

**Town Council Meeting
Minutes
March 26, 2012**

Roll Call

Councilors Chase, Rodden, Payne, Varney, Orestis and Armitage were present and answering roll call.
Chair Pierce was absent.

Vice-Chair Varney served as chair.

Pledge of Allegiance

Vice-Chair Varney led those present in the Pledge of Allegiance.

Public Forum

Mike Doyle of Shady Lane spoke about a lobster business that operates out of the home next door to his home and other problems he has had with his neighbor.

**Item 1 (a) Order to approve the minutes of the February 13, 2012, Town Council
(Consent Agenda) Meeting.**

**Item 1 (b) Order to approve the minutes of the February 27, 2012, Town Council
(Consent Agenda) Meeting.**

Councilor Armitage moved to adopt the consent agenda; Councilor Payne seconded. Motion carried 6-0.

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

Councilor Armitage said the FEIC is looking to create an annual Falmouth Winter Follies event. They are putting together a planning committee and will have a planning meeting on April 4. Those interested should be in touch with committee members or Theo Holtwijk, Director of Long-range Planning.

Town Manager Nathan Poore said they are looking at coordinating with Community Programs as well. They may be looking for the Council to formally establish a planning committee at a later date.

Councilor Orestis gave the report from the School Board: the first meeting about the school budget was held last week. Workshops and forums will be held in the coming weeks. All members of the public are invited to view the proposed budget on the school's website.

Vice-Chair Varney reported that Matt Teare, representative of OceanView, came to the Library Board of Trustees and presented a plan that would move the library to the ground floor of the Plummer building with an addition, with Community Programs using the Mason/Motz building with an addition for an expanded public/private program. The Trustees all agreed with the proposal. In other library news, a teen center is being established at one end of the Library's Russell Room on Monday and Wednesday

afternoons. The Beauty and the Books fundraiser will end on March 29. The next book sale will be April 27-29 in the old computer room in the Plummer building. They are planning a Falmouth Garden Tour on June 30, rain or shine. Call backs for candidates for the position of executive director will happen the first week of April.

Councilor Rodden asked about the proposal to move the library to Plummer.

Mr. Poore said they have been reviewing all the potential private/public possibilities; this plan to move the library is one possibility. OceanView is working on analyzing all these possibilities and are hoping to roll out a plan in the fall.

Councilor Rodden thought they had to come to the Council with a master plan within three months.

Mr. Poore said they will have a master plan for everything else at the April 9 Council meeting. They will have a follow-up meeting on April 23 that will include the potential private/public part. They are reaching out to the abutters and residents. This was their first visit to the library.

Vice-Chair Varney clarified that OceanView was asking if the Trustees were interested in the proposal, to gauge whether to go any further or not.

Councilor Payne said the Community Development Committee (CDC) has two major undertakings: the Waterview Overlay District, on the agenda later this evening, and the Route 1 Study. They will review modeling of what different scenarios would look like in regards to utilities and landscaping.

Councilor Rodden said ecomaine rejected the proposal for a revenue-sharing proposal to reward those communities that recycle a lot, such as Falmouth. Arguments against it included that there was no proof that it would increase recycling and that there are other ways to reward towns that recycle through the assessment process.

Councilor Chase said the Police Chief has requested that additional verbiage be added to the animal control ordinance. He will speak with Mr. Poore.

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

Councilor Payne read the recommendations of the appointments committee.

Councilor Payne moved to appoint the following, as recommended by the Appointments Committee; Councilor Rodden seconded. Motion carried 6-0.

Appointed for 3 year terms: January 1, 2012 – December 31, 2014

Conservation Commission: Stephen Decrosta

Planning Board: Walter Arsenault (regular member)

Recycling and Energy Advisory Committee: John Haley, Jason Ronco

Shellfish Conservation Committee: David Skillin

Appointed for 1 year terms: January 1, 2012 – December 31, 2012

Falmouth Economic Improvement Committee (FEIC): Phil Bixby

Shellfish Conservation Committee: Stephen Decrosta

Item 4 Order to establish an ad-hoc Veterans Memorial Committee, to appoint members to said committee, and to adopt a charge.

Mr. Poore explained that there are a number of people interested in joining this committee that are ready to begin their work. The Appointments Committee was agreeable to allowing the appointment of members to this committee without going through the normal process. Councilor Orestis has expressed interest in being the Council liaison for this committee. With 6 people already interested in membership, the decision was made to expand the committee to 9 members, to allow for other members of the public to submit their names. This would be a working committee that would work on everything from location, design, cost-sharing and fundraising. The order attached includes the creation of the committee, the membership of the committee, and the charge of the committee.

Councilor Rodden asked if there was any discussion about who would pay for the memorial.

Mr. Poore said they have discussed fundraising, but it is too early to say. He has asked for them to be aware of the Route 1 effort in their discussions around location. They are aware that being a Town committee will require them to check in with the Council.

Councilor Armitage moved the order; Councilor Payne seconded.

Councilor Armitage added to his motion the nomination of Councilor Orestis as the Council liaison to the committee; Councilor Payne seconded the addition.

Motion carried 6-0.

**TOWN OF FALMOUTH
ORDER**

BE IT HEREBY ORDERED THIS 26th DAY OF MARCH, 2012, BY THE FALMOUTH TOWN COUNCIL, FALMOUTH MAINE, IN TOWN COUNCIL ASSEMBLED:

1. Creation

The Town Council does hereby establish an ad hoc Veterans Memorial Committee. The purpose of the committee is to advise the Council on funding, design, location, and construction of a memorial dedicated to Falmouth veterans.

2. Membership

The Town Council shall appoint an ad hoc committee of up to nine (9) town residents to serve until such time as the project is complete. The Town Council hereby appoints the following members to the committee: Arthur Frederiksen, Frank Dusty, Arthur Schade , Ted Vail, Diane Moore, and Nelson Haynes, a Cumberland resident.

3. Charge

The Veterans Memorial Committee shall report to the Council their recommendation for the installation of a Veterans Memorial. Recommendations shall include, but not be limited to, such considerations as potential locations, design, and total cost and funding.

Item 5 Public hearing on 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 Rodden recused herself from this item.

Vice-Chair Varney opened the public hearing.

Don Staples of Pitt Street has followed this issue from the beginning. He felt they were heading in the right general direction. He supported the three-part amendment process. He suggested one additional change; Section 6.7 should have the same opening disclaimer that section 6.2.a has, in order to avoid confusion.

Matt Manahan, representing Chris Green of Ayers Court, thought this was a good compromise to address the issue and reduce the Board of Zoning Appeals (BZA) workload. They also support the three-phase approach.

Lon Blauvelt of Town Landing Road thought if a property was non-conforming no further permits should be allowed unless the property is brought into conformance.

Bonny Rodden of Shoreline Drive spoke as a private citizen. She has spoken with people who are very confused by what this ordinance is intended to do; she asked for Ms. Stearns to address that question. This seems to be aimed more to reduce the burden on the BZA and less to address the view issue. The second phase is supposed to encourage neighbors to negotiate with the property owner that has the view. She suggested a provision for property owners with a view to appeal to the BZA to establish whether the view was adequate to be considered. As it stands under the current proposal, the only people that would have standing would be adjacent property owners. She was concerned with the third phase.

Amanda Stearns, Community Development Director, explained that non-conforming lots and structures met the terms of the ordinance when they were created. Due to changes in the ordinance, they no longer meet them. They lawfully exist, they just no longer conform. They are treated with certain provisions within the ordinance. The term "non-conforming" does not imply that they are illegal. The creation of the overlay district was intended to give the CDC some breathing room in order to address the merits of the water view issues. When the water view protection was added to the ordinance in 2006, it roped in properties in other parts of town that would otherwise be able to get a building permit without receiving approval from the BZA. This first phase attempts to focus those sections of the ordinance, specifically in section 8, which refer to the need for a conditional use permit, to an area of Town that is most likely to be affected by water views. The CDC has concluded that other areas of town that have water frontage, including along the rivers and Highland Lake, didn't have the same view issues as the oceanfront. CDC also determined that the current ordinance only mandated the BZA's approval for non-conforming single-family dwellings; garages, for example, would not trigger this approval process. The committee initially wanted to see more equity built in by requiring conditional use approval for all lots and structures in the district. Since that time, the committee is reviewing whether another solution would be better. They are working on the second phase in concept at this time.

Vice-Chair Varney closed the public hearing.

Councilor Payne spoke about some of the discussions the CDC has had regarding how to determine who would have standing in the process; all property owners within 500 feet, 250 feet, or only direct abutters. The fundamental issue is what did people buy in the first instance when they bought their property: what value were they paying for, and what future value are they looking for as an investment.

Councilor Armitage said the other challenge is those residents that already have conforming lots or structures; this adds another layer to them. He felt his role as a Councilor was to enact ordinances that protect the health, safety and welfare of the community. He felt this was a private property rights issue; while they want to help, the struggle becomes whose rights overcome whose. They want to keep the overlay district, but there are tweaks that they want to make to it. He wasn't sure the CDC was ready for an order; they would like to pull it back to committee, tweak it, and bring it back to the Council. He thought the changes would lead to it impacting fewer people. That may not require another public hearing.

Councilor Chase said there are projects in West Falmouth that were held up due to this ordinance that shouldn't be. They need to amend section 6.2; they don't need to tie it to the proposed water view overlay district.

Councilor Orestis was hoping they could remove the subjective nature of the current ordinance so that neighbors with a water view impact would have an objective idea, and not having neighbors pitted against each other. He hoped that would be the result of the proposed changes to the ordinance.

Councilor Payne pointed out that those who want to protect their view can always purchase a view shed easement if the property owner is willing.

The item was sent back to the CDC.

Item 6 Update on Parks and Public Works Capital Improvements for 2012.

Jay Reynolds, Parks and Public Works Director, made a presentation on the capital improvements planned for 2012. These include improvements to Falmouth Road from Blueberry to Merrill, and Ledgewood Drive from Country Lane to Middle Road. They will synch up the PACTS funds to resurface Route 1 with the Route 1 Study project. They will meet with residents and various stakeholders and interested parties this summer regarding Route 1 sidewalks from Providence Ave to the Martin's Point Bridge; they anticipate beginning construction in 2013. Paving projects are not finalized, but good candidates include Merrill Road, Indian Way and Balsam Lane, along with the dead end section of Depot Road. They are planning drainage improvements to Community Park Field A. They are looking to complete the replacement of the drainage system on both Marston and Oriole Streets; those systems are 30-40 years old and failing. They will be working on the channelization projects on Blackstrap, Falmouth, Field and Woodville Roads that are required due to the expansion of the Downeaster, though they will want to make sure that the Downeaster will in fact be expanding, considering the concerns with federal funding. This year, the Maine DOT will be paving Longwoods Road from Sherman Drive to the Cumberland Town line, Gray Road from Hadlock Road to the Cumberland Town line, and Babbidge Road. The Maine Turnpike Authority is looking to do some bridge road on Mountain Road between June and August, and Leighton Road from August to October.

Councilor Payne asked the long-term view on Blackstrap Road in light of accidents on the curve, and whether it was a State road.

Mr. Reynolds said it is a State road; they reached out to the State and a lot of the road got repaved, so while the curve is still there, the pavement irregularities have been improved, and it is a lot better than it was.

Mr. Poore said that was a short-term fix since it wasn't a reconstruction but a resurface project. They do not have any bargaining power in regards to having work done; due to budget constraints the State's focus is major arterials and some major collectors. In Falmouth, that would mean I295, part of Route 100 and Route 1.

Councilor Armitage thought, from a safety standpoint and to maintain the quiet zone status, they had to deal with the channelization whether the Downeaster came through or not.

Mr. Poore would research the Council's prior action but thought that was the case.

Councilor Rodden asked how long the Community Park field improvements would take and when they are scheduled.

Mr. Reynolds said they have scheduled to close the field from June 18 to August 13; it is a 10-week construction timeline. They plan to have the fields available for the fall sports season.

Councilor Rodden expressed her appreciation for all the work the department was doing; there are a lot of projects scheduled.

Vice-Chair Varney asked what the detour would be on Falmouth Road.

Mr. Reynolds said the detour would be at Allen Ave Ext/Falmouth Road intersection. They are hoping to do the work between Blueberry and Lunt, to allow for Lunt to be reopened. There is a limited amount of work to do there due to the work they accomplished last year.

Vice-Chair Varney was concerned that traffic would be directed down Blueberry Lane if they are working on Merrill Road.

Mr. Reynolds said the project is still in initial stages but he doesn't want to direct traffic down Blueberry Lane; it isn't wide enough, in his opinion, to handle the truck traffic.

Item 7 Order to authorize the Town Manager to execute and accept deeds on behalf of the Town Council relating to property at 30 Harding Avenue.

Mr. Poore explained that the relatives of the property owner expressed concern to the Town about the proximity of the turn-around to the home. It was discovered that in 1968 this was all one property; it was split and the Town extended the right of way, including the hammerhead. The Town was a party to the dwelling being in the setback and in fact the home on the other lot is also off by a few feet. The fix in this case is a simple land swap that will provide more room in front of the home, bringing it into conformance. The attached order will allow the Town Manager to execute and accept the deeds that will accomplish this land swap.

Councilor Rodden moved to adopt the order; Councilor Payne seconded. Motion carried 6-0.

Item 8 Order to go into Executive Session pursuant to the Laws of Maine to discuss the following:

- Possible acquisition of land, pursuant 1 M.R.S.A. § 405 (6) (C).
- Personnel matter, pursuant to 1 M.R.S.A. § 405 (6) (A).
- Legal rights and responsibilities (FOAA), pursuant to 1 M.R.S.A. § 405 (6) (E).

Councilor Armitage moved to enter executive session; Councilor Payne seconded.

Councilor Chase recused himself from the discussion on a possible acquisition of land.

Motion carried 6-0.

The Council returned from executive session.

Mr. Poore explained that the order to be considered will allow the Town Manager to exercise its option on the McDermott property, two parcels of 39 acres and 53 acres respectively, to be purchased primarily through a grant. The purchase price is \$200,000; the Town's share is \$35,000. This was voted on publicly twice; there have been a couple amendments and the price has fluctuated due to appraisals and the grant process. The local share has gone down; it was \$43,000 in August 2010. The parcels are R09-048-001 and R09-055 on the Town's tax maps.

Councilor Armitage moved to authorize the Town Manager to exercise the Town's options on parcels R09-048-001 and R09-055. Councilor Payne seconded. Motion carried 6-0.

Mr. Poore said the next order concerns buying or negotiating an option to purchase two properties that are intended to assist the Town in the conversion of the Land and Water Conservation Fund (LWCF) property on the former elementary school site. The conversion must include land that totals \$1.25 million. They are applying to use two town-owned properties for the conversion; the 60 acre North Falmouth Community Forest and the former Brown Property that abuts Underwood Park. They are hoping those properties will appraise at the \$500,000-\$700,000, leaving them with the need to acquire property. They tried to tie in the potential acquisitions with the Greening of Falmouth plan. The first property is the Hundred Acre Woods property, parcel R08-059-002, which constitutes approximately 133 acres. The option is designed to give the Town the option to purchase the property if the appraisal comes in at an acceptable level but the anticipated value range is \$950,000-\$1 million. The second property is the Howard Reiche property, U33-002-A, 12.69 acres, on the Presumpscot River, next to Graves School. This option also depends on appraised value, but the asking price is \$565,000.

Councilor Armitage moved to authorize the Town Manager to execute an option on parcel U33-002-A with the terms as discussed; Councilor Payne seconded. Motion carried 5-0. (Chase recused)

Councilor Armitage moved to authorize the Town Manager to execute an option agreement to purchase parcel R08-059-002, 133.36 acres, per the terms discussed and contained in the option as written. Councilor Payne seconded. Motion carried 5-0. (Chase recused)

Councilor Armitage moved to re-enter executive session to discuss a personnel matter, pursuant to 1 M.R.S.A. § 405 (6) (A), and legal rights and responsibilities (FOAA), pursuant to 1 M.R.S.A. § 405 (6) (E). Councilor Payne seconded. Motion carried 6-0.

The Council did not return from executive session.

Adjourn

Meeting adjourned.

Respectfully submitted,

Melissa Tryon
Recording Secretary