

MINUTES
CUMBERLAND TOWN COUNCIL MEETING
Town Council Chambers, 290 Tuttle Road
Monday, February 12, 2007
7:00 p.m. – CALL TO ORDER

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

I. APPROVAL OF MINUTES

January 22, 2007 – corrections to the minutes were noted.

Motion by Councilor Stiles, seconded by Councilor Damon to approve the January 22, 2007 minutes as corrected.

VOTE: UNANIMOUS PASSAGE 7-0

II. MANAGER'S REPORT

- The Public Works Department would deliver two loads of sand/salt mix for West Cumberland residents this night or by Tuesday, February 13, 2007. The mix would be located behind the West Cumberland Recreation Hall.
- Thomas Bennett, Director of Library Services at Prince Memorial Library, has received his Masters Degree in Arts & American and New England Studies. This is significant because it is in vital statistics, historical demography and population change in Cumberland Maine. Manager Shane has asked him to present some of the interesting facts he discovered to the Council in April or May.
- Manager Shane asked that the Council set a special meeting date of Monday, February 19, 2007 for the purposes of conducting an Executive Session pursuant to 1 M.R.S.A. Section 405 (6) (C) re: real estate acquisition.

III. PUBLIC DISCUSSION

Matt Sturgis, a Forest Lake resident in the Town of Gray noted some points for the Council to consider as it reflects on the Town's option to purchase property on Forest Lake. Those points are as follows:

- Trash Management
- Portable Toilets
- Parking
- Site Plan and Buffering
- Swimming Access Point (Staffing)
- Public Safety Patrols
- Proximity of Turnpike service
- Steep Slope to water
- Limit access to hand carrying launches
- Questionable purchase price
- 6 lakes/ Casco Bay within 10 miles
- Is it a want or a need?

Councilor Storey-King asked Mr. Sturgis if the beach on Crystal Lake was for Gray residents only. Mr. Sturgis was not sure. Chairman Moriarty and Councilor Porter said they believe the beach is posted for residents only.

IV. LEGISLATION AND POLICY

07 – 017. Public hearing to consider and act on accepting credit cards and e-checks for payment of taxes.

Deputy Tax Collector, Tammy O'Donnell and Finance Director, Alex Kimball presented information regarding payment of taxes through a third party company. The Town does not incur any costs by accepting tax payments in this manner. The cost is absorbed by the tax payer through a service fee. A link to Official Payments Corp. would be provided on the Town's website to enable tax payers to make real and personal property tax payments with a credit card or e-check for a service fee of 3% of the amount of the payment for credit cards or a flat fee of \$5.00 for e-checks. The target date for implementation is March 22, 2007. The information presented this evening would be posted on the Town website and Mrs. O'Donnell encouraged residents to visit the Town of Standish's website to see

how it works. Standish currently accepts tax payments via this method. There is also a toll free phone number residents can call to make payments over the phone. Brochures with this information will be available in the town office.

Councilor Porter asked whether people would be able to make payments at the town office with their credit card. Manager Shane said he was working on putting a terminal in the lobby for this purpose and Mrs. O'Donnell said that people could also use the toll free phone number to call from the lobby.

Councilor Damon asked what happens after the company received the payment from the taxpayer. Mr. Kimball explained that there is a 48 hour delay between the time the company accepts the funds to when the Town is credited for the payment electronically.

Councilor Porter asked Tammy O'Donnell if she had received any negative comments about this service. She said she had heard no negative comments.

Chairman Moriarty asked if this was being considered due to popular demand for the service. Mrs. O'Donnell said it was.

Councilor Copp asked if someone from the staff would be able to walk people through the process if they did not have access to a computer. Mrs. O'Donnell said she would be happy to help.

Motion by Councilor Stiles, seconded by Councilor Turner to authorize the Town Manager to accept online payment of real estate taxes via e-checks and credit cards.

Councilor Porter made a motion to amend the main motion to authorize the Town Manager to enter into a contract to accept online payment of real estate and personal property taxes via e-checks and credit cards. Councilor Turner seconded the motion.

Vote: UNANIMOUS PASSAGE 7-0

Motion by Councilor Stiles, seconded by Councilor Turner to authorize the Town to accept online payment of real estate an personal property taxes via e-checks and credit cards.

Vote: UNANIMOUS PASSAGE 7-0

07 – 018. Public hearing to consider and act on the Rines Forest Facility Use Policy.

Manager Shane said that it was believed that the Council adopted this policy but in actuality it had not. Members of the Rines Forest Committee were present to ask that the Council adopt the policy this evening and answer any questions they may have.

Chairman Moriarty opened the public hearing at 7:28 p.m.

Robert Crawford President of Cumberland Mainland Island Trust (soon to be renamed: Chebeague & Cumberland Mainland Trust) commended the opportunity for the easement provided by the Council's vision. He noted that approximately 70 people attended an open house held at the Rines Forest Property in the fall of 2006. He felt that the policy was consistent with the easement and highlighted some points regarding the Trust's role in the property. The main role is to make sure the management of the property is consistent with the easement agreement.

Robert Waterhouse, Chairman of the Rines Forest Committee noted that the policy could be edited to be a more effective document and made some suggestions. The Council contributed some suggestions as well. The following changes would be made to the document:

- “The Forest is home to numerous plant and animal species and habitats.” Would be relocated to become the first sentence in the paragraph beginning, “The forest is protected by...”
- The second and third paragraphs would then be relocated above “**Allowable Uses:**”
- The allowable uses section would be broken down into bullets

Chairman Moriarty closed the public hearing at 7:42 p.m.

Motion by Councilor Porter, seconded by Councilor Stiles to adopt the Rines Forest Facility Use Policy as amended.

Vote: UNANIMOUS PASSAGE 7-0

Chairman Moriarty asked Robert Crawford about a meeting regarding the abuses of conservation easements.

Mr. Crawford said that there was a meeting about some abuse by developers creating conservation organizations to keep golf courses open and making use of the tax advantages. The government began clamping down on these types of occurrences. There is now a trend to create standards in the land trust industry. Three land trusts including CMIT are collaborating and have hired someone to start collecting documentation to get ready for this process.

07 – 019. Public hearing to consider and act on a Contract Zone request from David Swan and Rick Wortley to construct three two unit senior housing condominium buildings on property located at 317 Main Street.

Chairman Moriarty explained that this item has come before the Council for the third time. The Council voted to send the contract to the Planning Board on January 8, 2007 for its recommendation. On February 6, 2007 the Planning Board voted 3-2 in favor not to support the contract. Chairman Moriarty noted that according to the Contract Zone Ordinance that the Planning Board’s action is advisory only and the ordinance specifically says “the Town Council may act independently of the recommendation of the Planning Board”.

David Swan of Cumberland Center Group, LLC provided a review of the project and the reasons for asking that the Town enter into a contract zone agreement. He said that the Group would be willing to give up its right of access to Osgood Drive, provide advanced notice of any property going up for sale to create an advantage to Cumberland residents to purchase the property and also to require 100% of the units be occupied by persons “55 & Older”.

Chairman Moriarty asked if the sketch presented to the Council would be an accurate prototype of what the building will look like. Mr. Swan said aside from minor footprint alterations it was. Chairman Moriarty asked that language indicating that the buildings must be of similar style, finish and exterior appearance as have been presented to the Council this evening be included in the contract. Mr. Swan agreed to this stipulation. Chairman Moriarty also mentioned that if there were to be a retention pond on the property that it would be located underground and asked that this be included in the contract as well. Mr. Swan agreed to this as well.

Chairman Moriarty clarified the requirements of the Contract Zone Ordinance and noted that the language that was adopted on March 16, 2006 by the Council did not include certain items that are required by State Statute. Chairman Moriarty read the requirements of the State Statute and noted that the Contract Zoning Ordinance will need to be amended. He said that the Council would need to act according to the State Statute this evening.

Chairman Moriarty opened the public hearing at 8:04 p.m.

Tom Highman spoke in favor of the project and believed the project provides an opportunity to serve the need for elderly affordable housing in Cumberland. He felt that it was appropriate to continue to keep density compacted into certain areas.

Chairman Moriarty read names of residents who had emailed their support for the project: Peter Gordon, Pam Dawson, Ellen Grant and Greg Sweetser.

Jeff Perry of Willow Lane encouraged the Council to consider the project to preserve open space by approving development in the center of town and noted the benefits of the project's proximity to Town services.

Councilor Damon asked why the Planning Board voted against the contract zone. Manager Shane said that the Board liked the project but they were concerned about the density on the lot.

Councilor Turner watched the meeting on Channel 2 and noted his respect for the members of the Planning Board and that the Council is obliged to ask for the Board's opinion. He felt their concern for density was legitimate but that setting a precedent (that approving this project would change the character of Main Street) was not. He felt that the Council should set a precedent for affordable housing, especially for seniors, in Cumberland. Councilor Turner reinforced Manager Shane's indication that the Planning Board was more concerned about the density.

There was discussion about age requirements and of the Fair Housing Act and the Housing for Older Persons Act (HOPA) definition of "55 & Older" vs. "exclusively 62 & Older". Manager Shane had clarified with the Town Attorney that according to the HOPA definitions "housing for older persons" means the housing is intended for and solely occupied by persons 55 and older and at least 80% of the units are occupied by at least one person who is 55 years of age or older. For housing intended for persons 62 and older, the ratio can be 100% of the units and only one person needs to be 62 or older. The onus of the meeting the requirements is that of the developer.

The Council agreed by a show of hands (7-0) that items A, B & D at the beginning of page two of the Contract were addressed; that in item C the word "and" following "development" should be changed to "or";

The Councilors were polled on their preference for age requirement in Section II (A) (1.) as follows:

Chairman Moriarty – 62
Councilor Damon – 62
Councilor Storey-King – 62
Councilor Porter – 55
Councilor Copp – 55
Councilor Turner – 55
Councilor Stiles – 55

Section II (A) (1.) would remain unchanged.

In section (2) Affordability, in the first sentence of the first full paragraph on page three of the Contract the words "all of" were added between "of" and "housing". In the second row of the same paragraph, the words "to the Town of Cumberland" were added before "to validate" and "(where applicable), age" was added after "affordability".

In section (4) Restrictions the words "and condominium documentation" were added after "deeds".

In section III (E) "Other than utilities," was added at the beginning of the sentence.

Motion by Councilor Porter, seconded by Councilor Turner to authorize the Town Manager to enter into a Contract Zone Agreement with David Swan and Rick Wortley to construct three two unit senior housing condominium buildings on property located at 317 Main Street, subject to further review on February 26, 2007.

Councilor Porter disclosed that David Swan and Rick Wortley were presently doing some work at his house.

Councilor Storey-King was uncomfortable only with the fact that the Council was about to make a decision that did not go along with the Planning Board's recommendation and wanted to go on record that she does not want to antagonize the Planning Board and that she respects the Board's decision.

Councilor Damon would support the project but was still concerned about the density and did not like the idea that there were going to be six units. She felt that the developers had bent over backwards to accommodate the Council and that the Council had done the best they could to keep some accountability going forward.

Vote: UNANIMOUS PASSAGE 7-0

07 – 020. Public hearing to consider and act on a one-year extension of the Yarmouth Wharf Agreement.

Chairman Moriarty explained that this agreement pertaining to the use of the wharf on Cousins Island by Chebeague Transportation Company was approved four years ago and expires at the end of 2007. The Town of Cumberland has agreed to extend the agreement for one full year with an expiration date of December 31, 2008. The Town will assign its interest in the agreement to the Town of Chebeague Island on July 1, 2007, which will allow the Town of Chebeague eighteen months rather than six months to attempt to work out a more favorable arrangement with Yarmouth or perhaps to address any other concerns that they may have. The agreement has received the approval of the Transportation sub-committee of the Chebeague Transition Committee, as well as the full Transition Committee.

Chairman Moriarty opened and closed the public hearing portion of this item at 9:35 p.m. (no members of the public were present).

Motion by Councilor Damon, seconded by Councilor Storey-King to authorize a one-year extension of the Yarmouth Wharf Agreement.

Vote: UNANIMOUS PASSAGE 7-0

07 – 021. Appoint Kay Fowler to the Twin Brook Advisory Committee.

Chairman Moriarty explained that one seat on the Committee is designated for a member of the Fowler/Blanchard family. A vacancy occurred when Stephanie Fowler-Enaire could no longer serve. Kay Fowler has volunteered to fill the position.

Motion by Councilor Storey-King, seconded by Councilor Damon to appoint Kay Fowler to the Twin Brook Advisory Committee.

Vote: UNANIMOUS PASSAGE 7-0

07 – 022. Set public hearing date of February 26, 2007 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.

Motion by Councilor Porter, seconded by Councilor Stiles to set a public hearing date of February 26, 2007 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.

Vote: UNANIMOUS PASSAGE 7-0

07 – 023. Set Saturday Town Council Workshop dates of March 3, 10, & 17, 2007 for FY 08 budget review.

Councilor Porter said he could not make the meeting on March 3, 2007.

Councilor Turner said he could not make the meeting on March 10, 2007.

Councilor Storey-King said she could not make the meeting on March 17, 2007.

Motion by Councilor Copp, seconded by Councilor Damon to set Saturday, March 3rd, 10th, & 17th, 2007 as Workshop dates for review of the FY 08 municipal budget.

Vote: UNANIMOUS PASSAGE 7-0

07 – 024. Set Town Council Workshop, 7:00 p.m., Wednesday, February 28, 2007 to meet with the Forest Lake Advisory Board.

Due to a scheduling conflict for two of the Councilors on February 28, 2007 this workshop would be held after the regular meeting on February 26, 2007.

Motion by Councilor Copp, seconded by Councilor Turner to schedule a Town Council Workshop for Wednesday, February 28, 2007, following the regular meeting, to meet with the Forest Lake Advisory Board.

Vote: UNANIMOUS PASSAGE 7-0

07 – 025. Set public hearing date of February 26, 2007 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.

Motion by Councilor Stiles, seconded by Councilor Copp to set a public hearing date of February 26, 2007 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.

Vote: UNANIMOUS PASSAGE 7-0

V. NEW BUSINESS

Councilor Copp – None

Councilor Damon – None

Councilor Storey-King – Attended the Regionalization Committee meeting with Bill Stiles. There were a lot of discussions around school consolidations. School sports championships were coming up in basketball, track, hockey and swimming. She would personally be rooting for the boys' basketball team as they are seated number one in their division.

Councilor Turner – played Bridge with a neighbor and two other gentlemen who both praised Bill Shane and said how lucky we were to have him here in Cumberland.

Chairman Moriarty – Asked if there was any feedback on the Boy Scouts Klondike Derby. Jeff Porter said that he stopped over during the event and had spoken with a couple of neighbors who thought it went very well. Chairman Moriarty also noted an email of praise for Bill Landis from Jeff Picket.

Councilor Stiles – was relieved not to be chair of the Regionalization Committee again but noted that the committee is starting to pick up some speed and will be meeting every other month instead of monthly.

Councilor Porter – Mentioned a letter from the Chief of Police to the Town Manager re: Officer Peter Volk who was successful in securing a \$2,500 grant from the Cumberland County Underage Drinking Task Force and complimented the Chief and Officer Volk for their efforts. Councilor Porter mentioned the difficulty viewing the technical presentations at the Planning Board meetings and asked for improvements. Referring to the Comprehensive Plan Survey results, Councilor Porter pointed out four things that residents were interested in seeing on Upper Main Street:

Small Grocery Store, Coffee Shop, Bank/Credit Union, and a Bed & Breakfast. All received over 50%. Just below 50% were Personal Services (hair, nails & massage), Restaurants and Day Care. This information indicates support for economic development.

Town Manager – Mentioned the Police Department Swearing in Ceremony on February 26, 2007 at 6:00 p.m. for recently promoted Lieutenant, Milton Calder and new Patrol Officers Christopher Woodcock and Angelo Mazzone and to recognize Antonio Ridge on his graduation from the Maine Criminal Justice Academy.

Chairman Moriarty – added that the Rte. 100 Corridor Advisory Committee had a well received public hearing on February 8, 2007. The committee will meet again on Wednesday, February 28, 2007 at 6:00 p.m. to rework some of the recommendations in response to the feedback from the public hearing and hope to come before the Council sometime in March with a final recommendation. Due to the extensive Zoning changes being recommended the Council would then need to refer them to the Planning Board for further review and recommendation before final Council action.

VI. EXECUTIVE SESSION – Pursuant to 1 M.R.S.A., § 405 (6) (A) re: negotiation of contracted services for Chebeague Island, 405 (6) (C) re: real estate acquisition and 405(6) (F) re: property tax abatement request.

Motion by Councilor Porter, seconded by Councilor Stiles to move into executive session pursuant to 1 M.R.S.A., § 405 (6) (A) re: negotiation of contracted services for Chebeague Island, 405 (6) (C) re: real estate acquisition and 405(6) (F) re: property tax abatement request.

Vote: UNANIMOUS PASSAGE 7-0

Time: 9:50 p.m.

Councilor Damon was excused prior to the conclusion of the executive session.

Motion by Councilor Stiles, seconded by Councilor Copp to come out of executive session.

Vote: UNANIMOUS PASSAGE 6-0

Time: 11:00 p.m.

VII. ADJOURNMENT

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

Vote: UNANIMOUS PASSAGE 6-0

Time: 11:01 p.m.

Respectfully submitted,

Nancy L. Stroud
Executive Assistant