

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, October 12, 2020

6:00 P.M. FOAA Training with Town Attorney

7:00 P.M. Call to Order

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

I. APPROVAL OF MINUTES

Motion by Councilor Turner, seconded by Councilor Vail, to accept the September 28, 2020 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

II. MANAGER'S REPORT

Police Chief Rumsey made the following presentation regarding two Greely High School students who alerted school staff to an online threat:

Early in the morning on Tuesday, September 15th, Greely High School Principal Chris Hoffman received an email from you and another student, where you reported concerns with a threat you had seen on the social media platform Instagram. The threat was direct and indicated the intent by an unknown individual to kill people. The Instagram username for the account which posted the threat was "*greelyhigh_drama*", making the threat very specific to your school.

Immediately upon receiving your email, Principal Hoffman contacted School Resource Officer Kirk Mazuzan, who subsequently informed me of the threat. Within minutes, the decision was made by MSAD #51 administration to close Greely High School and divert all GHS students off campus until the veracity of the threat could be determined and the individual who posted the threat identified. Buses were rerouted and arriving students were instructed to return home. The other schools on campus, though not the target of any threat, were locked down out of an abundance of caution. This logistically difficult process took place very quickly due to the coordination of MSAD #51 staff and the Cumberland Police Department. However, it would never have occurred if you and your fellow student hadn't made Principal Hoffman aware of what was happening.

Over the next two days, a tremendous amount of police work occurred behind the scenes, including consultation with federal authorities and with the assistance of several local police departments and the District Attorney's Office. At the end of those two days, we were able to determine with confidence that the person who posted the threat was not in Maine. Within the week, our investigators were able to follow the digital fingerprints left by the person responsible and determine that the threat was posted by a teenager in Tennessee with no apparent connection to Maine or Greely.

This case had a positive outcome: no one was hurt, the disruption to your school was minimal, and the responsible teen was identified so they can both receive the help they need and be held accountable. Had the situation been different, your actions could have been directly responsible for saving many lives. You acted responsibly, out of concern for your fellow students and teachers, and your actions in doing so were admirable.

A study conducted by the United States Secret Service of many cases of targeted school violence showed that in about 90% of cases, attackers who selected specific targets had made a threat prior to the attack. Of those cases, less than half resulted in adults being made aware. This lack of communication between students and staff, police, and parents unquestionably costs lives. We are so appreciative of the initiative you showed and for the opportunity it gave us to ensure that you and your school were safe.

On behalf of the Cumberland Police Department, please accept our sincere thanks for your swift, mature, and appropriate actions. We are very proud of you, and know that your fellow students, school staff and faculty, and your families are very proud of you as well.

CHIEF RUMSEY'S COMMENTS ON THE ACTIONS OF CUMBERLAND OFFICERS YOUNG, MAZUZAN, AND BURNES:

Commendable Actions - School Threat Response and Investigation

Gentlemen,

On Tuesday, September 15th, at approximately 7:15AM, School Resource Officer Mazuzan notified me of a threat to kill Greely students that had been posted on the social media platform Instagram by an unknown individual. We recommended, and MSAD #51 administration agreed, that Greely High School should be closed so the threat could be investigated. Officer Mazuzan worked with district faculty and staff to divert incoming buses, turn arriving students away, and stand guard on the campus as a visual deterrent to any individual intending harm to our community's children. This process would not have been initiated as quickly, or have proceeded as smoothly, had Officer Mazuzan not been on campus armed with the working relationships he has established during his time as SRO.

Upon learning of the threat, Captain Young contacted Detective Benjamin Burnes. Detective Burnes was not scheduled to work on that day, since he had taken the week off to prepare for his upcoming wedding. However, he immediately offered to respond to the station to assist in any way possible. Detective Burnes had recently attended a training on social media and cell phone investigations and as soon as he arrived at the station, he sprang into action by communicating with Instagram, the District Attorney's Office, and fellow investigators to both preserve and seize the necessary evidence to identify a suspect in the case. Within a day, Detective Burnes completed not only a preservation request to Instagram, but also completed a search warrant for the relevant digital records, had the warrant reviewed and approved by the District Attorney's Office, and transmitted the warrant to the social media platform. This process, which might ordinarily take numerous days, was completed rapidly due to Det. Burnes' specialized training, his professional relationships with fellow investigators, and because of the priority the case was given by District Attorney Jonathan Sahrbeck, Deputy District Attorney Jen Ackerman, and other members of their office.

After Detective Burnes left to complete preparations for his wedding, Captain Young took the criminal case and continued to push it forward. Captain Young, again with assistance from the District Attorney's Office, procured a subpoena for cell phone records based on digital evidence recovered from Instagram. By early afternoon on Wednesday, September 16th, we felt confident that the person responsible for posting the threat was not in Maine and that there was no immediate threat to students and school staff. This information was communicated to MSAD #51 administration so "normal" school activity could recommence.

Throughout the next several days, Captain Young – in regular phone contact with Detective Burnes as he ran wedding errands – completed the investigation. Through a combination of following the digital fingerprints left by the suspect and through regular "old fashioned" policing, Captain Young identified the

suspect as a 16-year-old student from a town in Tennessee. He consulted further with the District Attorney's Office and authorities in Tennessee, then packaged the entire case and sent it south for prosecution by local authorities where the teen lives.

During my 25-year career I have been blessed to work beside hundreds of talented, committed law enforcement officers. Without reservation, I can tell you that given the choice I would not have changed one member of the team that responded to and investigated this incident. You did so with speed, with appreciation for the disruption caused to the school campus, and with a zeal to identify the individual responsible and ensure that no lives were in danger. Not all cases can be resolved this quickly, but the fact that this one was closed successfully and swiftly is a testament to the three of you. I commend you for your excellent work. I am proud of you, and I know that the residents of Cumberland are proud of you as well.

III. PUBLIC DISCUSSION

Steve Morrison of North Yarmouth read the following:

As members of the greater Cumberland, Yarmouth, and North Yarmouth community, and abutters to Cumberland's gravel pit parcel located on the Sweetser Road in North Yarmouth we are reaching out to you concerning the sale of this property. We believe that if the Town of Cumberland intends to sell this parcel it should be sold to the Yarmouth Water District (District), to protect the water quality of the aquifer which the parcel overlies and to provide the greatest benefit to neighbors and other community members. As you are aware, this aquifer is an important water resource for this entire area since water sources have no town boundaries.

Upon learning that Cumberland intends to sell the parcel we communicated with both Cumberland Town Manager, Bill Shane, and the new superintendent of the Yarmouth Water District, Eric Gagnon about this potential sale. We understand from these communications that there have been discussions between the two parties and an offer of a land swap made between Cumberland and the District. Our understanding that the District chose not to act on this offer because the Cumberland parcel contains water supply wells that the District will need in the future to serve the growing demand in this area for public water. We also understand that the District is willing to purchase the gravel pit parcel as part of its wellhead water quality protection initiative to ensure the future water quality of its major water supply, and they intend to offer a competitive price.

From our correspondence with Bill Shane, we understand that the Council has instructed Bill to pursue the "sale of the parcel to the highest bidder" which could lead to the parcel being developed in a manner that would have detrimental impacts on the aquifer's water quality. As abutters and neighbors, we are also concerned about other potential impacts some types of development would have on our immediate neighborhood encompassed by Baston Road, Sweetser Road, and the Lane. Any commercial or industrial use would be out of place in this neighborhood of single-family homes which is used and enjoyed by runners, walkers, and cyclists from our town, Cumberland, Yarmouth, and beyond.

One of Cumberland's goals as stated in its 2014 Comprehensive Plan report is to "protect the quality of groundwater and surface water in Cumberland and also the watershed of which it is a part" (p. 103). Further, the Comprehensive Plan commits "to protect critical natural resources, including, but not limited to: wetlands, wildlife and fisheries habitat, shoreland areas, aquifer recharge areas, and unique natural areas (p. 117) in considering any property development. We hope that the Council would wish to honor the same goals and standards in its transactions with North Yarmouth or the Yarmouth Water District. Our towns share many resources and services, including our schools, Prince Memorial Library, and the adult

and youth recreation programs. We share the desire to protect natural resources within our boundaries. Both towns benefit from the good stewardship of our communities' natural resources as reflected in each town's comprehensive plan.

We, therefore, ask that the Council commit to a more sustainable approach to the sale of this parcel and use criteria other than the stated "sale of the parcel to the highest bidder." We hope the Council will work with the District in the best interests of our greater community.

Thank you for your consideration.

Sincerely,

Alan Bakutis and Suzanne Hamilton
200 Sweetser Road
North Yarmouth

Mary and Mike Booth
3 Brown Dog Way (directly across from sandpit site)
North Yarmouth

Audrey Lones
107 Baston Road
North Yarmouth

Steve and Diane Morrison
4 Brown Dog Way (directly across from sandpit site)
North Yarmouth

Holly and John Williams
208 Sweetser Road
North Yarmouth

Michael Booth of North Yarmouth said that he is an abutter and is a retired professional engineer who has spent the last 40 years in the environmental field. Throughout his career he saw many instances where ground water became an issue that nobody anticipated, due to changes in the land. With this particular parcel, it is a significant issue and should not be taken lightly. He asked that when the pit is sold, a bigger set of criteria be established for the sale of the parcel. Once ground water is contaminated, it cannot be cleaned up.

IV. LEGISLATION AND POLICY

20 – 080 To hold a Public Hearing 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.

Town Manager Shane explained that this is the final step in the discontinuance of Turkey Lane process. The road has not been maintained as a Town road for close to 40 years. The Order of Discontinuance will discontinue the road as a Town way while preserving a public easement over the 66-foot width.

Councilor Vail added that the Council has a lot of discussion on this item and ultimately, this is a way for the Town to maintain a right-of-way. It is a pleasant place for residents to go hiking or fishing, which can be enjoyed in the future.

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Copp, to approve the following order:

Pursuant to 23 M.R.S.A. § 3026-A, the Municipal Officers of the Town of Cumberland hereby order the discontinuance as a Town way of that portion of Turkey Lane running from Range Road up to, but not including, the bridge on Turkey Lane, as further shown on Exhibit A, for a distance of approximately 1,040 feet.

Having given best practicable notice to all abutting property owners, a list of whom is attached to this Order, and the Town Planning Board, we further order that no damages be awarded to the abutting property owners.

Further, said Municipal Officers in their capacity as the Town Council and the legislative body of the Town of Cumberland, hereby approve said order of the municipal officers and further order that said portion of Turkey Lane be discontinued immediately, without damages to abutters and with a public easement retained as described and set forth in Exhibit B.

VOTE: 7-0 UNANIMOUS

20 – 081 To authorize the sale of Town owned property located at 4 Blanchard Road.

Town Manager Shane explained that this is the parcel of land that the Historical Society building sat on prior to it being moved to the Library site. Sevee and Maher Engineers, the property abutters, are interested in purchasing the land. It is approximately 1/3 of an acre and it appraised for \$88,000. We negotiated with Sevee and Maher to purchase the land for the appraised value plus \$12,000 in future engineering services that they will provide the Town. The Lands & Conservation Commission voted unanimously in support of the sale.

Chairman Gruber asked for any public comment on this item.

No public comment.

Motion by Councilor Copp, seconded by Councilor Edes, to authorize the sale of Town owned property located at 4 Blanchard Road to Sevee & Maher.

VOTE: 7-0 UNANIMOUS

20 – 082 To hold a Public Hearing to consider and act on adding a Residential Solar Energy System Ordinance to the Cumberland Code, as recommended by the Ordinance Committee.

Councilor Storey-King said that she would like to extend our gratitude to Revision Energy, The Sierra Club and our own Paul Weiss who all reviewed the ordinance and added their feedback. Based on Paul's feedback, she recommended changing the height dimensional standards from 18 to 24 feet (Section 9.0). This ordinance will likely be amended often, as technology changes. This ordinance will only apply to residential solar arrays.

Chairman Gruber opened the Public Hearing.

Public discussion: Paul Weiss said there could be an instance where a homeowner owns property across Town and they might want to put solar panels on that land to pay for electricity at their home, which can be done. It seems that this ordinance restricts it to the property that you are on or adjacent to. He wondered why this restriction is in the ordinance.

Councilor Storey-King said that this might be something that is changed in the future. If someone came before the Council and presented that particular hardship, they would consider it. The intent was to protect the neighbors where solar arrays may be installed. She would prefer to leave the language as is for now.

Mr. Weiss said that putting things into this ordinance that do not purport to the purpose of it, really doesn't make sense and might conflict with State law.

Chairman Gruber closed the Public Hearing.

Motion by Councilor Vail, seconded by Councilor Turner, to add Chapter 232 (Residential Solar Energy System Ordinance) to the Cumberland Code, as recommended by the Ordinance Committee.

VOTE: 7-0 UNANIMOUS

20 – 083 To award the bid for the reconstruction of Route 9 to A.H. Grover.

Town Manager Shane explained that we are partnering with MDOT on this project and A.H. Grover was the low bidder at just under \$178,000. The project will be started in the spring.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Vail, seconded by Councilor Storey-King, to award the bid for the reconstruction of Route 9 to A.H. Grover.

VOTE: 7-0 UNANIMOUS

20 – 084 To set a Public Hearing date of October 26th to consider and act on accepting Fuller Road as a Town road.

Town Manager Shane explained that several years ago, Fuller Road was ready for acceptance and required that a Homeowners Association be formed and be responsible for mowing the detention pond area and filing a DEP report every 5 years. The HOA documents never got developed due to Attorney Snow passing away. Ben Grover has agreed to mow the detention pond and file the DEP paperwork every 5 years. The Town Manager recommended holding the Public Hearing on October 26th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Turner, seconded by Councilor Foster, to set a Public Hearing date of October 26th to consider and act on accepting Fuller Road as a Town road.

VOTE: 7-0 UNANIMOUS

20 – 085 To set a Public Hearing date of October 26th to consider and act on an Automobile Graveyard/Junkyard and Automobile Recycling Permit for Cumberland Salvage for the period of October 31, 2020 – October 31, 2025.

Town Manager Shane said that staff is recommending a Public Hearing on October 26th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Vail, to set a Public Hearing date of October 26th to consider and act on an Automobile Graveyard/Junkyard and Automobile Recycling Permit for Cumberland Salvage for the period of October 31, 2020 – October 31, 2025.

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

20 – 086 To set a Public Hearing date of October 26th to consider and act on an Automobile Recycling Permit for Copp Motors for the period of October 31, 2020 – October 31, 2025.

Town Manager Shane said that staff is recommending a Public Hearing on October 26th.

Chairman Gruber asked for any public comment.

No public comment.

Motion by Councilor Storey-King, seconded by Councilor Edes, to set a Public Hearing date of October 26th to consider and act on an Automobile Recycling Permit for Copp Motors for the period of October 31, 2020 – October 31, 2025.

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

V. NEW BUSINESS

Councilor Edes – None

Councilor Storey-King – The Bicentennial Committee met virtually recently. The committee has decided to buy into a platform that will allow the sharing of our historical information electronically. They will be producing and selling a book on the Town of Cumberland, such as those commonly seen in gift shops. We don't know what will be happening with COVID in March, which is the actual bicentennial of the Town, but in the meantime, things are moving forward. She encouraged everyone to look on the Town website at the items that are for sale that will help support whatever the bicentennial celebrations turns out to be.

The Prince Memorial Library Advisory Board met and discussed the delays in the completion of the Historical Society building move and the changes in the circulation process these days.

Thank you to the Cumberland Fire Department for holding a flu shot clinic today.

The Ordinance Committee will be forwarding some new language to help our farmers and some amendments in increasing the 200-foot abutter notifications to 500 feet, to be consistent.

Councilor Vail – He asked the Town Manager for an update on voting.

Town Manager Shane reported that we are currently in third place in our competition with Cape Elizabeth, Falmouth, Freeport and Yarmouth. We will hit 55% for people who have requested absentee ballots. He and the Town Clerk anticipate that upward of 60 – 65% of our voters will vote absentee and 20% will vote on election day.

Chairman Gruber – Thank you to the faithful volunteers who help at the Food Pantry. We continue to serve an additional 10 families every week that we are open.

The Lands & Conservation Commission met recently and had a very productive meeting.

Councilor Foster – I have seen with my own eyes, through vandalism and theft on all sides of the current debates, the escalating tension right here in our own community. In a time filled with incredible uncertainty it is disappointing to see other leaders, at all levels, choose to add to the chaos rather than step in, roll-up their sleeves and start working to solve problems FOR the people who elected them.

I want to take a moment to not speak on behalf of the Town Council but rather speak as one of your elected leaders and more importantly, one of your neighbors. At the end of the day, I believe that people are mostly good. That when it comes down to it we are all just trying to make it through another day - especially these days. The idea that because I believe differently than someone else in our community about how healthcare should be provided or if, how and when someone should have access to a firearm, or how our history of racial discrimination presents itself in present day, is a valid reason for physical harm on my property, person or loved ones is the most UNAmerican thing I can fathom.

Being an American is hard. It means that your fellow patriot has the freedom to disagree with you. We debate these disagreements because it is by debating that we get to an even better answer. When we discuss in our isolated echo chambers we aren't pushed to think creatively or to our full potential. We need civil discourse but civil is the critical word. Harassing, physically, verbally and emotionally, accomplishes nothing and quite contrarily actually HURTS our community.

In the Town of Cumberland, in the great state of Maine of the United States of America we are ALL members of this community deserving of respect, empathy and the freedom to express, within the constraints of the law, our ideas without the threat of physical violence.

As one of your Town councilors, we may not always agree but if you are willing to have a thoughtful, fact-based discussion where you are willing to listen and learn from me at the same level that I am willing to listen and learn from you, please reach out. Stay safe, stay well and please vote.

Councilor Turner – Well said, Councilor Foster.

Councilor Copp – He asked the Town Manger how the 4-H auction went.

Town Manager Shane said that it was amazing. The Food Pantry will end up with 1,200 pounds of hamburger, which is the most requested item every week by Food Pantry customers.

Town Manager Shane – During the public comment portion of the meeting, the sale of the North Yarmouth pit was brought up. He asked the Council if their direction to sell the pit to the highest bidder has changed.

The Council agreed that they did want to sell it to the highest bidder with the appraised value being the minimum bid.

VI. ADJOURNMENT

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

VOTE: 7-0 UNANIMOUS

TIME: 8:28 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary