

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, November 13, 2017

5:30 P.M. Ordinance Committee

7:00 P.M. Call to Order

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

Excused: Councilor Stiles

I. BUSINESS INTRODUCTION

Revolutionary Gas/Cumberland Car Care

Jeff Dalbec explained that Revolutionary Gas is a full service gas station. Starting next week, there will also be a mechanic on duty for service and repairs. Hours are Monday through Friday 7 am -7 pm, Saturday 8 am – 7 pm and Sunday 9 am - 5 pm. Several business cards are accepted. The gas mixture is 93 octane, which will make your car run very well. They also have free air. The previous owner, Wayne Thompson will be helping out Wednesday's. This will be called "Wednesday with Wayne".

II. APPROVAL OF MINUTES

Motion by Councilor Bingham, seconded by Councilor Copp, to accept the October 23, 2017 meeting minutes as presented.

VOTE: 6-0 UNANIMOUS

III. MANAGER'S REPORT

Swearing in of Police Officer, Ryan Pynchon

Town Clerk, Tammy O'Donnell administered the oath of office to Officer Pynchon.

Police Chief Rumsey read the following commendation for Sergeant, Tom Burgess:

This letter is to officially recognize you and to communicate the appreciation felt by me, the members of the Cumberland Police Department and the entire community for your selfless and caring actions in service to your fellow man.

On the evening of September 10th, you went to the home of an elderly Cumberland resident after receiving information which led you to be concerned for this person's well-being. You responded to the residence, and made contact with an 80 year-old gentleman who was obviously in distress. I understand that this person had no edible food in his home, and that what food was present was rotten and infested with insects. Furthermore, you quickly observed that due to this person's limited mobility, he had not been able to properly feed or care for himself or to maintain his home which I am told was in a terrible condition of uncleanness. Lieutenant Young, who was with you at the home for some time, has fully briefed me on the scene which confronted you and while the details are not appropriate for inclusion here, please know that I am well aware of the concerning scene that confronted you.

Upon gaining an understanding of the situation this member of the Cumberland community was experiencing, you sprang into action. You went to the Cumberland food pantry and retrieved fresh fruits and vegetables and other food items, and cooked your charge a hot meal. You cleaned his entire residence from top to bottom, sanitizing his kitchen, bathroom and living area. You took the time to make sure he did not eat too much too fast, because you could tell that he had lost a lot of weight and had not been eating properly.

In the following days, you worked to connect this man to a wide array of services in hopes of helping return him to health. You enlisted the assistance of Cumberland's Aging in Place, the Southern Maine Agency on Aging, Meals on Wheels, Catholic Charities, Adult Protective Services and importantly, the Veteran's Administration Hospital, because you discovered that your new friend had served in our nation's military. Aging in Place and their durable medical equipment program allowed you to procure a walker to help him regain his physical strength and improve his mobility.

All of these measures you took were in the spirit of assisting a person that you didn't know, but who you knew needed help. Very importantly, you offered your friendship, a calming and reassuring presence, and a clear path out of the confusing and scary situation this veteran was in. You spent your own money and invested your own time in the days ahead to ensure he was eating properly and was regularly experiencing the caring contact of a fellow human being. I am convinced that this investment, as much as anything else, was key to the slow return to health you began to witness.

In addition to all this, you were successful in connecting with this resident's family out of state. You learned that they were willing and able to assist him to move in with them so he could be reunited with relatives who could continue the caring assistance and rehabilitation that you began. I recently learned that your friend has moved and although he is no longer in Cumberland, you clearly and positively impacted his life and I know he and his family are forever grateful for your actions. The happy pictures he is sending you to document his progress is testament to these facts and to the fact that you've gained a lifelong friend.

After a social media post offered a few details about your good deeds, this story went viral, and spread a message throughout America. It is a message that is desperately needed – now more than ever. This message is that you and kind, caring law enforcement officers like you are safeguarding the well-being of communities and their residents all across this nation. We are lucky to have them all, and Cumberland is extremely lucky to have you in particular.

For your actions, which exemplify the highest standard of community caretaking, and for setting a high standard to which others may aspire, please accept this letter of commendation and my sincere thanks.

IV. PUBLIC DISCUSSION

Janine Gorham of 25 Forest Lane said that she appreciates the local business spotlight at the beginning of each Council meeting. She hasn't been to the Food Stop for many years, but since they were featured at the last Council meeting, she has been there 3 times. The food is delicious.

Mrs. Gorham said that she was very sad that the Council voted down the proposal to allow events and weddings to be held on farms. The reason that the majority of the Council voted this down was because of the noise and disruption to the neighbors. She finds this so inconceivable since she and her neighbors have to listen to the loud banging, grinding, trucks, back-up signals, and dumping boulders all summer long from 7 a.m. to 5 p.m. She lives in a modest home in a modest neighborhood, they pay their taxes and they work hard. Why is her piece of mind and solitude any less valuable than those who live in higher priced neighborhoods or near farms? On weekends and in the winter, it is quiet and she is able to relax in the peace and quiet while dreading the coming of spring. The gravel pit is across Forest Lane from her house and when it was purchased in 2006, she attended the Council meeting. They were told that it would not be an active pit, trees would be planted, and they would not even know that it was there. She has since discovered that the zoning was changed shortly after the purchase of the pit to allow concrete and asphalt processing. She is happy with West Cumberland and the positive changes that have

occurred there since they bought their home 34 years ago. A lot of good businesses are there now and it has everything a small town could want. Route 100 is being partially repaired and there are new housing developments there. She wonders if the potential buyers are aware of the industrial gravel pit. She cannot fathom how so much disruption could be allowed to continue, not to mention the safety factor with large dump trucks traveling down Blackstrap Road, from dawn to dusk, where young children are present. Not to mention that the gravel pit sits on top of one of the largest aquifers in Southern Maine. She wants the Council to be aware how much the industrial activity has increased over the past years and proposes that a sound abatement be made in order to decrease the noise and limit the truck activity. She would like to discuss this at a future Council meeting and thanked the Council for their consideration.

Teri Maloney-Kelly of 29 Maloney's Ridge Way thanked the members of the Cumberland Farmer's Club who declined the Town's offer to purchase land in an effort to relocate the Town garage there. What she found most offensive and startling about that proposal was the fact that this Town still feels that it is ok to inject an industrial operation into a residential zone. It is important for citizens to know that there is not a contractual obligation that requires the relocation of this facility. It is important to fully understand the scope of activity that takes place daily at the Town garage. She has heard many Town leaders describe the Town garage as nothing more than a few vehicles and people. For the record, 18 municipal vehicles and 6 heavy pieces of equipment are garaged, fueled, and maintained at the facility. There are 9 fire trucks and rescue vehicles that are fueled at the garage, 3 vehicles used by the Parks Department are fueled at the garage, as well as police vehicles. The M.S.A.D. has 4 maintenance trucks, 4 vans and 27 school buses, most of which are garaged at their building next to the Town garage. The Town holds 2 recycling events each year that are staged at the Town garage and do create a lot of traffic. The sand and salt storage is also located at this facility. There is certainly a lot of activity that goes on at the present facility on Drowne Road. Although it is considered municipal use for zoning purposes, any other business with this type of equipment and activity would be considered industrial. The Town has already considered 9 locations in residential zones (Bruce Hill Road, Blanchard Road, Range Road, Tuttle Road, Greely Road and Harris Road). There were 3 other non-residential locations considered, which involved pits off Goose Pond Road, Route 100 and Blackstrap Road. She wonders if she named anybody's neighborhood. Her hope by being here this evening is to initiate a Town-wide conversation about what to do about the Public Works facility. Please consider the following: should the Public Works garage remain where it is? What would be needed to keep the facility at its current location? Do you feel it needs to be relocated? If so, is it ok to put it in a residential zone? Should it be moved to an industrial zone? Do you, as a citizen, own property that you feel might fit the needs of a Public Works facility and do you want your property considered? She is asking everyone, as her neighbors and fellow citizens, to please share their thoughts with the leadership of our Town. Don't wait to be a nimby. Help our leaders make the right decision for our Town and for our neighborhoods.

David Higgins of 107 Bruce Hill Road, said that he and his wife are not against farmers or farming in Cumberland (or anywhere), as some people may have been led to believe. People move to Cumberland because of the rural ambiance stated in many recent public hearings and forums. This rural ambiance is going to be changed with the farm based events, especially over the summer months. This potentially will be 8 events per farm, per year. These events will create more traffic and noise before, during and after said events take place (up to 10:00 p.m.). He has lived in Cumberland for over 30 years. His 3 sons graduated from Greely High School. His dad had a farm where he raised and bred horses. Selfishly, this evening, he is here to protect his current Cumberland way of life and asked the Council to once again turn down the special events for farms.

Christina Mitchell of Shady Run Lane the reason her family moved here and stays here is because of the farms. She and her husband do not know many people in Town, but when she drives around Town, the

farms are amazing. If the farms go away, they will be replaced with subdivision with a lot of street lights and traffic. She asked the Council to consider allowing the farms to have these events.

Teri Maloney-Kelly said that she is glad that the Council has the opportunity to reconsider this. As a member of the Planning Board, she wondered how they could have been so far off the mark and what happened. She urged the Council to let this have a chance and see how it works. This request is not unrealistic and she hopes it passes this evening.

Harland Storey of 45 Middle Road said that he farmed actively for 65 years. This past summer, in his barn, he had a wedding, a funeral, and many other gatherings. Nobody was bothered by this. Anyone can put up a tent and have an event on their property. These events should require complete, off street parking. If there are complaints, the Town will have the ability to do something about it (with the licensing process).

Kathy Harper of 102 Blanchard Road said that Blanchard Road has become a speedway. People speeding all day long. Something should be done about this. They hosted their daughter's wedding on their farm and it went off flawlessly. They may like to do another wedding in the future. There were no problems or complaints. They feel like they should be able to do this if they want to. She hopes the Council considers passing this.

Greg Sweetser of 15 Blanchard Road said that farming has transitioned over the years and continues to do so. There will be other uses to farms, but the basic use will always be agriculture. They have had weddings on their farm and the traffic is affected a couple of times at the start and the end of an event. If you count the cars going in and out of subdivisions, there are thousands of vehicles coming and going all day long. Allowing farms to have events will help the farmers and he hopes the Council will support it.

V. LEGISLATION AND POLICY

17 – 153 To reconsider item 17-146: amendments to Chapter 315 (Zoning), section 4 (Word Use and Definitions), Section 6 (Rural Residential Districts (RR1 and RR2)) and Section 8 (Medium Density Residential (MDR)) to add Farm-based Special Events as a new definition and a permitted use in the Rural Residential 1, Rural Residential 2 and Medium Density Residential zoning districts, and to amend Chapter 315 to include a new Section 315-49.1 “Farm-based Special Events”, of the Cumberland Code, as recommend by the Planning Board. (Action will be taken)

Motion by Councilor Gruber, seconded by Councilor Turner, to reconsider item 17-146.

VOTE: 4-2 (Copp & Edes opposed) MOTION PASSES

Council discussion before the vote:

Councilor Turner reminded the Council that if they choose to not reconsider this item, it can go to referendum and the community will likely support it. In voting yes on this, the Council will have the ability to deal with issues that may come up with noise, traffic, etc. If we do not vote yes and the referendum and passes, there will be a lot less control for the Town.

Councilor Bingham agreed with Councilor Turner that the Town would likely not prevail in a referendum vote. He is disappointed that there have been some misrepresentations to the Council that all the neighbors were in favor of this. He will support the reconsideration because he feels that the Town having some control is better than the referendum process.

Councilor Gruber said that he had originally voted against sending this to the Planning Board because he felt that the Planning Board was not given enough guidance. Ultimately, the Planning Board sent it back to the Council with a recommendation, and the Council did not support their recommendation. Having farm based weddings is included in our Comprehensive Plan. We should be following our Comprehensive Plan. He voted against this mainly because of the 8 events allowed per year. He would prefer that it be 4-5 event per year.

Councilor Storey-King said that she stands by her previous vote (in favor).

Councilor Copp said that he stands by his previous vote (against).

Councilor Edes said that he will continue to vote no. He feels that it has been handled horribly by the people who brought this request forward. If someone wants to bring a commercial business into a residential area and cannot be trusted to treat their neighbor’s right, he cannot support this.

Councilor Turner said that we have a number of boutique-type farms in Town and we have to keep in mind that this is a beneficial use for the farming community of Cumberland. We should be concerned about all the farms, not getting our noses out of joint because of one.

Motion by Councilor Gruber, seconded by Councilor Turner, to amend Chapter 315 (Zoning), section 4 (Word Use and Definitions), Section 6 (Rural Residential Districts (RR1 and RR2)) and Section 8 (Medium Density Residential (MDR)) to add Farm-based Special Events as a new definition and a permitted use in the Rural Residential 1, Rural Residential 2 and Medium Density Residential zoning districts, and to amend Chapter 315 to include a new Section 315-49.1 “Farm-based Special Events”, of the Cumberland Code, as recommend by the Planning Board.

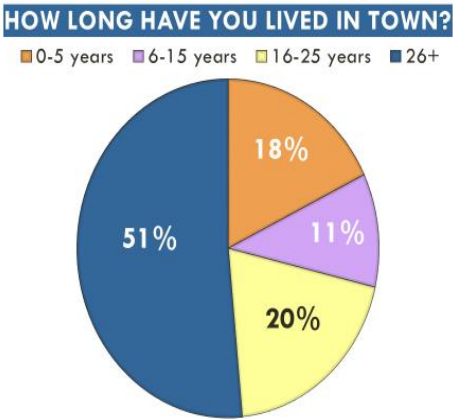
VOTE: 4-2 (Copp & Edes opposed) MOTION PASSES

17 – 154 To hear a report from Communications Director, Eliza Porter re: recap of October 25th Community Forum.

Communications Director, Eliza Porter presented the following:

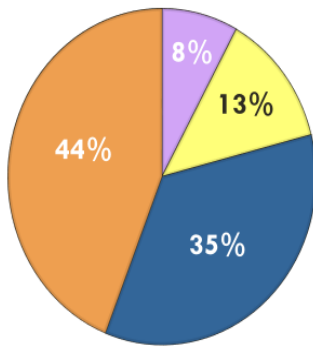


COMMUNITY MEETING RECAP

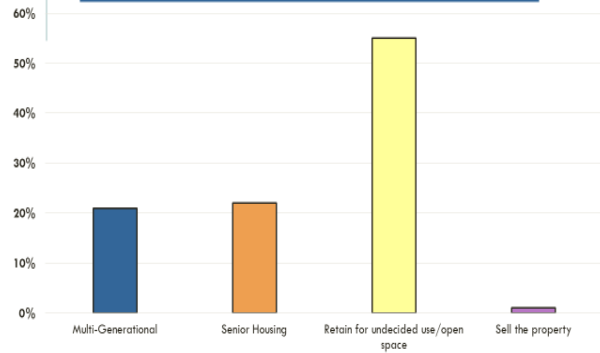


WHICH AGE RANGE BEST DESCRIBES YOU?

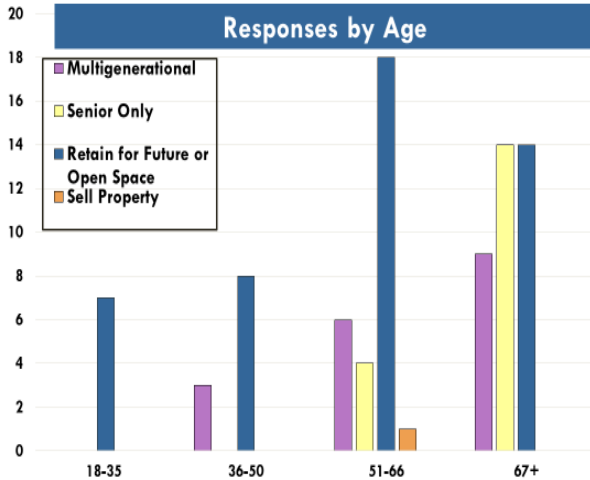
18-35 36-50 51-66 67+



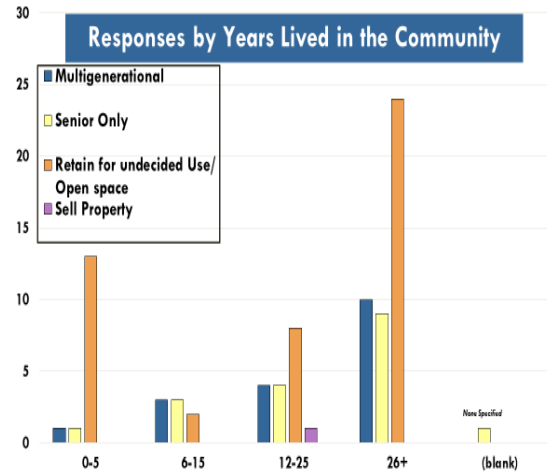
What best describes your recommendation to the Town Council?



Responses by Age



Responses by Years Lived in the Community



17 – 155 To hear a report from the Finance Director re: 1st Quarter Financials.

Finance Director, Heather Perreault, presented the following:



Town of Cumberland FY18 Q1 Revenues/Expenses

General Fund FY2018 Q1 Revenues & Expenditures

	FY18 Budget	FY18 Actual	FY18 %	FY17 %
TOTAL REVENUES	\$ 4,787,399	\$ 1,580,211	33.0%	34.8%
Controllable Expenses	\$ 7,881,844	\$ 1,978,620	25.1%	27.4%
Fixed Expenses	\$ 20,016,838	\$ 6,251,134	31.2%	33.0%
TOTAL EXPENSES	\$27,898,682	\$ 8,229,754	29.5%	31.4%

General Fund FY2018 Q1 Selected Revenues

	FY18 Budget	FY18 Actual	FY18 %	FY17 %
Excise Tax	\$ 1,680,000	\$ 595,739	35.5%	33.7%
State Revenue Sharing	\$ 453,207	\$ 110,211	24.3%	25.0%
Permits & Impact Fees	\$ 158,000	\$ 60,119	38.1%	134.7%
EMS Billing	\$ 175,000	\$ 44,826	25.6%	19.6%
Recreation - After School	\$ 214,836	\$ 45,595	21.2%	27.0%
Recreation - All Other	\$ 603,280	\$ 144,129	23.9%	31.1%
Val Halla - Golf Revenues	\$ 634,632	\$ 191,280	30.1%	26.9%

General Fund FY2018 Q1 Selected Expenses

	FY18 Budget	FY18 Actual	FY18 %	FY17 %
Admin/Finance	\$ 571,347	\$ 179,215	31.4%	32.1%
Police	\$ 1,358,525	\$ 270,570	19.9%	26.5%
Fire	\$ 874,775	\$ 190,898	21.8%	24.2%
Public Services	\$ 1,901,644	\$ 352,341	18.5%	20.1%
Val Halla Golf Club	\$ 735,188	\$ 312,140	42.5%	41.4%
Recreation	\$ 920,638	\$ 280,128	30.4%	31.1%
Legal	\$ 42,500	\$ 9,795	23.0%	10.7%

% Variance to AVERAGE Expenditures



Questions?



17 – 156 To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 11 Thurston Lane.

Town Manager Shane explained that this is due to a missing property pin and the setbacks were encroached upon during building, many years ago. Staff is recommending approval and the Town Attorney has reviewed it.

Motion by Councilor Bingham, seconded by Councilor Turner, to authorize the Code Enforcement Officer to execute a Consent Agreement with the owners of 11 Thurston Lane and to collect \$500.00 for legal fees.

VOTE: 6-0 UNANIMOUS

17 – 157 To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 11 Bayberry Lane.

Town Manager Shane explained that the entire Glenview subdivision was a conservation subdivision type of development, with Inland Fisheries and Wildlife. Part of the Planning Board review required the lots to select a plan for tree cutting. This particular lot is close to 8 acres and the owner overcut the lot by 8,000 to 10,000 square feet. It is a fairly small impact, but it exceeded what the Planning Board approved for that lot.

Motion by Councilor Bingham, seconded by Councilor Gruber, to authorize the Code Enforcement Officer to execute a Consent Agreement with the owners of 11 Bayberry Lane and to collect \$500.00 for legal fees.

VOTE: 6-0 UNANIMOUS

17 – 158 To set a Public Hearing date of November 27th to consider and act on amendments to Chapter 282 (Vehicles and Traffic) of the Cumberland Code, as recommended by the Ordinance Committee.

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

VOTE: 6-0 UNANIMOUS

17 – 159 To set a Public Hearing date of November 27th to consider and act on amendments to Chapter 84 (Fees and Fines), Section 31 (Vehicles and Traffic) of the Cumberland Code, as recommended by the Ordinance Committee.

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

VOTE: 6-0 UNANIMOUS

17 – 160 To set a Public Hearing date of November 27th to consider and act on the designation of proposed TIF District #8 (Tuttle Road Development Project) and the adoption of a Development Program for the same, as recommended by the TIF Committee.

Motion by Councilor Bingham, seconded by Councilor Gruber, to set a Public Hearing date of November 27th to consider and act on the designation of proposed TIF District #8 (Tuttle Road Development Project) and the adoption of a Development Program for the same, as recommended by the TIF Committee.

VOTE: 6-0 UNANIMOUS

17 – 161 To set a Public Hearing date of November 27th to consider and act on accepting Wyman Way, Casco Bay Drive, Nautical Drive, Clipper Street, and Captains Way as Town roads.

Motion by Councilor Bingham, seconded by Councilor Gruber, to set a Public Hearing date of November 27th to consider and act on accepting Wyman Way, Casco Bay Drive, Nautical Drive, Clipper Street and Captains Way as Town roads.

VOTE: 6-0 UNANIMOUS

17 – 162 To authorize the Town Manager to publish notice of disposition of abandoned property (unregistered moorings) pursuant to 30-A M.R.S.A. 3106(2).

Town Manager Shane explained that our Harbormaster's have been working very hard to bring our mooring program into compliance with our ordinance. This action will be authorization to publish a list of unregistered moorings that will be removed from our waters and stored. The owners will have a set number of days to claim their moorings.

Motion by Councilor Gruber, seconded by Councilor Bingham, to authorize the Town Manager to publish notice of disposition of abandoned property (unregistered moorings) pursuant to 30-A M.R.S.A. 3106(2).

VOTE: 6-0 UNANIMOUS

VI. NEW BUSINESS

Councilor Bingham – none

Councilor Gruber – the Aging in Place Forum was held 2 weeks ago. Attendance was down a bit this year, but it was a great event. Thank you to the Aging in Place Committee members who put in a lot of time and effort planning the forum, M.S.A.D. 51 for providing the food, Karen Campbell, Chair of the Committee, and Susan Gold, of Southern Maine Agency on Aging.

The Food Pantry just started its 6th year. It is unbelievable how this community has rallied around the Food Pantry. Thanksgiving baskets will be given out this Friday. It is remarkable how many people help with preparing the baskets.

There was a meeting last week with surrounding towns, PACTS and GPCOG to discuss connectivity of trails. It was a good event with a lot of good discussion.

The Public Works and Public Safety departments did a great job after the recent storm.

Thank you to all the people who worked the election. We had a terrific turnout.

Councilor Storey-King – the Ordinance Committee is working on the traffic ordinance and fees, senior housing, and licensing for farm based specialty events.

She reminded the public that Girl Scout, Audrey Hankinson's house numbering project is still going on. There is more information on the Town website and order forms are available at Town Hall.

Councilor Copp – What a phenomenal thing that Sergeant Burgess did in helping the elderly resident. Tom is a good man and he was happy to see him recognized.

He noticed some cross cuts that were left by Summit Natural Gas. There are 3 on Skillin Road and 1 on Tuttle Road in front of the fire station. Town Manager Shane said that he would look into this.

In regard to the Farm Based Specialty Events, he hopes that everyone will be mindful of their neighbors and won't throw javelins.

Chairman Edes – Thank you to Debbie Flanigan for her many years of service to the Town. Debbie recently retired and he wished her the best.

In honor of Veterans Day, thank you to Councilors Bingham, Gruber, Turner and Stiles for their service.

Councilor Turner – there is a tree that is down and another leaning toward the road on Route 88 near the Tuttle Road intersection. Town Manager Shane would have Public Services look at it.

Town Manager Shane – he has the privilege of working with a couple of volunteers in the Food Pantry who are Veterans. They are dependable and a lot of fun to work with.

- VII. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.
Motion by Councilor Bingham, seconded by Councilor Copp, recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.
VOTE: 6-0 UNANIMOUS
TIME: 8:57 P.M.

Reconvene to regular session at 9:12 P.M.

VIII. ADJOURNMENT

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

VOTE: 6-0 UNANIMOUS

TIME: 9:12 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary