

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, July 22, 2019

6:00 P.M. Ordinance Committee Meeting

7:00 P.M. Call to Order

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

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Stiles, to accept the July 8, 2019 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

II. MANAGER'S REPORT



Manager's Report
July 22, 2019

William R. Shane, P.E.
Town Manager



July 22, 2019

Asylum Seeker's housing Assistance

- Cumberland Congregational Church
- Pastor Allison Smith & Sally Bancroft 829 3419 282 Main Street
- *Thursday Meeting at the Tuttle Rd Methodist Church – 52 Tuttle Road at 7 PM for more information on how to help with support or Housing Hosts*

City of Portland

www.portlandmaine.gov/1554/Support-Asylum-Seekers

To donate, people can text the word EXPO to 91999 or visit www.portlandmaine.gov/donate

July 22, 2019

Town Paving – August

- West Cumberland Area this year
- Tuttle Road Below RR Tracks

Railroad Crossing – August prior to Start of School

- 10 Hours Road way shut down for each crossing expected
- Not a Town Project

Route 9 Closure near Turkey Lane

- 1 more week – Not a Town Project
- No Detour from Contractor onto local Roads

July 22, 2019

Senior Tax Program

- Applications Due August 7th
- 10 Yrs. – 70 years old – 2 parts Tax Increase this year (LT 1%) and income
- Meetings set up for the week of August 12th

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

19 – 096 To hear a report from the Tax Assessor and to hold a Public Hearing to consider and act on setting the FY2020 tax rate.

Tax Assessor, John Brushwein said that the 2020 tax commitment will be completed by the end of this week and it is his recommendation that the FY2020 tax rate be set at \$19.85 per \$1,000.00. This is a .15 cent increase above the FY2019 tax rate. Annually, municipalities are required to calculate a property tax levy limit. If the municipality exceeds the limit, a vote must be taken by the local governing body to exceed the limit. This year's calculation resulted in a municipal property tax levy limit of \$6,122,266.00. The 2019 municipal property tax levy is \$5,740,120.00 which is \$382,146.00 under the limit, therefore, no vote is needed to exceed the limit.

Chairman Storey-King opened the Public Hearing.

Public discussion: none

Chairman Storey-King closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Copp, to set the municipal tax rate for FY2020 at \$19.85.

VOTE: 7-0 UNANIMOUS

19 – 097 To hold a Public Hearing to set rates at which interest will be paid for delinquent taxes and to authorizing applying tax payments to the oldest unpaid taxes.

Town Manager Shane explained that annually, Maine Municipal Association releases their recommendation for interest on delinquent taxes. This year's recommendation is to set the interest rate for delinquent taxes at 9%.

Chairman Storey-King opened the Public Hearing.

Public discussion: none

Chairman Storey-King closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Copp, to set an interest rate of 9% for delinquent real and personal property taxes for FY2020.

Be it further Ordered, that all payments for delinquent real and personal property taxes be applied to the oldest, unpaid taxes.

VOTE: 7-0 UNANIMOUS

19 – 098 To hold a Public Hearing to consider and act on authorizing the Town Manager to execute a purchase and sale agreement for the sale of a portion of Twin Brook Recreation Area on Greely Road to Jeff Storey.

Chairman Storey-King recused herself from this item and asked Vice-Chairman Stiles to take over as chair on this item.

Town Manager Shane explained that this is a portion of Twin Brook that we will be selling to Jeff Storey and it is approximately 25.7 acres and only 8 to 10 acres is useable land. Penny Asherman of the Chebeague and Cumberland Land Trust arranged a meeting with Mr. Storey, the Town, and Maine Farmland Trust and they came up with a great plan to keep this parcel under an agricultural easement in perpetuity and assist Mr. Storey with the purchase. We hope to close on the purchase by the end of the calendar year.

Vice-Chairman Stiles opened the Public Hearing.

Public discussion: Jeff Storey said that he has been working with the Chebeague & Cumberland Land Trust as well as Maine Farmland Trust to make this possible for him and the parcel will be in an agricultural easement forever.

Penny Asherman, President of the Chebeague and Cumberland Land Trust said that they are very happy to be involved in this project and they are fully in support of it. They have partnered with Maine Farmland Trust and will be working on the details of the agricultural conservation easement to protect it from development forever.

Chris Cabot of Maine Farmland Trust said that they have protected almost 200 farms in Maine with conservation easements. Although this is a small property, it is an important one for Jeff and his operation. The partnership with the Land Trust works out well. They can provide some funding and the Land Trust will be the one to steward the property over time.

Vice-Chairman Stiles opened the Public Hearing.

Allison Layton of Crossing Brook Road asked what the Town had planned with the money from the sale of the property.

Vice-Chairman Stiles responded that the Town Council has discussed possibly using the money to help offset the expense of relocating the brush dump.

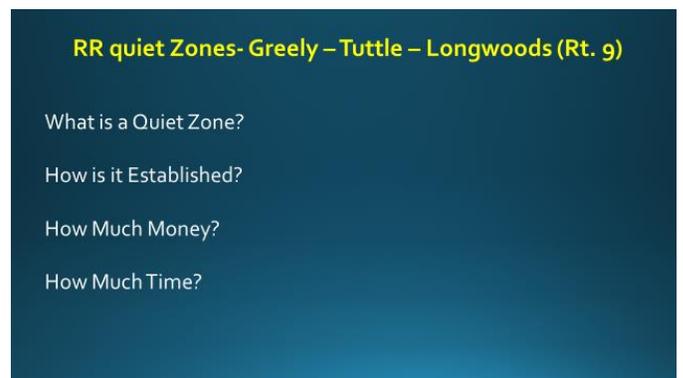
Vice-Chairman Stiles closed the Public Hearing.

Motion by Councilor Turner, seconded by Councilor Edes, to authorize the Town Manager to execute a purchase and sale agreement for the sale of a portion of Twin Brook Recreation Area on Greely Road to Jeff Storey, Spring Brook Farm, LLC.

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

19 – 099 To hold a Public Hearing and hear a report from the Town Manager re: the installation of barriers at each railroad crossing to establish quiet zones for all rail crossings in Cumberland.

Town Manger Shane presented the following:



RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

What is a Quiet Zone?

A railroad crossing where the **Train Horn is silenced** unless there is an animal or person or vehicle on the tracks or other activity the Train Engineer feels unsafe.

RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How is it Established?

Lots of Math: NSRT = 14, 723

Nationwide Significant Risk Threshold – what is the national average risk to the motoring public of a RR crossing equipped with gates and light and train horns.

RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How is it Established?

Lots of Math: NSRT = 14, 723

Quiet Zone calculator determines Quiet Zone Risk Index (QZRI)

QZRI uses for inputs

- Frequency of Trains
- Speed of Trains (70 mph and 40 mph for freight)
- Type of Protection(Dual gates)
- Horn Usage
- Daily Motoring Traffic and type of Highway

RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How is it Established?

Lots of Math: NSRT = 14, 723

Quiet Zone Risk Index (QZRI)

QZRI with Silenced Horns = 38,047

Our New QZRI **must be less** than the higher of QZRI w/ horns or NSRT

New QZRI must be less than 38,047 (Nationwide the # is 14, 723)

RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How is it Established?

Lots of Math: NSRT = 14, 723

Quiet Zone Risk Index (QZRI)

QZRI with Silenced Horns = 38,047

QZRI with mountable *candle pin* *bowling barriers* ala I-295 by Pape Chevrolet in S. Portland
QZRI = 9,512 LT 38,047



RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How is it Established?

Lots of Math: NSRT = 14, 723

Quiet Zone Risk Index (QZRI)

QZRI with Silenced Horns = 38,047

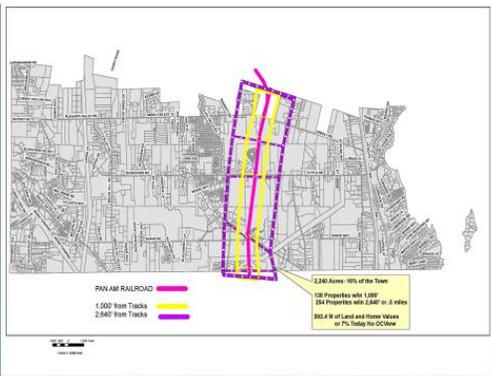
QZRI Bowling – 9,512

QZRI with non-traversable curbing

QZRI = 7,609 LT 38,047

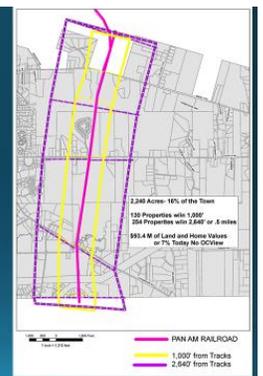


RR quiet Zones



RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

- 2,240 Acres of Town within ½ mile of the Tracks
- 130 properties within 1,000'
- 254 Properties w/in .5 miles Today
- \$ 93.4 M of property Value Today
- 7% of total of Town Property Value



RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How Much Money? \$65,000 average at each Crossing



RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

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RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

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RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How Much Money? \$65,000 average at each Crossing



Private Crossing can not be funded with Public Dollars.
But with Rt. 9 and Falmouth Crossing being a Quiet Zone the HOA can petition for a Quiet Zone

RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

How Much Time?

- Permitting and notices to MDOT and FRA and PANAM with require the rest of this calendar year
- Construction – 3 weeks each crossing – Funding in FY 2021 budget

RR quiet Zones- Greely – Tuttle – Longwoods (Rt. 9)

Next Steps:

- If you're inclined to enact - Please Rip off the BandAid. With the exception of Town Staff, not many people opposed
- If you're opposed – This is the third time through now. Unfortunately it is not an ordinance, so the people here tonight do not have any other avenue to move this funding request forward.

Chairman Storey-King opened the Public Hearing.

Public discussion: Sally Brown said that she has been asked to speak on behalf of a number of people whose lives are disrupted by the train whistles. Cumberland is the only non-conforming Town from Falmouth to Brunswick on the quiet zone issue. She (and others) feel that the quiet zone issue is a Town improvement and it should be included in the bond that was approved by the Council at their last meeting. She spoke to surrounding Towns, which all have quiet zones and spoke about their process and cost for channelization. She and the others here this evening are here to continue this conversation about this important issue and to seek the Town Council's committed diligence and consideration of the affect that this has on many Cumberland residents.

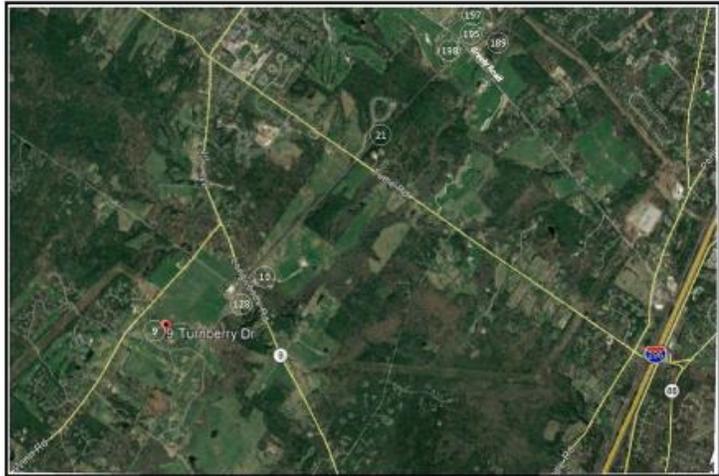
Mrs. Brown presented the following photos of some of the homes affected by railroad crossings:

Locus Map // Legend of Abutting Properties

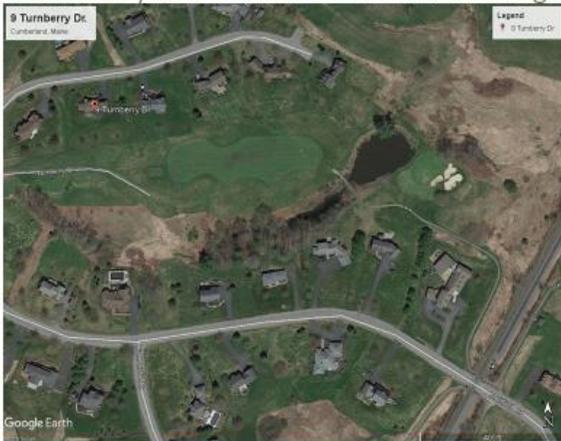


Train Quiet Zones

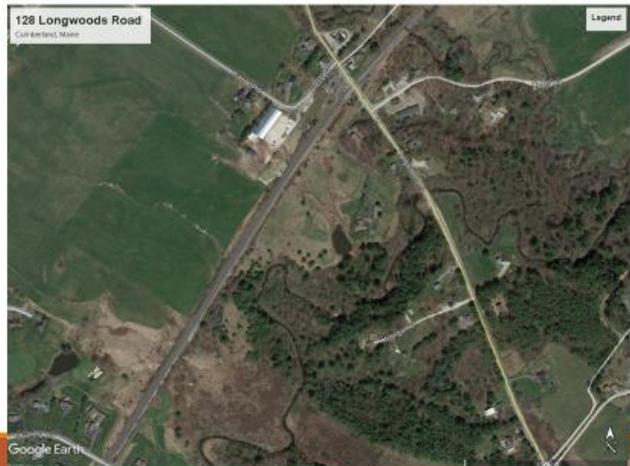
MRS. SALLY BROWN
CUMBERLAND, MAINE -- TOWN COUNCIL
7-22-2019



9 Turnberry Dr. FCC Area – Muirfield Crossing



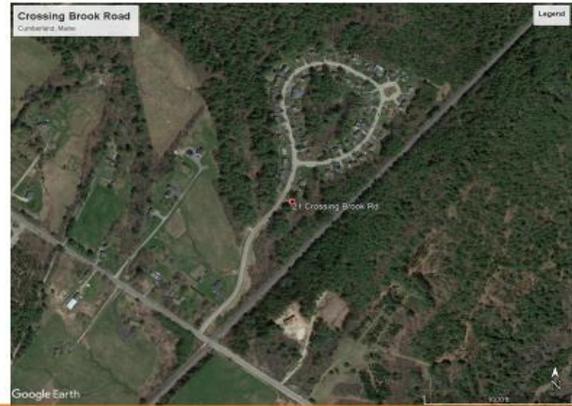
Longwoods Crossing Area, 128 Longwoods



Longwoods Crossing – 10 Corey Rd.



21 Crossing Brook Rd., Mary Campbell



189 Greely Rd. -- The Josephs Family



195 Greely Rd. – Tom and Erika Strattard



198 Greely Rd. – Jana Vaccarello



197 Greely Rd., Sally and Ron Brown



Chris Wasileski of Cumberland Crossing by Ocean View read the following:

- **Concerns about Sales / Adsorption Rates / Rate of Construction based on lack of Quite Zones**
Cumberland Crossing is a local economic engine hiring local contractors, vendors, designers, to build, maintain, and operate our new community.
If RR Quiet Zones are not put in place, our Team stands to have slower sales and a slower build-out than projected with the negative impact from RR train horns over time.
- **Concerns about Resident Safety, Health and Wellness due to lack of Quite Zones**
Our Residents will begin moving into Cumberland Crossing by late August, 2019.
Our Ownership and Operational Management Team would not want to negatively impact resident quality of life due to the absence of a RR Quiet Zone. Our Ownership and Operational Management Teams are in full support on enacting an RR Quiet Zone.
- **Support for Town Manager’s presentation and Thanks to Councilors who have helped and listened**
Thank you very much to Town Manager Shane and to the Cumberland Town Council for giving this issue the attention that it deserves.
The neighboring towns of Yarmouth, Falmouth, Freeport through to Brunswick have all enacted RR Quiet Zones – this will be a needed and appropriate measure moving forward for the Town of Cumberland as well. Much research, data collection and thought have gone into these Municipal Government backed decisions.
- **I would appreciate it if everyone would please listen to Sally Brown and her Group on this issue...**
Sally is a wealth of knowledge on the Topic of RR Quiet Zones – she has done her homework, is a good person, and knows what she is talking about. I trust Sally’s position and guidance on this issue.

Bill Perkins of 128 Longwoods Road said that this is a safety issue. The federal government has instituted safety measures, and channelization is one of them. Studies have shown that train noise has a significant impact, some as high at 14% to 18%, on decreasing property values. This would affect the desirability of properties in Cumberland. Numerous studies have also shown that noise can effect development in children, impede sleep, and even cause cardiovascular disease. Mr. Perkins said that this is a one-time capital expense that will last for a number of years.

It should be financed over its useful life and should be considered to be included in the bond that was approved at the last meeting. He said that he expects to face this issue as a community and together, do what is right. All of the other Towns surrounding Cumberland have found their way to protect the quality of life for their citizens from this extreme form of noise pollution. Should we choose to stand alone as the Town who will not address this issue, the conclusion is that the Town Council or the Town of Cumberland simply doesn't share the commitment of its neighbors to protect the quality of life for all of its citizens. A vote against a quiet zone is not a vote of fiscal responsibility. A vote against a quiet zone is pure and simply a vote to ignore the suffering of your neighbors and perpetuate an inequity that is fully within the power of the Town Council to solve.

John Dennison of 13 Turnberry Drive said that it was stated that the trains coming from Portland travel through Cumberland at speeds of 40 to 60 miles per hour. After traveling through Portland at a speed of 15 to 20 miles an hour, they can't reach a speed of 60+ miles per hour that quickly. The southbound trains that go by his house aren't going faster than 25 miles per hour.

Scott Cyr of 263 Tuttle Road said that he heard the number of 14% in increased property value without the train horn noise. He does not know if that is accurate, but if you use a conservative number of 5% x 90 million is 4.5 million times \$20 per thousand (of assessed value) equals \$90,000 per year in increased taxes. This could fund the channelization. This Town spends a lot of money on property for quality of life for their residents. This is a quality of life issue.

Alison Layton of 59 Crossing Brook Road said that her house is not even 100 yards from the train tracks. She and her family moved to Cumberland because it was their dream town. She knew that the railroad tracks were there, but assumed that they were in a quiet zone like all the surrounding towns. Her two year old is having nightmares on a regular basis about the "choo-choo train". It sounds like it is coming into their house and the whole house shakes. Her child's emotional wellbeing is in jeopardy and she doesn't know how long they will be able to live here because of it. She is just one example of how their quality of life is very seriously affected by this.

Gary Davis of 279 Greely Road said that 200 homes are affected by this issue. The Town Council has recently had to deal with the Town garage issues and the Village Green neighborhood at a cost of much more than this will cost. It bothers him that there might be any hesitation to take care of this issue for those affected.

Chairman Storey-King closed the Public Hearing.

Councilor Turner said that he will likely vote in favor of this and it was his understanding that barriers aren't required at all crossings. We could only install 2 barriers at Greely Road and Route 9 and not Tuttle Road. The barrier issue is a problem for him.

Town Manager Shane said that he could get the number down to \$171,000 by using cement curbing material instead of granite for the barriers.

Councilor Gruber said that he was not in favor of this, but all the testimony this evening made him change his mind. He will vote in favor of this.

Councilor Copp said that he does not want to leave Tuttle Road without a barrier. If we are going to do this, he hopes that we will do it right.

Councilor Stiles thanked everyone who spoke for being very civil and informational. It changed his mind.

Motion by Councilor Vail, seconded by Councilor Stiles, to authorize the Town Manager to file all the necessary notices and support data to the Federal Railroad Association and MDOT for the establishment of quiet zones on Greely Road, Tuttle Road and Longwoods Road.

I further order that up to \$170,000 be reserved from the FY2020-21 Municipal Budget for the construction of said crossing.

VOTE: 7-0 UNANIMOUS

19 – 100 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club’s “Just for Fun Tournament” to be held August 31st through September 1st from 7:00 a.m. to 6:30 p.m. at Twin Brook.

Chairman Storey-King opened the Public Hearing.

Public discussion: none

Chairman Storey-King closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Copp, to approve the Mass Gathering Permit for the Cumberland Soccer Club’s “Just for Fun Tournament” to be held August 31st through September 1st from 7:00 a.m. to 6:30 p.m. at Twin Brook.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Vail – none

Councilor Gruber – the 9th Maine and Community Network Conference was held in Augusta last Thursday. The focus of the conference was Veteran suicide due to PTSD. It was very well attended.

A meeting is scheduled tomorrow evening in the Town Council Chambers at 6:30 p.m. regarding the asylum seekers in Portland. Sally Bancroft and 31 residents have been meeting each week to talk about how our community can support the asylum families now being housed at the Portland Expo.

The Library/Historical Society Building Committee continues to meet twice a month and is making terrific progress. Eli Rivers chairs the committee. Eli is a retired architect and is helping by reaching out to people he knows to get quotes on moving the current historical building to the Library. He and Bill Stiles are the Town Council liaisons to the building committee.

Councilor Edes – condolences to the Snow family on the passing Dave Snow. Dave had 5 children who grew up in Cumberland.

Councilor Stiles – he reminded everybody that he continues his efforts to collect \$10 from 1,000 residents of Cumberland and North Yarmouth for the 4-H auction that will benefit the Food Pantry with meat.

Chairman Storey-King – condolences to the Berkovich family on the passing of Letty Berkovich. She gave many hours of her time volunteering and she was a great source for the recommendation of a good book to read.

Councilor Copp – condolences to the Chadbourne family for the passing of Kitty Chadbourne. Her husband, Ted is very involved in our community.

Councilor Turner – none

- VI. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.
Motion by Councilor Stiles, seconded by Councilor Turner, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.
VOTE: 7-0 UNANIMOUS
TIME: 9:29 P.M.

- VII. ADJOURNMENT**
Motion by Councilor Stiles, seconded by Councilor Copp, to adjourn.
VOTE: 7-0 UNANIMOUS
TIME: 10:00 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary