

**Town Council Meeting  
DRAFT Minutes  
May 14, 2012**

Meeting was called to order at 7:01 pm.

**Roll Call**

Councilors Chase, Payne, Rodden, Varney, and Pierce were present and answering roll call.

Councilors Orestis and Armitage arrived late.

Councilor Payne moved to take Item 5 first; Councilor Varney seconded. Motion carried 5-0 (Armitage absent).

**Item 5            Order to adopt a zoning amendment to create a Water View Overlay District, requiring a Conditional Use approval for development on lots that may affect a water view.**

Councilor Payne wanted to table the item until May 30 in order to hold a public hearing on a possible repeal. He explained that his intention was to provide for more discussion with stakeholders; he wanted to hold a public hearing prior to voting on the order. He intends to introduce a sunset clause.

Councilor Chase pointed out that there is a backlog of appeals due to the provisions of section 6.2. He thought the creation of the overlay would grant relief for those people; postponing this will make them wait for relief.

Town Manager Nathan Poore said that legal opinion was that the proposed sunset clause amendment would not require another public hearing; they can therefore hold the order directly after the public hearing. A statutorily required public hearing would mean the order would have to be held at the next scheduled meeting.

Councilor Armitage moved to table the item; Councilor Payne seconded. Motion carried 7-0.

**Item 1            Public Hearing on an ordinance regulating temporary advertising signage as proposed by the Falmouth Economic Improvement Committee (FEIC).**

Councilor Pierce opened the public hearing.

Brian Dench of Foreside Road was in favor of the ordinance. It is a good first step. He wondered about the provision that all temporary signs be registered and limited to 4 times per year. He asked about the purpose of the registration requirement.

Mike Skillin, co-owner of Skillin's greenhouse and a member of the FEIC, felt the ordinance will be a significant help to businesses in the community. He supported the sunset provision and would welcome future evaluation of the amendment.

Councilor Pierce closed the public hearing.

Councilor Armitage explained that the registration requirement was to make sure that the Town knew who was putting out signs and where.

Mr. Skillin spoke as a member of the committee; he thought the registration process would provide a tutorial on what is allowed and what isn't.

Councilor Orestis wondered if the first registration would be in person, with renewals handled online.

Mr. Skillin said that possibility was discussed at the committee.

Mr. Poore said that it is designed to keep track of the signs due to the limit on the length of time they can be out. The Town will make it as easy as possible.

Councilor Payne thought it would be difficult for enforcement, legally, if there was no registration.

Mr. Poore said that is correct; otherwise they would have to have someone out all the time keeping track of signs and how long they were out.

Councilor Payne wondered about the 4 times/year limit. Mr. Skillin said it was a starting point, based on their evaluation of other communities. He felt the best strategy was occasional use.

Councilor Armitage said this is a test of the concept, which is why there is a sunset provision. This allows the Town to evaluate how it is working.

Chair Pierce felt it would be more effective if it was occasional.

Councilor Orestis asked about the sign examples in the packet; he wondered if those were the only kind that would be allowed. Mr. Skillin said that isn't all that would be allowed, but there are limits to what would be allowed.

Councilor Orestis asked if there were sign guidelines in the packet. Mr. Skillin said there are, including consideration of sight distance. Moving parts would not be allowed.

An order was scheduled for May 30.

**Item 2            Public Hearing for zoning amendments to expand the OceanView Retirement Community Overlay District (RCOD) and to create the Elementary School Redevelopment District (ESRD).**

Chair Pierce opened the public hearing.

Karen Farber of Foreside Road thought it was a nice concept and that they are on the right track. Full details will come later.

Chair Pierce closed the public hearing.

An order was scheduled for May 30.

**Item 3                    Authorization of a public-private partnership cost sharing arrangement between the Town and OceanView to complete feasibility studies and pre-development work at the Plummer-Motz and Lunt school complex.**

Mr. Poore discussed the proposed cost sharing arrangement. If the Council decided to support this, OceanView has agreed to work this into the closing costs so they would pay for it up front, with reimbursement from the Town for their costs either at the closing or at a later date, if the closing fell through.

Councilor Varney moved to open the discussion about the resolution. Councilor Rodden seconded.

Matt Teare of Oceanview spoke about the election last year regarding a community center; that process is what led to Oceanview being here tonight. They paid a \$1 million premium for the property and will pay significant taxes when this is done. They are interested in the library and community center because it will support their business; their residents will highly value both these. If the feasibility study does not support those projects they will not do them.

Chris Wasileski said they are receiving a lot of positive comments from their residents and people in the neighborhood.

Mr. Poore said the Ballard-King proposal included a \$10,000 survey that was cut by staff; that can be done in-house with some consultant help. The operations analysis was cut but may be added back in later based on the outcome of the feasibility study; they might need it to give them guidance on operating a pool.

Chair Pierce clarified that research into the feasibility of a pool is not being driven by the Town; it is something Oceanview is exploring for the benefit of their residents.

Councilor Chase wondered if they really wanted to spend this much money on a study for a community center; he thought they are doing their own study currently by running programs at the site. He thought they have spent a lot of time on this project.

Councilor Payne pointed out that they started this as a purchase and sale; he thought they were going to receive OceanView's proposals for what they wanted to do with the site, not be an active participant in the development process. He thought talking about moving the library or establishing a permanent community center flies in the face of last year's vote. He asked if this site is where those activities belong from a master planning standpoint. He felt the library's current location is a nexus of activity; moving it is not in the best interest of the Town. He felt holding on to the Plummer building would allow them the time to evaluate where the community center belongs from a land use perspective.

Chair Pierce asked if Councilor Payne was interested in spending money on a consultant to determine where the best place is for a community center.

Councilor Payne thought if they were going to spend money on a consultant, it should be in the context of comprehensive planning. They have empirical evidence on the community center being collected every day programs are being run. He wasn't sure they need to spend money until they discuss where they want a community center. He felt they were jumping out of sequence in discussing location.

Councilor Orestis thought this was an opportunity to run government like a business, as people always say they want. They are business partners with Oceanview; sharing costs on a feasibility study is what a business would do to evaluate assumptions and clarify points, and he felt it made sense. This is short money in comparison to the value they would be getting.

Councilor Varney understood that the community center study would be transportable to another location. She felt it was important that the library and the community center are close. She supported the feasibility study.

Councilor Rodden felt it was important to remember that Oceanview is the Town's partner and this is something that they want. The Town still owns Mason/Motz and they have a responsibility to explore its future. Lucky D'Ascanio, Director of Community Programs, made it very clear a couple months ago that what they have now is not a real community center; they are offering classes in classrooms and it is not what they would have for a community center. It isn't fair to look at this as evidence for a community center. She felt that there was support on both sides of last year's vote for a community center. She felt \$36,000 to find out whether this was feasible or not made good sense.

Chair Pierce was very excited with their partnership with OceanView and she wanted the Town to have a little skin in the game. She felt this would give them good information about the feasibility of a community center and whether the Town could support one.

Councilor Armitage didn't think it made them less of a partner if they didn't pay for the study. Most of the time developers pay for these types of studies. The Town asked for developers to present their ideas for the project. He disagreed with Councilor Rodden; he felt operating classes at Mason/Motz was the best feasibility study they could have. He felt much of this was the responsibility of the developers to bring to them.

Chair Pierce opened a public comment period.

Karen Farber of Foreside Road asked the Council to not overly extrapolate from last year's vote. She felt if they leave the development of a community center to Oceanview they lose the ability to be part of the early stages. Putting money in at this point keeps them at the table. She agreed that a role for the Library Board is missing; she wondered what their involvement should be at this point. She thought it would be a mistake to wait the 5 years and then discuss what to do with the property. She was nervous about the numbers and thought they looked large.

Lisa Preney of Middle Road didn't agree with including the library. She felt the vote is being dismissed. She said they would be facing a referendum question on this and it wasn't fair to the voters that have already voted on this. She was troubled that the library was the only proposal for Plummer.

Bill Gardiner of Muirfield Road thought it was an attempt at a referendum do-over. He didn't believe it was John Wasileski's idea to be constrained by what the Town was trying to do. The public spoke last June and said that they didn't want to spend money on their wants but instead focus on their needs.

Tim Wright of Fieldstone Lane felt this was intentional incrementalism: getting a little of what they want in small pieces each time they came back. He supported what OceanView was doing. He was a part of the No campaign and this is what they were looking for: selling the property and getting the tax income. He felt there were other ways to do a public/private partnership without spending money. He encouraged the Council to vote no. He didn't feel the library should be moved; it is a memorial to war veterans. He felt paying for this is sending the wrong message.

Melanie Collins of Middle Road reminded everyone that when they took the referendum vote there was an overwhelming majority of people that did want a community center. If they are going to do a center there are two sites; one would be in either the Plummer or Motz building and the other is near the ice rink, behind Wal-Mart. She didn't think behind Wal-Mart would be a good location. She felt the center being close to Oceanview would be a benefit to both their residents and Town residents. She liked the idea of having the library and community center at the same site, but she suggested moving the library to the Motz building because it doesn't have a basement.

Brian Dench of Foreside Road has been with a number of organizations that have done feasibility studies but he would vote against it if he was a Councilor. His fear was that it appeared to be an answer looking for a question. He didn't think this was a good location to focus the center of the community due to traffic. He was not convinced that the Library needed to be moved. There was nothing in this study that addressed how any of these things would be paid for. He felt it was time to look in other directions. He felt it was appropriate to focus the community where it is already focused and suggested that Village Park was a good location.

John Anderson of Lunt Road felt they have had two votes, first when they voted on the new elementary school and then again last year. He felt they have three community centers at the school campus. He thought the decision was to sell this property and get out of debt. He felt there was already a community center at Legion Field and the Library. He pointed out that the old school buildings are old and not energy-efficient; they voted for a new school because those buildings were too expensive to remodel. He asked the Council to leave the library alone.

Chair Pierce closed public comment.

Councilor Rodden asked about community activities at the property.

Lucky D'Ascanio, Director of Community Programs, said at this point they are using the site for daytime programming space. It is not a community center based on her experience of them. They have done the best they could to clean it out and have increased programming in the fitness and preschool areas.

Chair Pierce asked for her opinion on the feasibility study.

Ms. D'Ascanio felt the information gleaned from a feasibility study would have tremendous benefit; it would answer whether this community could support a full community center. She didn't feel it was the Community Programs Department's place alone to determine what this could/should be.

Councilor Rodden asked why Oceanview is looking at library/community center/pool and what this does for them.

Mr. Teare said they are not just a housing developer; it is all about people, community and activities. It is also about marketing and advertising. Looking at a library and community center is part of that. Considering the potential money, it would be nice to know that their partner is there for them.

Councilor Orestis asked if they felt the Town is forcing them to do this. Mr. Teare said no. They have a location in Topsham and they wanted the Topsham library on that campus.

Councilor Orestis didn't think, as a for-profit business, they would move forward with a library and community center if they didn't think it was good for business. Mr. Teare said that was correct.

Councilor Chase asked if their library would be similar to what the Town has now. Mr. Teare said yes, it would be the regular Town library; it would not be for seniors only.

Councilor Payne felt proposing this as a business partnership misconstrues this. He felt this was incrementalism and the impact of these proposals hasn't been evaluated yet. He felt they should discuss where these services should be located first. He stated that allowing Wal-Mart to expand would not create a high-crime area.

Councilor Armitage said this is an economic question; OceanView needs to say 'this is what we want to do'. He didn't think it was the Town's responsibility to determine that. OceanView needs to tell the Town what they want to do and how it is going to work. If they wanted help in the financing once it is designed, he would support that.

Councilor Chase was surprised that the library is being presented by OceanView. He agreed that they are reliving the vote from last year.

Councilor Rodden called the question.

Chair Pierce explained they are voting on whether or not to spend \$36,000 on the feasibility study.

Motion failed 3-4 (Chase, Payne, Varney, Armitage opposed).

**Item 4            Public Hearing and Order relative to a new victualer/food service license for Love Cupcakes.**

Chair Pierce opened the public hearing.

Jenny Spear and Anna Turcotte explained that they have an 8x10 renovated trailer out of which they would like to sell cupcakes.

Councilor Armitage asked if it would be just cupcakes. Ms. Spear said yes, for now. Their hours would be Fridays evenings, Saturday afternoons and Sunday afternoons.

Councilor Orestis asked if it would be a seasonal business. Ms. Spear said they would like to see how it goes.

Councilor Chase asked where the trailer would be located. Councilor Pierce said it would be parked at 48 Foreside Road, at Foreside Antiques.

Councilor Rodden asked if they have a financial arrangement with the antique store. Ms. Turcotte said they do.

Councilor Payne asked if there were any issues relating to motor vehicle safety in that location. Mr. Poore said Code Enforcement Officer Justin Brown has approved it after looking at safety concerns.

Councilor Payne said entering Greenway Drive from Route 1 can be difficult; he was concerned with drivers making impulsive choices.

Ms. Turcotte said their hours will be staggered with the antique shop, so the traffic flow will be spread out.

Order approved 7-0.

**Item 6                    Orders to approve the FY13 School Department Budget as required by M.S.R.A. Title 20-A §1485, §1486 §2307.**

Councilor Payne read the order into the record and moved to adopt it; Councilor Armitage seconded.

Councilor Chase explained that he would vote against the budget because he felt they should remove money from the fund balance instead of raising taxes to cover the increase.

Motion carried 6-1 (Chase).

**Item 7                    Order to amend the Fund Balance Policy.**

Councilor Armitage explained that the majority of the changes are to change the name of the fund balance from “undesignated” to “unassigned”, in accordance with changes in financial regulations. He spoke about the addition of the following language: *“In addition the Town will retain \$1,000,000 of additional Unassigned Fund balance for as yet unidentified capital needs.”* He was concerned with the change to the capital budget that reduced what the fund balance requirements were. Adding an additional \$1 million to the 16.7% set aside gives them a little more buffer, to allow them to draw off it without limiting themselves.

Councilor Chase explained that he would vote against this because he was concerned with holding this much taxpayer money as undesignated. He thought it was time to reduce the surplus; there were plenty of people who could put it to good use.

Councilor Payne asked for clarification on Councilor Armitage's concerns.

Councilor Armitage explained that changes in the GAAP standards led to changes in what could be included in the capital budget, which resulted in many items being pulled out. The Town was being overly conservative. His concern was what would happen if the Town was faced with an unexpected expenditure without having a budget to pay for it, like what happened with Johnson Road. This gives the Town a buffer. They reduced the capital budget by \$1 million and increased the budget for what was the "undesignated" fund balance by \$1 million.

Randy Davis, Budget and Purchasing Director, explained that the new GASB 54 states that all capital expenditures have to be earmarked by the highest level of government; the Council in this case. Some of their replacement costs have been moved to the operating budget; large, depreciable costs remain with the capital budget. This is an accounting change.

Councilor Armitage pointed out that they used to buffer their estimates for replacement costs in case they came out to be higher than expected and they can no longer do that. There is no longer the ability to have that buffer in case something wears out sooner than expected.

Mr. Davis said that, in the past, if they didn't spend all they had budgeted on a road paving project, for example, it would lapse back to the general fund; if they spent more they would come back to the Council for a supplemental appropriation to finish the project.

Councilor Varney asked if the extra money would automatically come out of this fund if they ran over on a paving project.

Mr. Poore said no; they would first look at other projects that might come in under budget. They would come to the Council if they needed to transfer more money into the fund as a part of the capital plan. He said this is a redundant clause that says if they are going to use fund balance, use it for capital costs.

Councilor Chase asked if they have more than \$18 million in the fund balance.

Mr. Poore said that is the entire fund balance; the unassigned fund balance is close to \$4 million. That cannot be used for general operating expenses.

Councilor Payne said that catastrophic weather conditions are hitting insurance companies very hard and this is a prudent set aside.

Motion carried 6-1 (Chase).

**Item 8                    Order to sign the June 14, Budget Validation Referendum and the Municipal Official Election and Referendum warrant. M.R.S.A.30-A §2551.**

Councilor Payne moved to sign the Town warrant; Councilor Rodden seconded. Motion carried 7-0.



**Item 9            Discussion about future Council agendas.**

Mr. Poore discussed the upcoming meeting agendas. The Council's organizational meeting is scheduled for June 18. This is the only meeting scheduled for June.

The CDC will have a public hearing on the Route 1 issue on June 7.

**Item 10            Order to go into Executive Session pursuant to the Laws of Maine to discuss the nomination of the annual Citizen of the Year Award, pursuant 1 M.R.S.A. § 405.**

Councilor Armitage moved to enter executive session; Councilor Varney seconded. Motion carried 7-0.

The Council did not return from executive session.

**Adjourn**

Meeting adjourned 10:00 pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary