

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, April 12, 2021

6:00 P.M. Workshop w/ Lands & Conservation Commission

7:03 P.M. Call to Order

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

I. APPROVAL OF MINUTES

Motion by Councilor Vail, seconded by Councilor Edes, to accept the March 22, 2021 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

Motion by Councilor Vail, seconded by Councilor Copp, to accept the April 5, 2021 special meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

II. MANAGER'S REPORT

Town Manager Shane said that he has been asked by several community members to explain the recall process because we have 2 partitioners who have requested the recall of 4 seated school board members. The Town Charter allows for such a provision for the recall of either Town Council or School Board members. He reviewed the following process per the Town Charter:

ARTICLE X

Initiative, Referendum and Recall

Section 5. Recall

Upon written request from one or more qualified voters of the town, the Town Clerk shall issue appropriate petition blanks for the commencement of proceedings to recall a Town Councilor or a member of the Board of School Directors of School Administrative District #51 representing the Town of Cumberland, or any other elected town official. All copies of the petition shall contain the name of the person or persons who obtained the petition. Each petition shall be limited to the recall of a single individual.

Any petition issued by the Clerk must be returned and filed with the Clerk no later than thirty (30) days from the date of issuance. The petition shall be signed in the presence of the Clerk by the individual or individuals who requested the petition. Within ten (10) days after the circulation period ends, the Clerk shall certify to the Council whether the petition has been signed by not less than twenty percent (20%) of the registered voters of the town. Should less than twenty percent (20%) of the registered voters of the town sign the petition, the petition shall have no further force or effect, and no new petition for the recall of the same individual can be initiated until one hundred eighty (180) days from the filing of the previous petition.

Should twenty percent (20%) or more of the registered voters of the town sign the petition, the Council shall, upon receipt of certification, call a special election on the question of recall to be held within thirty (30) days of the certification. The Council or member of the Board of School Directors

shall be recalled when a majority of those voting thereon have voted in the affirmative. Any Councilor or member of the Board of School Directors against whom the recall proceedings have been initiated may continue to hold office until recalled. A recalled Councilor or member of the Board of School Directors may not be appointed to serve the balance of the unexpired term, and may not run as a candidate in a special or regular election to fill the balance of the unexpired term. A recalled Councilor or member of the Board of School Directors may seek election to a full term to the same or any other office at any election after the date of recall.

Section 6. Form of ballot for recall

The form of the ballot in a recall election shall be substantially as follows:

“Shall (name of elected official) be recalled from (name of the position to which elected) to which he or she was elected?”

YES		NO
<input style="width: 40px; height: 20px;" type="checkbox"/>		<input style="width: 40px; height: 20px;" type="checkbox"/>
OR		
YES	← →	NO ← →

(The voters shall indicate their options by a cross or check mark placed in the box under the words “YES” or “NO”, or by completing the arrow next to the words “YES” or “NO”).

Section 5. Recall

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- All copies of the petition shall contain the name of the person or persons who obtained the petition.

Nick Begin & Ron Greco (partitioners)

- Each petition shall be limited to the recall of a single individual.
- Any petition issued by the Clerk must be returned and filed with the Clerk no later than thirty (30) days from the date of issuance. The petition shall be signed in the presence of the Clerk by the individual or individuals who requested the petition. **Returned by May 6th**
- Within ten (10) days after the circulation period ends, the Clerk shall certify to the Council whether the petition has been signed by not less than twenty percent (20%) of the registered voters of the town. **1505 Voters is 20%**
- No new petition for the recall of the same individual can be initiated until one hundred eighty (180) days from the filing of the previous petition.

- Should twenty percent (20%) or more of the registered voters of the town sign the petition, the Council shall, upon receipt of certification, call a special election on the question of recall to be held within thirty (30) days of the certification. **May 10th Council Meeting**
- The Council or member of the Board of School Directors shall be recalled when a majority of those voting thereon have voted in the affirmative. Any Councilor or member of the Board of School Directors against whom the recall proceedings have been initiated may continue to hold office until recalled. **JUNE 8th Election**
- A recalled Councilor or member of the Board of School Directors may not be appointed **to serve the balance of the unexpired term** and may not run as a candidate in a special or regular election to fill the balance of the unexpired term.
- A recalled Councilor or member of the Board of School Directors may seek election to a **full term to the same** or any other office at any election after the date of recall.

Then What?

- Town Council selects members to serve on the School Board until the next June Election per our Charter.
- Next Election would have
 - 2 – 3-year Terms
 - 2 – 1-year Terms

Current members elected this June will be for 3 years so next June 2022 we will have 2 years remaining on their terms.

Town Manager Shane explained that he has received a lot of calls recently regarding signs. Back in 2017, the Supreme Court ruled that municipalities are not allowed to rule on sign content. It is considered freedom of speech, with a few exceptions (vulgar language, etc). The Town amended our entire sign ordinance in 2018 and political signs became non-commercial, off-premise signs, that are regulated by our ordinance and allowed to be placed along public ways for a period of up to 6 weeks. The state allows signs to be placed along state roads for up to 12 weeks. The state requires that signs have a name, address, and the date that the sign was put up clearly marked on each sign. If you see signs in front of town hall, it is allowed. He asked the Town Attorney if all signs could be abolished throughout Town. She advised that doing so would be very difficult to defend in court and advised against it.

III. PUBLIC DISCUSSION

Ann Maksymowicz of Tuttle Road said her face will likely show up on signs that will be placed around Town very soon. Because of this, for every sign that is installed around Town, she has committed to donate to Prince Memorial Library, our Community Food Pantry, Maine Boys to Men, and to the School District. Community members have agreed to match those donations and it is really unfortunate that someone might make the decision to install these signs. Even if the signs don't go up, she will follow through with her pledge and make the donations. She said that in the school budget, they had to

raise their budget line for legal fees due to all the FOAA requests, and she wondered if the Town had to do the same.

Town Manager Shane responded that the Town did not have to raise our line item for legal fees. The Town receives a lot of FOAA requests on various topics and they amount to approximately 10% of our annual legal budget.

IV. LEGISLATION AND POLICY

21 – 037 To consider and act on approval of a workplan for the Lands & Conservation Commission for FY2022.

Chairman Gruber said that the Council met in workshop earlier to review the Lands & Conservation Commission workplan for the next year.

Mike Schwindt, Chairman of the Lands & Conservation Commission, respectfully requested that the Town Council approve the workplan and gives the commission more guidance on items that they would like to see them focus on.

Chairman asked for any public comment.
No public comment.

Motion by Councilor Storey-King, seconded by Councilor Copp, to approve the Lands & Conservation Commission workplan for FY2022.

VOTE: 7-0 UNANIMOUS

21 – 038 To hold a Public Hearing to consider and act on a Mass Gathering permit from First Track Investments for harness racing events at the Cumberland Fairgrounds.

Town Clerk, Tammy O'Donnell, explained that she met with Mr. Cianchette of First Track Investments, Lyle Merrifield of the Cumberland Farmers Club, and our Public Safety Chiefs. At that meeting, Mr. Cianchette explained the plan for harness racing at the Cumberland Fairgrounds. They also discussed the Town's requirements for a mass gathering permit, and these events will not meet the mass gathering requirement. Mr. Cianchette is submitting a mass gathering application as a good will gesture and to be transparent in his plans, even though it is not required. There will be 56 races from May through July, then again in late October through December. The races will all be in the daylight hours and the expected attendance will be approximately 200 people.

Michael Cianchette of Winn Road said that First Track Investments has reached an agreement with the Cumberland Farmers Club for harness racing at the fairgrounds. Scarborough Downs was sold several years ago, and the prior owners decided not to pursue harness racing licensure. From conversations with folks involved with Scarborough Downs, he understands that is because they are developing the property. Harness racing has a long and storied history in our state and is a major driver of a lot of our agricultural heritage, and hopefully our agricultural future. Along with the Maine Harness Horses Association and the Maine Standard Breeders Association, they are working on building a new, permanent facility. That will not be at the Cumberland Fairgrounds and that is not what is being proposed today. A few months ago, he met with Town Manager Shane to discuss allowed uses at the fairgrounds and discovered that the zoning there is fairly wide open for uses historically affiliated with the Farmers Club grounds, including harness racing. They reached agreement with the Farmers Club, applied for licensure with the State Harness Racing Commission and

received that license. He has no expectation that there will be anywhere near 500 people in attendance at these racing events. He wants to make sure that the Town is engaged in the conversation and wants to be a good neighbor. This is an opportunity for the Maine Harness Horsemen and Horsewomen to continue to race and continue to pull down purse funds that are escrowed from casino revenues in Bangor. They can continue to earn their winnings to be able to keep buying hay and shoeing horses, while keeping the tradition alive for hopefully, many generations to come.

Councilor Edes thanked Mr. Cianchette for being transparent and keeping the lines of communication open. He asked Mr. Cianchette how important the Cumberland races will be with keeping the health of harness racing over the next year.

Mr. Cianchette said that its critical. The challenge for the harness horsemen is cash flow, as with any business. Without Cumberland, harness racing will have a hard time surviving.

Councilor Storey-King said that she spoke to Joanne Fryer of Mowfield Farm, and Mr. Cianchette has addressed Joanne's concerns about sound while her events are taking place. She heard from another citizen who wondered if information for those who need help for gambling addiction will be posted around the venue. Mr. Cianchette said that there would be.

Councilor Vail said that he wishes Mr. Cianchette well. When somebody lives beside something that changes there is always a small degree of discomfort with the unknown. We will watch and see what happens.

Councilor Foster said that the transparency, following the rules, and also doing what Mr. Cianchette thinks is right, even if not required, is very much appreciated.

Councilor Copp said this is a good thing and not something new for the fairgrounds. Racing has been going on there for many years. It will bring some livelihood back to that part of Town.

Chairman Gruber opened the Public Hearing.

Karen Harold of 241 Blanchard Road said that she is concerned about how many racing dates there are. She realizes that harness racing is allowed under the fairgrounds overlay, but circuses are also allowed. What if Barnum and Bailey put their circus on the fairgrounds? You would know that is a big change and not what the neighbors are used to and have come to expect. She has lived near the fairgrounds for 27 years and every year we have the fair, with racing, and a few more events throughout the year. They are all charming and wonderful and she doesn't mind the noise at all, but it's not 56 additional events. This has her concerned and she suggested that the Town Council look at the fairgrounds overlay and perhaps limit the number of times that an event can happen as a compromise for the neighbors. She is not against harness racing, but it's 56 days.

Lyle Merrifield, President of the Cumberland Farmers Club said that they have not seen their usual revenues over the past year, due to the pandemic. When this proposal came along, they felt it was a good fit for the fairgrounds and they will do whatever it takes to make the neighbors more comfortable. The Farmers Club is always looking for things to help make ends meet.

Jeff Coombs of Blanchard Road said that he supports the fairgrounds, and they are generally a good neighbor. His concern relates to the noise level. There are 64 households within a ½ mile radius of the fairgrounds. If you look at a ¾ mile radius, that number would easily double. That is a lot of people who will be affected by

this. He can easily hear every word on the loudspeaker during fair week. He thinks that it would be reasonable to specify upfront what the allowed noise level should be.

Mark Isaacson of Blanchard Road said that he is a firm believer in the right for any person to do whatever they want with their private property, but he also a firm believer in the principal that you shouldn't use your property in a way that interferes with other people. The problem in the world today is that there is almost nothing that you can do that doesn't interfere with someone to some extent. Therefore, somebody must decide how much is too much. In this case, that is the Town Council. He feels that 56 dates are too much. Why is it that other venues offered a couple of dates, but Cumberland is offering 56 dates? He also asked the Council to consider setting a realistic limit on the noise level. On an unrelated topic, he requested that the cones that are placed on the center line in front of the fairgrounds during fair week be removed. They are hazardous and prevent vehicles from crossing the center line in order to give cyclists space in that area.

David Daigle of Bruce Hill Road said that last year, the State Legislature approved sports betting and Governor Mills vetoed it (this was prior to the pandemic). He thinks that horse racing is a great idea, and it would be great to have racing at the fairgrounds. His concern is with phase 2 and someone coming forward to say that we need something on the days we're not racing, like off track betting, to help support the racing industry. This is what Scarborough Down was. This is his concern as a neighbor.

Bill Stiles of Range Road is a member of the Farmers Club and he appreciates horse racing. The fairgrounds has to make enough money to pay the bills. If it's not something like racing, what will it be?

Councilor Turner said that he agrees with having some decibel level that would be acceptable for Mr. Cianchette and the neighbors. This is a permitted use and Mr. Cianchette came forward to make sure that any negative effect is minimized.

Chairman Gruber closed the Public Hearing.

Motion by Councilor Edes, seconded by Councilor Copp, to approve the Mass Gathering permit from First Track Investments for harness racing events at the Cumberland Fairgrounds.

VOTE: 7-0 UNANIMOUS

21 – 039 To hold a Public Hearing to consider and act on a Credit Enhancement Agreement for Lakeside Concrete Cutting & Abatement Professionals, as recommended by the TIF Committee.

Town Manager Shane explained that the TIF Committee has reviewed this and is recommending approval. A Credit Enhancement Agreement is an enticement for the Town to attract businesses to Cumberland. Ryan Peters is here this evening to answer any questions regarding his business. The business is looking at lot 3 in Heritage Village on Route One. The terms of the agreement are 50% of the property taxes for up to 17 years or \$500,000, whichever comes first.

Chairman Gruber opened the Public Hearing.

Ryan Peters, President of Lakeside Concrete Cutting, explained that they currently have offices in Westbrook and Newport. The Westbrook office is leased, and they are looking for a permanent location close to Portland, where most of their work is. They are a construction company with 47 employees. Their business has grown

considerably. They do commercial demolition, mostly by hand, asbestos and mold removal and concrete cutting.

Chairman Gruber closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Turner, to approve the Credit Enhancement Agreement for Lakeside Concrete Cutting & Abatement Professionals, as recommended by the TIF Committee.

VOTE: 7-0 UNANIMOUS

21 – 040 To hold a Public Hearing to consider and act on authorizing the Town Manager to enter into a labor contract agreement with the Cumberland Police Benevolent Association for the period of July 1, 2021 – June 30, 2024.

Town Manager Shane said that over the past year, both the Police and Public Works unions have worked without a contract due to the pandemic. Both contracts expired last year on June 30th and they both agreed to go forward for 1 year without wage adjustments or changes to their contract. The contracts were reviewed a few weeks at a Finance Committee meeting by the entire Council. He is recommending approval.

Chairman Gruber opened the public hearing.

No public discussion.

Motion by Councilor Vail, seconded by Councilor Turner, to authorize the Town Manager to enter into a labor contract agreement with the Cumberland Police Benevolent Association for the period of July 1, 2021 – June 30, 2024.

VOTE: 7-0 UNANIMOUS

21 – 041 To hold a Public Hearing to consider and act on authorizing the Town Manager to enter into a labor contract agreement with the Public Services/Val Halla Employees Association for the period of July 1, 2021 – June 30, 2024.

Town Manager Shane said that this contract included employees in Public Works, Parks and Val Halla maintenance. He is recommending approval.

Chairman Gruber opened the public hearing.

No public comment.

Motion by Councilor Copp, seconded by Councilor Vail, to authorize the Town Manager to enter into a labor contract agreement with the Public Services/Val Halla Employees Association for the period of July 1, 2021 – June 30, 2024.

VOTE: 7-0 UNANIMOUS

21 – 042 To hold a Public Hearing to consider and act on amendments to the Personnel Ordinance.

Town Manager Shane explained that a lot of the amendments are related to the fire department and their unusual schedule. The remainder are mostly housekeeping items. He is recommending approval.

Chairman Gruber opened the public hearing.

No public comment.

Motion by Councilor Turner, seconded by Councilor Storey-King, to amend the Personnel Ordinance, as recommended by the Ordinance Committee.

VOTE: 7-0 UNANIMOUS

21 – 043 To consider and act on authorizing the Town Manager to sell a small parcel of Town owned land on the corner of Greely Road and Val Halla Road.

Town Manager Shane explained that Dottie Spaulding met with him and requested that the Town consider squaring off her property line and sell her the small portion of land where the Val Halla sign is located. The Finance Committee agreed and asked that no plantings be allowed on the front part of the property (in front of the Val Halla sign) so the sign can be seen from the road, and \$2,000 be charged for legal fees.

Chairman Gruber asked for any public comment.

Dottie Spaulding thanked the Council for their consideration. She has lived there since 1964 and she has always taken a great deal of pride in taking care of the area around the sign, with the Town's permission. She does not plan to change anything and hopes to continue to care for it.

Motion by Councilor Vail, seconded by Councilor Storey-King, to authorize the Town Manager to sell a small parcel of Town owned land on the corner of Greely Road and Val Halla Road to Dorothy Spaulding, as recommended by the Finance Committee.

VOTE: 7-0 UNANIMOUS

21 – 044 To set a Public Hearing date of April 26th to consider and act on the adoption of the FY2022 Municipal Budget.

Motion by Councilor Copp, seconded by Councilor Turner, to set a Public Hearing date of April 26th to consider and act on the adoption of the FY2022 Municipal Budget.

VOTE: 7-0 UNANIMOUS

21 – 045 To authorize the lease/purchase of the Town sweeper, per the recommendation of the Town Attorney.

Motion by Councilor Storey-King, seconded by Councilor Copp, to authorize the lease/purchase of the Town sweeper, per the recommendation of the Town Attorney and the order included in the meeting materials.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Edes – For quite some time, we have been talking about the civil discord that's been going on in our community, and he feels that it is coming from both sides. Somebody went to Superintendent Jeff Porter's house in Scarborough and placed a "Fire Porter" sign in front of his house. He thinks this was disgraceful and it has no place in our community. You may disagree with Jeff, but he's a good, decent man and he doesn't deserve this. It was disgusting.

One of the speakers this evening asked about Town funds being spent on FOIA requests. She has been one of the four people who have made FOIA requests of the Town.

We had a School Board candidate announce his candidacy on social media and was lambasted by some of the group involved with the School Board. If we're going to fix this problem, it is going to take all of us.

Councilor Storey-King – She shares many of Councilor Edes sentiments and just wants to add that there is never only two sides. There are an infinite number of sides to look at with any issue. This is where we have to find our commonality and pull it together. Rarely is anything black or white, but usually many shades of gray.

Recreation had its first advisory committee meeting in a very long time. She extended her thanks to Pete Bingham for his extraordinary leadership in keeping recreation programs going and meeting some of the needs of our community. She thanked Recreation employee, Sarah Davis, who really stepped up with covering the department during the pandemic.

There has been a lot of chatter on social media about bulky waste week and people commenting that less items are eligible for pick up. This is not true. Our restrictions have not change, but the rules are being enforced more consistently now.

Councilor Vail – It's unfortunate that we don't have a crowded room here tonight, but he hopes that we have an audience watching the meeting this evening. He thinks that it is becoming upon the Council to issue a statement and Councilor Foster has showed some initiative on that. He is also very disappointed with the tone of the people in this community with their actions and reactions. He was disappointed to find that there was a sign placed on the superintendent's lawn. That is totally unacceptable, and it crosses the threshold of what is proper behavior. He has lived here a long time and cannot recall ever having seen anything like this.

Chairman Gruber – Thank you to the Lands & Conservation Commission for holding a workshop this evening. They did a terrific job.

The Food Pantry continues to serve 60 to 65 families every week. Thank you to all the volunteers who make it happen.

The Town Council had its final budget workshop last Saturday. Thank you to Bill Stiles and Mark Segrist for their input as well as Town staff for all the hard work that went into this year's budget.

Councilor Foster – MSAD 51 and the Towns of North Yarmouth and Cumberland came together in reaction to a cluster of suicides in our community over the last few years. A mental health resources page was launched on the Town website, with the school and North Yarmouth's websites linking to it as well. This is the first step in an initiative to smash the stigma around mental health and being supportive as a community. We have seen, especially during COVID, that our neighbors are struggling in isolation. We will be reaching out to the community for volunteers and future engagement as we build momentum around this over time.

The Social Justice committee met last week in a workshop to discuss a proposal from Maine Intercultural Communication Consultants for training. The plan is to review the proposal in detail at the May 10th Council meeting.

The Communications Committee also met last week. We had a 10% response rate to the survey, which is quite high when you think about survey response rates and engagement. We gained approximately 50 new subscribers to the Cumberland Crier, for a total of 3,400 subscribers. This is a great subscriber rate. The survey revealed that the Cumberland Crier is the key form of communication for our residents.

She saw a group of people disagree about the harness racing item this evening. Then at the end of that conversation, she saw that same group of people shake hands, introduce themselves to each other, and walk out of the room to have a further conversation in the hallway. She knows there is a pocket of very intense tension and behavior that all of us on the Council can agree we disagree with. Tonight was a great example that the core of the Town that all of us love and take great pride in is still there. It's about moving forward together and having respect for each other and recognizing that just because you have the right to say something doesn't mean it's the right thing to say. And if you don't realize that how you say something makes a difference and an impact on someone, then you're not really communicating, you're just talking.

Councilor Turner – The sign that was placed on Superintendent Porter's property is just hideous. He has been giving a lot of thought to the present situation and it saddens him greatly. There was a national publication that suggested that Falmouth and Cumberland, as well as the State of Maine, were considered the most desirable communities to live in the United States. In his mind, there are 2 or 3 sides to this situation and the problem is very simple; their attitude and the back and forth is in your face. The bottom line is that we need civility in this community, we need people to respect one and other, and we need to do all the things that he remembers having seen this community do for the last 40+ years that he has lived here. It is deeply saddening to see things deteriorate to the point they have. Some of us really care about this community dearly and to have it trashed by disagreement that, frankly, isn't that important. He thinks that if somebody is offended by something, they should stand up and say so. He mentioned at a prior Council meeting that he was brought up to look level. Not up to anybody or down to anybody. Immediately, there was a rise in the back of the room, and somebody said that isn't good enough. He's sorry, but that is good enough. If we were all to look at life like that way and lived our lives that way, it would probably be a better world. We all need to sit back and have guts enough to make our feelings known and stop pussyfooting around this situation. It needs to stop right now!

Councilor Copp – The sign in front of Jeff Porter's house in Scarborough was done in very poor taste. Obviously, whoever put it there didn't want to be seen or known that they did it. Own up to it. Come here and tell us that you did it and why. This is all getting ridiculous, and this is not the Town that he grew up in. It has gotten so far out of hand. Jeff Porter is a good man who is doing his job and is doing a good job. Shawn McBreaity is also a good man. This never should have gone as far as it did. He struggled with the decision to take out nomination papers to run for another term on the Town Council. He feels like a peacekeeper and doesn't feel like he's accomplished anything. He takes pride in this Town and this just isn't right.

Tomorrow evening at 6:00, there will be a meeting with the Police Chief regarding a registered sex offender who is moving to Russell Road. The public is welcome to attend.

Ron Greco said that Councilor Foster hit on a topic that is very dear to him. He lost his brother to suicide when he was 14 years old. That is part of the reason you may have seen his name earlier this evening when Town Manager Shane explained the recall petition process. He requested the recall petitions on 4 members of the School Board. He sat with Superintendent Porter many years ago when we had a suicide in Town. His brother died from suicide just days after another suicide attempt at our school. It is widely known that suicide attempts increase directly after other suicide attempts in a community. He spoke to Mr. Porter about this and had a commitment from him that he would take action and communicate with parents about the increased risk. Nothing happened. However, that has absolutely nothing to do with getting his children back to school. His oldest daughter will be the same age and same grade next year that his brother was when he committed suicide. In his group, there is one goal; to get our kids the education they deserve and need. The group has no part in any of the divisiveness in this Town. They are absolutely disgusted by some of the actions taken by members of our community, as well as actions taken by some of our neighboring communities who have absolutely nothing to do with what is going on in our Town. Their goal with the recall petitions is to correct the oversight that they have seen with the School Board and administration and to work diligently to get our kids back to school. They also want to mend this community back together. They want to give the community the opportunity to vote to keep or reject any of the School Board members that are currently seated.

VI. ADJOURNMENT

Motion by Councilor Edes, seconded by Councilor Vail, to adjourn.

VOTE: 7-0

TIME: 9:20 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary