

Town Council Meeting Minutes August 27, 2012

The meeting was called to order at 7:00 pm.

Roll Call

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

Councilor Farber was absent.

Pledge of Allegiance

Chair Varney led those present in the pledge of allegiance.

Public Forum

John Winslow of Gray Road spoke about the Council's purchase of the 100 Acre Woods parcel on Blackstrap Road. He said the purchase happened without any public hearing and that the Council overpaid for it. He asked if the Town had considered purchasing the 17 acres on Clapboard Island. He presented the Council with documentation supporting his comments.

Ben Devine of Waites Landing Road is a partner in Falmouth Plaza and a principal in Devine Capital, which has an option to purchase the Falmouth Shopping Center; he spoke about the proposed amendment to limit the allowed footprints of buildings on Route 1. He asked the Council and the CDC look at the issue at the Falmouth Shopping Center and allow for some flexibility. The proposed ordinance is flawed; the research looked at municipalities with vacant farmland. The center is 50 years old, consists of 200,000 sq. feet and needs flexibility to get back on track. He felt the ordinance would diminish its value. He didn't know what would become of the Center but they want the flexibility to market it. There are many encumbrances on the property. He asked them to withdraw the ordinance and work with him.

Melanie Collins of Middle Road, a small business owner, wanted the Plummer building to be kept for public use. She said she talks to a lot of people and felt that the public wants to preserve the Plummer building in public use. The building most people care the least about is the Motz building. She recommended using the Motz building for private use such as senior housing, office space, etc. and preserving Plummer for public use.

Mike Doyle of Shady Lane was concerned about protocols for use of the police boat. He said the Town ignores its own policies.

Marna Miller of Phillips Road spoke about the footprint limit ordinance. She supported the 30,000 sq. foot footprint limit. This limit will still allow the Town to have development like the Staples store, which is under that limit by about 3,000 sq. ft. The current Wal-Mart is 90,000 sq. feet and she wondered if that is what they want Falmouth to look like. National trends are for smaller footprint stores, including for new Wal-Mart and Best Buy locations. A large, vacant store, like the former Shaws, is a blight. Route 1 in Falmouth is a popular place for businesses, and the stores that are vacant are overpriced or difficult to fill.

Glen Brand of Johnson Road agreed with Ms. Miller and supported the footprint limitation. He thought 30,000 sq. feet is too large. This limit supports the goals of the Route 1 study in creating a walkable community. He also spoke about the Metro bus service. Opponents have repeatedly tried to discontinue

the service while supporters have turned out to voice their support. He presented key facts about the bus. There are two bus routes in Falmouth: Route #6 in West Falmouth, and Route #7 along Route 1. Ridership on the #7 bus along Route 1 is growing every year. Mr. Brand rides the bus 3-4 times a week to work. Bus service is a smart investment; next year it will cost the Town \$119,000, or 1/3 of 1% of Falmouth's overall budget. He urged voters to support the bus.

**Item 1 (a) Order to approve the minutes of the July 9, 2012, Town Council
(Consent Agenda) Meeting.**

**Item 1 (b) Order to approve the minutes of the July 23, 2012, Town Council
(Consent Agenda) Meeting.**

Councilor Rodden moved; Councilor Pierce seconded. Motion carried 6-0.

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

Councilor Pierce said the LPAC posted 11 draft chapters of the comprehensive plan to the website along with a short, feedback survey for each. The 2 remaining draft chapters will be posted soon. The deadline for public feedback is October 15. She asked the Councilors to send out the drafts to their email distribution lists. LPAC will come to the Council for feedback in October.

Director of Long-range Planning Theo Holtwijk explained that the website is set up so that people can go to any chapter(s) that interests them. Each chapter has a survey attached. Comments can also be sent directly to him via email at tholtwijk@town.falmouth.me.us. A link to the webpage with all the chapters is on the front page of the website: www.town.falmouth.me.us. If people want a paper copy of any or all chapters they can contact Mr. Holtwijk directly at 699-5340.

Councilor Rodden gave an update on the Martin's Point bridge project. Construction is supposed to start on the new bridge in September and be completed in December 2013; it will take 18 months. The old bridge will remain open during construction and then be demolished after the work is done. A citizen's advisory panel has been meeting with MDOT during the process; one of the items still to be resolved is the lighting on the bridge. The advisory committee has decided that there will be an outlook and a path where the old bridge was located, with an interpretive sign and public art installation. She also reported that METRO has released ridership figures for July: there was a 5% increase over the January-July period last year. The CDC will provide a presentation on the proposed Route 1 footprint limits at the public hearing for the amendment.

Councilor Orestis said the Veterans Memorial Committee has held their first meeting. They are off to a great start.

Chair Varney reported that the Library's annual meeting is on September 17 and she urged citizens to attend.

Town Manager Nathan Poore announced that a public hearing on the METRO referendum will be held on September 10. The call for the election and order will be September 24. He explained that the funds used to purchase the 100 Acre Woods parcel are drawn on the 2007 referendum that authorized the Council to expend \$5 million on the acquisition of land for open space. Otherwise that purchase would have required a separate referendum to spend more than \$1 million.

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

Councilor Pierce reported that the committee met tonight and has interviewed some candidates. They will come to the Council on September 10 to nominate appointees to the Library Board. They will soon be looking at the terms ending on December 31. Currently the only other vacancy is on the Human Resources committee.

Item 4 Discussion about memorializing and/or naming Town owned property and facilities.

Councilor Pierce discussed the history of this issue and the work she and Town staff have done on the proposed policy. She is looking for feedback on the policy so far.

Councilor Rodden was interested in a provision against naming things after someone that was still living. Councilor Orestis agreed.

Councilor Orestis mentioned recognizing acts of heroism.

Mr. Poore said the Veterans Memorial Committee members were challenged with the idea of a memorial park where people could put up benches or buy bricks memorializing someone. Councilor Orestis thought the war memorial would be outside of this policy.

Mr. Poore asked if they wanted this to be a policy or an ordinance.

The consensus of the Council was to draft it as a policy.

Item 5 Consideration of a resolution regarding a stormwater management facility proposed by OceanView at the Plummer-Motz and Lunt school.

Chair Varney explained that, when OceanView first came before the Council, this stormwater detention pond was not there and it is not shown on the master plan. It is expected to handle stormwater from both the new OceanView development and the school site. The Planning Board has requested the Council determine if the pond is consistent with the master plan.

Mr. Holtwijk said the resolution was intended as a statement of how the Council feels about this aspect of the development. He thought the adoption of a resolution will affirm the Council's stance. Staff expect that there will be further details to work out, and that a drainage easement with OceanView will be needed to determine rights and responsibilities for both parties with regards to the pond. The biggest item from the Council's comments was that the pond should be both functional and an aesthetic addition to the town green.

Matt Teare of Oceanview spoke about the pond; it was part of the discussions from the beginning but it was not placed on the master plan. The stormwater plans are preliminary at this point; very detailed calculations will need to happen. They don't think they will be adding very much impervious surface to the property. The pond shown on the sketch plan at the Planning Board was the largest it could possibly be. They intend it to be an amenity to the town green. The pond is designed for stormwater treatment for

new development only; the existing OceanView campus has stormwater management already. In addition to the pond they will do rain gardens, porous pavement, and other creative stormwater treatment designs.

Councilor Pierce asked how the pond would function as an amenity.

Mr. Teare said they weren't sure; they want it to be a wet pond, though the DOT has been moving them away from wet ponds in recent years. Dry ponds are not very attractive. He said DOT moved away from wet ponds because they want the water to go downstream as quickly as possible due to concerns about water temperature and quality.

The Council spoke about the amenity potentials such as ice skating and stocking it with fish.

Councilor Pierce moved to adopt the resolution; Councilor Rodden seconded.

Councilor Payne was concerned about the language of the resolution in the first paragraph; he wanted to add "*it will be functional under regulatory guidelines and*" before "*it will blend in aesthetically*". He felt functionality is the most important thing.

Councilor Mahoney said the DOT will only allow a wet pond so long as it will be able to handle the 100 year storm. The state licensing will insure that the stormwater management will be adequate.

Councilor Payne moved to amend the resolution as follows: "*BE IT FURTHER RESOLVED, that the Town Council expectation for the stormwater pond design is that it will be functional under regulatory guidelines and it will blend in aesthetically with the landscape and will be experienced as an enhancement or extension of the proposed Village Green and surrounding development*"; Councilor Rodden seconded. Motion carried 6-0.

Amended resolution carried 6-0.

Item 6 Presentation by the Community Development Committee (CDC) regarding the draft Route 1 Infrastructure Plan.

Councilor Rodden presented the work of the CDC on this plan to date. The Council has worked on a plan for Route 1 for the last 10 years with the goal of creating a shopping center that is distinctive. The CDC is working on two parallel tracks. The first is a referendum asking voters to spend approximately \$5.6 million on improvements to Route 1 including sidewalks, trees, pedestrian scaled lighting, and traffic calming measures. The second track concerns zoning and is in two parts: the first is the proposed limit on footprints, and the second concerns changes to height, setbacks and mixed use.

Mr. Holtwijk presented the details of the infrastructure plan. They want to invest in Route 1 to handle anticipated growth while dovetailing with the MDOT's planned repaving of the road. The plan, which would impact a mile long stretch of Route 1, includes such elements as a landscaped center median, widening the sidewalks and filling sidewalk gaps, pedestrian lights and street trees, stormwater quality retrofits, and upgrading the traffic lights to traffic signal mast arms. He presented a breakdown of the costs associated with each proposed element. The original estimate of the total project cost was greater than \$9 million; the CDC reviewed it and brought it down to the current \$5.6 million. This estimate does not include underground utilities along Route 1; adding those would raise the estimate between \$1.3-5.3 million depending on the length. It also does not include a 5 foot wide bike lane, which might cost \$1.7 million. It does include a 4 foot wide paved shoulder. The town proposes to use the Route 1 South TIF to finance the entire project; tax revenue in the TIF is specifically captured for investment in infrastructure.

No additional taxes would be required to finance the \$5.6 million and sufficient funds would remain to cover unexpected costs, as well as projects such as intersection capacity, on-street parking, etc. that the Town might decide to do in the future. The repaving of Route 1 is being managed by PACTS, and will likely be held off until 2014 or 2015, to allow the Town to prepare bid documents. This delay depends on the pavement condition of Route 1; they don't want the road to deteriorate so much that they have to do a reconstruction. The CDC has discussed scheduling the referendum and suggests waiting until next June.

Councilor Rodden said the CDC has 4 questions. The first is whether the Council likes the direction of the infrastructure concept plan.

Chair Varney would like to see at least the conduit for underground utilities placed. Mr. Holtwijk said placing the conduit only for the whole study area would cost \$2.3 million.

Councilor Payne observed that this represents a fundamental change in Route 1, from a primarily commercial zone to a mixed use, village center zone. He was concerned that Falmouth does not have the density to support a pedestrian and walking friendly development in this area along Route 1. That density is present along the Flats and Town Landing. He thought about the suggestions that the buildings be multi-story, with living space above the retail stores, but didn't think this was a solution to his concerns about density. He felt most of the suggested improvements are aesthetic. He felt density is a key to making this a community and he wanted discussion about whether they allow residential development along Route 1 and where that would go. In answer to Councilor Mahoney, he explained that he didn't feel they have the density of both workforce and residents to support a retail zone like the one envisioned. He doesn't want to see big box retailers in this type of compact development.

Councilor Orestis felt that, although it isn't a five minute walk from the neighborhoods Councilor Payne referenced, it is a five minute drive and that is reasonable.

Councilor Pierce said this was a vision for what it could be, and building infrastructure that makes it so people can walk or drive meant people will come. 70% of the Town's population lives within 2 miles of this area and this is where they should be focusing.

Councilor Orestis said he hears that people want to shop and dine in Falmouth and want to go to a place that is pleasing.

Councilor Rodden lives in a dense neighborhood in the Flats, and sees people bicycling and walking to the shops on Route 1. If they don't approve the infrastructure plan, DOT is still going to spend \$700,000 to repave Route 1. She thought this is an opportunity for the community and if they don't take advantage of it, they will miss it for a long time. She didn't think the density argument is an issue.

Councilor Mahoney did think density is important but it can be measured by vehicle traffic, workforce, and pedestrian traffic. He felt it was important to tie the infrastructure to the zoning. Overall he felt the direction they were taking is a good one. The TIF is a resource that they need to take advantage of. He wondered if they should review the proposed improvements again and make sure they are needed.

The consensus of the Council was that they liked the direction of the concept plan.

The CDC's second question was whether the Council wanted to include underground electric and/or bike lane components.

Councilor Mahoney liked the bike lanes; he wondered if they could review other items and weigh them against the bike lanes.

Councilor Pierce was a supporter of the bike lanes, but they are costly. She has seen the 4 foot shoulders in Portland and thought that, even though they aren't striped, they might be okay. She thought this was their opportunity for the underground utilities and it was the right thing to do. She wondered if they might send this option to the voters. She would like to spend money to increase bike access throughout Town.

Chair Varney asked about the size of the former Shaws. Councilor Rodden said it is 52,000 sq. feet and the proposed footprint limit amendment specifically says that, if the owner of the Shopping Center wanted to bring in a new tenant to fill that space, they could do that. It just couldn't get any bigger than that space.

Councilor Payne pointed out that, if there is going to be bike traffic, it has to be safe. They won't be able to deter bike traffic from Route 1. He is inclined to support the bike lane.

Mr. Poore clarified that 5 feet wide is the standard for bike lanes; a 4 foot wide lane would not be allowed to be indicated for bike traffic either with striping or signs. There are very strict rules.

Mr. Holtwijk said that Tom Errico, the traffic engineer, has indicated that 4 feet wide would be safe even without the indicators.

Chair Varney pointed out that the width of the sidewalk was such that the kids could bike on those.

Councilor Rodden would like to take the issue of the bike lane back to the CDC for further study and input from bicyclists.

Councilor Mahoney felt 4 feet was safe and supported increasing access throughout Town. He would like to see more information on whether 4 feet was safe, and if it could be indicated.

Chair Varney asked if the Martin's Point Bridge project includes a bike lane. Councilor Rodden said yes, 5 feet wide.

Councilor Mahoney was curious about the increase of the sidewalk and the esplanades.

Chair Varney felt this was to preserve space for on-street parking if that happens in the future.

Mr. Poore said that, in order to get the improvements to the edge of the right of way, they may be looking at sidewalks wider than 8 feet. This proposal can accommodate any combination of the proposed zoning changes. The 2009 TIF plan conceived of most of these proposals.

Councilor Rodden pointed out that they have not decided anything. Some of these proposals were given to CDC only recently. They won't go to the voters without a specific plan.

The CDC's third question was whether the Council supported sending this to referendum in June 2013. The consensus of the Council was for a June 2013 referendum.

Councilor Rodden asked about natural gas and whether they would be able to bury those pipes with this project.

Mr. Poore thought they would be fine. The natural gas lines don't have anything to do with underground power, other than they have to ensure adequate distance between the two lines. If the natural gas project comes through, the plan is that another project would pay for the gas line. If that didn't come through, the Town would pay approximately \$400,000 to lay the dead line and then get the money back from the natural gas distributor in the future.

The CDC's fourth question was whether the Council was willing to spend some up-front funds to fine tune the plan.

Mr. Holtwijk said when the T.Y. Lin work is complete the CDC will still need to fine tune the cost estimate. It will take some consulting money to get this ready for a referendum. They can scope out an estimate of this work if the Council is interested.

Councilor Mahoney thought this was absolutely necessary if they were going to put something together to send to voters. The Council agreed.

Item 7 Schedule Public Hearing for Zoning Amendment regarding tenant footprint limitations in SB1.

A public hearing was scheduled for September 24.

Item 8 Introduction of an amendment to the Zoning and Site Plan Review Ordinance to revise the time limits for the West Falmouth Crossing Master Plan.

Councilor Pierce introduced the amendment. When the West Falmouth Crossing development master plan was created it had a ten year time limit on it. A developer has expressed interest in developing one of the two remaining lots, and in that process discovered that the master plan had expired in 2008. This amendment would revise the time limit and extend it out.

Councilor Mahoney asked about the purpose of the 10 year limit.

Mr. Poore thought it provided the Town the opportunity to check in. The allowance to extend the time frame was written into the ordinance.

Councilor Mahoney wondered what they were giving up in granting this request.

Mr. Holtwijk said the letter attached was from the owner of the property. He thought when the deal was struck with the owner the Council wanted to make sure that the development happened in a timely fashion, which has mostly happened; there are only two lots that are not developed. He was surprised by the time limit when it was discovered. He clarified that this only applies to the West Falmouth Crossing Master Plan district and not anywhere else in Town. He said if the Town does not extend the master plan the underlying zoning that was in place prior to 1998 would be in effect. They can invite the owner to the public hearing to answer any questions as to their intent for the undeveloped lots.

Councilor Mahoney would like to see what would happen if it was not extended. Councilor Pierce agreed.

Councilor Payne wondered about the consequences of extending it. Mr. Holtwijk said they didn't see any disadvantages to the Town of extending it; he hasn't seen any problems with development in there to date.

Councilor Payne didn't want to raise hurdles in front of a developer that wanted to develop in town.

A public hearing was scheduled for September 24.

Item 9 Introduction of an amendment to the Zoning and Site Plan Review Ordinance to revise the requirements for Property Identification Signs.

Councilor Pierce explained the history of the issue, which concerns one property on Route 1 that has signs that are not in conformance with the ordinance. The Council has already been more than accommodating to this property owner in the past with regards to signs, but the only option other than this amendment is complete removal of the two large, granite signs.

Councilor Payne recused himself as the property owner in question is a client of his firm.

The Council discussed the specifics of the property in question and debated how they wished to proceed in this matter: options discussed included the proposed amendment, enforcement action by the Code Enforcement Officer, fines, and a consent agreement.

No public hearing was scheduled for the amendment.

Item 10 Order to accept a donation from Falmouth Youth Soccer Association and approve a supplemental appropriation for improvements to Community Park.

Chair Varney announced that FYSA donated \$65,000 for improvements to Community Park; the Town wants to redirect funds previously earmarked for those improvements into playground equipment at the park.

Councilor Pierce moved the order; Councilor Payne seconded. Motion carried 6-0.

Item 11 Order to approve a supplemental appropriation from unassigned fund balance for legal, engineering, and other expert consultation related to natural gas service expansion.

Councilor Pierce moved the order; Councilor Rodden seconded.

Mr. Poore said that, while they are not planning phase 2, the feasibility study, they still feel they may need this money for research, peer review, etc. There is still interest from the private utility companies to meet with the Town. There is still interest in Yarmouth to look at the municipal utility option. The Town Managers feel they need the flexibility to spend this money. Yarmouth and Cumberland have already agreed to make this same amount of money available. They will go as far as they can to avoid spending this money.

Motion carried 6-0.

Item 12 Order to approve a supplemental appropriation from unassigned fund balance for engineering and other expert consultation to design a railroad crossing between Community Park and the Falmouth School Department campus property.

Councilor Pierce moved the order; Councilor Payne seconded.

Councilors Pierce and Mahoney both voiced their support.

Mr. Poore said this is for up to \$75,000; he is looking at \$20,000 for geotechnical work. They need to evaluate what is underneath the tracks; it is very expensive. They could do the engineering up to a point and then do it as a design/build on this project.

Councilor Rodden wondered what would prevent people from ignoring this and crossing the tracks anyway.

Mr. Poore said they would have to secure the tracks somehow, with fencing perhaps. You have to make it an inconvenience to walk around it.

Councilor Pierce asked if they have negated walking over the tracks.

Mr. Poore said not necessarily, but that raises ADA issues, and the cross-country skiers would have trouble too. They would have to have a ramp to meet ADA.

Motion carried 6-0.

Adjourn

Councilor Pierce moved to adjourn; Councilor Rodden seconded. Motion carried 6-0.

Meeting adjourned at 10:25 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary