

MINUTES
CUMBERLAND TOWN COUNCIL MEETING
Cumberland Town Hall
Monday, July 9, 2007
7:00 p.m. – CALL TO ORDER

Present: Councilors Copp, Perfetti, Turner, Moriarty, Stiles and Porter.
Excused: Councilor Storey-King.

I (a) To swear in newly-elected Councilor Michael Perfetti

Town Clerk, Nadeen Daniels, issued the oath of office to councilor-elect Michael Perfetti. Councilor Perfetti will serve as the first elected official in the new At Large council seat.

(b) To elect Council Chair and Vice-Chair

Motion by Councilor Stiles; seconded by Turner, to nominate Councilor Porter as Chairman for Fiscal year 07/08.

VOTE: UNANIMOUS 5-0-1 PASSAGE (Councilor Porter abstaining)

Councilor Porter thanked Councilor Moriarty for his service as Chair this past year, which represented his sixth term as Chair.

Motion by Councilor Moriarty; seconded by Councilor Copp to nominate Councilor Turner as Vice Chairman.

VOTE: UNANIMOUS 5-0-1 PASSAGE (Councilor Turner abstaining)

(c) APPROVAL OF MINUTES

June 25, 2007

Motion by Councilor Stiles; seconded by Councilor Perfetti, to accept the minutes as amended.

VOTE: UNANIMOUS PASSAGE 6-0

II. MANAGER'S REPORT

- Chebeague Island “it’s own town” July 1st; in 1821 Sturdivant and Basket Island was part of North Yarmouth and when we left they stated that we had to take the 16 islands with us; “what’s old is now again”
- Add the Route 88 Pedestrian Committee draft charge under New Business.
- MDOT stated there would be no additional funding available for the completion of Blanchard Road; not eligible for funding during the next four to six years; still eligible from the TIF funding
- Heard from FEMA today re: upgrade to culvert under Harris Road; will not fund a 10 x 6’ box replacement culvert. The road will be repaired to “its present state.” The cost difference is significant. \$25K to replace existing, versus \$225,000 “to fix it properly.”
- Two projects remaining under March storm event - Ledge Road drainage easement to Route 88, and a drainage outlet repair at Wildwood.
- Construction of senior condos, Guidi’s Main Street Project, seems to be going very well.
- Dave Swan/Rick Wortley Main Street project is underway - available by fall.
- Thanked Bob Hasson and Scott Poulin for working with the Parks Dept re: remediation of the arsenic in the high school varsity field. Materials removed and encapsulated in a berm on site. Field ready by mid-August to beginning of September.

III. PUBLIC DISCUSSION

Paul Weiss, 314 Blanchard Road, thanked the town for planting four trees in front of his house at the intersection of Blanchard and Orchard. "It is a nicer intersection." He added "It is sad that the Forest Lake thing fell through." He referred to Yarmouth's endorsement of the US Mayor's Climate Protection Agreement. Several cities and towns "have signed onto this. The proclamation addresses "the global climate change at the local level. By signing on to this, it's showing leadership at the local and national level. I'd like to see the town taking direction towards this as an important issue as any other issue they face."

IV. LEGISLATION AND POLICY

07 - 088 To determine Town Council Committee Assignments for FY '07/08.

Chairman Porter announced the postponement of this item until the end of the evening's agenda.

07 - 089 To hold a public hearing to act on a Wharfing Out Permit for Matthew & Melissa Rubel, 13 Lantern Lane.

The Manager stated the Coastal Waters Commission held a site walk and a public hearing and recommends approval subject to Planning Board review and approval. "The application is well done," suggesting it will serve as a model for others to follow. Referring to ongoing requests for private docks, the Manager suggested "It goes back to none of our ordinances will impact land use of the private citizens. Without a taking of private rights, it's going to be very, very difficult."

In response to a question raised by Councilor Stiles, design consultant Barney Baker, responded that the applicant seeks a 48 foot pier and an additional 32 foot float. The state and federal permits are in hand. Councilor Perfetti question the mechanism for inspection of the pier and dock. The Code Enforcement Officer provides a building permit for the project and checks it when it's finished. We make "sure it's installed by design." The Manager stated the town considers the pier's impact on the clam flats and eels, and whether it should be moved in one direction or another. The Code Enforcement Officer and committee "felt there was no impact." When asked, Councilor Perfetti was informed "In this direct area, there are three" piers and several as you head toward Yarmouth.

Motion by Councilor Turner; seconded by Councilor Moriarty, to approve the Wharfing Out Permit for Matthew & Melissa Rubel, 13 Lantern Lane, to construct an 89' x 5' pile and timber pier with a 48' x 3' ramp leading to a 12' x 32' float, conditioned upon Planning Board approval.
VOTE: UNANIMOUS PASSAGE 6-0

07 - 090 To hear a presentation from Frank DeWolfe regarding FY'08 Municipal Budget.

Mr. DeWolfe utilized a power point presentation to address his questions and concerns and explained he would be speaking to some of the budget items posted on the town's web site. "I think without more clarity...there are still some questions...in my eyes regarding what was presented." The budget numbers represent a \$537,700 reduction, which Mr. DeWolfe suggested is misleading. "A majority, if not all that reduction, was actually at the expense of the secession from Chebeague. The Chebeague Island elimination makes up almost 45% of that reduction. From a taxpayer's standpoint, I'd like to know exactly what the elimination of Chebeague Island did to our expenses. It's really important to know...it's a payment for assets that are now owned by Chebeague that we no longer control. My point is that money was scheduled to be used, it didn't get used. Either pay down the debt that's against it or hold it into a savings account until... we really need to spend it." The town's budget information also refers to a 7.02% expenditure increase, and Mr. DeWolfe suggested that by adding the TIF, Overlay and Homestead Exemption to the budgeted expenses "we actually increased expenditures by 10%." In his comments Mr. DeWolfe also spoke

to the issue of TIF's, capital outlay and the school budget. He asked "why the TIF spending is not shown as costing taxpayers money," claiming "the TIF spending is actually costing the taxpayers money." Mr. DeWolfe also spent time addressing the school budget and the funds it included from the secession of Chebeague Island. Chairman Porter responded "At the end of the day...we only can control... 25% of the budget." Mr. DeWolfe countered, "The fact is...the presentation to the taxpayer needs to be combined." The budget is adopted "by the public at a town meeting; it's not just the school board. And, as the saying goes, there's no more purer form of democracy than the town meeting." Councilor Turner added "I'm sympathetic with your concerns. The issue is transparency. We are transparent. The public is welcome and encouraged to come to those (budgets) meetings. I can't speak to what the SAD does but I know our process is transparent."

Councilor and budget chair, William Stiles, complimented Mr. DeWolfe for his time and effort. "I think it's great that citizenry are getting involved." He explained that the Town Manager and Finance Director sit down with each department head to review their department budget and make preliminary cuts. The benefits are combined into one line item in order to know the exact cost "because we shop them out to get the best insurance rates" possible. The town's recent upgrade to its computer system will allow the Manager to easily charge each department for its benefit costs. The Town Council then sits with each department head to review the budgets line by line. "We cut, we work, and we try to get that budget down as low as we can." He mentioned \$2.1 mil from CI as income to the town. "That's not true; the town only gets to use about \$600,000 of that money. We were spending a little more than \$600,000...to maintain their infrastructure. So, if that \$2 million is factored into our revenues, it throws his numbers off." We have no input on the SAD budget. "We recognize...that about three years out from now there's going to be a problem" because the secession money in the SAD budget will be depleted. "Quite honestly, we're down to the point...which town service don't you want?" The town trimmed its budget after the Palesky initiative, and then again last year after a second initiative. "We came in this year under all the state guidelines. Next year in order for us to go down drastically, we're going to have to eliminate a department." He deferred to the responses of the comprehensive plan survey regarding town spending. "For the most part, with the exception of the schools, they felt we were spending about the right amount of money. I don't want to spend the taxes that I spend in this town, but I'm not ready yet to give up having the roads plowed. We have done an austere a job as we can on the budget." Mr. DeWolfe replied "as a taxpayer, until recently, I didn't realize what we spent." He requested more information be placed on the town web site, but recognized the Town Manager "jumped through hoops to get information to me." Chairman Porter added more generally "this is a representative democracy. It means people have to be involved. The comprehensive plan survey results show "the people of this community are very supportive of the level of services that they have; they just are."

Mr. 'Stretch' Madore, Cumberland Foreside, referred to his frustration over the school budget meetings. "It is discouraging and I think...we've got some rough roads coming ahead. Our taxes will not balance on in two or three years. When that (the Chebeague revenue) goes away...we are looking for real serious trouble." The SAD budget "did compare apples to oranges. We're still spending 6.4% more money. Pa's rich and ma don't care. Somehow it's got to stop. I do feel like I'm all by myself out there when I start talking to the SAD."

The Manager stated he and Mr. DeWolfe have met several times to review numbers. "I don't want folks...to think it's all doom and gloom. There are some good things going on;" noting in particular the cemetery expenditures; two habitat homes; pay-as-you throw program; Stone Wharf restoration on Chebeague Island; 207 acres of Rines Forest; Channel 2 is expanding; a doubling of our commercial tax base to 4.5%; improvements to Twin Brook; increase of affordable units at senior housing; safety improvements at the Route 100 intersection; Tuttle/Main Street sidewalks; regionalization efforts for assessing, codes, animal control, ambulance, harbormaster, and Route 9 sidewalk plowing; increased fire protection through the water line extension to West Cumberland; addition of a senior circuit breaker program." The 800 responses to the Comprehensive Plan showed a satisfaction average of 70% and above

for the funding of town services. Town department satisfaction showed an excellent rating for fire, police and rescue with 89, 71 and 92% respectively. The mil rate over the last five years shows an average increase of .49 cents per year; a 2.7% average. The FY '09 budget should not see "much, if any of an increase." However, the 2010 will be fairly significant because "that's the spike in the debt service year. That all by itself could have somewhere around a 10 to 14 percent increase in the mil rate all by itself." However, with the new school consolidation plan, "There's a lot in the crystal ball right now that's still not connected to what we can project in the mil rate." The Manager recommended beginning the FY '09 budget earlier. "Perhaps having community discussions...perhaps even looking at a survey. What are you willing to give up for your dollars? We're really down to the least level of efficiency that we can operate without eliminating lots of bodies and lots of services."

The public hearing concluded at 8:32 p.m.

07 - 091 To hold a public hearing after a presentation from Town Manager regarding Route One & Route 100 TIF Districts and to set public hearing date to consider and act on TIF Districts.

The Manager gave a presentation regarding Tax Increment Financing. In his opinion, "Growth Pays For Growth." Our state equalized value will be at \$1 billion dollars next year. His goal is to shift the residential tax base from 98.5% to 90%. We are currently at 4.5% commercial tax base. The Manager added that projects paid for through the TIF, are "projects that are needed today. These projects – waterline extension, repair of Range Road...these are things that we would have to do regardless of whether we had a TIF. With those districts, we can shelter that money and get full value. In fifteen, twenty years, that money comes back onto the books...and we'll see the impacts of those businesses down the road."

The Manager requested the council add to the Route One South TIF District and expand the Cumberland Foreside Village TIF District. The town will widen Route One to incorporate a center turn lane and add a pedestrian sidewalk. Zoning changes to Route 100 will be adopted in the next few months. The new Route 100 VCC zone (142 Acres) will become a TIF District and will include a nine-lot park with off street parking for each lot. "A new vision with attractive sidewalks and landscaping" is underway at the Route 100/Blackstrap Road intersection. A turning lane and sidewalk work at Route 100, waterline extension to Castle Rock, beautification work near Blackstrap Road, landscape easements in the VCC zone, and a turning lane at Castle Rock, are all eligible for TIF monies. The Manager requested approval for the creation of a third Route One South TIF District, and a fourth TIF District at Route 100. This meeting represents the first of two public hearings.

Chairman Porter clarified the point that "many people confuse the TIF and the Credit Enhancement Agreement. The TIF doesn't necessarily give any money back to the developer; the Credit Enhancement Agreement does. And, that is left to the council to negotiate with the business if that does go forward."

During the public hearing Mr. DeWolfe asserted the presentation "lacks substance – what are the numbers?" "I'm not here to say TIF is wrong or bad; I don't honestly know." The Manager explained the TIF fund grows as the property values increase each year. To date, we've spent TIF funds on extending the water main from the fairgrounds to Route 100, improvements to Twin Brooks, Skillins Road and future improvements to Blanchard Road. We also authorized a 50% reimbursement of tax monies over the next twenty years, capped at \$500,000, to SeaFax and Norton through a Credit Enhancement Agreement.

Councilor Perfetti commented that "having the information you require is a good thing to be informed of the costs upfront. But because we're a representative democracy, the town council is charged with asking these questions...and requiring that this information be presented." Councilor Stiles clarified that a Credit Enhancement Agreement is not required; it is at the discretion of the council.

Mr. Weiss shared that he completed a town survey and he “fundamentally disagree with the idea that our taxes nee to come from commercial revenue. I like the mishmash of roads. I think the tax base that we have works. I would hate to see Route 100 developed beyond what it is. We wouldn’t need those big improvements if some of those businesses weren’t there. I do not want commercialization development in Cumberland. You’re just thinking dollars and cents.”

Mr. Pete Wilson, 18 Oak Ridge Road, implored the council to consider a “limit to floor time” and a TIF creating money. “I don’t understand where this money comes from.” The Manager described the property within a TIF District as having “a line drawn around them” and those dollars are set aside into a TIF fund, and separated out from all the other tax dollars. Those monies can then be used for specific projects within those districts. The “second piece...a Credit Enhancement Agreement” can be created to entice businesses. That agreement can vary between projects. This council has determined that they will look at each project individually.

Councilor Moriarty pointed out that TIF District 4 dovetails with the new proposed zoning districts on Route One, which goes before the Planning Board on Tuesday, June 17. “My point is...these zoning districts may not yet exist” on July 23rd. .

Randy Copp questioned what portion of the Route 100 water line was paid by TIF funds? 100% of the funding came from the Route One North and South TIF Districts. The Route 100 TIF District will pay for 100% of the Range Road upgrades? “You’re able to take this money and kinda put it in your pocket...set it aside to benefit the community by doing upgrades to...the community. I don’t see any downside to it at all.”

Councilor Perfetti asked the Manager if it was likely the improvement made “would have had to have been made anyway? You had to fix this and you found a way to finance this.” “Absolutely...but I don’t know how we would have afforded to do it” responded the Manager.” Every million dollars we bond is an \$80,000 addition to our debt payment. Chairman Porter added that the intent of the two existing Credit Enhancement Agreements was “to anchor one on the south, one on the north. The two aren’t mutually exclusive. The two of them don’t have to occur.”

Ms. Kathy Allen-Merrill, expressed “mixed feelings” over a Route 100 district. A private way, Tammy Lane, is shown as an entrance to the district. “At some point I would like to be able to see some of these new plans.” This new district would merely “allow” the businesses to go in these districts, explained the Chair. “Nobody’s personal property is going to be taken to make this happen.” Councilor Moriarty echoed the chair’s comments, noting the schematic shown this evening “is not a plan; it’s a sketch of what could theoretically happen. If we create a TIF district, that doesn’t make this happen. Even a zoning change doesn’t make it happen. This is an illustration of what, in theory, could be done.” The public hearing concluded at 9:48 p.m.

Motion by Councilor Moriarty; seconded by Councilor Stiles, to set a July 23, 2007 public hearing date to consider and act on establishing a Route One TIF District and to conduct such further discussion of a Route 100 TIF District as may be appropriate.

The Manager stated he will request at the meeting of July 23rd for action on items that need to occur on Route 100 within the next six to nine months. “I’ll bring a whole list of stuff to that meeting.” Councilor Copp indicated he will abstain from the Route 100 vote, “because I’m a property owner on Route 100. But, I feel that I can vote on Route One with a clear conscience.”

Councilor Moriarty amended, and Councilor Stiles seconded, the motion as follows: I move to set a July 23, 2007 public hearing date to consider and act on establishing a Route One TIF District.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 9:51 p.m.

07 - 092 To hold a public hearing to accept open space on Mill Road and Route 100 from Elvin Copp.

The Manager introduced owner, Mr. Elvin Copp, who is offering to donate 8.62 acres of land for use as open space. Mr. Copp has conditioned the donation to allow the land to be “hayed twice a year in perpetuity.” The Manager asked to amend the agreement to reconsider the provision for haying every five years and Mr. Copp was amenable. The deed will be amended to reflect the 5 year renewal period. “So every five years, you would have a public hearing to extend that five years.” Councilor Stiles asked whether the council this evening can guarantee a renewal in five years and the Manager responded in the negative. Councilor Perfetti was informed that the back land is buildable.

Mr. Randy Copp asked to stock pile materials on the open space during construction. “And then after construction, put it back into the original grassy field that it is now.” The chair felt this request should be a “discussion between you and the manager...not a part of the discussion this evening.”

Councilor Stiles wanted language that would give Mr. Copp “a reasonable assurance that prudent people would again renew the terms.” Councilor Moriarty also wished to “avoid any potential for misunderstanding right here at the outset.” He questioned Mr. Copp if he is “concerned about what the town may do with it? Are there things you don’t want to see the town to do with it? Do you realize that it’s basically wide open the town can do whatever it wants once the transfer is made?” Mr. Copp indicated he was clear. replied “It’s yours to do what you want.” “You accept that risk, if you will” added Councilor Moriarty. “Yes sir, I do.” Page 2 of the deed, the next to the last paragraph. - It indicates the transfer is subject to the restriction that the parcel shall be used in accordance with the Land Use Ordinance. Councilor Moriarty ask that the language refer to the Town of Cumberland Zoning Ordinance, Subdivision Ordinance and related land use ordinances (plural) to indicate that it’s restricted in accordance with a variety of difference ordinances that we have.

Mr. DeWolfe questioned whether this lot could be sold by the town. Yes, it can, it’s not part of the open space of the subdivision. Mr. Paul Weiss encouraged the council to include a conservation easement so that the open space would be in perpetuity. “That doesn’t conflict at all with mowing or haying fields.” Councilor Turner feels “it’s appropriate that the property not be encumbered early on. I’m all for conservation, but I’m also very leery about arbitrarily taking any piece of property that isn’t developed and saying that it’s appropriate for a conservation easement. You’re tying peoples hands a long way out and there ought to be a real good reason for doing it before you do it.” Chairman Porter referenced a letter from Jennifer West, Chair of the Conservation Commission, stating “I want to be equally clear...this property does not have to retain in its natural state...the town could sell that property and it could be developed.” Councilor Moriarty added “that’s true...even today Twin Brook is not encumbered.” The Town Forest and the Doane property are not encumbered. Councilor Moriarty supports the acceptance of the open space and would like to see an eventual connection from the backline to the power lines to the fairground and over to Blanchard Road “in my dreams, what I’d like to see is an eventual connection between the back line all the way over to the power line and from there to the fairgrounds which would tie into the Blanchard Road paved shoulder network. I see this as the first link in a chain which could... create a nice off road trail for those who live in this area of town to get into the fairground area...and into the center. It has that potential but it’s only the first of several links that would be necessary.”

Motion by Councilor Stiles; seconded by Councilor Turner, authorize the Town manager to accept a warranty deed for 8.62 acres of open space from Elvin Copp for property located on Mill Road and Route 100, and as specifically described in the gift deed, with the alterations so stated (“and as defined by the Town of Cumberland’s Zoning Ordinance, Subdivision Ordinances and related land use ordinances, as they may be amended;” and the addition of a five year renewal related to the haying of the property).

VOTE: UNANIMOUS PASSAGE 5-0-1 (Councilor Copp abstaining)

07 - 093 To set a public hearing date to set the tax rate for FY'08. (July 23rd)

Motion by Councilor Moriarty; seconded by Councilor Stiles, to set a July 23rd public hearing date to consider and act on setting the tax rate for Fiscal Year '08.

VOTE: UNANIMOUS PASSAGE 6-0

07 – 094 To set a public hearing date to set sewer rates for FY'08. (July 23rd)

Motion by Councilor Stiles; seconded by Councilor Turner, to set a July 23rd public hearing date to consider and act on setting the sewer rate for Fiscal Year '08.

VOTE: UNANIMOUS PASSAGE 6-0

07 – 095 To set a public hearing to act upon adding no parking restrictions and tow away zones in Twin Brook Recreation Area.

The Manager explained rather than creating a new ordinance and amending the traffic ordinance the council may issue the Chief of Police authority to designate no parking and tow away zones. These would be legally enforceable during the four to five events occurring at Twin Brook on an annual basis. Parking is enforced at the Yarmouth Clam Festival in this manner. “That would prevent us from having to put a whole new ordinance in place.” Councilor Moriarty questioned whether the Twin Brook Committee has expressed an opinion. The Manager indicated the committee did endorse establishing no parking and tow away zones.

Motion by Councilor Stiles; seconded by Councilor Perfetti, to set a July 23rd public hearing date to consider and act on adding no parking restrictions and tow away zones in the Twin Brook Recreation area.

VOTE: UNANIMOUS PASSAGE 6-0
(Councilor Moriarty left at this time, 10:16 p.m.)

07 – 096 To hold a public hearing and authorize the Town Manager to accept all outstanding taxes on Map U19/Lot 22, Spring Road.

This property has gone to foreclosure and the council must accept payment of the taxes. The Manager recommended accepting the back taxes. The tax payment is \$2,279.53, including all penalties and interest. No public comments received.

Motion by Councilor Perfetti; seconded by Councilor Turner, to authorize the Town Manager To accept all outstanding taxes on Map U19, Lot 22, and issue a quitclaim deed for release of the property.

VOTE: UNANIMOUS PASSAGE 4-0-1 (Councilor Copp abstaining)

V. NEW BUSINESS

a.) Route 88 Committee – draft charge

Councilor Moriarty presented a draft charge for the Route 88 Committee. He charged the committee with researching avenues of funding and providing written recommendations to the town council. The Manager recommended approval of the draft charge. Councilor Perfetti asked about a date for reporting. The Chair sated “this is gonna take some time” and suggested a deadline not be placed at this time.

Motion by Councilor Stiles; seconded by Councilor Perfetti, to accept the Route 88 Pedestrian Access Advisory Committee.

VOTE: UNANIMOUS PASSAGE 5-0

At this time, Chairman Porter took up Item 07-088. Upon discussion, the following list of assignments for 2007/08 were agreed upon:

Greater Portland Council of Government	Councilor Turner
Nominating Committee	Councilors Porter, Moriarty and Turner
Prince Memorial Library Advisory Board	Councilor Moriarty
Recreation/Community Education Advs Board	Councilors Storey-King and Perfetti
ECOMaine	Susan McGinty/Alternate William Shane
Finance Committee	Councilors Stiles, Porter and Perfetti
Val Halla Board of Trustees	Councilor Stiles
Liaison to Board of Appeals	Councilor Turner
Liaison to Conservation Commission	Councilor Moriarty
Liaison to Falmouth/Cumberland Chamber	Manager Shane/Alternate Ned Gribbin
Liaison to Planning Board	Councilor Moriarty
Housing Authority	Councilors Stiles and Perfetti
Rines Forest Committee	Councilors Moriarty and Porter
Regionalization Committee	Councilors Stiles and Storey-King
Coastal Waters Commission	Councilor Perfetti (and Paul Weiss)
Route 88 Pedestrian & Bike Committee	Councilors Turner and Copp
Shellfish Conservation Commission	Councilor Turner
Comprehensive Plan Committee	Councilors Porter, Turner and Storey-King
Twin Brook Advisory Committee	Councilors Moriarty and Porter
Doane Property Development	Councilors Copp, Perfetti and Turner
TIF Committee	Councilors Stiles, Turner and Porter

The following committees were sunset: Cable TV Regulatory Board, Cumberland Islands Committee, Solid Waste Advisory Committee, and the Stone Wharf Committee.

Councilor Copp - none.

Councilor Perfetti – looking forward to starting my term.

Councilor Turner – none.

Chairman Porter – none.

Councilor Stiles – issues of bicycles “cruising Range Road” coming through in packs of 2 and 3 across – 20 to 30 bikes at a time; asked to consider a local ordinance if it doesn’t change; Councilor Turner suggested taking a look at sign on Dutton Road re: bikers; asked the Manager to research an ordinance re: limiting the number of bicycles; “road rage is gonna take over one of these days;” Chairman Porter suggested speaking with Mr. Weiss about education through VELO.

VI. ADJOURNMENT

Motion by Councilor Stiles; seconded by Councilor Perfetti to adjourn.

VOTE: UNANIMOUS PASSAGE 5-0

TIME: 10:33 p.m.

Respectfully submitted,

Nadeen Daniels, CMC
Town Clerk