

Town Council Meeting Minutes May 11, 2015

The meeting was called to order at 6:05 pm.

Roll Call

All Councilors were present and answering roll call.

Item 1 Site walk at the Plummer School to review Oceanview's proposed master plan amendments and building renovation plans, which include landscaping on the Village Green, a transfer of a portion of the Village Green from the Town to Oceanview, a proposed senior center and senior apartments in the Plummer building, and senior cottages on abutting properties that Oceanview recently acquired.

The Council conducted a site walk of the Plummer building and grounds.

Item 2 Announcements of upcoming events.

Chair Farber announced that that the Town is accepting nominations for the Citizen of the Year. Nominations should be 500 words or less, and should be sent to the Town Manager's office. Nominations are due May 18. There will be a special meeting of the Town Council on May 20.

Item 3 Resolution recognizing the contributions of Town Attorney Bill Plouffe, on the occasion of his retirement.

Chair Farber read the resolution into the record. Councilor King seconded. Motion carried 7-0.

Chair Farber presented Attorney Plouffe with the resolution and a gift of appreciation

Chair Farber opened a public comment period; no public comment.

Item 4 Discussion about Oceanview's proposed master plan amendments and building renovation plans, which include landscaping on the Village Green, a transfer of a portion of the Village Green from the Town to Oceanview, a proposed senior center and senior apartments in the Plummer building, and senior cottages on abutting properties that Oceanview recently acquired.

Chair Farber moved to waive Council rules in order to allow public comment on this item. Councilor Anderson seconded.

Councilor King clarified that allowing public comment would help to inform the Council's discussion.

Motion carried 7-0.

Chair Farber discussed Oceanview's most recent proposal to build senior housing in the Plummer building. This would require the acquisition of some of the Village Green from the Town, in order to accommodate an addition to the building. They also are proposing a senior center within

Plummer with programming operated by the Town. They are asking the Town to take over the installation of a sidewalk along Middle Road and lighting along Lunt.

Councilor Hemphill spoke about his impressions of the site walk and the size of the proposed footprint of the Plummer building.

Councilor McBrady thought the partnership with Oceanview was a good one, but he wondered what the Town will get back if they allow the proposed footprint to be built out.

Councilor Mahoney said \$1.2 million of the purchase price was used to convert the National Park Service restriction on the site to the 100 Acre Woods site. He asked how much remains.

Mr. Poore said some of it, about \$1.5 million, went to the purchase of the school boiler to avoid going to bond for the project. The remainder went into unassigned fund balance.

Chair Farber opened a public comment period

Delores Vail of Field Road, chair of the newly-formed Senior Advisory Committee, asked the Council not to make a decision on this project until the committee comes to the Council with their report in September. They would like to have all their options on the table.

Peggy McGehee of Stonecrest Drive, a member of the Senior Citizen Advisory Committee, said the committee is planning to conduct a public survey on what kind of services they want, if they want a senior center, and if so, where they would want it. For herself, she spoke about the vision for the Village Green when it was conceived in 2012. She read from the agreement between the Town and Oceanview that included the possible uses for the Green. She wanted to hear from the public on what they wanted to see on the Green. She said there was no public purpose to rush to a decision on whether or not to give part of the Green to Oceanview for apartments.

Public comment period closed.

Councilor King felt it was unfortunate timing that Oceanview wants to move forward with a senior center when the Town has just formed this new committee.

Councilor Anderson, the liaison to the Senior Committee, said the committee is not ready to speak to the desire for a senior center, much less the location for one. While the Town isn't ready to make a deal to trade land for a senior center, he didn't think that meant they couldn't move forward with some of the plan. Taking the proposed senior center out leaves them with the request from Oceanview to purchase some of the Green in order to build 36 affordable senior housing units. Their request amounts to slightly less than 10% of the Green. He wondered if the housing units are valuable enough to the Town to warrant the sale of the land. Oceanview has stated that the affordable housing project is not feasible without the addition to the building. He didn't want to put the whole project on hold, but a senior center can't be a part of it since the committee isn't ready.

Councilor Mahoney agreed; he felt Oceanview would leave the senior center option open for the Town, but it isn't a requirement for moving forward. The language in the P&S agreement is pretty clear. The current plan was developed in collaboration with town staff. They would have to amend the P&S if they move forward, but he didn't think they should be bound by that language. They can still use it for some of the uses listed. They need to weigh the public benefit. He would like to see more information on the Middle Road sidewalk and the lighting.

Councilor McBrady said they need to give the senior committee the time to do what they need to do. A senior center should be off the table right now. What is important right now is the question of what the Town will get back if Oceanview acquires the land.

Councilor Goldberg said part of the deal with Oceanview is having the senior center. He felt this is a timing issue. If the Senior Committee comes full circle and finds that a senior center at the Plummer building is a good option, it might not be an option any longer. He said Oceanview only wants 9%, and the location of that 9% doesn't change the Village Green much at all. He didn't want this project to get away; there is a lot of value to the Town.

Councilor King said Oceanview has stated that the affordable units would be for rent at \$1200-\$2000/month and there would not be any preference to town residents.

Councilor Anderson said they would be affordable according to MSHA guidelines; he felt they could require adherence to some kind of standard for affordability. He thought that was Oceanview's intention.

Councilor Hemphill agreed with letting the committee do its work on a senior center. He said the location of the proposed expansion would have an impact on the entrance to the Village Green. He was struck by the size and significant impact of the expansion on the front of the Green. He felt any sale of the land should result in some significant benefit and value to the Town.

Chair Farber agreed with peeling off the senior center discussion; she didn't want to lose the option, but they are not in a place to make an agreement on that. She thought Oceanview is a valuable member of the community and she would like to find a way to help them with their project, within reason. She would like the Council to articulate what the Town wants to see in regards to the rental housing. She asked them to decide what the value of that affordable housing is to the Town. She wondered how restrictive the P&S is, if Oceanview wanted to do something that was listed in the proposed uses of the Plummer building. She was struck by the impact of the currently proposed footprint on the view of the Village Green. She would like them to come to some kind of an agreement with Oceanview, with a mutually agreeable definition of affordable senior housing, a mutually agreeable value to the project, and a way to minimize the visual impact from Lunt Road.

Councilor Mahoney said the current proposal was based on recommendation from staff with respect to how to best minimize the impact and keep the focus on the original Plummer building and not overshadow it. That's why it is set back.

Councilor King thought they had limited impact on how Oceanview determines the rent for the apartments. She thought they need to look into how much influence they might have on the pricing on those units and how the use of the building might benefit the Falmouth community. She wondered if moving to one-bedroom units might minimize the addition. The Village Green will be a special place, but she felt it would be more passive recreation. The surrounding neighborhood will have influence on what the Green may become. She didn't see it as a place for band concerts.

Councilor Anderson said the P&S puts forward Oceanview's intentions for the building, but it also tells the Town not to unreasonably stand in the way of zoning changes for use of the building.

Chair Farber asked for clarity on the intention of the P&S and master plan with regards to the Plummer building.

Councilor Mahoney agreed with Councilor Goldberg; this is an opportunity for them to help control how an important part of town is going to look, and to strengthen their relationship with Oceanview. He thought they should work toward a collective yes on this project.

The Council discussed whether the senior center option might go away if Oceanview decided not to develop affordable senior rentals. Mr. Poore said the historic tax credits for the gym are necessary

for the affordable units, but might not be necessary if they do market-rate units. If they break the senior center out of the deal, Oceanview has indicated that, in order to have access to the space, the Town would spend some money on public improvements that they would not have to do without the senior center. This includes the sidewalk on Middle Road and lighting on Lunt, and is valued at around \$250,000.

The Council discussed the value of the land swap. Councilor Anderson suggested that removing the senior center, the sidewalk and lighting from the proposal leaves only the land swap for discussion. He said the improvements already made to the Green, with the exception of the gazebo, meet the requirements of the P&S; none of the improvements to the Green that are being suggested are required by the P&S. He felt the creation of affordable senior units is of value to the Town, and the proposed improvements to the Green are of value.

Councilor King didn't want to keep the option of using the gym as a senior center, as she didn't want to encumber the senior committee. She wondered about keeping the option of using the space other than for that use and what value that might have.

Councilor Goldberg felt there was some value there, with its location so close to the community center and to senior housing but agreed that it isn't the right time.

Chair Farber summarized the Council's position that they want to wait until the senior committee delivers its report in the fall before they make any commitment to a senior center in Plummer. She thought there was a desire to continue discussions with Oceanview regarding the transaction of a portion of land for the purpose of developing affordable senior housing, and interest in the landscaping plan currently proposed for the Village Green.

Councilor Anderson felt it was a good question as to how the Town wants to use the Village Green. He said that might be a good thing for PACPAC to discuss and perhaps they should get public comment on that piece.

Chair Farber liked the idea of asking for PACPAC's input, but was concerned about timing. She didn't want Oceanview to continue dealing with an empty building. She would ask PACPAC to look at both what the public wants, and also look at the land in the greater context of the Town's overall parks and public places, how this space fits into that inventory and how would it complement or supplement that.

Councilor Goldberg felt the small playing space near the Mason/Motz building was a need.

Lucky D'Ascanio, Director of Parks and Community Programs, said the Community Facility Planning Committee had a liaison from PACPAC when they discussed the Village Green. PACPAC has a standing item for Oceanview on its agenda every month. She said she will take this back to the committee for discussion at their meeting next week and ask them to draft a response to the Council.

The Council will hold further discussion on May 27.

Item 5 Orders to approve the FY16 School Department Budget as required by M.S.R.A. Title 20-A §1485, §1486 §2307.

Councilor Goldberg moved that the following school budget articles be adopted and approved for fiscal year 2015-2016:

1. That **\$14,378,679** be authorized to be expended for Regular Instruction.

2. That **\$4,277,404** be authorized to be expended for Special Education.
3. That **\$81,872** be authorized to be expended for Career and Technical Education.
4. That **\$808,859** be authorized to be expended for Other Instruction.
5. That **\$3,068,335** be authorized to be expended for Student and Staff Support.
6. That **\$789,276** be authorized to be expended for System Administration.
7. That **\$1,301,997** be authorized to be expended for School Administration.
8. That **\$1,385,671** be authorized to be expended for Transportation and Buses.
9. That **\$2,497,638** be authorized to be expended for Facilities Maintenance.
10. That **\$4,592,588** be authorized to be expended for Debt Service and Other Commitments.
11. That **\$0** be authorized to be expended for All Other Expenditures.

BE IT FURTHER ORDERED, that **\$25,882,728** be appropriated for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and that **\$17,698,467** be raised as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

BE IT FURTHER ORDERED, that **\$1,085,345** be raised and appropriated for the annual payments on debt service previously approved by the municipality's legislative body for non-state-funded school construction projects or non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the municipality's contribution to the total cost of funding public education from kindergarten to grade 12.

BE IT FURTHER ORDERED, that **\$6,174,245** be raised and appropriated in additional local funds, which exceeds the State's Essential Programs and Services allocation model by **\$5,649,563** as required to fund the budget recommended by the school committee.

The school committee recommends **\$6,174,245** for additional local funds and gives the following reasons for exceeding the State's Essential Programs and Services funding model by \$5,649,563: The state's funding model does not support all of the costs of the schools because it includes only those costs considered essential by the new State Essential Programs and Services (EPS) model.

BE IT FURTHER ORDERED, that the school committee be authorized to expend **\$33,182,319** for the fiscal year beginning July 1, 2015 and ending June 30, 2016 from the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

BE IT FURTHER ORDERED, that in addition to the amounts authorized under the previous orders, the Council hereby authorizes the school committee to expend any state, federal and other grants, aid and receipts during the fiscal year beginning July 1, 2015 and ending June 30, 2016, for school purposes and adult education, provided that such grants, aid and receipts do not require expenditure of local funds not previously appropriated.

Councilor Mahoney seconded.

Public comment period opened; no public comment.

Motion carried 7-0.

Item 6 An Order regarding the Budget Validation Referendum question to be placed on the June 9, 2015 ballot.

Question 1: Do you favor approving the Town of Falmouth school budget for the upcoming school year that was adopted at the Town Council meeting held May 11, 2015?

Councilor Mahoney moved that the question set forth below be placed on the ballot of a School Budget Validation Referendum of the Town of Falmouth to be held on June 9, 2015 and that an attested copy of this Order be placed on file with the Town Clerk of the Town of Falmouth.

Question 1: Do you favor approving the Town of Falmouth school budget for the upcoming school year that was adopted at the Town Council meeting held on May 11, 2015?

Councilor McBrady seconded. Motion carried 7-0.

Item 7 Order to sign the June 9, 2015 Budget Validation Referendum and Municipal Official Election Warrant M.R.S.A.30-A §2551.

Councilor Hemphill moved to sign the June 9, 2015 Budget Validation Referendum and the Municipal Official Election warrant. Councilor King seconded.

Public comment period opened; no public comment.

Motion carried 7-0.

Item 8 Order to approve a Memorandum of Understanding (MOU) with the Falmouth Land Trust (FLT) regarding the purchase of property known as Hurricane Valley Farm.

Chair Farber stated that the MOU has been reviewed by attorneys for both parties.

Public comment period opened.

Tommy Johnson of FLT spoke about the tight time frame in gaining the funding for the purchase of the land prior to the June 15 closing. This is the first agricultural space the Land Trust will have and is a jewel property.

Public comment period closed.

Chair Farber pointed out that the MOU gives the Town the right of first refusal to purchase all but a small portion of the property should FLT chose to sell it. It also grants the Town a seat on any committee that might be formed to manage and oversee the use of the land.

Councilor Mahoney asked if the discussed committee would be a sub-committee of FLT.

Analiese Larson, Executive Director of FLT, said that is correct; a committee will be formed.

Councilor Goldberg said one section speaks to “other use” of the land; he asked what other use the land could be put to under FLT’s oversight. Ms. Larsen said they could let it go back to forest.

Councilor Anderson felt this creates a pathway for another use than what the Council agreed to when they agreed to the donation of funds. He said they have conservation lands with permanent easements; he felt this should be permanently reserved for agricultural use.

Councilor Goldberg asked the FLT any reasons why it might not be used for agriculture.

Ms. Larson said they don't see any use other than agricultural and they have no other plans for it. She thought the Council inserted this language.

Councilor Anderson felt the Council voted to donate the money based on a promise that it would be used for agriculture. Anything that allows for any other use should be removed.

Councilor Mahoney pointed out that this is a MOU and can still be amended by agreement of the parties. To permanently protect the property, they would need an easement.

Councilor Mahoney moved to approve the MOU with the removal of the last WHEREAS clause, and the removal of paragraph 5 of the agreement. Councilor King seconded.

The Council discussed the placement of an easement or deed restriction on the property.

Motion carried 7-0.

Item 9 Discussion about a proposed framework for a formal Conflict of Interest Policy.

Councilor Anderson said the Council does not have a formal conflict of interest policy and has discussed drafting one for a couple years. He discussed the research he did around this issue, including speaking with former councilors and the Town Attorney, and the framework he prepared for the Council to consider. He thought they should discuss whether they want a policy and if so, what the process should look like moving forward.

Chair Farber wasn't convinced that they need a policy. She thought it was hard to say what the public interest is and when a Councilor's position is not reflective of it but only of their private interests. She was concerned that there would be significant, unintended consequences that would be harmful to the Town. She didn't think there was any evidence of a problem in this or any other recent council and wondered if state and case law were sufficient.

Councilor Goldberg wondered if a conflict of interest policy could be a tool for making the Council overly political; "creating" a conflict that would force another councilor out of voting.

Councilor Anderson thought they could do that in the current situation where there is no policy. The former councilors he spoke with all expressed to him specific situations where a councilor didn't recuse him- or herself. A policy would make it very clear when councilors should or shouldn't recuse. He felt it should be up to an individual councilor to decide whether to recuse or not.

Councilor Goldberg wondered about a situation where a Councilor invents a conflict to avoid voting on a controversial project. He also wondered about what happens when a Councilor doesn't disclose a major conflict and it is discovered later.

Councilor Anderson said one Councilor suggested that, in that instance, the vote should be vacated.

Councilor Goldberg wondered if the rest of the Council would weigh in on whether a Councilor was truly conflicted or not.

Councilor Anderson said that can happen today without a policy. He pointed out that a clear cut conflict of interest could happen today with no repercussions because there is no policy.

Councilor King felt people should be encouraged to disclose, and transparency of potential conflicts should be encouraged. She would support a policy that did that. It is fairly simple to gauge financial interest and was interested in limiting it to that.

Councilor Mahoney agreed to the first two suggestions – direct financial interest for the Councilor or his/her employer. He had some concerns with financial benefit to outside organizations that the Councilor serves, and the personal best interest item. People elect councilors who will best represent their interests.

Councilor McBrady struggled with number 4 as well; he felt they have a lot of common living in the same town. He supported having a policy.

Councilor Hemphill said these considerations are part of their responsibility as a Councilor. The State laws and MMA guidelines are basic but reasonable. Financial benefit is their best metric for determining a conflict of interest.

Chair Farber wondered about language in the charter, and whether the Planning Board and/or ZBA have separate conflict policies.

Councilor Anderson said he considered that, and wanted to focus on the Town Council. They have control over Council rules. If they adopt something now, they will have a couple years experience with it before the Charter Commission reconvenes in a couple years. He thought there was some merit in having the Charter Commission review it, but he didn't think they need to wait.

Mr. Poore said they could draft ordinance language as well instead of putting it in the charter, if they wanted it to cover more than just the Council.

Councilor Anderson would like to focus on the Town Council for now.

Councilor Mahoney agreed with having a structure.

The Council agreed to look into this further and discussed the four suggested situations. They agreed to have some education on conflict of interest at the Council's summer retreat, and then workshop the item further at a meeting in August.

Item 10 Discussion about future Council agendas.

Mr. Poore discussed items scheduled for upcoming agendas.

Adjourn

Councilor King moved to adjourn; Councilor Hemphill seconded. Motion carried 7-0.

The meeting adjourned at 9:48 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary