

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, February 22, 2016

6:00 P.M. Finance Committee Budget Workshop

7:00 P.M. Call to Order

7:00 P.M. CALL TO ORDER

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

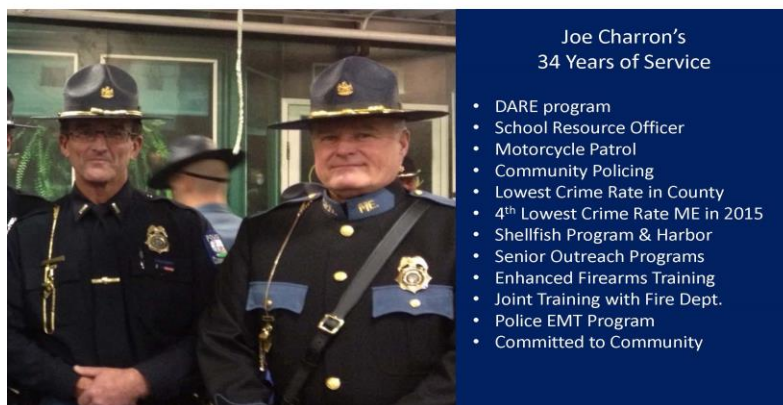
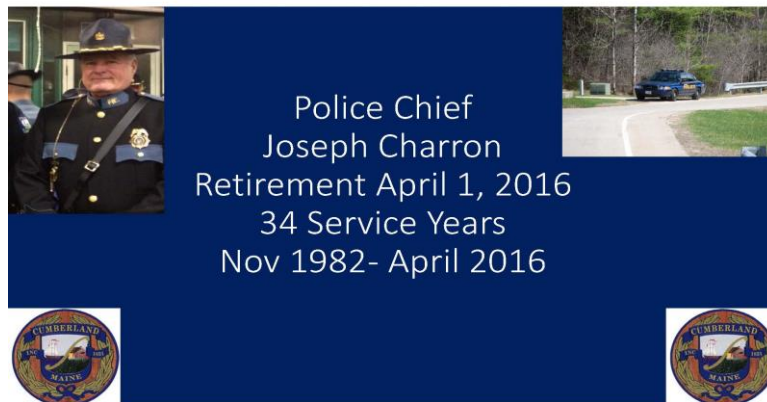
I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Turner, to accept the February 8, 2016 meeting minutes as presented.

VOTE: 6-0-1 (Copp abstained) MOTION PASSES

II. MANAGER'S REPORT

Town Manager Shane reported that our longtime Police Chief, Joe Charron has announced his retirement after 34 years of service to the Cumberland Police Department:





2nd Place at the Demolition Derby at the Cumberland Fair



Drug take-back collection



Always willing to lend a hand

Town Manager Shane said the Chief Charron has done great things for our community and he will be greatly missed. He wished him well in his retirement.

III. PUBLIC DISCUSSION

Brad Hilton of Blanchard Road said that he converted to natural gas and has noticed some changes on his natural gas bill. He reported this to Summit, but has not been satisfied with their response. When he first hooked up to natural gas, the commodity component was .87, then it fell to .45 as gas prices began to decrease. Within the last few months it has suddenly jumped back to .82, but the price of natural gas has not gone up. This does not make sense to him.

Town Manager Shane explained that natural gas is regulated by the PUC. When Summit proposed their project to us, they wanted the PUC to allow them to average the price of the commodity over the first year, so that the consumer would not see the up and down spikes. The PUC would not allow that. The commodity price cannot be marked up or down by Summit and the spikes in commodity price will go up and down as Summit purchases the commodity directly from the pipeline.

IV. LEGISLATION AND POLICY

16 – 017 To hold a Public Hearing to consider and act on authorizing engineering work and bonding of up to \$3.2 million dollars for the Middle Road reconstruction and waterline project.

Town Manager Shane explained that Sevee & Maher scored highest in the engineering interviews last week, based on their price and presentation. Their contract cost will be \$127,400.00. This was factored into the 3.2 million dollar bond for the project.

Chairman Bingham opened the Public Hearing.

Joe Kumiszczka of 3 Middle Road said that he attended the meeting in Falmouth when they were discussing their Middle Road construction process. Phase 2 of their project will run from Johnson Road to the Cumberland town line, beginning in June 2017. In the Falmouth reconstruction project, they will dig down 2 feet and totally rebuild Middle Road. He is fearful that Cumberland will not go through the same construction process and the road will continue to be in poor condition. He is disappointed that Cumberland did not attempt to work with Falmouth on this project. Had we worked with Falmouth, there would have been federal grants available, which he has mentioned to the Town before and has fallen on deaf ears. Mr. Kumiszczka listed other grant programs that he was aware of.

Councilor Gruber told Mr. Kumiszczka that a lot of the points that he brought up were discussed at the engineering interviews last week. He offered to follow up with Mr. Kumiszczka and explain.

Chairman Bingham added that we have had very extensive conversations with the Town of Falmouth about the project.

Chairman Bingham closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Copp, to award the Middle Road Water Line and Road Improvement Project engineering contract to Sevee & Maher Engineers, Inc., and authorize bonding of up to \$3.2 million dollars for the project per the following Bond Order:

WHEREAS, the Town desires to issue its general obligation bonds in an aggregate principal amount not to exceed \$3,200,000 and to appropriate the proceeds thereof to finance the Project described in this Order;

NOW, THEREFORE, be it voted, resolved, and ordered by the Town Council of the Town of Cumberland, Maine:

Section 1: Appropriation. The sum of \$3,200,000 is hereby appropriated, from the proceeds of the Bonds and Notes herein authorized, to finance the costs of reconstruction of Middle Road and installation of a new water line and related facilities along Middle Road and which Bonds and Notes may also finance costs of issuance of the Bonds and Notes and capitalized interest of up to three years on the Bonds and Notes (the “Project”).

Section 2: Authorization of Bonds. For the purposes of financing the aforesaid appropriation, pursuant to the Town Charter and all other authority thereto enabling, there is hereby authorized and approved the issuance of the general obligation bonds (the “Bonds”) of the Town in an aggregate principal amount not to exceed \$3,500,000. The Bonds shall be designated “Town of Cumberland, Maine, [Year of Issuance] General Obligation Bonds.” The proceeds of the Bonds and any Notes shall be used to finance the costs of the Project.

Section 3: Authorization of Notes. The Treasurer is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation thereof (the “Notes”). Any notes issued in anticipation of the Bonds shall be designated “Town of Cumberland [Year of Issuance] General Obligation Bond Anticipation Notes.”

Section 4: Interest Rates and Details. The Treasurer is authorized to determine the date(s), form(s), interest rate(s) (which interest rate may be a fixed rate or a variable rate or some combination of the two), maturities and all other details of each issue of the Bonds and the Notes, including the form and manner of their sale and award. The Bonds and any Notes shall mature at the times and shall be in the amounts, and be dated as of such date, bear interest at the rate or rates and be in such form and contain such terms and provisions (including but not limited to early redemption provisions, if any) as the Treasurer may hereafter determine or authorize.

Section 5: Redemption; Execution. The Treasurer is authorized to provide that any of the Bonds and Notes be made callable, with or without premium, prior to their maturity, and each Bond or Note issued hereunder shall be signed by the Treasurer, shall be countersigned by the Chair of the Town Council, and shall be sealed with the seal of the Town, attested to by its Clerk.

Section 6: Financial Advisor; Underwriter. The Treasurer is authorized to select a financial advisor and/or an underwriter for the Bonds and Notes, and the Treasurer of the Town is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

Section 7: Official Statement. The Treasurer is authorized to prepare, or cause to be prepared, a Notice of Sale and/or a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds and/or Notes, such Notice of Sale, Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the distribution of the Notice of Sale and/or Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds and/or Notes be and hereby is approved.

Section 8: Transfer Agent. The Treasurer is authorized to select the registrar, paying agent and transfer agent (the “Transfer Agent”) for the Bonds and Notes and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

Section 9: Registration. The Bonds and Notes shall be transferable only on registration books of the Town kept by the transfer agent, and said principal amount of the Bonds or Notes of the same maturity (but not of other maturity) in the denomination of \$5,000 or any multiple thereof (or such other minimum denomination as the Treasurer shall establish) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a Bond or Note the Town and the Transfer Agent shall

make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new Bonds or Notes upon exchanges or transfer thereof to be paid by the person requesting the same.

Section 10: Book Entry. The Treasurer is authorized to undertake all acts necessary to provide, if deemed necessary or appropriate by the Treasurer in his discretion, for the issuance and transfer of such Bonds and Notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing Order above regarding physical transfer of Bonds and Notes, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or Notes for and participate in the Depository Trust Company Book-Entry Only System.

Section 11: Exchanges and Transfers. The Treasurer and Chair of the Town Council from time to time shall execute such Bonds or Notes as may be required to provide for exchanges or transfers of Bonds or Notes as heretofore authorized, all such Bonds or Notes to be executed as above described, and in case any officer of the Town whose signature appears on any Bond or Note shall cease to be such officer before the delivery of said Bond or Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

Section 12: Tax-Exempt Bond Covenants. The Treasurer is authorized to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Notes or the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Notes or Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and that no part of the proceeds of the issue and sale of such Notes or Bonds (including any notes and bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Notes or Bonds to be "private activity bonds" within the meaning of Section 141 of the Code.

To the extent permitted under the Code, the Treasurer is authorized to designate any of the Bonds or Notes authorized to be issued hereunder as qualified obligations for purposes of Section 265(b) of the Code.

The Treasurer is authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of the Bonds and Notes, that the Town will file any required reports and take any other action that may be necessary to ensure that interest on the Bonds and Notes will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds or Notes to be subject to federal income taxation.

Section 13: Continuing Disclosure. The Treasurer is authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Notes or Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

Section 14: Town Officials. If any of the officers or officials of the Town who have signed or sealed the Bonds or Notes shall cease to be such officers or officials before the Bonds or Notes so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds or Notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or Notes had not ceased to be such officer or official; and also any such Bonds or Notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds or Notes, shall be the proper officers and officials of the Town, although at the nominal date of such Bonds or Notes any such person shall not have been such officer or official.

Section 15: Deputy Officials. If the Treasurer, Chair of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or Notes or any of the related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself performed such act.

Section 16: Other Actions. The Treasurer, Chair of the Town Council, Clerk and other appropriate officers of the Town are hereby authorized and empowered to do all such acts and things, and to execute, deliver, file, approve, and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts, and other documents as may be necessary or advisable, with the advice of counsel for the Town, including but not limited to any certificates, bond insurance agreements, notices of sale and other documents as may be necessary or appropriate in connection with the sale of the Bonds and Notes and any letter of credit agreement or liquidity facility agreement necessary to the issuance of any Bonds or Notes, to carry out the provisions of the resolutions heretofore adopted at this meeting in connection with the Project, the execution, sale, and delivery by the Town of the Bonds and Notes and the execution and delivery of any related financing documents.

Section 17: Costs; Reallocation. The term “cost” or “costs” as used herein and applied to the Project, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Project; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Project; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Project; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Project; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Project; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest prior to and during construction and for a period not to exceed three (3) years from the issue date of the Bonds or Notes, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing. In the event that any proceeds of the Bonds or Notes remain unspent upon completion of a Project, or if the Town abandons a Project, the Town reserves the right to reallocate unspent proceeds to the costs of other qualified projects approved, or to be approved, by the Town Council, or to apply unspent proceeds to the payment of debt service on the Bonds or the Notes.

Section 18: Tax Levy. In each of the years during which any of the Bonds or Notes issued hereunder are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said Bonds or Notes, payable in such year, and the principal of such Bonds or Notes maturing in such year (except in the case of Notes to be refunded in that year by the issuance of Bonds).

Section 19: Consolidation. Any or all of the Bonds or Notes issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent Order of the Town Council of the Town of Gorham.

Section 20: Investment Earnings; Premium. The investment earnings on the proceeds of the Bonds and Notes, if any, and the excess proceeds (including any premium on the sale) of the Bonds and Notes, if any, be and hereby are appropriated for the following purposes, such proceeds to be held and applied in the following order of priority: (a) to any costs of the Project in excess of the principal amount of the Bonds or Notes; and (b)

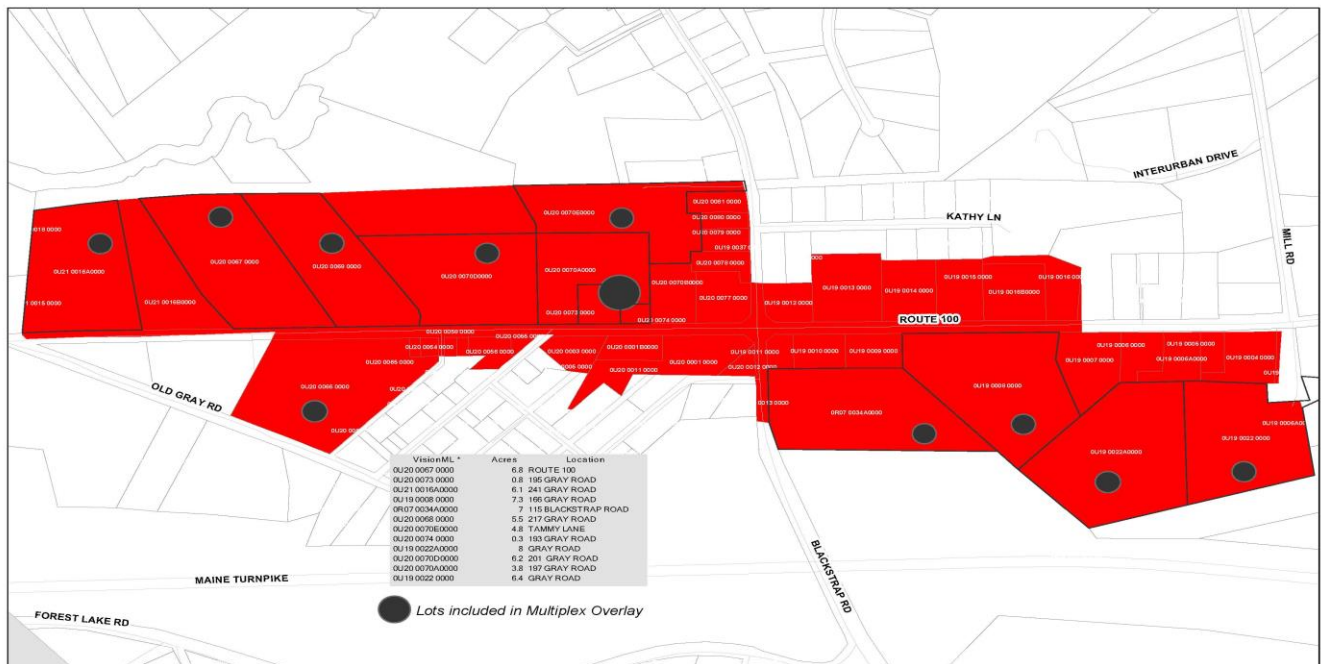
in accordance with applicable terms and provisions of the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds or Notes.

Section 21: Reimbursement. It is the intent of the Town Council that this Bond Order shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation 1.150-2 to pay, on an interim basis, costs of the Project in an amount up to the principal amount of the Bonds to be issued, which costs the Town reasonably expects to reimburse with proceeds of the Bonds or Notes.

VOTE: 7-0 UNANIMOUS

16 – 018 To hold a Public Hearing to consider and act on creating a Village Center Commercial (VCC) Multiplex Overlay District for lots in the VCC zone that are larger than 5-acres in size, as recommended by the Planning Board.

Town Manager Shane explained that the Planning Board approved this amendment to allow multiplexes in the VCC zone on lots 5 acres or larger.



Chairman Bingham opened the Public Hearing.

Public discussion: None

Chairman Bingham closed the Public Hearing

Motion by Councilor Stiles, seconded by Councilor Gruber, to approve draft zoning amendments to create a Village Center Commercial (VCC) Multiplex Overlay District for lots in the Village Center Commercial District that are larger than 5-acres in size, as shown on Tax Assessor Maps: U21/Lot 16A; U20/Lots 67, 68, 70D, 70A, 73, 74, 70E; Map R07/Lot34A; Map U19/Lots 8, 22A, & 22, as recommended by the Planning Board.

VOTE: 6-0-1 (Copp abstained) MOTION PASSES

16 – 019 To hold a Public Hearing to consider and act on draft amendments to the Contract Zone Agreement with Cumberland Foreside Village, LLC to include the rezoning of Tax Map R01/Lot 12A and revisions regarding the development of multiplex dwellings on Tax Map R01/Lots 11, 11A, 11B and 12A, as recommended by the Planning Board.

Town Manager Shane explained that the map below shows what is proposed in the contract zone agreement. It consists of 8 buildings with 12 apartment units in each, and a community building. Mr. Chase has agreed to have one unit in each building be dedicated to someone who is 55 or older. The location of the project is directly behind Seafax and Pack Edge.



Councilor Stiles asked if the 100 foot beautification easement will be maintained.

Mr. Chase responded that he GPS'd the area today and the beautification easement has absolutely been preserved. He does not want to cut any more trees than is absolutely necessary because he does not want to open it up to the highway.

Councilor Storey-King said that she is an abutter and it now appears, as she looks out her bedroom window, that she will see apartments and parking lots.

Mr. Chase said that she will not likely see the parking lot. He also intends to install fencing that will block headlights.

Councilor Storey-King said that she feels that this is happening very fast. This only came to the Council at their last meeting.

Mr. Chase responded that this project always had the apartments included. He brought it before the Planning Board and Town Council many months ago with apartments included. The clearing of trees was finished last summer and no more trees have been cut since then. He feels when the leaves are back on the trees, there will be no visual of the project.

Chairman Bingham opened the Public Hearing.

Brad Hilton of Blanchard Road said that this is a large project and it is strange to him that impact fees were not charged.

Town Manager Shane responded that the first 1,000 square feet of living space is exempt from impact fees. These are 750 square feet. We did require that growth permit fees were paid on this project.

Tom Foley of True Spring Farm Condominiums asked who will be managing the units when they are completed.

Mr. Chase responded that he has an agreement, pending approval, with Loni Gravier of Gravier Homes who is building the 45 homes included in the project. Loni will build, own, and manage the apartments.

Chairman Bingham closed the Public Hearing.

Motion by Councilor Turner, seconded by Councilor Stiles, to approve draft amendments to the Contract Zone Agreement with Cumberland Foreside Village, LLC to include the rezoning of Tax Map R01/Lot 12A and revisions regarding the development of multiplex dwellings on Tax Map R01/Lots 11, 11A, 11B and 12A, as recommended by the Planning Board.

VOTE: 6-0-1 (Storey-King abstained) MOTION PASSES

16 – 020 To hold a Public Hearing consider and act on amendments to the Route 1 Design Guidelines to make them Design Standards, as recommended by the Planning Board.

Town Manager Shane said that these guidelines have been around for 10 years and it is simply time to make them standards. These standards will be used by the Planning Board as part of the site plan review on proposed development projects in the Route One Corridor.

Chairman Bingham opened the Public Hearing.

Public discussion: None

Chairman Bingham closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Stiles, to approve amendments to the Route 1 Design Guidelines to make them Design Standards, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS

16 – 021 To consider and act on authorizing a Credit Enhancement Agreement for Grun Development for all of the non-residential components of the project (50% of taxes for 20 years or \$500,000, whichever occurs first).

Town Manager Shane explained that the TIF Committee met to discuss the Credit Enhancement Application and recommended that this manufacturing facility and any commercial buildings would be allowed under the Credit Enhancement Agreement, but none of the residential units included in the project.

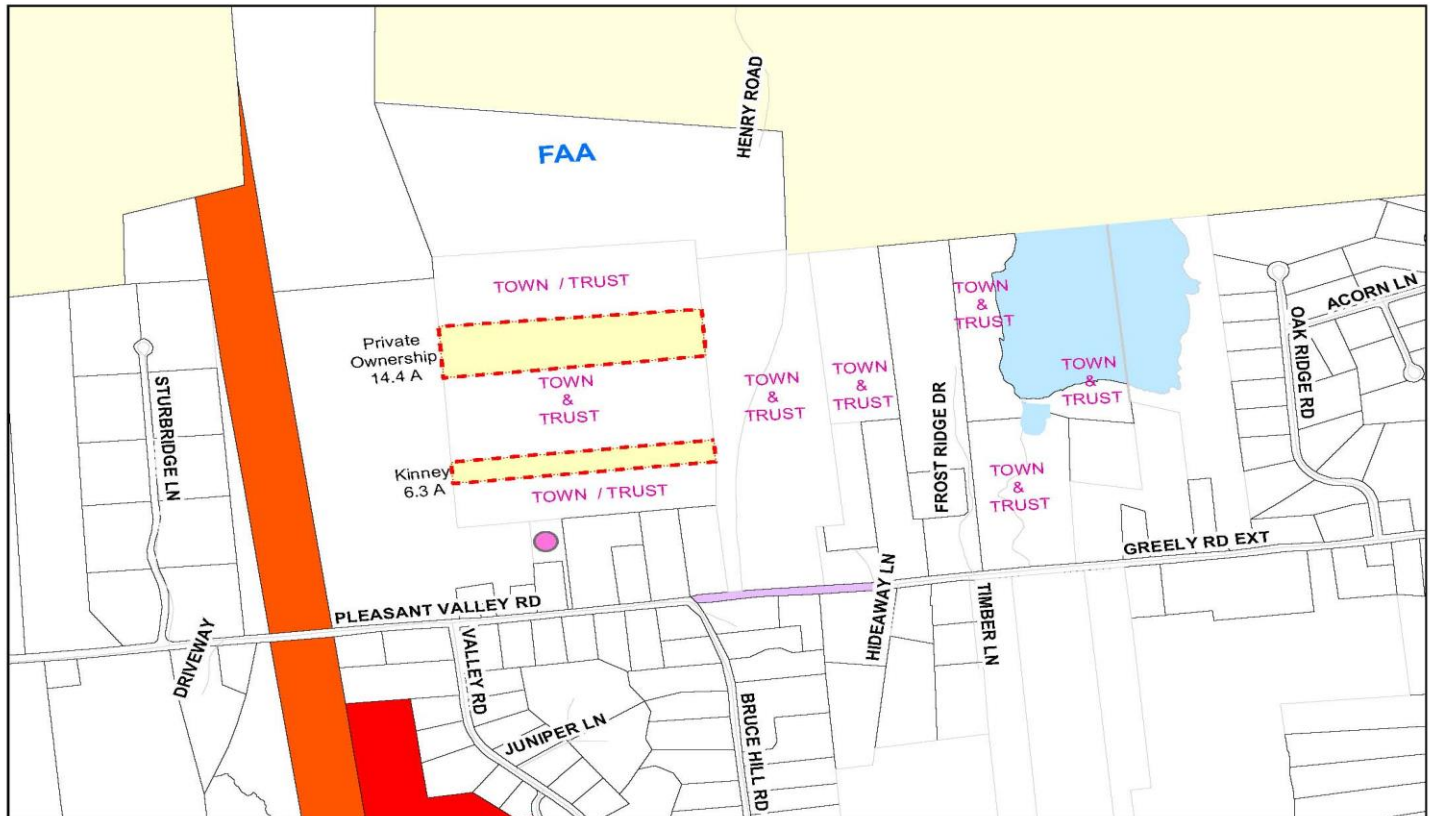
Councilor Copp asked the Manager to explain the process a business goes through to request a Credit Enhancement Agreement.

Town Manager Shane explained that it is a written request for economic development purposes. With a new business coming to town, it could be the deal breaker for enticing them to bring their business here. If the business is sold or transferred, the CEA stays with the business.

Motion by Councilor Stiles, seconded by Councilor Gruber, to authorize a Credit Enhancement Agreement, upon approval and receipt of all local and state permits as applicable, for Grun Development for all the non-residential components of the project (50% of taxes for 20 years or \$500,000, whichever occurs first).

VOTE: 6-1 (Copp opposed) MOTION PASSES

16 – 022 To authorize the Town Manager to execute a Purchase and Sale agreement and a Gift Letter for Fred Kinney for land located off of Pleasant Valley Road.



Kinney Property - Blueberry Hill off Pleasant Valley Road 2016

Town Manager Shane explained that Mr. Kinney offered to sell the parcel to the Town for \$12,000 and requested a gift letter in the amount of \$25,800 for tax purposes. This parcel will abut the Knight's Pond Preserve property, and the Cumberland/Chebeague Land Trust hopes that the Council will support the purchase of the parcel.

Motion by Councilor Gruber, seconded by Councilor Stiles, to authorize the Town Manager to execute a Purchase and Sale agreement for \$12,000 and a gift letter in the amount for \$25,800 to Fred Kinney for land located off of Pleasant Valley Road (Map R08/Lot 14).

VOTE: 7-0 UNANIMOUS

16 – 023 To set a Public Hearing date of March 14th to consider and act on a Liquor License renewal for Rachel's On the Green.

Motion by Councilor Stiles, seconded by Councilor Turner, to set a Public Hearing of March 14th to consider and act on a Liquor License renewal for Rachel's On the Green.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Edes – He wished Chief Charron good luck in his retirement. Chief Charron became chief during a turbulent time within the department and the Town. Joe took over and did a great job. He is a good man.

Councilor Gruber – The Coastal Waters Commission met last week. He is very impressed with the work that they do.

Thank you to all the food pantry volunteers.

The Aging in Place Committee continues to do great work. Very soon, they will be announcing their new rides program. There have been a number of great programs that are open to the community held at Town Hall, the Congregational Church, the Methodist Church and the Senior Housing complex on Drowne Road. The initiative of this committee is tremendous.

Councilor Storey-King – Congratulations to all the Greely winter athletes. You all should be congratulated on your successes not just the outcome of tournaments.

Councilor Turner – he also wished Chief Charron well in his retirement. He has known Joe for a number of years and he is a good man.

Chairman Bingham – he noted the passing of Peter Newcomb recently. Peter was a member of the Greely Class of 1990, was a very active in the community, and was a close friend to his son. It is very sad when someone the same age as your own children passes.

Councilor Stiles – the subcommittee of the Cumberland/North Yarmouth Joint Standing Committee continues to meet and work on the Knight's Pond Preserve Management Plan. The subcommittee has worked very hard on the document and they are almost finished.

He reminded everyone that he continues his efforts to raise money for the 4-H auction at the Cumberland Fair in September to benefit the food pantry.

Councilor Copp – he also wished Chief Charron well. Joe has been an icon in this community for many years. Joe started the DARE program and has done many great things for our community.

Town Manager Shane – Mable Doughty of Chebeague Island passed away on February 16th at 93 years old. Mable was very active in the community and she will be missed.

We held neighborhood meetings in January regarding parking in front of Orchard Hill Farms, and with the Skillin and Blanchard Road neighborhood regarding the possible removal of the stop sign at that intersection. We should bring both those items to the Council at the next meeting to put closure on them.

We have been notified by the Turnpike that exits in West Cumberland will not be possible. The process got through the preliminary engineering phase and the 15 million dollar price tag was too much for the Turnpike for the second least busy interchange in the entire turnpike system.

The Congregational Church has requested consideration of the installation of an illuminated sign. The Ordinance Committee will be looking at this request since illuminated signs are not allowed per our ordinance.

VII. ADJOURNMENT

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

VOTE: 7-0 UNANIMOUS

TIME: 8:16 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary