

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, NOVEMBER 8, 2010

6:00 Workshop

7:00 p.m. Call to Order

6:00 WORKSHOP with David Bateman of Bateman Partners, LLC re: Doane Property Development Proposal

7:00 p.m. – CALL TO ORDER

Present: Chairman Storey-King, Councilors Moriarty, Perfetti, Porter, Copp, and Turner

Excused: Councilor Stiles

I. APPROVAL OF MINUTES

October 25, 2010

Motion by Councilor Perfetti, seconded by Councilor Copp, to accept the minutes as presented.

VOTE: 6-0 UNANIMOUS

II. MANAGER'S REPORT

- Project Update:
Route 88

The project is going very well. Paving should be completed by next week. Depending on the type of winter we have, construction may go on all winter.

- Maine Green Energy

Tom Federle, of Maine Green Energy Alliance explained that Maine Green Energy Alliance has partnered with the Town to save energy in our community. Their mission is to make it as easy as possible for residents to save money on energy through rebates and energy efficient home improvements. They were at Town Hall on Election Day and over 100 people stopped and spoke to them for more information on how they can save money on their energy bills. There will be a "Green Team" meeting at the Congregational Church on November 14th @ 1:00

III. PUBLIC DISCUSSION

Newly elected State Senator, Dick Woodbury wanted to say hello and initiate communication between himself and the Town Council if the need arises.

IV. LEGISLATION AND POLICY

10 – 152 To hold a Public Hearing to consider and act on the installation of stop signs at Carriage Road and Hallmark Road.

Town Manager Shane explained that staff mailed a survey to the neighborhood polling them on the need of the stop signs in that area and the results are almost evenly divided. The police department has been in that area and have spoken to the habitual speeders.

Councilor Turner explained that this item was brought forward from a neighbor who lives in the area, and the stop sign proposal was prompted by a concern for a child with Asperger's. She feels that speed is an issue and concern. Councilor Turner said that he feels that a "Children Playing" signs would be a more appropriate response to the issue.

Councilor Perfetti said he has read some articles pertaining to stop signs and a study that said that multi-way stop signs typically do not do what they are intended to do. In this case, perhaps a yield sign would be the most appropriate to slow people down.

Councilor Copp asked Town Manager Shane what the installation of two stop signs costs. There were a lot of comments in the materials from residents concerned about the cost and it being a waste of tax payer dollars.

Town Manager Shane said that it costs approximately \$250.00 at a maximum.

Councilor Moriarty said that he drove through the neighborhood and felt that additional stop signs are not necessary. That is not to say that there are not people inappropriately speeding in that area, but there are a number of these intersections all over town. He does not see the compelling need for new or additional stop signs at this intersection.

Councilor Porter said that although he is opposed to the stop signs he commends the resident who brought their concern forward. It is important that people feel the right to come to their elected body and ask for changes. However, he can think of many more locations throughout town that have significantly more traffic where we wouldn't add stop signs to slow traffic down.

No public comment.

Motion by Councilor Perfetti, seconded by Councilor Turner, to amend Appendix VII of the Cumberland Traffic Ordinance pursuant to Section 7-2 (Signs Required at Through Streets) to add stop signs at the intersection Carriage Road and Hallmark Road.

VOTE: 0-6 MOTION FAILED

10 – 153 To hear a presentation from David Bateman of Bateman Partners, LLC re: proposal of development of the Doane Property.

Mr. Bateman explained that his company responded to the Towns Request for Proposals for the development of the Doane Property and was ultimately selected to continue discussions with the Town and create a development plan. If developed appropriately, it could become the focal point of the Town. Phase I of the plan consists of 50 residential units designed in a cluster fashion. Phase II envisions transforming the Public Works facility location into a 21-22 unit small clustered village. Mr. Bateman explained that they are attempting to promote a walkable neighborhood with sidewalks and areas of passive and active recreation, tennis courts, and a connector to the Town Forest. Their price points will be from \$250,000 to \$350,000. Another proposal is to convert the Drowne Road School into a senior housing facility. For a concept to become a reality, it is dependent on the input of the residents. There will be several meetings in the coming months that Mr. Bateman encouraged residents to attend.

Chairman Storey-King explained the proposal process that led Mr. Bateman to this proposal adding that it is the intent of the Council to keep the discussions public and encouraging input from residents.

Tom Shepard voiced his support for the proposal. He felt it a positive development plan that could put the Drowne Road School to use. He likes the village concept and layout of this plan.

Bob Vail said that he would not support Phase I by itself because 50 units of housing, on its own, is not needed in this community. Mr. Vail requested that the Council do a complete analysis of what the tax burden, tax benefits, and impact will be for this project. Mr. Vail added that he also feels that additional senior housing is important.

John Campbell said that he is excited about the village concept, but feels that the Town will not be happy if only Phase I is completed by itself as it will be like any other subdivision.

Councilor Porter said that the exciting part for him is the reutilization of the Drowne Road School.

10 – 154 To hold a Public Hearing to consider and act on a Moratorium Ordinance regarding extraction of earth materials and water extraction, pumping and/or bulk storage.

Councilor Copp recused himself and sat in the audience.

Attorney Helen Edmonds, representing Randy and Elvin Copp spoke on behalf of the Cops. Ms. Edmonds said that the Elvin and Randy Copp are one of the only (if not the only) properties in Town that would be immediately impacted by this moratorium and she is speaking in opposition of this proposed ordinance. A moratorium is a special ordinance that is only appropriate in limited circumstances. Those circumstances would call for a Town-wide emergency situation for which the current ordinances are not appropriate to regulate the use. As stated previously, the Cops are probably the only property owners in Town who will be impacted by this ordinance. That in itself is a critical point because that demonstrates the fact that this is not a Town-wide issue that requires something as draconian as a moratorium. It is true that much of the Town is zoned RR 1 and RR 2 and would permit gravel extraction uses. However, unlike many uses that can be developed throughout a Town, gravel extraction can only be developed where gravel exists. For that reason, while it may be that the ordinance on its face allows this use in many locations throughout the Town, we are really talking about a specific proposed gravel operation that a specific small group of neighbors are concerned about. That is not the type of situation that should prompt something like a Town-wide moratorium. A few relevant facts: 1) West Cumberland is an area where gravel pits have existed for many decades, 2) the Copp property, as well as adjacent property has been used in the past as an operating gravel pit, and 3) this is the area in town where the materials exist. The Town has a good, existing set of ordinance provisions that govern this use. The current rules are very adequate to control noise, dust, stormwater runoff, stringent buffers, and impacts to surface and groundwater. The Cops have already discussed these issues with Town staff and have indicated a great willingness to work with Town staff and neighbors to come up with either a set of stringent permit conditions under the current ordinance or perhaps amended ordinance provisions that will not require a moratorium.

Gene Stratton stated that he sold the property to the Cops. He feels that government regulations make it impossible for people to afford their homes.

Robert Pierce of Orchard Road said that he is opposed to the moratorium. Mr. Pierce asked how many applications the town has received for gravel pits. Town Manager Shane responded zero.

Mr. Pierce said that he doesn't see why this is an emergency. What the Copps intend to do with their property is sustainable. The Copps have done some nice things in Cumberland and he feels that we owe them a fair shake.

Chairman Storey-King read the following letter from Terry Maloney-Kelly:

Good Evening:

I am Teri Maloney-Kelly from Maloney's Ridge Way in West Cumberland and for those watching at home, the citizen who initially came before the Town Council on October 11th to request the review of the 2 ordinances up for discussion this evening.

Before I begin I would like to take a moment to thank this Council for your quick and focused response and in particular for taking the time on a recent Saturday to do a site walk of the potential new gravel pit which brought this ordinance concern to the forefront. The potential for gravel or water extraction applies to 80% of the households in town, including every neighborhood that each Councilor lives. So this issue is not just about it being in "my back yard" but the neighborhoods of most of the taxpayers in Cumberland. I know this Council prides itself on doing the right thing and doing their best to get it right for the citizens of this Town. So, I am sure it comes as no surprise that I am here to urge the Council to vote for a moratorium on these 2 ordinances. I would like to highlight my original reasons for requesting the review of these ordinances and ask that these concerns be taken into consideration should the moratorium move forward:

- 1. My 1st concern is the industrial nature of a gravel extraction operation. The recent site walk visually showed that there is no residential neighborhood feeling left when a gravel operation exists. The devastation of natural resources including the removal of all tree growth and ground cover as well as the displacement of all the wildlife that depended on these natural resources for their habitat is destroyed for many future generations. In the case of the current potential gravel pit we are talking about at least 50 years of tree growth being removed and habitat that will never return in our lifetime. The Town's active gravel pit is located in an industrial zone, which in my opinion, is the only appropriate location for this type of operation. Unfortunately in West Cumberland in the past 3-4 years dormant gravel pits have been purchased and two gravel related industrial operations have restarted. So to allow any new gravel pit operations, especially in West Cumberland where its residents already have to deal with active pit activity is unfair to the West Cumberland residential taxpayers.*
- 2. My 2nd concern is about the noise pollution cause by this type of operation. Unfortunately the Council did not have the opportunity to visit an active pit operation to get the real feel of the noise produced by this activity. I would invite any Council Member to hang out in our front yard, even though we live almost ½ mile from the current pit operations, or the front yard of those taxpayers who currently abut or live around the 3 active gravel pit-type operations in West Cumberland and you will understand this noise concern very quickly. The beeping of trucks backing up, the banging of the large tailgates, the dumping of materials into the trucks and the noise generated by the equipment extracting and processing the earth materials is loud. How much more industrial noise should the taxpayers of West Cumberland have to put up with? We are also subject to the noise of the Maine Turnpike traffic and Mile 56 and Mile 57 Turnpike rest areas. To consciously add more of this noise disruption in West Cumberland, or any other neighborhood in Cumberland would have devastating effects.*
- 3. My 3rd concern is the damage to the roadways in which heavy trucks travel. Most of our town roads were not originally built for industrial activity on a daily basis. Many of these roads are already in desperate need for repairs, including Blackstrap Road and Route 100. In addition, recently rebuilt roads such as Blanchard and Skilling's will incur breakdown quicker from the increase of heavy truck traveling on them daily.*

4. *My 4th concern is the increased public safety hazard to pedestrians, bike riders and vehicle traffic. Given the existing road conditions and the nature of the size and weight of the trucks involved, the increase in road use will make many of our existing pedestrian routes go from bad to extremely hazardous. None of the existing West Cumberland gravel pit operations are located on roads that have sidewalks or walkways for the safety of pedestrian or bike traffic. In fact many of these roads are already broken down so walking on the side of the road is already hazardous. So when you take the fact that citizens are already traveling on roads that are marginally safe and you add the increase of industrial truck traffic, walking or biking could become an "extreme sport" in West Cumberland. I know this might sound a little dramatic but all you need to do is take the 1 mile walk from the Falmouth/Cumberland town line on Blackstrap Rd up to the corner of Route 100 and you will know that dodging pot holes, having standing water cover ½ of the road after heavy rain, having to walk almost in the middle of the road due to the breakdown of the tar 3-4' from the side or not having any place to get off the roadway for oncoming traffic is real, scary and a public safety hazard.*
5. *My last concern has to do with the commitment that citizens make to be residents in this Town and the outward appearance that the Town does not have this same level of commitment by allowing industrial operations in your residential neighborhood. All residential taxpayers are assessed \$15.30 per \$1000 of value, whether you live in the Center and have easy access to all of the Town's amenities or in West Cumberland where many of the amenities don't exist or we have to travel to the Center to access them. Any resident should have a reasonable expectation that the financial commitment made to build a new home, purchase an existing home, or reside on your family's homestead that has been a part of this Town for multiple-generations will be protected. For example, the potential new gravel pit in West Cumberland will directly affect the personal investments made by the residential taxpayers on Blackstrap Rd, Maloney's Ridge Way, Mystical Way, Old Colony Lane, Liberty Lane, Upper Methodist Rd, Goose Pond Rd, Westmore Ave, Browning Way, Lake Rd, Forest Lake Rd, Forest Lane and Gray Rd/Route 100. Excluding all business operations, this impacts over 120 individual taxpayers at over \$42,000,000 of assessed residential property values. Our properties are at risk of being devalued from these operations, it makes the area less desirable for new citizens to move into, makes it harder for homes to be rented and reduces the opportunity for the sale of property in these neighborhoods. The collective devaluation on citizens and reduced revenue for the Town for the gain of one property owner should be given strong consideration.*

I hope the Council received feedback from citizens on this issue to encourage you to approve this moratorium. I know I speak for the members of my family, many of my immediate neighbors and many other residents of this town who did not feel comfortable expressing their concerns due to family or business relationships. These two ordinances have been on the books for many, many years and by voting for the moratorium it will allow the Town to make it right for today's citizens and taxpayers of Cumberland.

Robert Maloney said that he has lived in town since 1953. In 2000, Mr. Maloney put a road on his property where his children have built homes. They are all going to be within 200 - 250' of the gravel pit. He is hopeful that the Council will support the moratorium. The residents of Upper Methodist Road and Blackstrap Road will be negatively affected.

William Boyle of Orchard Road said that the gravel that will be necessary for current Town projects and future development. If that gravel comes directly from Cumberland and not hauled in from other towns, mileage would be decreased and less people would be affected.

Councilor Perfetti has considered that making a moratorium for one person is probably not the best public policy, and noted no fewer than seven violations with the current property owner. He was shocked when he walked the property. The wetlands that were previously there are now completely gone. RR1 and RR2, as Terry Maloney-Kelly pointed out are residential districts per our ordinance. Is this a use that we want in a residential district? In the end, a moratorium is the best way to review all the issues and compliance, and in the end, the Copps may still get to do exactly what they want to do.

Councilor Turner said that he has a lot of sympathy for the abutters. We have enforcement and policy. There are violations that should have been addressed before now. In this particular instance a “time out” is not necessary. There should be an emergency element to a moratorium. While we don’t have an emergency in this situation, the violations ought to be addressed. He is not in favor of this solution.

Councilor Porter said that the purpose of the moratorium is to allow more time to look into this matter in a coherent way. From a public policy standpoint, this is going to be an interesting debate and the Council needs time to look at this issue and have an intelligent discussion.

Councilor Moriarty said that he agreed with Mr. Pierce that the Copp family has done a lot for this community. The purpose of a moratorium is to take a limited amount of time to study an issue in depth with may have arisen without the Council anticipating it. Councilor Moriarty said that his personal commitment is to not drag this process any longer than entirely necessary. This is a non-threatening, non-antagonistic, non-judgmental approach to simply take some time to determine what is in the best interest of the entire Town and the entire neighborhood.

Chairman Storey-King that she has struggled with this issue as she knows and respects both the Copp family and the Maloney family. She will support the moratorium in order to have a cooling off period and move forward in a productive manner. During the next 6 month period, the roads will be posted so no gravel can be transported during this period anyhow.

Motion by Councilor Perfetti, seconded by Councilor Moriarty, to enact a moratorium ordinance regarding extraction of earth materials and water extraction, pumping and/or bulk storage, effective immediately, for at least the next 180 days.

VOTE: 4-1-1 (Turner opposed, Copp abstained) MOTION PASSES

10 – 155 To hold a Public Hearing to consider and act on amendments to the Cumberland Traffic Ordinance to include No Parking Areas on Farwell Avenue near the Credit Union site.

Town Manager Shane explained that this was a condition of approval imposed by the Planning Board staff and the Chief of Police is recommending approval.

Motion by Councilor Moriarty, seconded by Councilor Turner, to amend the Cumberland Traffic Ordinance, Article XIV (Stopping or Parking Restricted or Prohibited on Certain Streets) subsection 14-3 (Parking Prohibited at All Times on Certain Streets) Schedule A, to include "No Parking" along Farwell Avenue 50' from the intersection of Main Street and directly in front of the Post Office driveway entrance onto Farwell Avenue and more specifically described on a plan for the site improvements for the Atlantic Regional Federal Credit Union, dated April 2010 as designed by SYTD Engineers.

VOTE: 5-1 (Perfetti opposed) MOTION PASSES

10 – 156 To hold a Public Hearing to consider and adopt the MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2010 - October 1, 2011.

Town Manager Shane explained that this item comes before the Council for their approval annually. It gives the town guidelines for the General Assistance Program. Staff is recommending approval.

Motion by Councilor Moriarty, seconded by Councilor Copp, to adopt the MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2010 - October 1, 2011.

VOTE: 6-0 UNANIMOUS

10 – 157 To set a Public Hearing date (November 22nd) to consider and act on amendments to the Twin Brook Use Policy re: insurance, fees, horses, and lightning plan.

Town Manager Shane said that the Twin Brook Committee will meet with the Council in workshop on November 22nd at 6:00 p.m. to review the policy changes.

Motion by Councilor Copp, seconded by Councilor Perfetti, to set a Public Hearing date of November 22nd to consider and act on amendments to the Twin Brook Use Policy re: insurance, fees, horses, and lightning plan.

VOTE: 6-0 UNANIMOUS

10 – 158 To set a Public Hearing date (November 22nd) to consider and act on authorizing the Town Manager to accept delinquent taxes for property identified as Tax Map U02/Lot 31 in the amount of \$20,446.18.

Town Manager Shane said that in situations where homeowners are still living in their homes and are able to pay delinquent taxes, the Council has the authority to accept those taxes.

Motion by Councilor Moriarty, seconded by Councilor Perfetti, to set a Public Hearing date of November 22nd to consider and act on authorizing the Town Manager to accept delinquent taxes for property identified as Tax Map U02/Lot 31 in the amount of \$20,446.18.

VOTE: 6-0 UNANIMOUS

V. NEW BUSINESS

Councilor Turner – None

Councilor Copp – Asked the Manager if Lucas Tree was working for CMP trimming trees. There appears to be a lot of limbs left behind and the trees that were trimmed on Blanchard Road near the fairgrounds look terrible.

Town Manager Shane responded that CMP is doing the tree trimming and they are required by law to leave any limb larger than 3” in diameter on the property. The Town is working with Lucas Tree to get some of debris left behind taken away. CMP has the right to cut 8 feet in either direction of the power lines. If a resident has questions or concerns, they can call Chris Bolduc at Town Hall.

Councilor Porter – Firefighters will be holding their annual toy drive again this year. . Thank you to Brita Bonechi for the water extraction information. He toured the credit union today. It is an absolutely beautiful facility and a great addition to the community.

Councilor Perfetti – His children opened up savings accounts at the Credit Union and were very excited with their visit to the Credit Union.

Chairman Storey-King – The Cumberland Historical Society will hold its monthly meeting at Prince Memorial Library. Thomas Bennett will be making a presentation on the Maine Memory Network.

Councilor Moriarty – On Election Day \$920 was raised for the Veterans Monument fund, which will be matched by an anonymous family. Congratulations to Town staff for a well-run election this year. Too much early voting this year made a major impact on the outcome. He has some concerns regarding starting voting too early. Events evolve up to the date of an election. We perhaps ought to look into approaching the S.A.D. regarding using one of the schools as a polling place for the 2012 election.

Town Manager Shane – If the 1500 people who voted absentee this year had come to Town Hall on Election Day, there would have been all sorts of problems. He has spoken with the Superintendent of Schools regarding using one of the schools on Election Day. It’s not just using the facility, it’s also keeping the kids safe and not disrupting their school day.

Things are still going very well on Route 88. Paving will be completed this week.

Maine Green Energy will be having a workshop for the public at Town Hall at the end of November.

VI. ADJOURNMENT

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

VOTE: 6-0 UNANIMOUS

TIME: 9:17 p.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary