

# **Town Council Meeting Minutes September 16, 2015**

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

## **Roll Call**

All Councilors were present and answering roll call.

## **Item 1 Update from the Library Board of Trustees on the design process for the library expansion project.**

Marsha Clark, co-chair of the design committee, gave a presentation on the most current design for the library expansion which suits the design and scale of the neighborhood and complies with the Route 1 zoning.

Scott Simons, of Scott Simons Architects, discussed the original conceptual design for the expansion. When they reviewed the design, they realized that a lot of the space was far to the interior, and did not have good daylight. They analyzed the progress of the sun on the building over the course of the day and reoriented the wings to make better use of that. They added more handicap spaces, as well as a few drop-off spaces, to the parking lot. The children's wing is now along the Lunt Road side, the adult wing along Depot Road, and more active uses are in the center. They updated the energy model; their target is to add 8,000 sf without adding energy costs. They have more tweaking to do on that. They are currently on budget.

Councilor King asked about the roof along the courtyard facing Lunt Road; Mr. Simons explained that it is a flat roof to catch snow before it falls onto the courtyard; there will be drains. There are two areas of flat roof.

Councilor King asked about tall windows. Mr. Simons said there are tall windows at the ends.

Councilor Kitchel asked about the materials that will be used for the roof and siding; Mr. Simons said the roof will be asphalt shingles; the siding will be a composite material made to look like clapboards.

Alison Bishop, chair of the capital campaign committee, reported that the campaign committee has more than 20 volunteers, and former Senator Olympia Snowe and former Governor John McKernan have agreed to serve as honorary co-chairs. They are in the first phase, reaching out to organizations and applying for grants. They have received a generous lead gift from Oceanview and its residents. They are applying for over \$100,000 of grant opportunities, with more to come. Their next phase will be to reach out to town residents.

## **Item 2 Public Forum on a proposal from the Recycling and Energy Advisory Committee regarding single-use plastic shopping bags.**

Cathy Nichols, member of REAC, gave a brief presentation on the research the committee has done on ordinances regulating disposable bags. The committee interviewed 50 local businesses and took that input into account when they drafted the proposed ordinance. They propose a \$.05 fee/bag for the first year, with a ban on all plastic bags implemented in the second year; an optional \$.05 fee would be allowed for paper bags. Recordkeeping would only be required for the first year. Last May, during a roadside clean up effort in town, a local church found 72 plastic bags in 1 mile. Over 150 US municipalities have regulations on plastic bags, many of them bans.

Chair Goldberg opened the public forum.

Isabelle Denham, a resident of Oceanview, was very concerned about climate change. She advocated for anything that can reduce pollution and the use of fossil fuel. Many birds and fish are found choked by these plastic bags. She supported anything that would reduce that problem.

Craig Baranosky of Falls Road said he currently has a choice of what to use for bags. He hasn't seen any outreach on why he shouldn't use plastic bags. The committee hasn't convinced people in town that it is an issue. This proposal removes his ability to choose what he uses in the store. This forces a decision on the community. He suggested putting it out to vote.

Glen Brand of Johnson Road, director of the Maine Chapter of the Sierra Club, urged the council to approve the proposed ban on single-use disposable plastic bags. The ban would remind consumers that there are real, quantifiable environmental costs to using plastic bags. In a Washington Post story, it was reported that 50% of all the turtles in a study done worldwide had appreciable plastic in their system. Plastic bags are made from nonrenewable resources, and take over 200 years to break down. Falmouth's ordinance is modeled after similar, successful ordinances around the US. The ordinance could be made more effective if the fee were made mandatory over the phase out time period. Paper bags also have environmental costs. He recommended that the fee be turned over to the Town to pay for an environmental clean up fund.

Tyler Kidder of Ledgewood Drive is a former member of Portland's packaging task force. She spoke about the process used in Portland. She supported the full ban proposed.

Maddy Adams of Dorcas Drive and Katlyn Schmitt of Brook Road, both juniors at Falmouth High, spoke on behalf of the school's Environmental Action Committee. They supported the proposed ordinance.

Mike Doyle of Shady Lane was not a fan of plastic bags, but didn't want a small group of people forcing the rest of the town residents to do something. The choice of having a bag is important. The bacteria count in reusable bags brought to stores exceeds that of airplane toilet seats. He didn't want his food products exposed to dirty bags brought in from other people's homes; he felt it was a health risk.

Leo Maheu of Middle Road is the Education Program Manager for ecomaine. Ecomaine is committed to the waste hierarchy: reduce, reuse, recycle. He supported the phase-in fee and eventual ban. It addresses the higher rungs of the hierarchy, both reduction and reuse. This ban would also help with some of ecomaine's processing problems. Plastic film, including bags, wraps around the machinery, adding wear and requiring them to be cleared by hand. Ecomaine has a 6-7% bypass rate of items that don't belong; the majority of that is plastic film.

Sarah Lakeman, the Sustainable Maine Project Director for the Natural Resources Council of Maine and a Cumberland resident, spoke highly of the work that REAC has done on this issue. She said other towns in Maine are considering similar proposals, including York, South Portland, Brunswick, Topsham, and Freeport. She felt that the fee on paper should continue beyond the first year of the ordinance. While paper is better, reusable is best. It has been a smooth transition in Portland.

Stephanie Fairchild of Kilborn Way supported the ban. Bringing a reusable bag is a small behavioral change that they can all make. They owe it to the environment, and future generations, to ban plastic bags.

Tim Lynch of Merrill Road supported the proposal. He was glad that the community was at the forefront of making these environmental changes. He thanked REAC for their work.

Chair Goldberg closed the public forum.

Councilor Anderson said the proposal will go to the ordinance committee for deliberation. The committee will then draft a final proposed ordinance to present to the Council. He said he would like to hear more from the business community on this issue. The ordinance committee is scheduled to meet the first week of October.

Councilor Farber would like to discuss a tighter timeline; the details have been sketched out and REAC has done a lot of work. The bones of an ordinance are here; she wanted to see a deadline for when language would be brought to the Council.

Councilor King agreed with Councilor Farber; she felt they needed to have an ordinance to look at soon.

Councilor McBrady said the ordinance has evolved since they first looked at it. He agreed that getting language quickly is important, but there is a process they have to go through first.

Councilor Hemphill asked for a draft of the ordinance sooner rather than later.

Chair Goldberg felt they needed to get policy directions clear first, and then draft the proposed ordinance language.

### **Item 3 Discussion of a possible Affordable Senior Housing Project at the former Plummer School by OceanView and the potential role of the Town in that project.**

Matt Teare, of Oceanview, presented renderings, requested by the Council at their last meeting, that demonstrate the effects of a proposed addition to the Plummer school on the Village Green. Option 1 is a smaller addition and stays entirely on their property. This proposal would allow them to create 28 units of housing. Option 2 is a larger addition. This addition would create 34 units, but would require the addition to extend onto property currently owned by the Town and part of the Village Green.

Theo Holtwijk, Director of Long-range Planning, said the smaller addition comes closer to the Mason-Motz building and it is closer to the entry. The larger addition pulls away from the Mason-Motz building. This would result in a different design feel for both the entry and rear of the property.

Councilor McBrady asked how much land they are talking; Mr. Teare said it is 1/8 acre or about 5000 sf.

Councilor McBrady asked how many feet it would be over the property line. Mr. Teare thought it would be about 35 feet.

Councilor Kitchel asked the square footage of the entire green; Mr. Holtwijk thought it was about 2 acres.

Councilor King felt option 2 makes a significant incursion onto what is intended to be a public space.

Councilor Farber was not inclined to transfer the land if Oceanview feels it can make a project with 28 units. The sightlines and the mass of the structure is less when they stay within their property boundaries.

Councilor McBrady liked the look of the larger building from the Mason-Motz side. He felt the smaller addition will affect the view between Mason-Motz and Plummer. The larger building will have less impact on that area, which is where a lot of the public will be accessing the community center.

Councilor Anderson felt that moving 35 feet into the town green, and taking up to 10% of it, will shrink the usable space of the green even more. It encroaches on the town green in a way that isn't worth it for 6 more units. He favored option 1.

Councilor Kitchel agreed. He didn't want to give up any of the green space.

Councilor Hemphill asked about any proposed landscape enhancements of the green. Mr. Teare said there are \$10,000 worth of improvements that Oceanview owes the Town for landscaping. If they struck a deal on some of the property, there might be more projects proposed.

Councilor Hemphill felt if Oceanview could make a smaller footprint work, he felt that would be the better of the two options.

Chair Goldberg liked the courtyard between the original building and the new wing in option 2. It doesn't seem that the green gets much use currently. He felt most of its use will be driven by the community center

and the outdoor activities they have; it is probably large enough, even without the 10% proposed. He liked the extra 6 units of housing that this 10% would allow them to create. He supported option 2.

Councilor Farber pointed out that this is not the final plan, but a reflection of how big a building it would be relative to the green.

Mr. Teare said this is generally the footprint; the value is 6 more affordable senior housing units.

Councilor King said the symbolism is important. It isn't about 6 units, it is the town green.

Councilor Farber said they haven't discussed how the units would be made affordable, only the number of units Oceanview builds. This doesn't change the level of affordability they create, only the number of units.

The consensus of the Council was for option 1, where Oceanview remains within their property boundaries.

Mr. Teare corrected Councilor Farber about the affordability. He explained that if the Town was interested in doing the larger project, they would work together as partners. Without that option, they will have to do budgets to see if there is a burden that makes the project harder for them and whether there will be a window for the Town to come in as a partner and subsidize them to a greater degree. They will still do affordable housing under the proposed TIF project. He can get those numbers back to the Council.

Mr. Poore thought staff should also look at valuation numbers for the difference between the two proposed additions.

Mr. Teare reminded the Council that they are doing historic tax credits for the property, which will impact the project as well.

The Council discussed next steps. They asked for an update on the financial numbers at their meeting on September 28, with a final decision on October 14.

**Item 4 Introduction to adopt the maximum levels of income and expenses for the General Assistance program, Chapter 6, Article 6, Section 6.68, Appendices B & C of the Falmouth Town Ordinance.**

A public hearing was scheduled for October 14.

**Item 5 Ordinance to amend to the Code of Ordinances Div. II-2-3-12. Economic Improvement Committee to update the charge and membership of the Falmouth Economic Improvement Committee (FEIC).**

Councilor McBrady said the committee recommended this change to make the two "plus" members permanent, bringing the committee to 9 full members, and to update the charge to reflect their work on implementing the economic development strategy.

Councilor King moved the ordinance; Councilor Farber seconded. Motion carried 7-0.

**Item 6 Ordinance to amend the Zoning and Site Plan Review Ordinance Sec. 19-23.11 Master Development Plan Time Limits, in order to extend the Tidewater Master Plan Development District an additional six months.**

Councilor Hemphill said Town staff, himself and Councilor King have been working with Tidewater to rework the master plan. A six month extension was granted last spring and over the summer they realized an additional six month extension would be needed for the developer to meet the requests made by the Town. Councilor Hemphill proposed an amendment to the ordinance to add a deadline of December 21, 2015 for

all revised documents and plans to be submitted to the Town. This will provide for sufficient time for an ordinance amendment to move through the process prior to the new deadline.

At Councilor Anderson's request, Mr. Poore clarified that the new deadline was to encourage movement on this. In order for any amendments to be passed before April 11, 2016, they would need to be introduced no later than February. A December deadline for documents provides for staff review in January prior to a February introduction.

Councilor King said if the documents are not submitted, they would have to apply for another extension. This amendment is in fairness to the Town and Town staff. At this point, there is little evidence that there have been any efforts to meet the Town's requests.

Councilor Farber pointed out that the developer's original request was for an extension for multiple years. The Town allowed for an extension of 6 months, which lapses in October, in order to address development on particular portions of the property.

Councilor Anderson asked if this proposed change has been discussed with the developer; Councilor Hemphill said no. They met with the developer in July and have neither met with them nor received anything since then.

Councilor Anderson thought the implication is that the developers are dragging their feet; he didn't feel that was the case. He felt this project was very important to them. If this has been discussed with them, he was okay with it, but if it is being sprung on them, that was a different issue. He didn't think this was the right way to work with the developers.

Chair Goldberg felt that this was extended 6 months, with clear expectations of submittals within that timeframe. They have now asked for more time, there hasn't been action or movement, and based on that and the timeline Mr. Poore provided, he didn't have a problem holding their feet to the fire. He thought 3 months was an adequate time to pull these documents together.

Councilor McBrady didn't think this was fair without input from the developer. He didn't know whether they could do this in three months or not. He felt they were trying to tell professional developers how to do their job.

Councilor King said the developers are not showing that this project is important to them by their behavior. It creates a very difficult situation; if they come in with a bunch of stuff in February and need staff to respond immediately, they are not the only player needing attention. That is another reason making it clear could help them. It is within their rights to pass this amendment if they feel this is what is required in this case.

Mr. Poore said the Town has deadlines imposed by ordinance, and they have to back into them all the time. These are complicated legal documents that include the Land Trust, attorneys, and potential review by CDC; the holidays will complicate that. If the developers can't meet the December deadline, it reminds them that they will need another extension. There might be another way to say it than in the ordinance.

Councilor McBrady felt contacting them would be friendlier than this approach.

Councilor Farber suggested that staff send a letter to the developers instead, explaining the situation. Councilor Anderson agreed.

The Council discussed how best to proceed.

Councilor Farber moved the original amendment, with a request to the Town Manager or Council Chair to strongly communicate a timetable to the developer; Councilor McBrady seconded.

Councilor King said there is a clear timetable; if documents are not in by the end of the year it will be impossible to proceed without another extension.

Motion carried 7-0.

**Item 7 Discussion of the 2015/2016 Town Council Work Plan.**

The Council was in favor of the work plan. They added a review of food trucks to the work plan, and assigned it to the ordinance committee.

**Item 8 Order to amend the Council rules section 16.H, regarding "motion for the previous question".**

Chair Goldberg opened a public comment; no public comment.

Councilor Anderson moved the order; Councilor McBrady seconded.

Councilor Farber was concerned about the requirement for a "majority plus one". In the case where there were only 4 councilors present, 3 would be a majority, and 4 would require it to be unanimous.

Councilor Anderson said this motion shuts off debate; since it is rather dramatic, it should require more than a simple majority.

Councilor Farber felt this supermajority provision makes it overly complicated. She supported removing that requirement and allowing for a simple majority to approve this motion. The Council requires a simple majority for everything else. Councilor McBrady agreed.

Councilor King said this doesn't happen often. She felt tabling could be dramatic in certain circumstances.

Councilor Farber moved an amendment to remove "*which requires a vote of a majority of the councilors present, plus one,*" and add "*by a majority vote*"; Councilor McBrady seconded. Motion carried 6-1 (Anderson).

The amended order carried 6-1 (Farber).

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

Councilor Kitchel asked about an increase in the number of signs along Route 1. Mr. Poore said he has spoken with staff about this. The sign plan was based on federal highway standards. Staff will research this issue and see if there is any way to reduce or eliminate signs.

Mr. Poore discussed items scheduled for upcoming Council agendas.

**Adjourn**

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

Meeting adjourned at 10:07pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary