

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, October 26, 2015**

**6:00 & 6:30 Workshops**

**7:00 P.M. Call to Order**

**6:00 WORKSHOP** with Board of Assessment Review

**6:30 WORKSHOP** with Town Attorney re: Litigation Update

## **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 Gruber, seconded by Councilor Storey-King, to accept the October 12, 2015 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

### **II. MANAGER'S REPORT**

Town Attorney, Ken Cole gave the following update on the status of the litigation on the "Payson Property":

As a result of the Town's purchase and the Town's decision to use the property for various public purposes, including public access, there was a lawsuit filed by some of the heirs of the individual who imposed the conservation easement on the property in 1997. The lawsuit went to the Cumberland County Superior Court and the Town filed a motion to dismiss based on the grounds that under Maine's Uniformed Conservation Easement Statute. The only individual standing to enforce a conservation easement are the entity that it was granted to (Chebeague & Cumberland Land Trust), and/or the owner of the property (the Town), or the Attorney General. Superior Court agreed with that analysis and dismissed the case. It was appealed to the Maine Supreme Court on the argument that there should be a broader interpretation of Maine Statute that would allow individuals who might otherwise have rights either as heirs of the individual who granted the conservation easement or as abutters. That appeal is still pending. There is not likely to be a final decision until next summer.

Former Town Councilor Harland Storey, Town Manager Shane and Chairman Bingham presented Attorney Cole with a Town lamp to show their appreciation for his 44 years of service to the Town, as he will be retiring very soon.

### **III. PUBLIC DISCUSSION**

Christine Curtis of 71 Woody Creek Lane (off Route 9) read the following letter to the Council:

*As you probably know, Route 9 is the main thoroughfare between Route 295 and points west, including Cumberland, North Yarmouth, Gray, etc. In the seventeen years that we have lived off Route 9, the traffic on this road has increased immeasurably. New construction and road work have encouraged heavy trucking through the area and excessive speed has become an issue. Because Route 9 has no breakdown lane on either side, there is virtually no place to go to get out of the way of passing traffic or in the case of an emergency. The only areas of escape are down an embankment and into the woods. With the onset of winter and the promise of icy roadways, the danger worsens. One of the greatest challenges we face along Route 9 is our encounter with bicyclists. This time of year even more so, as the sun is setting lower in the sky, making it nearly impossible to see the cyclists who are actually in the*

*driving lane. I know that it is our responsibility as drivers of motor vehicles to always be on the alert for any obstacles in our path, and we are encouraged to share the road with bicyclists. That being acknowledged, it would be a tragedy should an accident between a motorist and a cyclist occur, knowing what the outcome would be. Widening the road and installing bicycle lanes would greatly diminish the possibilities for disaster. There have been so many incidents in which a traffic signal or a stop sign has been installed only after a serious accident has occurred.*

*In addition to dodging bicyclists and dealing with speeding traffic, we risk our lives every day just retrieving our mail from the post boxes that sit directly on Route 9, and just trying to pull out of or enter our road is a death-defying act. The lack of a double line along that stretch of road allows motor vehicles to pass, pick up speed and swerve out into the oncoming lane and toward the mailboxes. The posted speed limit is 45 mph in our area, which seems to mean very little to many drivers.*

*We recognize that in order to widen the road, there are a number of engineering challenges along Route 9, primarily the spots where the road crosses running water or deep ravines. Other than those areas, there do not seem to be any areas of the road that could not be widened. We have driven the section of road from the Falmouth line to Blanchard Road and see the areas where the danger to a bicyclist or pedestrian would be more severe. One in particular is the narrow area near the tracks where the market is. The road rises and falls as well as curves, creating a blind spot both ways. The stretch of road from that area to Winn Road is extremely narrow and hilly. Of course, the aforementioned areas where the road crosses the river and other waterways create no safe escape from danger on the road.*

*Every year, sometime around late summer, work crews dump soft soil along the sides of the road. The first heavy rain washes the dirt into the culverts. Because the culverts are now full of dirt and other debris, the next heavy rain causes the culverts to overflow and wash out the driveways and roads that run off Route 9. Then crews come along and repair the driveways and roads, and the entire operation is repeated the following year. I'm no accountant, but the process does not appear to be cost effective. A wider road would go a long way in the protection of the culverts, roads and driveways.*

*Some of the most dangerous sections of Route 9 run from the Cumberland line to Middle Road in Falmouth. Ideally, the widening project should include all this stretch of road; however I don't think that the good people of Falmouth would be receptive to my pleas regarding this issue. We are hoping that you will entertain this request and propose the same to Falmouth.*

*In addition to the safety factors, residents who live along a main thoroughfare have few opportunities to create a close and vibrant neighborhood atmosphere. Widening the road and adding bicycle/pedestrian lanes would encourage parents and children to safely visit friends and neighbors, whether on foot or with kids on bikes and toddlers in tow. As the road stands now, no reasonable parents would allow their child to bike along Route 9. I know that I would be thrilled to be able to put on my walking shoes and head out to the library. What a nice walk that would be!*

*In closing, please let me say that we are delighted to be living in Cumberland, that the town services are exemplary and the town leaders are accessible. We live in the middle of a pasture where the birds fill our trees and the deer bed down at night. This is paradise. We would just like to request that our paradise be a bit safer. Thank you all for your consideration.*

Chairman Bingham thanked Mrs. Curtis for her comments and told her that the Council has a policy to respond to items brought up in Public Discussion under the New Business portion of the meeting.

#### IV. LEGISLATION AND POLICY

15 – 142 To hear a presentation from Tom Gorrill of Gorrill Palmer Consulting Engineers re: Route One center turn lane 2016.

### Route 1 Center Turning Lane Cumberland, Maine Council Meeting

October 26, 2015



## Project Limits



## Project Description

- Add a Two Way Center Left Turn Lane to two portions of Route 1
  - Turning off Route 1: removes left turning traffic from path of through traffic
  - Turning onto Route 1: Two-Stage Exit
- Add a right turn lane to Route 1 at Skyview Drive and at Thomas Drive
  - Reduces likelihood of rear end collisions

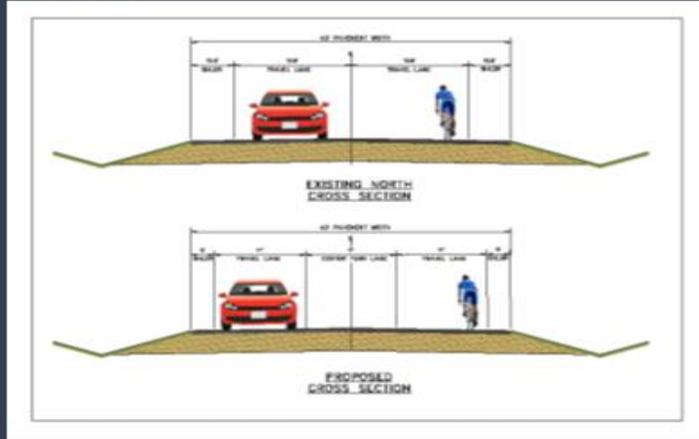
## North Section



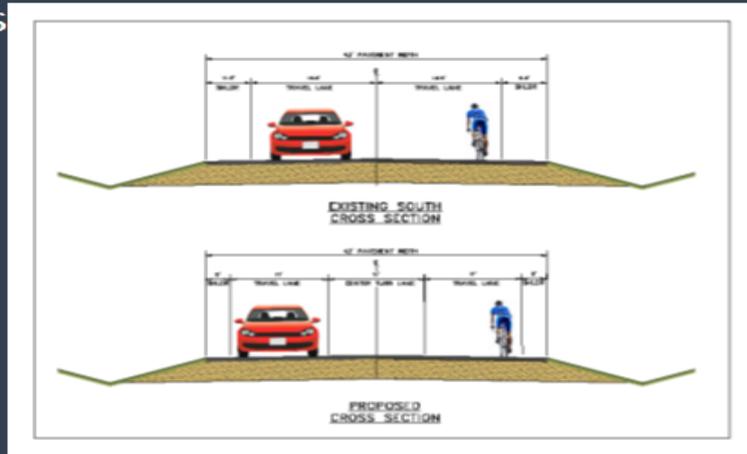
## South Section



## Typical Sections



## Typical Sections



### Capacity

- North Section 2013 AADT – 6230
- South Section 2013 AADT – 6710
- The three lanes have capacity for up to 18,000 vehicles/day
- Still accommodates bicycles



### Maine DOT Discussion & Neighborhood Meetings

- Neighborhood Meetings November 2015 – January 2016
- MDOT Meeting January 2016
- Construction Summer of 2016



Tom Foley of True Spring Farm said that he is not opposed to this plan, but is concerned about speed and the traffic coming and going from his neighborhood and the new neighborhood across the street. He hopes that there will be signage letting people know that the turning lane is coming up ahead.

Don Fischer of Rockwood Condominiums said that he likes this plan and would also like to see signage warning drivers.

Sandra Porter lives on Route One and is concerned about pedestrian safety, especially with the 45 new homes being built in that area.

**15 – 143 To hear a report from the Town Manager re: proposed Senior Circuit Breaker Program.**

Town Manager Shane explained that Cumberland was one of 6 Towns in the state that had a property tax relief program for its seniors that had lived in Town for over 10 years, and were over the age of 67. Several years ago, the State abolished the Senior Circuit Breaker Program and replaced it with a property tax fairness credit. That credit took us from approximately \$300,000 down to \$10,000 this year, and took away the ability for Towns to have their own tax relief programs for senior residents. We have been working with the Town Attorney and have come up with a new program. The Senior Circuit Breaker Committee will look at the new program and it should be ready to go by July 1<sup>st</sup>.

Motion by Councilor Gruber, seconded by Councilor Copp, to forward the proposal to the Senior Circuit Breaker Committee for consideration and return it to the Town Council no later than December 14<sup>th</sup> for a Public Hearing.  
VOTE: 7-0 UNANIMOUS

**15 – 144 To hold a Public Hearing to consider and act on accepting Castle Rock Drive as a public road.  
(TABLE to November 9<sup>th</sup>)**

Motion by Councilor Stiles, seconded by Councilor Copp, to table to November 9<sup>th</sup>  
VOTE: 7-0 UNANIMOUS

**15 – 145 To hold a Public Hearing to consider and act on draft amendments to the 2009 Comprehensive Plan as recommended by the Planning Board in their Notices of Decision dated August 19<sup>th</sup> and September 16<sup>th</sup>, 2015 (excluding Town Center Growth Area).**

Town Manager Shane explained that the Town has changed a lot since the 2009 Comprehensive Plan was adopted and it was time to do an update. The Town Council appointed a 12 member committee to look at the RR1, RR2 and growth areas of Town and come back with a plan. The committee also looked at adding some uses on Route One and eliminating others (such as timber harvesting and drive-thru). We feel confident that the recommendation is a good road map and a good step to go forward.

Chairman Bingham opened the Public Hearing.

Planning Board Chairman, Chris Neagle said that on the Notice of Decision dated August 19, 2015, items number 7 & 8 should not be there. They have to do with the Conservation Subdivision Ordinance which was a separate item. This is an error.

Chairman Bingham closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Copp, to approve the draft amendments to the 2009 Comprehensive Plan as recommended by the Planning Board in their Notices of Decision dated August 19<sup>th</sup> (as amended) and September 16<sup>th</sup>, 2015 attached herein (excluding Town Center Growth Area).

VOTE: 6-1 (Edes opposed) MOTION PASSES

**15 – 146 To hear a report and consider setting a future Public Hearing date for amendments to the Traffic Ordinance regarding parking on Orchard Road.**

Town Manager Shane presented the following:



Orchard Hill  
Apple Orchard

Future Parking Proposal for 2016

By  
William R. Shane, Town Manager  
Chief Joseph Charron  
Lieutenant Milton Calder  
Chris Bolduc, Asst. Town Manager

October 26, 2015

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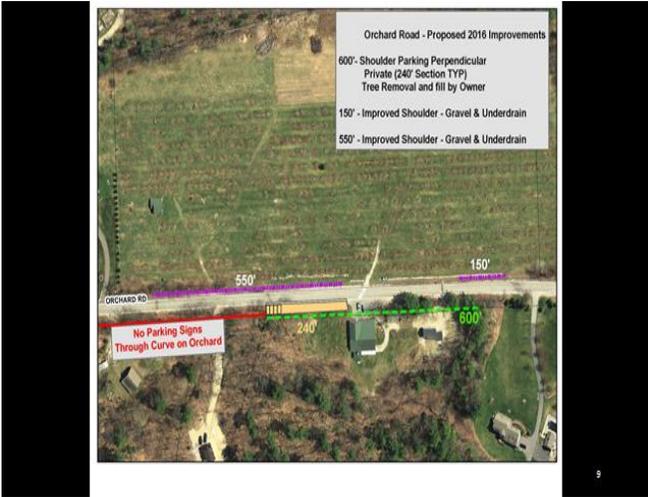




## October 14, 2015 Meeting on Site

The Police Chief & Lieutenant, the Assistant Manager and I met onsite with Bob Pierce, the owner, and walked all the roadside parking areas

The following Plan proposal was agreed to as a good solution to the current parking situation



### Parking & Traffic Proposal for Orchard Hill

- Install drainage and gravel along shoulder along easterly side of Orchard Road - Town to provide 6" underdrain, stone and gravel for 700' of Shoulder Improvements – Owner to supply equipment and labor for installation to Town Specification
- Owner to Remove Trees and develop parking area on the westerly side for a total distance of approximately 600'. The Parking shall allow for a 4' Shoulder along Orchard Road and create perpendicular parking .
- Town shall monitor weekend traffic, including speeds and conformance with shoulder usage by pedestrians walking to store.
- Town Shall Post remaining unimproved areas "No Parking " east & west side both north and south of the Orchard Hill



## Parking & Traffic Proposal – Next Steps

- Set Public Hearing for Neighborhood Input
- Set Public Hearing for Public Hearing to Amend Traffic Ordinance and prohibit parking per proposal
- If improvements are not completed by August 15<sup>th</sup> a Public Hearing will be scheduled to post the entire westerly side of Orchard Road “No Parking”

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Town Manager Shane said that if the improvements are done by August 15, 2016, we can hold a Public Hearing at that time and amend the Traffic Ordinance to make that area a no parking zone. If the improvements are not done, the Manager will come back to the Council to possibly make the store side of the road a no parking area. He is confident that we can work with the Pierce's to find a solution.

Bob Pierce of Orchard Road said that he appreciates this proposal. His main concern is pedestrian safety. The nice thing about parking on both sides of the road is that it slows the traffic down substantially. He feels that changing the traffic ordinance on Orchard Road is too extreme. He feels that if he does some ditch work on the store side of the road, we can get the vehicles completely off the road.

Councilor Copp said that the 300 feet that Mr. Peirce has already fixed has made a huge difference. What they have done with the orchard since they have owned it is phenomenal. We need to work with them to find a solution.

Town Manager Shane said that a neighborhood meeting should be held to get input from them.

Councilor Turner said that if Mr. Pierce improves the 1,000 feet as he proposed, it may be premature to change the traffic ordinance if that is the solution.

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

VOTE: 7-0 UNANIMOUS

### **15 – 147 To authorize the Town Manager to accept an anonymous donation of \$30,000 to be used for food, fuel assistance and school supplies, and to authorize the Manager to execute a gift letter.**

Town Manager Shane said that this family, who wishes to remain anonymous, donates so much which allows others to get through tough times. We were able to help 45 children with school supplies this year because of the generosity of this family. They have made a donation such as this every year for the past 10 to 13 years.

Motion by Councilor Gruber, seconded by Councilor Edes, to authorize the Town Manager to accept an anonymous donation of \$30,000 to be used for food, fuel assistance and school supplies, and to authorize the Town Manager to execute a gift letter.

VOTE: 7-0 UNANIMOUS

### **15 – 148 To appoint Renee LaChapelle as Tax Assessor.**

Town Manager Shane said that with the departure of Gary James as Tax Assessor, we are required by law to appoint another Assessor. We are presently under contract with Cumberland County for our assessing services through June 30<sup>th</sup>. He is recommending the appointment of Renee until the end of this fiscal year.

Motion by Councilor Stiles, seconded by Councilor Turner, to appoint Renee LaChapelle as Tax Assessor.  
VOTE: 7-0 UNANIMOUS

V. **NEW BUSINESS**

**Councilor Edes** – he asked the Manager how bulky item pick up week went.  
Town Manager Shane said that surprisingly, our tonnage was down 10% from last year.

**Councilor Gruber** – reminder that this Saturday is the Aging in Place community forum from 10 a.m. to 2:30 p.m. at the middle school.



Thank you to the Lands and Conservation Commission and the Public Services Department for the great work on the new trails in the Town Forest. There was an opening celebration this past weekend.

**Councilor Storey-King** – Good luck to all Greely sports teams heading into fall playoff season.

It's deer hunting season and the Cumberland Police Department has been warning people on their Face Book page to be careful of deer while driving.

**Councilor Turner** – the Knight's Pond celebration was well attended. He has been enjoying that property for many years and he is happy that we now own it.

**Chairman Bingham** – he will be leaving next week for 16 days in Nepal. Vice-chairman Turner will be chairing the next Council meeting in his absence.

**Councilor Stiles** – he also attended the events for Knight's Pond the Town Forest and was very impressed with the turnout.

He reminded the public that he will continue to solicit donations for the 4-H auction next year to purchase meat for the Food Pantry. Councilor Copp donated \$20 as he promised to do at every Council meeting.

Please be careful if walking in the woods during hunting season and remember to wear orange (your pets too).

**Councilor Copp** – he visited the back side of Forest Lake and was impressed with the people working on the road improvements. It's a work in progress, but there were a lot of people pitching in to help cutting the brush back. C.R. Tandberg was there working on the turn arounds.

He asked Councilor Gruber if the food pantry accepted deer or birds that people hunt.

Councilor Gruber said that there is a program where Wayside will pick up the animal and have it processed.

**Town Manager Shane** – in regard to Mrs. Curtis’s comments regarding Route 9, that is a state road and the Town is only responsible for plowing it in the winter. The only improvement that the state will ever do to that road is add a thin layer of pavement every 8 to 10 years. This project would be appropriate for the 5-year capital plan and we can look at it during the next budget process.

The Manager presented the following notice of the smoke testing to sewer mains going on around town:

**Notice of Smoke Testing of Sewer Mains**



**Slide  
1 of 2**

As part of a survey of the town’s sewer system, the Portland Water District will be conducting smoke testing from October 27<sup>th</sup> to 30<sup>th</sup>. This will help identify any leaks or defects in the sewers. The smoke is non-toxic.

**Concerns? Please Contact  
Portland Water District 207-774-5961**

**Notice of Smoke Testing of Sewer Mains**

<u>Streets Affected</u>	
Birch Lane	Ocean Terrace
Brookside Drive	Pine Lane
Concord Circle	Stony Ridge Road
Coveside Road	Sylvan Lane
Ebb Tide Drive	Val Halla Road
Ferne Lane	Wildwood Boulevard
Island View Drive	

**Slide  
2 of 2**

\*\*Door hangers with detailed information will be distributed to residents of the affected streets\*\*

**Concerns? Please Contact  
Portland Water District 207-774-5961**

**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: 9:00 p.m.

Reconvene to regular session at 9:10 p.m.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to deny tax abatement request #1.

VOTE: 7-0 UNANIMOUS

Motion by Councilor Copp, seconded by Councilor Stiles, to deny tax abatement request #2.

VOTE: 6-1 (Gruber opposed) MOTION PASSES

**VII. ADJOURNMENT**

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

VOTE: 7-0 UNANIMOUS

TIME: 9:12 p.m.

Respectfully submitted by,

Brenda L. Moore

Council Secretary

(minutes prepared from recording - not present at meeting)