

MINUTES
CUMBERLAND TOWN COUNCIL MEETING
Town Council Chambers, 290 Tuttle Road
Monday, February 26, 2007

6:00 p.m. Cumberland Police Department - Swearing in Ceremony of Lieutenant Milton Calder and Officers Christopher Woodcock and Angelo Mazzone.

7:00 p.m. – CALL TO ORDER

Present: Chairman Moriarty, Councilors Copp, Damon, Storey-King, Turner, Stiles and Porter.

I. APPROVAL OF MINUTES

February 12, 2007

Motion by Councilor Storey-King; seconded by Councilor Turner.

VOTE: UNANIMOUS PASSAGE 7-0

February 19, 2007

Motion by Councilor Damon; seconded by Councilor Storey-King.

VOTE: UNANIMOUS PASSAGE 6-0-1 (Councilor Porter abstaining)

II. MANAGER'S REPORT

Announced departure of Alex Lear as town reporter for the Community Leader. The Leader is changing its format to become more of an entertainment weekly. "Alex will be missed. He served the community well." Chairman Moriarty also noted the recent passing of Bob Darling; stating he was a "fine man who will be sorely missed."

III. PUBLIC DISCUSSION

Bob Simonds introduced a new program being created by town residents to help "some of our own neighbors." An introductory meeting will be held tomorrow evening at 7 pm at the Congregational Church to discuss the kinds of projects that could be undertaken by the new program. The hope is that council and community members will work with sponsors and other "incredible resources" to assist the less fortunate. A project will be identified, along with cost, and through a web hyperlink volunteers will be "collected." Projects might range from roofing to house painting to window replacement, and anywhere in between. "If you have any idea of someone who needs some help...we will try to put together some info" for dissemination at the town and provide guidance to work through this project. Chairman Moriarty asked Mr. Simonds what the committee expects to come out of tomorrow night's meeting. "Begin a list of those who are willing to participate." Councilor Storey-King recommended the committee also contact the other community churches.

IV. LEGISLATION AND POLICY

- 07 – 026. Public Hearing to consider and act on a Contract Zone with Cumberland Center Group, LLC to construct three two unit senior housing condominium buildings located at 317 Main Street.
Action to be TABLED to March 12, 2007**

Chairman Moriarty stated this item has been a "well-debated item" and explained it would be tabled this evening so that notices to abutters can be mailed prior to a public hearing and vote. The latest revised edition of the contract was before the council and the chair requested feedback before the March 12, 2007 public hearing. The town manager reviewed the current changes to the contract as: requirement of validation of each owner meeting the affordability standards; restrictions around the elderly, affordability and Cumberland resident preference will be included in the deeds and condominium documentation; the setbacks are to be

measured from existing property lines and changed from a 50' combined to a 20' side setback; buildings must be of similar style, finish and exterior architecture as those presented to the Town Council on February 12, 2007; the interior road is a private road, considered a driveway; there shall be no above ground detention ponds; and CCG will relinquish title and interest, other than utilities, in Osgood Drive to the town.

With relation to the language regarding the interior road, the Manager asserted "Our intention has been that this is a driveway on a 150' wide piece of property." The Chair clarified that by contract the town can specify the access is by a driveway rather than a road. If we are silent on that issue the Planning Board will require a 50' right-of-way. The release of interest in Osgood Drive "is clarifying language" for the Planning Board. Chairman Moriarty suggested the last sentence of item III.C(1) be changed slightly by adding a comma after the word "buildings" and adding "each with an approximate 2,700 square feet footprint." He also suggested the word "equal" in item III.C(4) be changed to "equivalent." There were no comments received from the developers. Abutter, Doug Currie, asked if he could obtain a copy of the contract and the Manager explained the document may be found on the town's website.

Councilor Porter moved; seconded by Councilor Stiles, to table item 07-026 to the March 12, 2007 meeting.

VOTE: UNANIMOUS PASSAGE 7-0

07 – 027. Final review of Rines Forest Facility Use Policy.

Minor housekeeping changes were discussed and made during the council's public hearing February 12, 2007. No public comment received.

Motion by Councilor Porter; seconded by Councilor Damon, to adopt the Rines Forest Facility Use Policy.

VOTE: UNANIMOUS PASSAGE 7-0

07 – 028. Public hearing to consider and act on an Off-Premise Retailer with Malt & Vinous License for Basil Provisions, 137 Main Street for the period March 2007 - 2008.

The Town Manager noted that this item was in order for approval. No public comments received.

Motion by Councilor Porter; seconded by Councilor Stiles, to approve the Off-Premise Retailer with Malt & Vinous License for Basil Provisions, 137 Main Street, for the period March 2007-2008.

VOTE: UNANIMOUS PASSAGE 7-0

07 – 029. Public hearing to consider and act on amendments to the Zoning Ordinance to permit, by special exception, home-based occupations in all zones that currently permit home occupations. Those Zoning sections include: Rural Residential 1 (RR1), Rural Residential 2 (RR2), Low Density Residential (LDR), Medium Density Residential (MDR), Island Residential (IR), Local Business (LB), Highway Commercial (HC), Office Commercial (OC), Industrial (I), Rural Industrial (RI). The special exception is identified as sub item (.a) Home Occupations and sub item (.b) Home-Based Occupations in all of the aforementioned sections.

Chairman Moriarty explained that home occupations have been permitted in many zones. The council added home-based occupations as a special exception, but did not specifically identify those zones in which they would be permitted. The Planning Board has voted to permit both home-based occupations and home occupations in the same zones. No public comments received.

Motion by Councilor Stiles; seconded by Councilor Turner, to amend Sections 204.1.1.2; 204.1.2.2; 204.2.2; 204.3.2; 204.4.2; 204.6.2; 204.7.2; 204.8.2; 204.9.2; 204.10.2; 204.11.2, of the Cumberland Zoning Ordinance to update them to include home-based occupations.

VOTE: UNANIMOUS PASSAGE 7-0

07 – 030. To set Spring Bulky Waste Pick-up dates for May 7-11, 2007.

These dates represent our annual recycling week. The town will post the dates on our web site and CH 2, as well as the items that are permissible to be placed at the curb. These dates represent the first available week for Pine Tree Waste.

Councilor Storey-King questioned how soon the bulky items should be placed at the curb. “Preferably no sooner than the weekend before.” We will encourage residents not to put items out before hand.

Motion by Councilor Turner; seconded by Councilor Storey-King, to set May 7-11, 2007 for Spring Bulky Waste Pick-Up.

VOTE: UNANIMOUS PASSAGE 7-0

V. NEW BUSINESS

Copp - none

Damon – an ad for CI jobs was placed in Sunday Telegram – for more info go to Chebeague.org/jobs

Storey-King – none

Turner – none

Moriarty – none

Stiles – presented Finance Committee budget packages tonight; first meeting is at 3/03. May be able to complete in two Saturdays, rather than three. He, Town Manager, and Finance Director have held several meetings and met again Wednesday to “fine tune” the budget. The budget meetings are open to the public; and begin at 8:00 a.m. Councilor Storey-King added that she attended last year and feels it’s an excellent opportunity to know where your money goes.

Porter – pointed out that 3/17 is a sacred holiday. Disappointed to find out that the SAD was meeting to discuss the governor’s proposal at the same time as the council’s last meeting. None of the SAD meetings have been televised and “it’s truly unfortunate” that the residents of the community can not follow what’s happening. The chair explained the SAD chair was in touch earlier in the month and had targeted this evening for the SAD to join us along with Karl Turner and Meredith Strang-Burgess, but too much was up in the air. He received a copy of an email today in which another meeting was canceled. “Nothing is on the agenda yet” but will be once things will be crystallized. Councilor Porter expressed his hope that the meeting will occur on camera.

Manager – restated regards for Alex Lear: “represented us fairly and accurately. We wish you truly the best in your future endeavors.”

Motion by Councilor Porter; seconded by Councilor Copp; to move to workshop with the Forest lake Advisory Board and other members of the public.

VOTE: UNANIMOUS PASAGE 7-0

VI. WORKSHOP with the Forest Lake Advisory board to discuss the town’s option to purchase property located at 56 Forest Lake Road.

Chairman Moriarty opened the workshop at 7:39 p.m. and asked the Town Manager to introduce the item. The Manager explained the town was approached by the Plummer family regarding the sale of this property at a price of \$379,000. The property consists of 3.2 acres of land which abuts Forest Lake. The greatest majority of the lake is in the towns of Windham and Gray. The town’s option on the property expires April 30, 2007. A prior workshop was held with the lake association in January. The Manager added that the town council met previously in Executive Session with a representative of the Inland Fisheries & Wildlife who expressed interest in participating in the purchase of the property, and offered technical and educational assistance. The Department of Conservation has also provided information regarding boat ramps and offered technical assistance.

Article X, Section 1, of the Cumberland Charter states that orders or resolves appropriating or authorizing bond issues of \$100,000 or more for a single capital improvement or expenditure are subject to overrule by petition referendum. The Clerk reviewed the steps which must occur before and after such a petition is submitted leading up to an overrule referendum. The Clerk explained the procedures and dates which must be met if the overrule were to be placed before the voters at the regular election of June 12, 2007, and explained that if the maximum number of days permitted by law for each step in the process were used, a special election at a later date would be necessary. The Town Manager referenced the need for a circulator's oath attached to each petition. The Clerk offered to work with the circulators to prepare the petition. She further explained that any registered voter of the State of Maine may circulate a petition; however, only registered Cumberland voters may sign the petition.

Chairman Moriarty opened the workshop for public comments. Speaking on behalf of the association were Forest Lake Association President, Don Hughes, and members Robert Heyner, Lorraine Mastrangelo, 19 Shore Road, Gray, and Mark Ranalletti, 19 Island Avenue. Mr. Hughes stated "The town of Cumberland has heightened our apprehension and concerns about public access to the lake because we have been told the town has no specific plans to deal with issues we brought up at the first meeting." He expressed concern that the association believed two public hearings would be held - March 12 and March 26 and believed a council vote would be held on March 26 rather than March 12 as articulated in the Town Clerk's proposed timeline this evening. Mr. Hughes questioned whether an environmental assessment study had been completed, asking "If you are gonna buy it with an intended use in mind, you might want to make sure that you can actually use it for your intended purposes." He expressed his belief that the IF&W and DEP must meet "mandates to put in boat launches" throughout the state of Maine. The state has procedures to deal with milfoil "once it's in a lake...but they have no real policy...to prevent" it. Mr. Hughes requested each councilor respond to the following two questions: "if a vote to purchase the property occurred today, how would you vote; and if purchased, what would the proposed usage be?" Councilor Porter first replied and many other councilors reiterated "I can't answer those questions until I have the exact document that I'm gonna be voting on. I don't know what the use is going to be." Chairman Moriarty believes the property "lends itself to a small boat launch facility of some type; it's not a beach, it's not swimmable." The Chairman referenced the Twin Brook and Rines property purchases as examples of the town taking the time necessary to create a comprehensive plan for usage developed by a citizen committee after careful study. "I think we envision doing the same thing in this case if the property is purchased. I don't know why we would depart from that model." Councilor Storey-King stated the IF&W is "enthusiastic about partnering with us. There is no mal-intent to hurt this lake." Councilor Turner stated his predisposition for support of the purchase "assuming a reasonable price" and assurances that a boat launch would be "minimal." Councilor Copp described the possible purchase as "a great opportunity for the town of Cumberland. I don't think you're going to get people from Portland" with large boats. "By having a public access there will be some sort of supervision there and people will be made aware of milfoil." Councilor Damon maintained she has "never been shy about the fact that I believe in public access. Your launch ramp...will determine how big a boat you can put in. We've got to be thoughtful" about use of the property. "Developing these management plans is really crucial."

Ms. Mastrangelo, requested "In the event you do move forward with purchasing this property," the association asks the town to consider the following concerns as it develops a management plan:

- gated with limited access (as recommended by the town's Conservation Commission);
- four season access;
- picnicking;
- boat launch (carry-in/carry-out);
- other recreational uses;
- sanitary facilities and security management of same;
- dog control and waste disposal.

Robert Heyner added that the three designated float plane runways on the lake often cause boats to move closer to the shore to get out of the path of a floatplane. This could infringe on the habitat of the lake. He also rebutted Mr. Copp's statements about milfoil in the lake, stating "There is no milfoil in Forest Lake at this time. That's bladder wart." Speaking for the association, Mr. Heyner stated it "clearly can not be left to an ad hoc committee without some professional help from the Cumberland County Soil & Water Conservation District and the Department of Environmental Protection. "At a minimum," he concluded, the association expects protection of the lake by:

- proper buffering at lake side;
- clearly limiting the site to carry-in/carry-out of small craft (canoes/kayaks);
- large boulders to prevent cars/trailers from getting close to the edge of the lake, thereby keeping large motor craft out;
- trash receptacles maintained by the town;
- porta-potty maintained by the town;
- install a water diversion to make sure the upland runoff does not flow unimpeded to the lake access point (permit by rule guidelines would require this anyway);
- provide some Cumberland Police Department support to assist the IF&W in the monitoring of all aspects of lake use;
- stand-alone signage in addition to the informational kiosk to properly warn users about the deep water drop-off that looks very shallow but is filled with years of leaves and muck at the waters edge.
- Mr. Heyner noted the association did not mention the need for stand alone signage of headway speeds because they are not necessary for canoes and kayaks. The association feels a carry-in/carry-out policy will offer less risk of milfoil getting into the lake than motorized craft.

Mark Ranalletti addressed the survey results expressing his interpretation that the numbers showed reservations around "the best use" of town funds. "It doesn't really have a huge voter approval for access when we talk about spending town funds." It shows "support for access to the lake is fairly low compared to" recreational activities and protection of wetlands and habitats. He requested the following items be added to the previous list of concerns:

- intersection of property access and turnpike parking lot be looked at for its impact on speed limit, access, road widening, and pedestrian safety;
- campfires, picnics and allowable activities on the site and monitoring of the activities.

Nancy Heyner, 66 Forest Lake Road, Cumberland, shared concern for the lake wildlife explaining the narrowness of the launch site could cause boaters to encroach into the wildlife nesting habitat. This area contains two active beaver huts, nesting loons, otters, herons and spotted salamanders. "How would it be protected?"

Speaking in favor of the purchase were Mr. Randy Copp, Mr. James Lynch, and Mr. Bill McFarland. Mr. Copp questioned whether the state has expressed willingness to stock the lake. Further, he believes the lake has milfoil in some areas. While he might not support utilizing tax dollars for this purchase, "At least Cumberland has taken an interest in the lake. I do believe Cumberland would be a good neighbor. I personally feel that everybody should have access to it." Mr. Lynch, Blackstrap Road, Cumberland, highlighted the headway speed limit restriction within 200 feet of the shore. "That basically eliminates the worry" over hurting wildlife near the boat launch. "I don't see the problem with it. I think the people in Cumberland will respect the lake." Mr. Lynch also commented on the effectiveness of milfoil inspection programs in place at many other Maine lakes. Mr. Bill McFarland, Cumberland Center, stated he was "appalled by the attitude" of the association and members who are "trying to block this." He described the lake as a small watershed, but "twenty two times the size of what the state says should be open to the public. Any water quality issues in that lake are directly due to the people that live around it. Having boats in there will not hurt the water quality. I'm particularly appalled at the amount of public money that's been spent to help that lake. That's our tax money, yet we don't have access to the lake."

Mr. Bob Simonds, Bruce Hill Road, questioned whether the town has "the right to restrict access to only town residents?" A purchase made with town funds, enables the town to restrict access to town residents only. He recommended researching whether Highland Lake has seen any negative impact from their "car top carry" only policy. In direct response, Mr. Jim Gameros, 13 Small Dam Road, Gray, presented photos of access and hand carry only signage at the Westbrook access to Highland Lake and Mill Street Canoe Portage in Brunswick. The Highland Lake access site has permanent boulders placed which allow limited maneuvering space sufficient only for kayak and canoe access. "Those boulders totally impede anybody getting a trailer down there." A parking area is established "well away from the water body...with a buffer zone on both sides." At the Brunswick portage, a buffer zone is in place so that only canoes and kayaks can utilize it. Wilkies Beach, Gray, is posted for use by residents only; except that the boat launch is available to the general public. A parking area is provided for the launching area. Sabbath Day Lake permits full-size boats, but it is difficult to maneuver the gate posts and road width with a trailer. Signs are posted indicating fees, hours of operation, and information regarding milfoil. The Raymond ramp on Little Sebago holds a very visible warning sign regarding the infestation of milfoil. Mr. Dave Russell, Forest Lake, stated he has not "spoken to anybody on the lake who thinks this is a good idea." Any boat launched from the site will pass directly by his property.

Chairman Moriarty concluded the workshop by summarizing that this item will be placed on the March 12th agenda; at which time information will be provided regarding the purchase negotiations. "We may or may not take action that night. You know what the time table is if in fact we do take action to purchase."

Motion was made by Councilor Damon; seconded by Councilor Turner, to hold the public hearing on the acquisition on March 12th.

VOTE: UNANIMOUS PASSAGE 7-0

VII. EXECUTIVE SESSION

Motion by Councilor Porter; seconded by Councilor Stiles, to move into Executive Session pursuant to 1 M.R.S.A., §405 (6)(c) re: real estate acquisition.

VOTE: UNANIMOUS PASSAGE 7-0
TIME: 9:51 p.m. (short recess taken 'til 10:02 p.m.)

Motion by Councilor Stiles; seconded by Councilor Damon, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 10:31

VIII. ADJOURN

Motion by Councilor Stiles; seconded by Councilor Turner, to adjourn.

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 10:31 p.m.

Respectfully submitted,

Nadeen Daniels, CMC
Town Clerk