have come forward. He was in support of showing bidders that it is a level playing field and a transparent process.

Councilor Armitage was not in support of the order. Town Attorney Bill Plouffe confirmed that the Council could hold this executive session. He thought if they adopted this order, it would destroy a level playing field by allowing other developers a chance to see what OceanView had proposed while OceanView didn't have the same opportunity.

After a discussion with Councilor Armitage, Councilor Rodden clarified that she was concerned that the executive session gives the impression that the Council is drafting the RFP to suit one particular developer. She would not have supported entering executive session if she had been at that meeting.

Councilor Payne discussed the use of executive session to discuss the disposition of property. He felt that, if they rescinded the executive session, it would be a breach of the promise of confidentiality that they extended to that entity and that future entities would not be comfortable entering executive session with the Council.

Councilor Chase thought developers are not shy and that if they were interested in that property, the Council would hear from them. He did not support this order.

Councilor Varney clarified that she seconded the motion to put it on the table. She agreed with the other Councilors that thought it should remain private.

Chair Pierce felt that they had made a decision based on advice from Town Counsel. She supported transparency in this process. Changing the playing field after moving down the path is not the right thing to do.

Chair Pierce called the question. Motion failed 2-5 (Chase, Payne, Varney, Pierce, Armitage opposed).

Item 7 Discussion about the future use of the Plummer-Motz and Lunt Schools property and review of proposed language that could be used in a “Call for Offers” proposal regarding the future use and disposition of part or all of the property. This discussion will also include an opportunity to review a process that includes public input and project schedule.

The Council discussed the proposed language of the RFP. There was much discussion about the language related to public/civic use of the property, especially with regards to a community recreation center and an expansion of the library.

Another draft of the “Call for Offers” will be brought to the Council for review at the August 8 meeting.

The Council discussed how to include public input in this process. The consensus was to hold the order on August 22, with public input at that time.

Item 8 Order to authorize the Town Manager to issue a Request for Proposal (RFP) regarding the preparation of a Route One South Infrastructure Enhancement Plan.

Mr. Poore discussed how the request has changed since it was last brought before the Council.

Councilor Payne moved to adopt the order; Councilor Armitage seconded.

Councilor Rodden asked about the on-street parking option.

Theo Holtwijk, director of Long-range Planning, explained that MDOT wanted to see more information. They are willing to consider on-street parking. Staff listed it as an option in order to see more design thinking; it is a significant piece of work. This is only investigating it if it is allowable, and if it is feasible, to have on-street parking in certain places on Route 1.

In response to a question from Councilor Chase, Mr. Holtwijk confirmed that, while this infrastructure project has been discussed for some time, the timing of it is linked to the repaving MDOT has proposed for 2012/2013.

Councilor Payne asked if the repaving was going to be next summer. Mr. Poore said it would likely be in 2013-14.

Councilor Payne asked if this was within the Capital Improvement Project funds. Mr. Poore said it is in the CIP, but it is mostly under the TIF.

Councilor Chase wanted to make sure they checked out the sewer pipe as part of this project.

Motion carried 7-0.

Item 9 Presentation and discussion about proposed amendments to the Code of Ordinances that will update the procedures and rules concerning the use of Parks and Public Lands.

Mr. Poore presented the history of the Land Management Team. The current ordinances still reflect a time when the parks were administered under the Community Programs department, instead of the Public Works department. The LMT also wanted to modernize the ordinances regarding these properties. He discussed the proposed amendments and the reasoning behind them.

These amendments will be introduced at a future meeting to be determined.

Item 10 Discussion of allowance for METRO bus stop shelters and advertising.

Chair Pierce explained that recent state legislation permits METRO to install bus shelters and allow advertising for the purposes of raising revenue. The Town's current ordinances are very restrictive with regard to accommodation of this type of advertising. This comes out of the state legislation surrounding billboards.

Councilor Armitage said that FEIC has received a lot of input on signs.

Mr. Poore thought many of the issues raised about signs were addressed in the most recent ordinance amendments concerning signs. He thought this is a different issue.

Councilor Rodden said there are two issues: having bus shelters and whether there should be advertising on bus shelters. METRO is proposing this as a money-maker; the communities can decide whether they want the advertising or not.

Councilor Orestis asked if the advertising would include ads promoting alcohol or tobacco. Councilor Rodden didn't know; she would ask at the next METRO meeting.

Mr. Poore wondered if they could work this into the Route 1 study.

Councilor Varney liked the idea of bus shelters, but not the advertising.

Councilor Payne felt this was severe mission creep; he didn't feel that they had the data to show that the bus service in Falmouth is warranted at the price they are paying. He didn't feel there were enough riders to justify the expense of permanent bus shelters.

Councilor Chase was not in favor of bus shelters.

Councilor Rodden said there is one shelter in OceanView. She asked if it was on public land.

Amanda Stearns, Community Development Director, said the Town did not construct it, so she assumed it was on the property owned by OceanView.

Councilor Rodden said that the plan that Walmart is presenting to the Planning Board includes a bus shelter in the right of way. Ms. Stearns clarified that the Board cannot approve a structure in the right of way.

Councilors Chase and Payne were against bus shelters.

Councilor Rodden wanted to allow the shelter at Oceanview to remain and for the bus stop at Walmart to remain in front of the store. If that wasn't possible then she wanted a bus shelter near the new store. She had no opinion on shelters in other areas.

Councilor Varney was in favor of shelters, as long as they were privately built and located at crosswalks. Councilor Armitage agreed.

Councilor Orestis was in favor of bus shelters.

Chair Pierce was in favor of bus shelters in commercial districts, but she felt it changed the feel of the Town, making it more like the city. If advertising was allowed, she wanted the Town to have control over the advertising, and wanted it to promote local businesses.

Councilor Rodden asked if anyone on the Council was interested in advertising. No one was.

In regards to constructing bus shelters, there was some discussion regarding who would build them. There was agreement to wait until there was a demand for them.

Item 11 Request by Councilor Varney to consider a zoning amendment to allow farm stands in certain residential districts.

Councilor Varney explained that they are encouraging people to buy local. A local resident has had a temporary area out front of his home to sell vegetables with an honor payment system. People are taking without paying, and taking other people's money. This resident would now like to have a farm stand.

Councilor Rodden moved to waive Council rules to allow the resident in question to speak; Councilor Payne seconded. Motion carried 7-0.

Tony DiPietro of Middle Road has been selling his produce out front for many years. He has been hesitant to do so for the last 3-4 year because of this problem. He only wants to do what is already allowed in the Farm and Forest district.

Councilor Rodden wanted to make sure they reviewed issues such as traffic and parking. She was concerned about making a district-wide change in some dense districts. Councilor Armitage agreed.

The Council agreed that Councilor Varney would work with Ms. Stearns on this issue and bring their ideas back to the Council.

Item 12 Order to authorize the Town Manager to enter into a new franchise agreement between the Town and Time Warner Cable.

Councilor Varney moved the order; Councilor Armitage seconded.

Chair Pierce opened a period for public comment; there was no public comment.

Motion carried 7-0.

Item 13 Resolution to authorize the Town Manager to sign a Settlement Agreement with Time Warner Cable.

Councilor Payne moved the order; Councilor Chase seconded.

Chair Pierce opened a period for public comment; there was no public comment.

Motion carried 7-0.

Item 14 Order to adopt changes to the Falmouth Cable TV Mission Statement and Usage Policies.

Mr. Poore said a resident has made two suggestions for language changes. The second one came in late today, and he has not had a chance to review it. He recommended the Council not take action this evening so that he could have the time to review that language with Town Counsel.

The Council did not take action on this item.

Adjourn

Councilor Rodden moved to adjourn; Councilor Payne seconded. Motion carried 7-0.

Respectfully submitted,

Melissa Tryon
Recording Secretary