

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, March 28, 2022

6:00 P.M. Budget Workshop

7:00 P.M. Call to Order

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

Excused: Councilor Foster

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Copp, to approve the March 14, 2022 meeting minutes as presented.

VOTE: 6-0 UNANIMOUS

II. MANAGER'S REPORT

Town Manager Shane reported that we are seeing the worst Brown Tail Moth infestation that he has seen since before we started spraying a few years ago. This is consistent with what the State is reporting in our area. The canopy over the Greely Road Extension area is covered in brown tail moth nests. He estimated there to be about 5 miles of spraying needed, approximately 50 acres. He asked Dave MacDonald of Whitney Tree to see if they could fit us in their schedule. It is very late in the year as most people commit by February. He believes it will be 2 days at best, and the cost estimate is in the \$12k - \$14k range.

Chairman Vail asked the Town Council if they support spraying this year. The consensus was that spraying is not supported.

III. PUBLIC DISCUSSION

No public discussion.

IV. LEGISLATION AND POLICY

22 – 030 To hear a presentation re: the Senior Property Tax Deferral Program.

Councilor Segrist gave the following update on the Senior Property Tax Deferral Program:

For many years, the Town Council has heard from seniors in our community that, while they do not mind paying their fair share in taxes, they are concerned that, given their fixed income, they will one day be unable to keep up with the ever-increasing cost of property taxes, potentially forcing them to sell the homes they have lived in for decades and to leave the community they love.

Hearing these concerns, we on the *current* Town Council have been working diligently over the past nine (9) months to deliver meaningful property tax relief to lower-income seniors in our community; specifically, by creating a **Senior Property Tax Deferral (Pilot) Program**, which – if implemented – would permit the Town of Cumberland to defer the payment of a qualifying resident's "incremental" property taxes until such time as they pass away, sell or transfer the property, or no longer utilize the property as their primary residence, effectively "freezing" their property taxes at their current "baseline" level. We believe that such a program is not only

critical to ensuring that Cumberland seniors are able to Age-In-Place with dignity and respect, but also, contribute financially to town services.

In working to create such a program (which we understand may be the only one of its kind in the State of Maine), I – along with a select group of Councilors – have been working closely and collaboratively with the Town Manager, Town Staff, and the Town Attorney to research current State taxation and foreclosure laws and to develop draft ordinance language for the full Council’s review. However, in a recent meeting with the Town Attorney, we learned that given the State’s current law on property taxation and foreclosures, we are likely unable to implement such a program at this time without assuming considerable and unnecessary financial exposure; something neither I nor my fellow Councilors feel would be financially prudent as stewards of Town resources.

Allow me to provide some additional legal context:

We understand that under Maine law, municipalities have the authority to assess and collect real estate taxes, but the Maine legislature maintains sole taxation authority. In other words, municipalities cannot apportion, abate, or exempt property taxes other than as expressly authorized by the Maine legislature (*See Delogu v. City of Portland*, 2004 ME 18, 83 A. 2d 33).

Thankfully, in the case of this program, Maine law ([36 M.R.S. § 6271 – Municipal Authority](#)) currently authorizes municipalities to adopt property tax deferral programs for seniors, specifically setting forth: (1) municipal authority to adopt such a program; (2) taxpayer eligibility requirements for participation; (3) the triggering events under which deferred property taxes must be repaid; and critically (4) the process by which a municipality can enforce its lien on property taxes deferred under such a program.

What’s important here, however, is that the statute’s enabling legislation (Public Law 2009, Chapter 489), which was passed in 2009, included an amendment ([36 M.R.S. § 941 – Civil Action with Special Attachments; Procedure](#)) to Maine’s underlying real estate lien statute, which specifies that a tax collector may only file a tax lien certificate (*i.e.*, commence the standard tax lien foreclosure process as set forth in Maine law) following one (1) of the four (4) events requiring repayment of deferred taxes; namely: the tax-payer dies; transfers or sells the property; or no longer occupies the property as a principle residence ([36 M.R.S. § 6271\(6\)](#)).¹

In other words, the 2009 amendment effectively limits a municipality’s ability to commence a tax lien foreclosure process against a property where only a portion (*i.e.*, the “increment”) of property taxes have been deferred until one (1) of the four (4) previously mentioned triggering events occur. The result is that the Town would have no legal mechanism to collect the taxes due on any established “baseline” value and could be forced to defer all property taxes due until one (1) of the four (4) trigger events occur. This, as previously discussed, could subject the Town to considerable and unnecessary financial exposure, making such a program – in my opinion – currently unfeasible given the current language of State law.

So, what can be done about it?

After speaking with the Town Manager and Town Attorney, we believe that a viable option and the next logical step may be to work with our elected officials in the Maine State Legislature to propose amendments to Sections [941](#) and [942](#) of [Title 36](#) to allow municipalities to define additional events requiring the repayment of deferred

¹ 36 M.R.S. § 6271(6), entitled “Events requiring the payment of deferred tax and interest,” requires that all taxes and accrued interest must be paid when: (a) the taxpayer dies; (b) some person other than the taxpayer becomes the owner of the property; (c) the tax-deferred property is no longer occupied by the taxpayer as a principle residence (except in cases for health reasons); or (d) the tax-deferred property, a mobile home, is moved out of the State.

taxes (e.g., taxpayer fails to pay “baseline” or “incremental” taxes, etc.) or to commence the tax lien foreclosure process as it relates solely to taxes due on an established “baseline” value. We believe such a change would be needed to adequately preserve the Town’s ability to collect taxes under the standard provisions of Maine law in the context of an “incremental” property tax deferral program.

Additionally, from a policy perspective, we believe that amendments to Section 6271 expressly authorizing municipalities to defer less than all of the property taxes due and to establish additional criteria for taxpayer eligibility under municipal property tax deferral programs would likely result in more widespread adoption of such programs throughout the State.

It would, therefore, Mr. Chairman, be my recommendation that we work with our elected officials in the Maine State Legislature to pursue these amendments over the coming months; as I am hopeful that, with these amendments, we will be able to provide better and more meaningful property tax assistance to the low-income seniors in our community who need it most.

State Representative, Steve Moriarty said that the current legislative session is currently wrapping up, so this would have to be considered in the first legislative session in January 2023. He suggested taking advantage of the rest of this year to prepare a presentation for that session and meeting with someone from the Joint Standing Committee for Taxation and get them onboard.

Chairman Vail asked for any public comment.

No public comment.

Motion by Councilor Copp, seconded by Councilor Gruber, to authorize the Senior Property Tax Committee to work with our State Legislator’s to help enact a Cumberland Senior Tax Deferral Program.

VOTE: 6-0 UNANIMOUS

22 – 031 To hold a Public Hearing to consider and act on amendments to Chapter 261 (Taxation) of the Cumberland Code to add Article III (Senior Property Tax Deferral Program). TABLED

Motion by Councilor Copp, seconded by Councilor Storey-King, to table.

VOTE: 6-0 UNANIMOUS

22 – 032 To consider and act on a request from the Greater Portland Council of Governments (GPCOG) to find housing for 700 refugee families in the Greater Portland area. TABLED

Chairman Vail explained that we had a request from GPCOG to host some refugee families. He and the Town Manager met with some representatives of the faith community and some interested citizens about how we might assist with the request. We will hold a workshop before the next Council meeting to discuss this further with the entire Town Council.

Motion by Councilor Edes, seconded by Councilor Storey-King, to table.

VOTE: 6-0 UNANIMOUS

22 – 033 To hold a Public Hearing to consider and act on a Medical Marijuana Registered Caregiver License application for Leaning Pine, LLC (owner Kelly Copp) located at 210 Gray Road.

Chairman Vail said that this is the first application under our new Medical Marijuana Registered Caregiver Licensing Ordinance. The application fee has been paid, Town Staff has reviewed the application, and is recommending approval.

Chairman Vail opened the public hearing.

Public discussion: None

Motion by Councilor Storey-King, seconded by Councilor Segrist, to approve the Medical Marijuana Registered Caregiver License application for Leaning Pine, LLC (owner Kelly Copp) located at 210 Gray Road.

VOTE: 5-0-1 (Copp abstained) MOTION PASSES

22 – 034 To hold a Public Hearing to consider and act on acceptance of the proposed Capital Improvement Plan for Fiscal years 2022-2027, as recommended by the Planning Board.

Town Manager Shane explained that per our Town Charter, the Capital Improvement Plan (CIP) has to be presented to Planning Board. This year, we took the opportunity to present the Route 100 roundabout project and there was a lot of support for it. The Manager also asked the Planning Board to think about what types of projects they would like to see included in the CIP. There are projects that have been completed and some that are still in the queue. The CIP is more of a planning tool and not a finance tool. Not all of the projects will be funded in the budget. It is a tool for the Town Council to use to prioritize projects.

Chairman Vail opened the public hearing.

Public discussion: None

Motion by Councilor Copp, seconded by Councilor Gruber, accept the proposed Capital Improvement Plan for fiscal years 2022-2027, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

22 – 035 To set the week of May 16th – 20th for Spring Bulky Item Pick Up Week.

Motion by Councilor Edes, seconded by Councilor Copp, to set the week of May 16th – 20th for Spring Bulky Item Pick Up Week.

VOTE: 6-0 UNANIMOUS

22 – 036 To reappoint William Longley as Code Enforcement Officer and Dan Small as alternate from April 1, 2022 to March 31, 2023.

Motion by Councilor Copp, seconded by Councilor Segrist, to reappoint William Longley as Code Enforcement Officer and Dan Small as alternate from April 1, 2022 to March 31, 2023.

VOTE: 6-0 UNANIMOUS

22 – 037 To appoint a member to the Lands & Conservation Commission and the Forestry Subcommittee.

Motion by Councilor Copp, seconded by Councilor Segrist, to appoint Denny Gallaudet to the Lands & Conservation Commission, and Todd Ontl to the Forestry Subcommittee.

VOTE: 6-0 UNANIMOUS

V. NEW BUSINESS

Councilor Segrist – In regard to the Senior Property Tax Deferral Program, he wants to make sure that we move some type of program forward. He realizes that it will be a heavy lift for our team in the coming months to get it done and ready to send to the legislature.

Councilor Storey-King – She wondered if there are any meetings scheduled with North Yarmouth and the School Board. As a Town Council, we attended the Superintendent's budget presentation, and she does have some questions and comments in regard to the school budget as it was presented.

Town Manager Shane said that there was an attempt to schedule a combined meeting, but North Yarmouth had some conflicts with the proposed dates. He is not certain if new dates have been proposed yet.

Councilor Storey-King said that in Councilor Foster's absence, she would like to remind everyone that the Town-wide survey is still available to take until April 15th.

Our meeting in West Cumberland last week regarding the Route 100 roundabout proposal was very well attended. There was a lot of positive feedback from those in attendance.

Congratulations to Spring Brook Farm for their very successful maple Sunday event.

She sent out her thoughts and prayers to the Fowler family as they deal with Greg Fowler's final days. They are a good family, and she is thinking of them during this difficult time.

Councilor Gruber – Thank you to all the food pantry volunteers. They all do so much.

A fun fact: many years ago, he tried out for the Villanova basketball team. He was disappointed that he didn't make the team.

Chairman Vail – Regarding the discussions that we have been having about senior housing, there should be some news coming soon.

Councilor Edes – No new business.

Councilor Copp – He donated \$20 to the 4-H fund that benefits the 4-H kids and the Food Pantry.

Thank you to all the people who attended the neighborhood meeting at the West Cumberland Hall last week regarding the roundabout project. Everyone was very respectful, and the meeting went very well.

VI. ADJOURNMENT

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

VOTE: 6-0 UNANIMOUS

TIME: 8:23 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary