

MINUTES

Cumberland Town Council Meeting
Town Council Chambers
MONDAY, November 23, 2015

5:30 P.M. FINANCE COMMITTEE MEETING

6:30 P.M. WORKSHOP re: Rescue Billing with Medical Reimbursement Services

7:00 P.M. CALL TO ORDER

Present: Councilors Bingham, Turner, Copp, Edes, Gruber, Stiles, and Storey-King

I. APPROVAL OF MINUTES

Motion by Councilor Edes, seconded by Councilor Copp, to accept the November 9, 2015 minutes as presented.

VOTE: 5-0-2 (Bingham and Turner abstained) MOTION PASSES

II. MANAGER'S REPORT

Councilor Gruber presented the following PTO event "Fill-A-Bus, Fill-A-Belly" that benefited the Food Pantry:





Town Manager Shane presented the following presentation on the annual Food Pantry Thanksgiving Basket preparation.





Girl Scout Troup 188
3rd Year on
Thanksgiving Set-up
Our Future Leaders!



An Awesome Community of
Volunteers at all Levels



Cumberland Congregational
Holy Martyrs
North Yarmouth Congregational
Tuttle Road Methodist
W. Cumberland Methodist
White Pine

AMVETS
Lion's Club
Wayside – Don Morrison
All our Community Financial Supporter
Hannaford's Grocery Stores
Good Shepherd

Joyce Baughan
Mike Branden
Jean Chadbourne
Rosemary Goranites
Margie Gruber
Judy Ingraham
Jean Lamson
Sharon Marks
Pam Moriarty
Jack Mullin
Laurie Reed
Linda Shane
Carol Smith

Our Weekly Team of
Hunger Fighters

Over 50 Community Volunteers Every Month

Kevin Foster reminded everyone about the Firefighters for Kids Program and the annual pancake breakfast:

8th Annual Pancake Breakfast

Guest Appearance by Santa Claus!

Sunday, December 6th

Greely Middle School
7:00 a.m. to 10:00 a.m.
Adults - \$ 8
Children - \$ 4
Pancakes, Eggs, Bacon,
Sausage, Home fries,
Coffee and Juice
All You Can Eat!
Pictures With Santa!



III. PUBLIC DISCUSSION

Brad Hilton of Blanchard Road said that the Cumberland Lands & Conservation Commission needs committee members. If you like to get out in the woods and enjoy walking the trails, please consider joining.

Mr. Hilton reminded the Council that back in March they started looking at getting some easements to join the trails in the Greely Woods area. He wants to see that land conserved and the necessary easements obtained so that the land becomes permanent open space with trail connectors.

Chairman Bingham said that the Town Manager will respond to this during New Business due to the lengthy agenda.

IV. LEGISLATION AND POLICY

15 – 156 To hold a Public Hearing to consider and act on the 2016 Shellfish License allocations, as recommended by the Shellfish Conservation Commission.

Mike Brown, Chairman of the Shellfish Conservation Commission explained that the Commission met last Thursday evening and are recommending the same license allocations as last year:

2016 Calendar Year Shellfish Allocation

RECREATIONAL: Unlimited resident recreational licenses
25 non-resident recreational licenses
8 monthly resident licenses
2 monthly non-resident licenses

COMMERCIAL: 1 resident commercial license
1 non-resident commercial license

Chairman Bingham opened the Public Hearing.

Public discussion: None

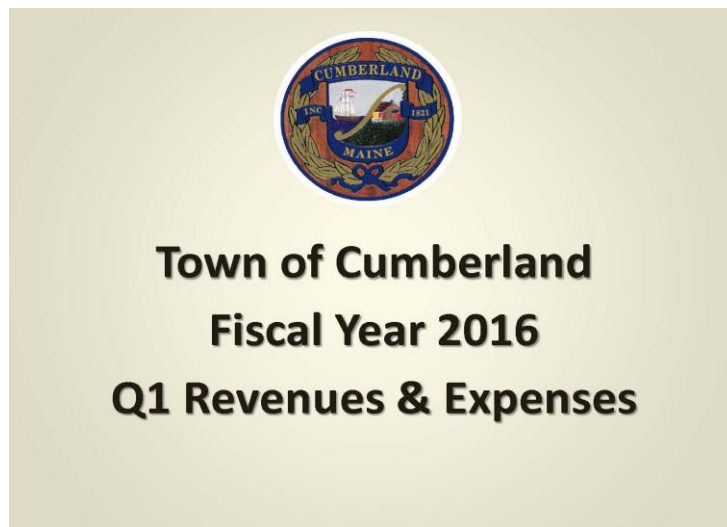
Chairman Bingham closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to approve the 2016 Shellfish License allocations, as recommended by the Shellfish Conservation Commission.

VOTE: 7-0 UNANIMOUS

15 – 157 To hear a report from the Finance Director re: 1st Quarter Financials.

Finance Director, Heather Perreault, presented the following 1st Quarter Financial Report:



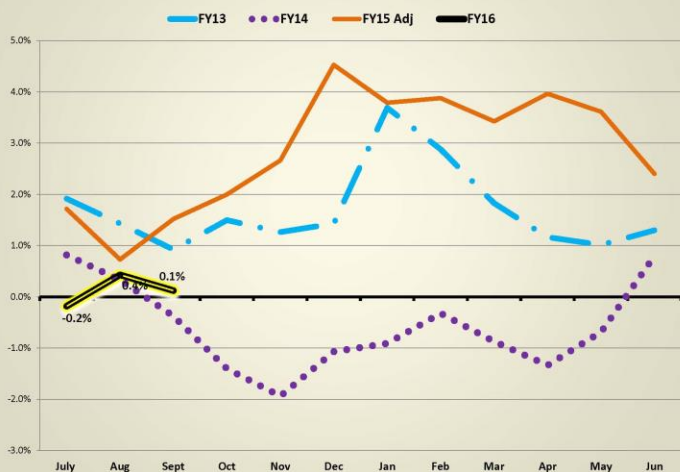
General Fund Q1 Revenues & Expenditures

| | FY16 Budget | FY16 Actual | FY16% | FY15 % |
|-----------------------|----------------------|---------------------|--------------|--------------|
| TOTAL REVENUES | \$ 4,555,489 | \$ 1,191,322 | 26.2% | 24.0% |
| | | | | |
| Controllable Expenses | \$ 7,381,649 | \$ 2,009,162 | 27.2% | 28.6% |
| Fixed Expenses | \$ 18,530,481 | \$ 6,119,966 | 33.0% | 33.9% |
| TOTAL EXPENSES | \$ 25,912,130 | \$ 8,129,128 | 31.4% | 32.4% |

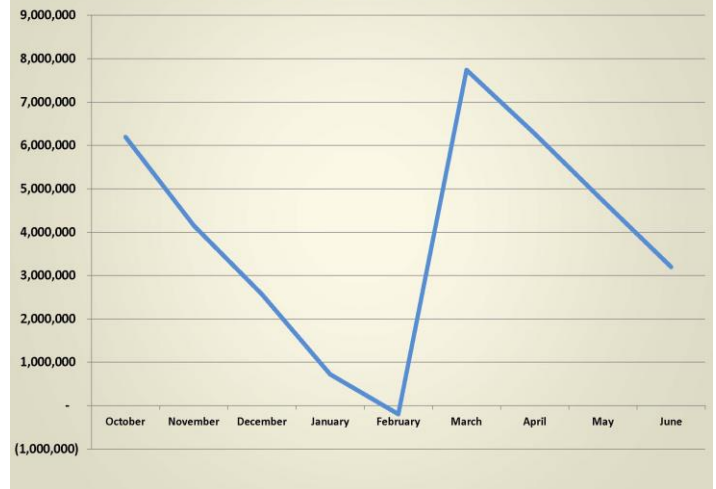
Selected Revenues

| | FY16 Budget | FY16 Actual | FY16% | FY15 % |
|-----------------------|----------------|----------------|-------|--------|
| Excise Tax | \$ 1,480,000 | \$ 487,295 | 32.9% | 33.2% |
| State Revenue Sharing | \$ 385,710 | \$ 119,194 | 30.9% | 16.8% |
| Permits & Impact Fees | \$ 158,000 | \$ 51,970 | 32.9% | 43.4% |
| EMS Billing | \$ 186,200 | \$ 39,330 | 21.1% | 12.1% |
| Recreation | \$ 730,468 | \$ 119,214 | 16.3% | 19.2% |
| Val Halla Golf Club | \$ 674,500 | \$ 194,019 | 28.8% | 33.0% |

% Variance to Average Expenditures



FY2016 Cash Flows Estimate



15 – 158 To hold a Public Hearing to consider and act on amendments to the Town Center Growth Area.

A) To consider and act on the proposed Growth Area Map, and

B) To consider and act on the Planning Board recommendation of changing the lot size within the Growth Area to RR2 from 4-acres to 2-acres.

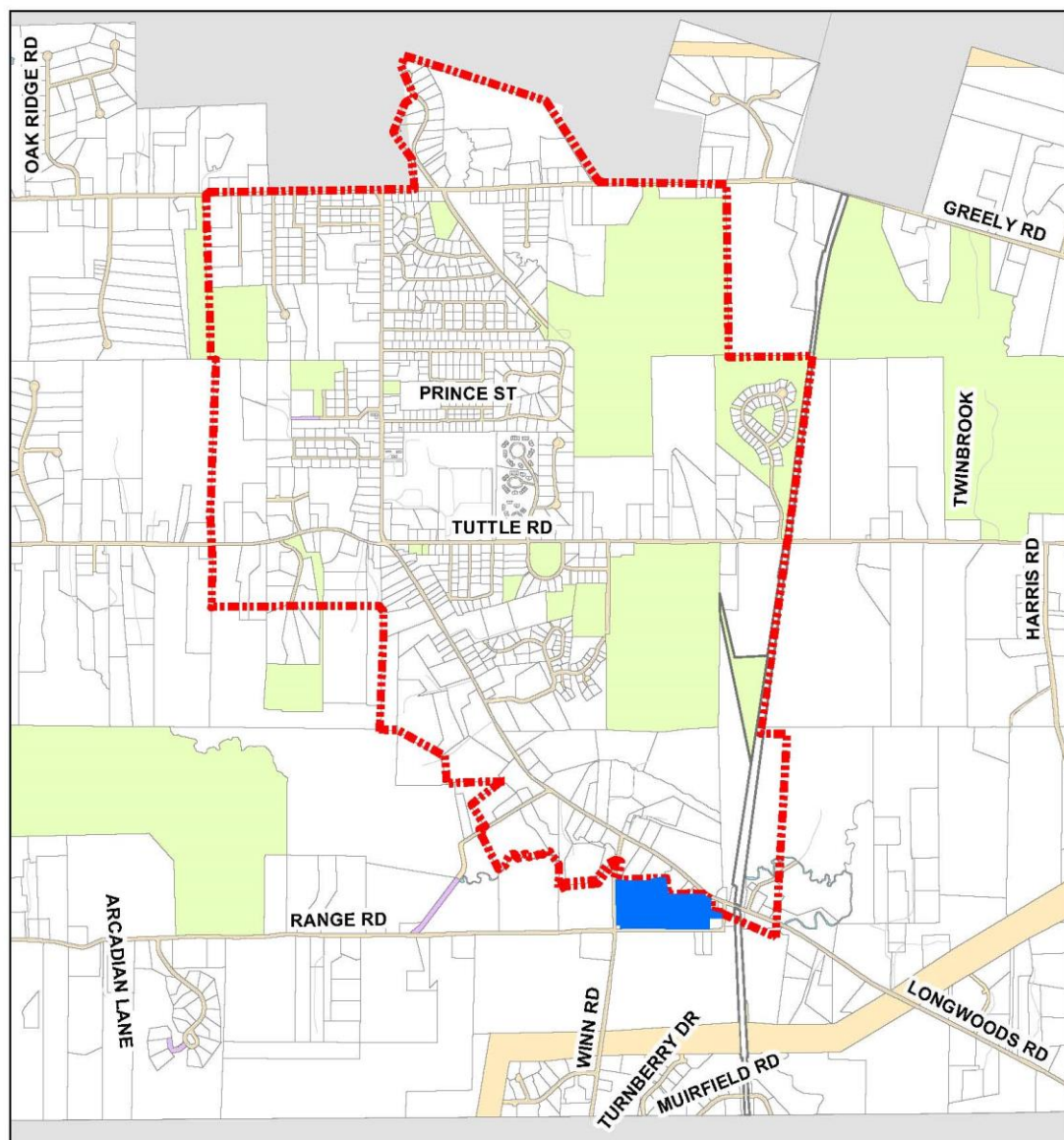
Motion by Councilor Storey-King, seconded by Councilor Copp, to remove this item from the table.

VOTE: 7-0 UNANIMOUS

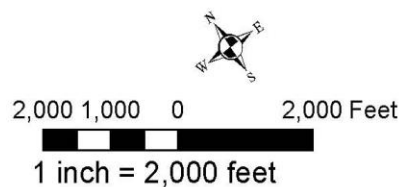
Town Manager Shane explained that we have had a growth area identified in the center of Town since the adoption of the 2009 Comprehensive Plan. It could be argued that the description of that growth area left a lot of room for interpretation, but we did have a growth area. The Town is required to identify its growth area when applying for state and federal grants and contract zones. The confusing part is that when a growth area is identified, people think that everything will change in that area. The growth area is designed to be part of the Comprehensive Plan and what a Town does after that is up to them. The zoning can be changed to match it or it can be left alone and deal with issues as they come up. The only way that lot sizes and setbacks can change is through specific zoning. The Town Council has 2 options in front of them this evening. They can adopt the Planning Board's recommendation or consider the map below (Exhibit B) which would eliminate the easterly and westerly sides of Main Street, but would include the HC zone and the 20 acres at Winn Road and Route 9.

Without a growth area in the center of Town, the Comprehensive Plan cannot pass the straight faced test. He feels that this is a fair compromise. The Town Council will consider the following options:

- A) Adoption of the Planning Board recommendation as presented (Exhibit A):



PB Proposed Growth Map - Main Street - Town Center Area

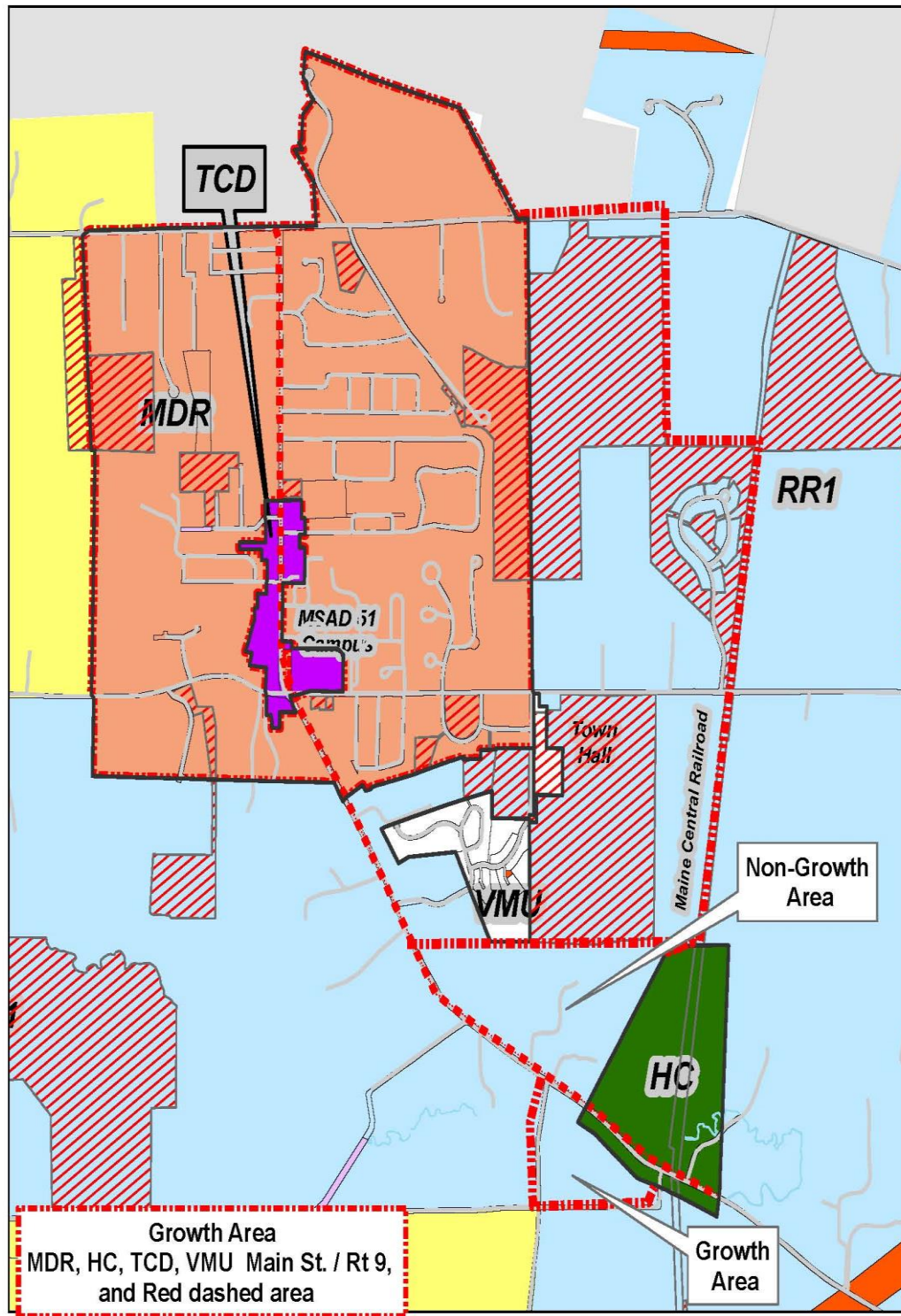


21 Acres
Requested Growth Area



Growth Area Exhibit A

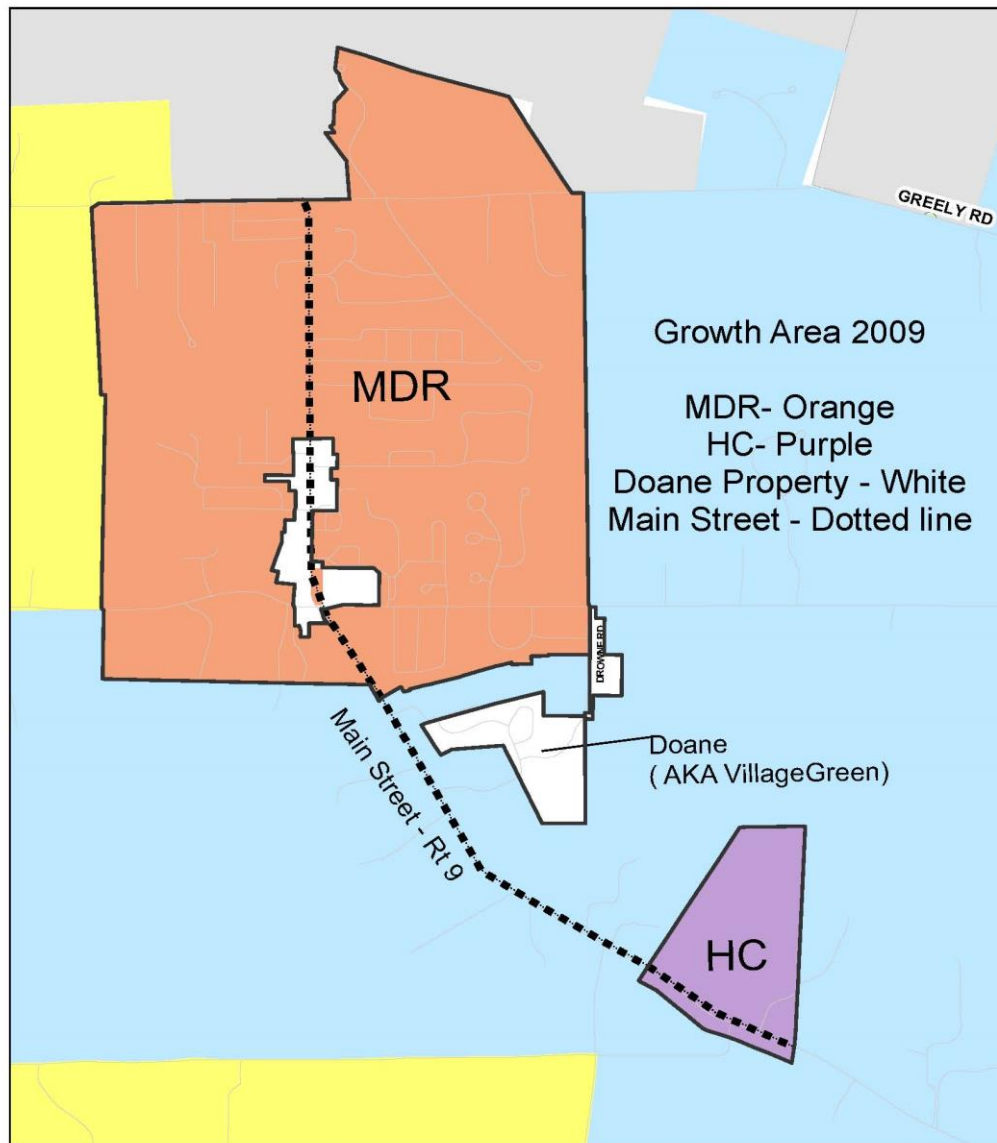
B) Consider a modified proposal as described above (Exhibit B):



Modified Proposal to Growth Map

Exhibit B

C) Consider a strict interpretation of the original growth area (Exhibit C):



Strict Interpretation of Original Area 2009

Exhibit C

Town Manager Shane said that he would also recommend tabling any action on the proposed zone changes from 4 acres to 2 acres.

Councilor Gruber said that the modified map (Exhibit B) is a terrific compromise and takes care of the concerns of the neighborhood.

Chairman Bingham reminded everyone that the Land Use Committee and Planning Board are advisory committees and it is ultimately the Council's decision as they are responsible to the voters who elected them.

Chairman Bingham opened the Public Hearing.

Brian Cashin of 12 Wildflower Way said that the November 9th meeting had the following item on its agenda: *To hold a Public Hearing to consider and act on amendments to the Town Center Growth Area and proposed zone changes as recommended by the Planning Board.* One agenda item. There was a quorum of the Council present, but it was decided to table the item until this evening, when the full Council will be present. Now, the agenda item has changed to evaluate three different alternatives. Can the Council make a decision on the Planning Board's recommendation and then move forward and evaluate other alternatives?

Chairman Bingham said that the roll of the Town Council is to consider the recommendation and make a final decision this evening. Again, the roll of the Council is to consider everything and come up with our own solution.

Steven Winn of 20 Stockholm Drive asked if it would be possible to keep the 2009 document (Exhibit C), but to clarify the issues that seem vague and define the borders that were drawn on the map.

Town Manager Shane responded that the Land Use Committee had a tough time with it because everybody had a different interpretation.

Bob Vail of Cumberland Center said that the most likely place to put development is on the Merrill's Farm. What a perfect place for concentrated development with its open fields, sewer a few hundred yards up the road, and it's less than a mile from the Town center. The area of Route 9 heading toward Falmouth should all be designated growth area as well. These areas are where all the land is.

Marilyn Mathews of 215 Main Street said that the Manager's proposal is a good compromise, and that is what this has to be about, compromise. Growth is going to happen anyway and she appreciates the work that it took to come up with a compromise.

Ted Chadbourne of Stockholm Drive said that he hopes that the work of the Land Use Committee and the Planning Board is not thrown out because of a very well organized protest against keeping things within the logical place. He agrees with Mr. Cashin that the Council should first deal with the Planning Board recommendation. Mr. Chadbourne requested that if the recommendation fails, that it be amended to exclude everything within 400 feet of Route 9 and the Town owned land.

Margie Thompson of 213 Main Street said that she bought a large piece of land 31 years ago because they did not want to live in a development. They are now realizing that some of the Town Council would like to put them in a development. She finds it interesting that not one of the Land Use Committee members live in this area and not one of them came to talk to them. They did not know that this was going on. Nobody notified them.

Chairman Bingham temporarily closed the Public Hearing.

Councilor Gruber said that he feels that Exhibit B is the way to go. It serves all the issues that we heard at the last meeting. We are not brushing off the recommendation of the Land Use Committee. When any issue gets to the Town Council, it might be refined in order to meet the needs of the Town and the concerns of the residents. With Exhibit B, we are addressing those concerns. He is going to support adoption of Exhibit B.

Councilor Turner said that everyone should understand that when the Planning Board sends a recommendation back to the Town Council, the Council is under no obligation to follow the Planning Board's lead. However, for the sake of the Town's cohesion we do not always take the Planning Board's recommendation. He will also be voting in favor of Exhibit B.

Councilor Edes said he would prefer not to do anything. He feels that we should leave the growth area as is and not to decrease the lot sizes from 4 acres to 2 acres.

Councilor Storey-King said that there was some belief that a lot of this work was arbitrary. She does not think it was arbitrary at all, given the information that the committee had, they did the best thinking they could with that information. That information was that our growth district is from the MDR, down Route 9 to the Highway Commercial District. The committee simply took the map and outlined the properties in these areas. Everything in this entire process was well publicized and she is sorry that some people feel that they did not know this was going on. She also agrees that Exhibit B is a good compromise.

Councilor Copp also said that he agrees that Exhibit is a good compromise and realized that no matter how the Council votes, there will still be some people who do not like the decision and others who do like the decision. This is simply how it works sometimes.

Chairman Stiles said he has thought a lot about this and has come to realize that all the growth area is are lines on a map that represent the interpretation of the Comprehensive Plan. Changing the lot sizes will change the complexity, but simply saying that one's property is located in a growth area, does nothing. He also feels that Exhibit B is a good compromise.

Chairman Bingham said that he thinks that Exhibit B is a reasonable compromise. This is a plan, not an ordinance. Several plans and meetings would have to take place to make any zoning change.

Chairman Bingham reopened the Public Hearing for any final comments.

Rick Thompson of 213 Main Street thanked the Council for listening to everyone's concerns. He recommended that in the future, when considering matters such as this, think about whom the stakeholders are and make an effort to involve one of two of those stakeholders.

Bob Waterhouse of Range Road was co-chair of the Land Use Committee. He wanted to be part of the committee because of the recommendation that all 4 acres zoning go to 2 acre zoning. The committee decided to send out a survey and that survey has been repeatedly referenced throughout this process. The survey is a perfect example of what needed to be done and get public input. The committee knew that they were only making a recommendation and that they were not the deciding body.

Steve Moriarty of 34 Blanchard Road was Chairman of Land Use Committee. The committee took the Council charge to examine and revisit the growth areas. We have had growth areas for the past 6 years, since the Comprehensive Plan was adopted. The problem was that the Town Center Growth Area was not well defined, and we owe it to all the residents to be as precise as possible and not leave it undefined. The committee's recommendation is Exhibit A and the Planning Board endorsed it and recommended its adoption to the Town Council. As a Planning Board member, Mr. Moriarty said that he does not feel that the Council is obligated to vote on that recommendation. Both the committee and the Planning Board fully understood that they were making non-binding recommendations to the Council, and once their work was done, all bets were off. Mr. Moriarty said that Exhibit B represents a very thoughtful and responsive demonstration of the input that the Council has received from the public. He also believes that it is respectful of the work that the committee did.

Chairman Bingham closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Gruber to approve a modified proposal known as Exhibit B.
VOTE: 7-0 UNANIMOUS

Motion by Councilor Copp, seconded by Councilor Gruber to eliminate the Planning Board recommendation to change the lot sizes in the Growth Area from 4 acres to 2 acres.
VOTE: 7-0 UNANIMOUS

15 – 159 To hold a Public Hearing to consider and act on accepting Castle Rock Drive as a public road.
Town Manager Shane said that there is one piece of the bond that was not ready for the meeting this evening. He asked the Council to consider a Special Town Council meeting next week to expedite this acceptance.

Motion by Councilor Stiles, seconded by Councilor Gruber, to table until the project is ready.
VOTE: 7-0 UNANIMOUS

15 – 160 To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owner of Map R07/Lot 57C (Pointer Way).

Councilor Gruber explained that the Finance Committee met earlier this evening with Elvin and Randy Copp to review the Consent Agreement with them. The Copp's had no issue with the Consent Agreement and it was explained that there would be a \$500 fine and a penalty of \$1,000 for being out of compliance for the last 2 years. The Finance Committee recommends the fine and penalty of \$1,500.

Motion by Councilor Gruber, seconded by Councilor Stiles, to authorize the Code Enforcement Officer to execute a Consent Agreement with the owner of Map R07/Lot 57C (Pointer Way) and to assess a \$1,000.00 fine in addition to the \$500.00 attorney's fees.
VOTE: 6-0-1 (Copp abstained) MOTION PASSES

15 – 161 To hold a Public Hearing to consider and act on draft zoning amendments to Section 315-71 F (Residential Care Facilities) of the Cumberland Code, as recommended by the Planning Board.

Town Manager Shane said that the Ordinance Committee had looked at this and recommended 25 beds for dwelling units or independent rooms. This ordinance has been around since the 1980's and so much has changed in residential care. The Ordinance Committee felt that assigning a higher number of beds would allow for smaller units to be built. The Planning Board heard that argument and lowered the number from 25 to 20.

Chairman Bingham opened the Public Hearing.
Public discussion: None
Chairman Bingham closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to adopt draft zoning amendments to Section 315-71 F (Residential Care Facilities) of the Cumberland Code, as recommended by the Planning Board.
VOTE: 7-0 UNANIMOUS

15 – 162 To consider and act on authorizing Tax Anticipation Note borrowing of up to \$1,500,000.00.

Town Manager Shane said that we will be borrowing up to 1.5 million dollars, but hope to not have to use it, as was the case for the past three years.

Motion by Councilor Gruber, seconded by Councilor Stiles, to authorize Tax Anticipation Note borrowing of up to \$1,500,000.00, pursuant to the attached order.

VOTE: 7-0 UNANIMOUS

15 – 163 To set a Public Hearing date of December 14th to consider and act on a Memorandum of Understanding with 179 Foreside Road, LLC for a future new pier at Broad Cove Reserve.

Motion by Councilor Stiles, seconded by Councilor Edes, to set a Public Hearing date of December 14th to consider and act on a Memorandum of Understanding with 179 Foreside Road, LLC for a future new pier at Broad Cove Reserve.

VOTE: 7-0 UNANIMOUS

15 – 164 To set a Public Hearing date of December 14th to consider and act on amendments to the Coastal Waters Ordinance, the mooring application, mooring fees, and new mooring area at Broad Cove Reserve.

Motion by Councilor Stiles, seconded by Councilor Turner, to set a Public Hearing date of December 14th to consider and act on amendments to the Coastal Waters Ordinance, the mooring application, mooring fees, and new mooring area at Broad Cove Reserve.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Edes – None

Councilor Gruber – None

Councilor Storey-King – None

Councilor Turner – None

Chairman Bingham – None

Councilor Stiles – He wished everyone a very Happy Thanksgiving.

Councilor Copp – There is no stop sign at the end of Castle Rock Drive. He hopes that if the Town accepts it as a Town road, a stop sign will be installed.

Town Manager Shane – in regard to Mr. Hilton's comments concerning the easements to connect the trails in the Greely Woods area, Mr. Shane said that this is a work in process and unfortunately, this got pushed aside for the time being due to other projects that simply took priority. He did walk the trails with John Jensunius and GPS'd every property pin that they could locate and Mr. Jensunius has met with many of the land owners.

VI. EXECUTIVE SESSION pursuant to Title 36 M.R.S.A. Section 841(2) to consider and act on two applications for tax abatement based on hardship.

Motion by Councilor Stiles, seconded by Councilor Turner, to recess to Executive Session pursuant to Title 36 M.R.S.A. Section 841(2) to consider and act on two applications for tax abatement based on hardship.

VOTE: 7-0 UNANIMOUS

TIME: 9:02 P.M.

Reconvene to regular session at 9:04 P.M.

Motion by Councilor Gruber, seconded by Councilor Turner, to grant tax abatements 1 & 2.

VOTE: 3-4 (Copp, Storey-King, Edes & Stiles) MOTION FAILS

Motion by Councilor Stiles, seconded by Councilor Copp, to reconsider.

VOTE: 6-1 (Storey-King opposed) MOTION PASSES

Motion by Councilor Stiles, seconded by Councilor Copp, to grant tax abatements 1 & 2.

VOTE: 6-1 (Storey-King opposed) MOTION PASSES

VII. ADJOURNMENT

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

VOTE: 7-0 UNANIMOUS

TIME: 9:08 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary