

# MINUTES

Cumberland Town Council Meeting  
Town Council Chambers

**MONDAY, September 28, 2020**

## 6:15 P.M. Call to Order

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

- I. **EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(E) consultation with Town Attorney.  
Motion by Councilor Vail, seconded by Councilor Turner, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(E) consultation with Town Attorney.

VOTE: 7-0 UNANIMOUS

TIME: 6:16 P.M.

Reconvene to regular session at 7:00 P.M.

## II. **APPROVAL OF MINUTES**

Motion by Councilor Copp, seconded by Councilor Vail, to accept the September 14, 2020 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

## III. **MANAGER'S REPORT**

The Police Chief and Fire Chief will both be present at the October 26<sup>th</sup> Town Council meeting. Our new ladder truck arrived today and it will be at Town Hall on the 26<sup>th</sup> before the Council meeting so that the Council can see it. We will also hear about our community paramedicine program and the Police Department will report on the cyber threat crime at the high school recently.

Town Manager Shane read the following statement in regard to an item that was brought up at the last meeting:

On September 2, 2020, the Cumberland Police Department, Town Administration and the Town Council were made aware of an article published in the Maine State Bar Association's *Maine Bar Journal* (Vol. 35, No. 3, 2020, pp. 110-113). The article was written by Attorney Krystal Williams and titled "Why White Privilege Is a Necessary Part of Any Conversation on Racism." The article included the following text, referencing contact with Cumberland officers on traffic stops in early 2019: *When I am stopped by a Cumberland police officer because – allegedly – the small light that illuminates my license plate is out on one side – it's personal. And when that same officer sees my ACLU and Maine Law tote bags in my back seat and "lets" me go only to follow me until I reach my house – it's personal. When I am stopped on my way to the gym by a Cumberland police officer who approaches my car yelling, "Do you have a gun?!" – it's personal.*

Immediately upon learning of the article, the Police Chief contacted Attorney Williams, as well as the Maine Attorney General's Office. These allegations are now being investigated by an outside agency, in coordination with the Attorney General's Office of Investigations, at the request of the Police Chief and with the full cooperation of the officers involved. We appreciate that the citizens of Cumberland would like to be made aware of allegations such as this and we will make every effort to do so. However, the Town is also required by the terms of the Collective Bargaining Agreement with the Cumberland Police Benevolent Association to follow established procedures with regard to complaints made against

officers and is required by Maine law to maintain the confidentiality of personnel matters unless disciplinary action is taken as a result of complaints, charges, or accusations of misconduct. See 30-A M.R.S. § 2702(1)(B)(5). As a result, the Town cannot provide any more information regarding this matter or the pending investigation at this time.

We encourage citizens to direct questions to the Town Manager via email: [wshane@cumberlandmaine.com](mailto:wshane@cumberlandmaine.com) or phone: 207-829-2205.

#### **IV. PUBLIC DISCUSSION**

Chris Neagle of West Cumberland thanked the Town Manager for the statement. It answered some of his questions and it was very helpful. He thought he understood that another police department was going to investigate this matter. He does not think that it is appropriate for any police department to investigate this. Police will protect police. That is undeniable and he would question any report as being a biased report. He has also learned that it is common practice for police officers in Cumberland to follow private citizens without a reasonable decision that there is a crime involved. Such as after a traffic stop. They may let you go, but then they follow you. He is not the only one that is reporting this and he did some investigation and found that it is a violation of the 14<sup>th</sup> amendment. He does respect the policy of not revealing who the officers are, but it seems to him that in the national media when a police officer makes a big mistake, their names are right out there. If that is really how the system works, maybe that should be thought about. He asked if anyone determined if the thin blue line bumper stickers that he described at the last meeting are still being displayed on our Police cruisers and is the Town thinking about citizen review of alleged police misconduct? He thinks it would be a good policy to not give the cops the discretion to give you a ticket or not. He thinks this is something to consider.

#### **V. LEGISLATION AND POLICY**

##### **20 – 074 To hold a Public Hearing on the order of discontinuance as a Town way, a portion of Turkey Lane from Range Road to the snowmobile bridge.**

Town Manager Shane explained that this is the next step in the discontinuance of a Town way process. This is a public hearing for the purpose of taking public comment. No Council action will take place until October 12<sup>th</sup>. The Council has asked us to put together a document that preserves the 66 foot easement of Turkey Lane, from Range Road to the bridge, as it exists today and the Town Council has not added any restrictions to the public easement. It will be maintained as it is today.

Councilor Gruber opened the Public Hearing.

John Jensenius, Chairman of the Trails Subcommittee of the Lands & Conservation Commission said that the Commission agrees that it should be discontinued, but they have two concerns: 1) they want to make sure that the width would be wide enough for both a driveway and a snowmobile trail, and 2) in terms of the use of the easement, it is fairly steep and if we allow motorized vehicles to up and down the trail, we would see erosion over time. The Commission would favor no motorized vehicles be allowed, only snowmobiles.

Shawn McBreairty, President of the Snowmobile Club said that the club has used that trail consistently for quite some time and it is a major route from Falmouth to Cumberland. He wondered how the snowmobile trail would go along the road and not impede upon a potential new driveway. The club will continue to work with the Town and the landowners so that no issues arise.

Town Attorney, Alyssa Tibbetts responded that to the extent the use of the public easement by snowmobiles and any trail grooming that is necessary, does not impact the Town's ability to use the public easement and is consistent with that use, it doesn't require a license. But, a license could be implemented to the extent that grooming activities would otherwise impact in any way the ability for the general public to use the public easement area. Snowmobiling in and of itself will not require a license, but any sort of maintenance activities that might somehow impede other public access may.

Councilor Gruber closed the Public Hearing.

Councilor Foster asked the Town Attorney what the process of issuing a driveway license would look like if we discontinue Turkey Lane and if the Council would still have a say in what the easement could be used for.

Attorney Tibbetts said that if the Town enters into a license agreement and makes assurances that a particular portion is not subject to public access, or that snowmobiles are not permitted on that portion because it is an exclusive license agreement, then we need to be sure that there is the ability to use the remainder of the public easement.

**20 – 075 To set a Public Hearing date of October 12<sup>th</sup> to consider and act on the order of discontinuance as a Town way, a portion of Turkey Lane from Range Road to the snowmobile bridge.**

Motion by Councilor Turner, seconded by Councilor Copp, to set a Public Hearing date of October 12<sup>th</sup> to consider and act on the order of discontinuance as a Town way, a portion of Turkey Lane from Range Road to the snowmobile bridge.

VOTE: 7-0 UNANIMOUS

**20 – 076 To hold a Public Hearing to consider and act on accepting a portion of Red Mill Way as a public road, as recommended by the Lands & Conservation Commission.**

Town Manager Shane explained that this is simply a housekeeping issue. This small portion of Red Mill Way should have been accepted many years ago, but it was missed and we are here to formally accept that portion. The Lands and Conservation Commission are recommending acceptance.

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Turner, seconded by Councilor Copp, that pursuant to 30-A M.R.S. § 5655 and Article I, Section 2 of the Town Charter, the Town accept the unconditional gift of property made by the Cumberland Meadows Homeowners Association to the Town of Cumberland, which gift consists of approximately 0.63 acres of land as described in the attached Warranty Deed dated August 21, 2020 and an easement for pedestrian, drainage and utility purposes as described in the attached Easement deed dated August 21, 2020.

Further ordered that the Town accept the full length and width of "Red Mill Way" as shown on the attached plan as a public road, which amends the Town's previous acceptance of a portion of this road between Tuttle Road and Meadow Lane as "Meadow Way" on November 28, 1988 by Order 138-88 to include the section of Red Mill Way labeled as "Additional Acceptance of Red Mill Way" on the Boundary Survey of Red Mill Way for the Town of Cumberland, Maine dated March 23, 2020.

VOTE: 7-0 UNANIMOUS

**20 – 077 To hold a Public Hearing to consider and act on amendments to Chapter 315 (Zoning), Section 21 (Town Center District), B-12 (Day Care Centers and Nursery Schools), to increase the number of children allowed from 20 to 28, as recommended by the Planning Board.**

Councilor Storey-King said that this request came before the Ordinance Committee from the daycare center at the Congregational Church as a way for them to help some of the families in our community with school being closed on Wednesday's.

Chairman Gruber opened the Public Hearing

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Vail, to amend Chapter 315 (Zoning), Section 21 (Town Center District), B-12 (Day Care Centers and Nursery Schools), to increase the number of children allowed from 20 to 28, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS

**20 – 078 To hold a Public Hearing to consider and act on setting sewer user fees for FY2021.**

Town Manager Shane said that we are recommending that there be no increase in sewer user fees for FY'21. The number of sewer users that we have added to the system has certainly helped carry the burden. Our system is in good shape and it is well maintained by Portland Water District. We still have approximately 40% capacity.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Edes, to accept the Town Manager's recommendation of a 0% increase in sewer user fees for FY2021.

VOTE: 7-0 UNANIMOUS

**20 – 079 To hold a Public Hearing to adopt the Maine Municipal Association Model General Assistance Ordinance and Appendices A-H for the period of October 1, 2020 through September 30, 2021.**

Town Manager Shane explained that this ordinance is adopted annually and it is the model that most municipalities use to administer their General Assistance programs. We receive 70% reimbursement from the State for General Assistance.

Chairman Gruber opened the Public Hearing.

Public comment: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Copp, to adopt the Maine Municipal Association Model General Assistance Ordinance and Appendices A-H for the period of October 1, 2020 through September 30, 2021.

VOTE: 7-0 UNANIMOUS

## **VI. NEW BUSINESS**

**Councilor Edes** – None

**Councilor Storey-King** – Congratulations to Joanne Fryer for a nice write up in Maine Homes Magazine about how her business is surviving COVID and that she is still growing her award winning dahlias and apples. The article also mentioned the someday, Joanne would like to gift her orchard to the Town to be included as part of the Rines Forest.

Prince Memorial Library is spearheading a conversation about race and equity and they are running a fall seminar that will be facilitated by a gentleman by the name of Dustin Ward, a pastor from Presque Isle. For those who want to actually do something, this program might be for you.

**Councilor Vail** – None

**Chairman Gruber** – He read a letter from Bill Stiles thanking everyone for the farewell celebration that was held for him before the last Council meeting.

The Food Pantry is providing help to more families during these difficult times. We have had an increase of 40% in the number of families we now serve over last year. Thank you to the volunteers who make the Food Pantry so successful.

**Councilor Foster** – She had a preliminary meeting with Communications Director, Eliza Porter recently. They are drafting a brief community survey that will go out electronically. The Cumberland Crier currently has about 3,000 subscribers so this is a good audience to receive the survey. It will consist of 3 – 4 questions that is aimed at understanding how residents receive and access information from the Town Council. More to come on this. It will be sent out after the election.

**Councilor Turner** – This past weekend, he drove his granddaughter back to New Hampshire and it struck him how fantastic the tree colors are right now. Peak color has come early this year and he hopes everyone enjoys it.

**Councilor Copp** – The 4-H auction will be taking place at the Cumberland Fairgrounds this Wednesday. This is a good change for everyone to buy very good quality meat and it helps the 4-H kids and Farmer's Club.

He missed the meeting that Councilor Foster talked about, but got up to speed by reading the meeting minutes. It's hard for residents to keep up with what's going on in Town, so this will be a good way to find out how they want to receive their information from the Town.

**Town Manager Shane** – We are in a challenge with the Towns of Cape Elizabeth, Falmouth, Freeport and Yarmouth to see who will have the highest percentage of voter turnout. He urged everyone to vote so Cumberland can win!

**VII. ADJOURNMENT**

Motion by Councilor Storey-King, seconded by Councilor Turner, to adjourn.

VOTE: 7-0 UNANIMOUS

TIME: 7:57 P.M.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary