

**Town Council Special Meeting
Minutes
January 10, 2011**

Roll Call

All Councilors were present and answering roll call.

Item 1 Public Hearing on Amendments to the Zoning and Site Plan Review ordinance regarding signs.

Chair Payne opened the public hearing. There was no public comment.

The order was scheduled for January 24, 2011.

Town Manager Nathan Poore reported that the Planning Board, in their capacity as the Municipal Reviewing Authority, recommended passage of this amendment with no suggested changes.

Item 2 Public hearing regarding an amendment to the Coastal Waters Ordinance that would reduce shore front property lot width requirements for riparian rights designation; allow riparian rights to lots with waterfront access rights; and allow 20 additional moorings at Handy Boat.

Chair Payne opened the public hearing.

Richard Traynor of 20 Burgess Street spoke in favor of the ordinance. When he purchased this property last year, it was with the understanding that he would have the riparian right to a mooring. The property has 75 feet of ocean frontage; the current requirement is 100 feet. This amendment would reduce that requirement to 50 feet. There was a moratorium on moorings due to problems with parking at Town Landing; there is plenty of space in the water for additional moorings. He was concerned about the number of mooring holders who are not taxpayers; the taxpayers pay for the upgrades and maintenance at Town Landing. He complimented the Harbormaster and the Harbor Committee for taking such good care of the water.

Russ Edwards of Hillside Ave has riparian rights to Underwood Beach. He owns the beach, but there is no structure on the property so he is not allowed a mooring, even though he has more than 100 feet of water frontage. He was in support of the ordinance. He doesn't need access from Town Landing.

Public hearing closed.

An order was scheduled for January 24, 2011.

Councilor Varney asked if this ordinance affects Highland Lake. Mr. Poore said it does not.

Item 3 Order to give direction to the Community Development Committee regarding limitations on building footprints in the SB1 District.

Councilor Varney moved to waive Council rules, in order to allow public comment on the item. Councilor Armitage seconded. Motion carried 7-0.

Councilor Rodden made the presentation on behalf of the Community Development Committee (CDC). They are here to discuss the limitation on footprints of buildings and tenants in the SB-1 district, which runs from the Falmouth Shopping Center to the junction of Route 1 and Route 88. Footprints limitations are the last issue the CDC needs to address before submitting the Route 1 Study to the Council. She said this type of "big box ordinance" is used in many communities across the country, including Bethel, Maine. The theory is that limiting the footprints of commercial buildings allows the Town to better

control issues such as traffic, as well as protecting smaller businesses and preserving the Town's character. This type of ordinance, with more restrictive limits than are currently being proposed by the CDC, was recommended in the 2005 Route 1 study. An ordinance limiting big boxes was also endorsed by the 2009 Falmouth Shopping Center charette. The recommendations formerly presented to the Council by the CDC were drafted over the last two years. These theoretical discussions became much more concrete with the recent announcement that Wal-Mart wants to expand into the current cinema, as well as add to the building. She discussed the size of the current commercial buildings in the affected zone: the Falmouth shopping Center is 216,000 sq feet; the portion currently occupied by Shaws is 72,000 sq feet. The Wal-Mart/Regal building is just over 107,000 sq feet. The first scenario proposed is the least restrictive: no restrictions on building footprint; currently there are none. The second scenario is less restrictive and would include restrictions on any free standing buildings/tenants built in the future. The third scenario is moderately restrictive, including limitations on all new buildings and their tenants along with some limited allowance for expansion of existing buildings and tenants. Proposed limits might be between 5-10% depending on the size of the current building. The fourth scenario is the most restrictive and includes limits on all buildings and tenants, both existing and new. That would mean that a current building/tenant would be allowed to maintain their current size, but would not be allowed to expand beyond the set limits.

Chair Payne opened the meeting for public comment.

Sheila Beasley of Foreside and Highland Lake stated that she wasn't aware of this meeting until the last minute. She encouraged a referendum before they did anything. She was in favor of imposing limits on building footprints because she strongly felt it was in their best interest. They paid for a study to see what the town wanted, and the result was that the citizens wanted to keep a village center feel. She felt allowing big boxes would be contrary to that. She also felt it would encourage out of state businesses, instead of local stores. Local stores are locally owned, and generally pay better wages. A village center is more walkable, and promotes a better quality of life. She didn't want Falmouth to look like Scarborough.

David Stone of Foreside Road also just found out about the meeting and felt communication from the Council should be better. Over the 13 years he has lived here he has watched Route 1 evolve into a hodge-podge of large and small stores. He feels it is a mess; he doesn't like the way it looks. There is severe run-off pollution in South Portland from all the parking. Route 1 is 2,000 feet from the watershed. He felt the vote wasn't fair with Cathy Breen having recused herself from discussions surrounding Wal-Mart.

Mike Doyle, of Shady Lane, felt Wal-Mart should be allowed to expand to whatever size they can fit on the property. A lot of people in the community shop there. He felt the idea of a walkable Village Center on Route 1, a major north-south highway with a high volume of large truck traffic, was not practical.

Public comment period closed.

Councilor Breen clarified that she has recused herself from the Wal-Mart discussion, as her husband's firm represents Wal-Mart, but she didn't feel that the conflict extends to the overall discussion of footprints on Route 1. She asked the current status of the Wal-Mart application.

Mr. Poore said that they have had two preliminary meetings with staff, but have not submitted a formal application.

Councilor Breen asked if Councilor Rodden wanted input on a Wal-Mart expansion, or just on the general discussion of the SB-1 district.

Councilor Rodden said that this is not an anti-Wal-Mart effort; they were doing this already before the Wal-Mart expansion came up. Before they go ahead with the Route 1 study, the CDC wanted to find out where the Council wanted to go.

The Council discussed Councilor Breen's potential conflict of interest. After some discussion, Councilor Breen determined that she could potentially benefit financially from a decision on this issue, and withdrew herself from participation.

Councilor Chase asked about the timing; he felt the CDC pulled this issue from the Route 1 study at the same time the Wal-Mart proposed expansion came up.

Councilor Rodden said that was the main issue that the Council had not yet dealt with. That issue was on the agenda before they learned about Wal-Mart.

Councilor Chase stated his position that he would not vote for anything that was more restrictive than anything that was currently in the Town ordinance. He felt the Town should be open for business; with a very desirable mil rate and geographic location, the Town has a lot to offer. The current ordinances are too restrictive and it takes too long to do business. The TD Bank building in West Falmouth is 140,000 sq feet and is three stories; they are one of the biggest taxpayers in town. If they were to suggest adding three more stories, he would be excited about that. They can't plan for that. He didn't think they could pick a number, and say they didn't want a box store larger than that. He thought a lot of smaller businesses would say that Wal-Mart is a draw.

Councilor Armitage would pick scenario two; he was open to a conversation about the new buildings being constructed, especially around the Shopping Center. He felt they shouldn't be having a discussion about restrictions on Wal-Mart, an existing tenant in an existing building. He spoke to the environmental concern; the runoff already exists. He asked about the movie theater moving out.

Councilor Pierce explained that staff has done some checking; the movie theater has a lease through 2015 and wasn't planning on moving. The property owners, Falmouth Realty LLC, clarified that the lease isn't renewable and there is a clause that, if someone else is interested in expanding into that space, the property owner can ask them to leave.

Councilor Armitage observed that there was an opportunity for the movie theater to move into the former Shaws location and create a stadium-style theater in Falmouth. He argued that, if there was a larger Wal-Mart, there would be an opportunity to expand smaller businesses in front of it. He didn't want to do anything that would restrict an expansion of an existing footprint and building. He felt it was very clear that people didn't want big boxes out near the shopping center.

Councilor Rodden asked what his position would be if the Wal-Mart proposal hadn't come up. She asked his position on scenario 3, which would allow some expansion up to a certain limit.

Councilor Armitage felt there would be unintended consequences with that scenario. He felt they should be creating new ordinances that allow them some flexibility.

Councilor Pierce agreed with Councilor Armitage regarding Wal-Mart; they are already here and they are a great asset to the community. She was willing to allow current buildings to expand, but wanted to limit the size of anything new that they do, including new tenants. She wanted to encourage multi-use. She said this is the most densely-populated area in town. The more diversity that is provided for retail, the better off the community will be. Wal-Mart brings in people, but so will the other stores. She observed that there are many Route 1 corridors in the state that make it work for pedestrians to cross the street. She said that having multiple big box stores along Route 1 does not meet the needs of the community. She wanted to limit the size of new tenants in the buildings.

Councilor Varney agreed with the statements regarding Wal-Mart. Wal-Mart aside, she liked scenario three, without the percentages.

Chair Payne said that Mike Skillins, of Skillins Greenhouse, emailed the Council with a plea that Wal-Mart be allowed to expand because it creates an anchor. An anchor tenant is absolutely critical to the smaller retailers. Chair Payne said the Falmouth Shopping Center charette was an advisory focus group, and not a policy discussion. He was concerned about traffic on Route 1; it is an artery that has plaque. He felt they have a great opportunity to retain Wal-Mart. He was leaning to a modified version of scenario 2. He wanted to have a discussion about limitations. The owner of the Wal-Mart property said that, in restricting the footprints, they would get the Dollar Stores, not the family owned boutique. He felt that people who own their property have done their business planning on the basis of what is currently allowed, and he hated to move the bar.

Councilor Armitage said working with the movie theater would be a good task for the Economic Improvement Committee.

Councilor Rodden asked what they can do now, as that committee does not have any members yet.

Mr. Poore said that staff are planning to be in touch with Regal, and if they are not interested, they could be in touch with other movie theaters that might be interested.

Councilor Rodden was in touch with Holly Malloy, from Falmouth Realty, who clarified that the movie theater only has four months after they are given notification.

Chair Payne wanted to give the green light to Wal-Mart to move forward. He felt it was important for them to have a clear sense of the Council's position.

Councilor Rodden asked Chair Payne to clarify his position.

Chair Payne said that he was open to discussions about future growth.

Councilor Rodden is a business supporter as well, but she felt some of the small businesses are worried about Wal-Mart expanding. The traffic used to be at the shopping center, and now it is at Wal-Mart. She believed very strongly that Falmouth should have an identity, and not become like Scarborough, identified only as the location of Wal-Mart. The Council clearly doesn't want to restrict Wal-Mart. She supports scenario 3. She felt it was really wrong not to have any restrictions; she wondered what would happen if the shopping center wanted to put a Home Depot out back. She felt that there was a consensus that Wal-Mart should be allowed to expand, and that the Council wants to look at future buildings. She wondered if there was any interest in any kind of restriction on current buildings that would allow Wal-Mart to expand.

Chair Payne and Councilor Armitage didn't agree with the last statement.

Councilor Rodden asked about current vacancies.

Chair Payne felt that, in the case of vacancies, property owners needed even more flexibility.

Councilor Pierce clarified that Shaws is still paying the lease on the empty anchor store in the shopping center. That lease expires in 2013.

Chair Payne thanked the CDC for their hard work on this issue, and for bringing it to the Council for feedback.

Item 4 Update on Pleasant Hill Fire Station Sale Process.

Mr. Poore said the process they are using is a Call to Offer process with the Bolous Company; it is a brief, 60-90 day marketing process. It allows the Council to set up some parameters on the use of the facility. Currently it is set up to allow uses already allowed in the zoning district. Howard Reiche has been invited to participate in the process; Mr. Reiche's goal is to have a use that is harmonious with the surrounding neighborhood.

Councilor Rodden asked about the disparity between the asking price of \$190,000 and the assessed value of \$343,300.

Mr. Poore said they don't pay a lot of attention to the assessed value of exempt properties. The appraisal of the property, which was done in conjunction with the school property, came in at around \$200,000.

Councilor Rodden asked about the featured property spotlighted in the Maine Sunday Telegram every week; she wondered if it were possible to have this property as the featured property.

Joseph Porter, of the Bolous Company, said that property is selected at random; it isn't something they can pay for or have control over.

Councilor Varney asked about the zoning. She observed that the property is listed as residential with some commercial uses.

Mr. Poore said there is a list of permitted and conditional uses included in the property listing.

Councilor Armitage would like to see some flexibility in the use; perhaps a coffee shop or corner store, if the neighborhood would enjoy and benefit from those types of uses.

Councilor Breen asked if the street frontage for the property was adequate if someone wanted to put a residential unit on the back of the property.

Mr. Poore said it is not, and it would also require a subdivision amendment.

Councilor Breen thought the Council should all think about what they will do if they get an offer that includes a tear-down. The building requires a lot of work.

Councilor Chase had no problem with a tear-down.

Chair Payne felt they should let the marketplace determine the highest and best use.

Mr. Poore said that the Council has the right to reject any offer; they could take the best monetary offer or could take an offer with less money but a better use of the property. They could also consider a zoning amendment.

Councilor Breen was concerned about that, unless it was a contract zone. She was not in favor of a zoning amendment for the whole zone. Several Councilors agreed.

Item 5 Update on potential lease interest of Town property by Child Development Services.

Theo Holtwijk, Director of Long-range Planning, said Oak Point has looked at both the Plummer and Lunt buildings and the specific use of Child Development Services (CDS). They reviewed the code requirements for those buildings and the use by CDS, and provided a cost estimate of the improvements that would be required for such a use. Oak Point has provided a limited code review report along with the cost estimates. Staff received an update to those cost estimates today that includes some soft costs. The Lunt building would be less expensive, around \$500,000, and Plummer would be around \$700,000. CDS

would look to the Town to do the renovations, the money for which the Town would look to recover in the lease. CDS is looking for a 10 year lease but staff hasn't looked at the specifics. Oak Point didn't include radon mitigation or lead paint abatement in their estimates. Staff have contact with experts in these fields, but wanted to check in with the Council before they proceed into more details. CDS would like to make a decision in February as to where they are going to move.

Councilor Breen asked if CDS has seen these estimates.

Mr. Holtwijk said yes, all the information has been sent to them.

Councilor Rodden asked if they can estimate a lease payment.

Mr. Holtwijk said they have a good handle on the revenue side; they are trying to get a handle on the cost side. On the policy side, the question is what they hope to get out of it.

Mr. Poore said the market is around \$10/sq foot. Terms and conditions, including how much maintenance responsibility the Town would have, would make a difference. The \$10/sq foot would include the tenant paying the utilities.

Councilor Varney said they renovated Lunt 20 years ago. She wondered if they checked the lead paint then.

No one knew the answer to that question. Mr. Holtwijk pointed out that laws governing lead paint in the State of Maine have changed since that time.

Councilor Pierce was amazed that they were currently housing students in these buildings, including ADA kids, and it would cost this much money to renovate them. She was not interested in CDS moving into Lunt. She felt they were a good fit for Plummer.

Councilor Armitage was slightly suspect of these numbers, but he agreed with Councilor Pierce regarding moving forward with CDS in Plummer. He wondered if it made sense, long-term, for the Town to maintain ownership of the building and do this or to sell it and have it under private ownership and do this.

Councilor Breen agreed.

Councilor Chase was in favor of having CDS at Plummer. He thought they were trying to comply with a lot of regulations by a lot of people. He thought they could get CDS into Plummer for half of what is quoted here.

Councilor Pierce thought it was important to get a CIP in place for this building; if they don't replace the roof now, they will have to in the future.

Chair Payne felt they should let economics determine what the best option is for CDS. Leasing the building keeps it in the public realm, maintains Town ownership, and allows a future Council to make decisions on how the property is used. CDS is in essence the same use as the current one. He was highly suspect of the estimate; if the school is being allowed to be used today he wondered why the rules and regulations would require so much renovation. He looked at this as a turnkey property.

Councilor Varney pointed out that these are younger children, 2-5 year olds. She wondered if some of these regulations may be on the Governor's list of cuts.

Councilor Pierce thought one element was that the use was year-round, and so there may be some heating and cooling issues, but she agreed with Councilor Payne.

Councilor Breen suggested a peer review of the cost estimate, perhaps by Conestco. She also pointed out that, due to the younger age of the children, they have to get a childcare provider license. That is a slightly different thing than a school. A private elementary school probably wouldn't have to do this.

Councilor Chase said they have to find out about the radon and the lead paint. There have been big, recent changes on lead paint abatement regulations.

Councilor Rodden agreed that CDS should look at Plummer.

Mr. Poore summarized the discussion of the Council; they were interested in focusing on Plummer and getting a better handle on the cost estimates. He agreed that a peer review was a good idea, but recommended Jim Thibodeau instead of Conestco, as Mr. Thibodeau is an engineer and has done a review of the building.

Chair Payne felt a contractor could do that. Councilor Chase felt Jim Thibodeau was the best choice.

Item 6 Order to authorize the Town Manager to apply for a 2011 Community Development Block Grant (CDBG) Planning Grant in the amount of \$6,000. No matching funds are required from the Town of Falmouth.

Mr. Poore said that, when the Council determined that the Town Hall would remain in its current location, they did not discuss what to do with the Food Pantry. The Food Pantry would greatly prefer to remain at the current Town Hall, but they have outgrown their space, which was not designed for a food pantry. This grant would provide planning money to explore the option of adding a bump-out to the current pantry location. This would not commit them to any actual construction. The Yarmouth Town Council has a vote scheduled for January 20 on whether they would join Falmouth as a partner on this project. Apparently there are a lot of Falmouth residents that use the Yarmouth pantry, and vice versa.

Chair Payne asked how many families in Falmouth are using food pantries.

Dotty Blanchette, of the Falmouth Food Pantry, said there are about 100 Falmouth families using the Falmouth food pantry, and that is going up. Before the economic downturn there were around 60 children receiving free lunch at the school; that number is now over 100. There are 11 food pantries in the Greater Portland area that allow families from other communities to use the pantry. This allows the pantry to obtain more federal funding as well as food from Wayside food recovery.

Chair Payne asked if there had been any discussion about consolidation with other community food pantries, instead of expanding.

Ms. Blanchette said it would be extremely hard; most of the pantries are in churches and are staffed by local volunteers. It would be cumbersome, and it would be hard for people to get to the pantry.

Councilor Varney asked if the food pantry taught people how to use things.

Ms. Blanchette said they only have space for one client at a time so there is no room to teach cooking. The volunteer on duty does talk to people about how to use the food when they come in. If they enlarge the pantry, one of the plans is to have a private office to conduct confidential interviews, a waiting room and an area to post recipes. They wouldn't have a kitchen, as that would be too expensive.

Councilor Breen moved to approve the submission of an application for a Community Development Block Grant. Councilor Varney seconded.

Councilor Armitage wondered if the food pantry could expand into office space, since the Council is talking about moving Community Programs to a community center at the school site.

Mr. Poore said that, even though there would be square footage vacated by Community Programs, there are preliminary plans on redesigning the layout of the departments in Town Hall that would utilize that space. He didn't have the plans with him, but he would forward them to the Council.

Mr. Holtwijk said this money would pay for an architect to help the food pantry on its programmatic needs. They wouldn't be tied to constructing an addition.

Motion carried 7-0.

Item 7 The Council will discuss its direction on the Comprehensive Plan as requested by the Long-Range Planning Advisory Committee (LPAC+).

Councilor Rodden said LPAC is trying to prepare a survey to go out to the community. She discussed the questionnaire that the Councilors each filled out at CDC's request.

The Council discussed the need for more direction for LPAC as it begins its work. They discussed several of the questions on the questionnaire and their responses to them.

Chair Payne asked the Council for a show of hands on the question that LPAC will recommend to the Council pursuing affordable housing. The vote was 4-3 (Chase, Payne, Varney disagreed).

Item 8 Order to authorize the Town Manager to execute a purchase and sale agreement to purchase unimproved land located on Winn Road, near the Town Forest, comprising approximately 1(+/-) acre, and also referred to on Town Tax Map R06-016-G.

Councilor Pierce moved to approve the order; Councilor Breen seconded.

Chair Payne opened public comment period. There was no public comment.

Councilor Rodden asked Bob Shafto to explain the importance of this parcel.

Bob Shafto, Open Space Ombudsman, explained that this property lies between Town Forest and Town property on Hadlock Road. It will provide an essential corridor for a trail. This piece of property is the only undeveloped parcel on Winn Road in this area that would allow for that connection. The Open Space Committee thinks this is a high-priority parcel.

Chair Payne left the meeting.

Motion carried 6-0 (Payne absent).

Chair Payne returned to the meeting.

Item 9 Discussion about future Council agendas.

The Council and Mr. Poore discussed agenda items for upcoming Council meetings.

Adjourn

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

Meeting adjourned 9:38 pm.

Respectfully submitted

Melissa Tryon
Recording Secretary