

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, OCTOBER 25, 2010

7:00 p.m. Call to Order

Present: Chairman Storey-King, Councilors Turner, Copp, Porter, Stiles, and Moriarty
Councilor Perfetti arrived at 7:06 p.m.

I. APPROVAL OF MINUTES

October 11, 2010

Motion by Councilor Moriarty, seconded by Councilor Copp, to accept the minutes as presented.

VOTE: 6-0 UNANIMOUS PASSAGE

II. MANAGER'S REPORT

Town Manager Shane introduced Bert Kendall, Adjutant of American Legion Post 91.

Mr. Kendall explained that Post 91 is attempting to revive the Blue Star Program, which was popular during World War I and World II. The goal of the program is to identify and recognize service families in Cumberland, North Yarmouth, and Yarmouth. There will be a reception to recognize the service families and present them with a banner on December 7th at 7:30 p.m. For more information, residents can contact Bert Kendall at 829-8184 or bmtkendall@aol.com.

Our dear friend and longtime Cumberland plumbing inspector, Dick Peterson, passed away at the age of 97. Dick started working for the Town as plumbing inspector when he was 52 years old. He was a great man, a good friend to many, and will be sadly missed.

Route 88 – 500' of slab near Tuttle Road was removed today, finish grading is scheduled for Wednesday or Thursday, paving is scheduled for Friday.

Range Road – final water main testing to be completed with results expected by end of this week. Final clean up and seeding scheduled for spring. Final paving May or June 2011.

Route 100 – Waterline is complete. 1000' of grinding prep for final pavement from Skillins toward Gray to be done next week.

Public Hearing on November 8th re: 3-way stop at Hallmark and Carriage Roads

Letters have been sent to the neighborhood to survey them regarding their opinion on the need of these signs. Responses will be forwarded to the Council. The Manager hopes that some of the residents will be present on November 8th to give the Council their input.

Portland Area Comprehensive Transportation Systems (PACTS) has announced that they have allocated \$250,000 toward a sidewalk connector that begins near the commons and will eventually get to Twin Brook. This phase will get the sidewalk to the vicinity of Town Hall. They also approved a \$156,000 allotment toward paving a portion of Tuttle Road.

It was discovered this week that the Town trash bags have always been mismarked as 20 gallon bags. They are actually 14 gallon bags. Town Manager Shane recommended that the Council make a motion during their meeting this evening to reduce the price of the 14 gallon bags by .25 cents each. By doing this both the large and smaller bags will equal .08 cents per gallon.

III. PUBLIC DISCUSSION

Mary Pat Warming, a resident of Berlin, Germany speaking on behalf of her son, Aric Mannion, who resides in Los Angeles, California. Ms. Warming explained that 4 years ago, she deeded to her son a “residential” buildable lot located at 148 Gray Road. The lot was for sale and recently went under contract for construction of a single family home. Permission was granted by MDOT to allow for a residential driveway on Gray Road. At that time, the Cumberland Code Officer reviewed a copy of the waiver for the driveway and contacted the real estate agent to advise her that the property is located in the VCC (Village Center Commercial) Zone (residential home not a permitted use). Ms. Warming said that the property cannot be sold commercially since the DOT will not allow a driveway for commercial use since it has been rezoned.

Councilor Moriarty explained to Ms. Warming that since the lot is located in the VCC Zone, single family dwellings are no longer a permitted use. If it is the desire of Ms. Warming’s son to sell the lot for that purpose, the Town Council would have to vote to send the issue to the Planning Board for their recommendation as to whether the zoning should be changed to allow for this type of use. It is unlikely that the Council or the Planning Board would approve a change of that type since it was debated at length when the zone change occurred 2 years ago.

Councilor Perfetti said that he is sympathetic, but wants to be sure that Ms. Warming understands what the Council would have to go through to change the zoning and the length of time it would require. At the very least, it would not come back from the Planning Board to the Council for them consider until December. It sounds like that timeframe does not match Ms. Warming’s limited time before returning to Germany.

Chairman Storey-King said that the Council sympathizes with the situation, but explained that State Law ties their hands. There is no flexibility to speed up the process.

Councilor Porter said that he feels that the Council does not have enough information to have an intelligent discussion regarding sending this to the Planning Board. This needs to be delayed until the Council has the appropriate information to take appropriate action.

Councilor Copp said that the Council will work to help her with her dilemma, but it is not something that can be taken care of this evening.

Chairman Storey-King suggested that Ms. Warming meet with Town Manager Shane for his assistance in working through her situation.

Town Manager Shane said that the Town staff will contact the DOT to discuss the issue of driveway permissions and explain that the zones have changed. If DOT has to reduce the speed limit, they should do so to allow for commercial development.

IV. LEGISLATION AND POLICY

10 – 145 Presentation of Executive Fire Officer Award to Nathan School

Town Manager Shane invited Fire Chief, Dan Small to come to the podium. Chief Small explained the Executive Fire Officer program. It is a 4 year program that requires students to travel to Maryland and attend 2 week long classes, return to their municipalities, and have 6 months in which to write and submit an applied research paper. Year one of the program is

Executive Development, year two is Executive Analysis of Community Risk Reduction, year three is Executive Analysis of Fire Service Operations in Emergency Management, and year four is Executive Leadership. There are only 20 Executive Fire Officer's in the State of Maine. Chief Small expressed his and the entire departments pride in Deputy Chief Schools accomplishment.

Representative to the Legislature, Meredith Strang Burgess thanked Deputy Chief Schools for everything he has given over the years and is grateful that Cumberland is the beneficiary of his great effort. She presented him with a State of Maine Flag and a certificate that read, "this flag was flown at the Maine State Capital on Thursday, October 21st in recognition of Deputy Chief Nathan Schools of the Cumberland Fire Department".

Chief Small introduced Council Chairman, Shirley Storey-King to come forward to present Deputy Chief Schools his certificate from the National Fire Academy.

10 – 146 To hold Public Hearing to consider and act on an Automobile Recycling Permit for Copp Motors for the period of October 1, 2010 – October 31, 2015.

Town Manager Shane explained that this is a five year permit and staff is recommending approval.

Motion by Councilor Porter, seconded by Councilor Turner, to approve the Automobile Recycling Permit for Copp Motors for the period of October 1, 2010 – October 31, 2015.
VOTE: 6-0-1 (Copp abstained) PASSAGE

10 – 147 To authorize the Town Manager to execute a Purchase and Sale Agreement with the Portland Water District for 2-acres of property located on Greely Road.

Town Manager Shane explained that the property is located on Greely Road, and is currently being used, with permission from Portland Water District, as the 12th hole of Val Halla Golf Course. The two-acres appraised at \$16,200.

Motion by Councilor Stiles, seconded by Councilor Moriarty, to authorize the Town Manager to execute a Purchase and Sale Agreement with the Portland Water District for 2-acres of property located on Greely Road.
VOTE: 7-0 UNANIMOUS PASSAGE

10 – 148 To set a Public Hearing date (November 8th) to consider and adopt the MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2010 - October 1, 2011.

Town Manager Shane explained that this is an annual item that comes before the Council. The General Assistance Ordinance is set by Maine Municipal Association and the majority of towns use this model.

Motion by Councilor Perfetti , seconded by Councilor Copp, to set a Public Hearing date of November 8th to consider and adopt the MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2010 - October 1, 2011.
VOTE: 7-0 UNANIMOUS PASSAGE

10 – 149 To set a Public Hearing date (November 8th) to consider and act on a Moratorium Ordinance regarding extraction of earth materials and water extraction, pumping and/or bulk storage.

Town Manager Shane explained that this item came before the Council at the last meeting per the request of a resident to consider changes to the existing Zoning Ordinance in the RR1, RR2 and LDR zones, for gravel extraction and pumping of water and bulk storage. It is recommended that a 180 day moratorium be in place. The Manager explained that any moratorium is an ordinance and any ordinance is a change to the land use code, therefore this item will have to go back and forth between the Planning Board and the Council for public hearings.

Councilor Copp recused himself from this item because it involves members of his family. He moved from the dais and sat in the audience.

Attorney Matt Manahan spoke on behalf of Randy and Elvin Copp. Mr. Manahan said that the Cops would like it known that they were ready to submit an application under the Town's current mineral extraction ordinance when this issue came up. At that time, they decided not to submit their application until all the issues could be addressed. They are committed to working with the Town and the neighbors to address the concerns. In their opinion, this is a good site for a gravel pit, it will meet all the DEP requirements, there will be sufficient buffers for noise and dust, and they are committed to addressing the operating hours of the facility so it will not be an unreasonable interference. In their view, the current ordinance is sufficient and the Cops can work within the current ordinance to address the concerns, but they are willing to work with a potential amendment process. They are concerned, however, with getting held hostage by the process. In their view, a moratorium isn't necessary because they are willing to work within the process and the Town has an existing ordinance which has been in place for a number of years. The Town has had gravel pits, including a Town owned gravel pit, and the Town's ordinances have worked fine over the years. Suddenly, there is an emergency for an existing gravel pit that his clients want to re-start. A moratorium seems excessive, particularly since they are willing to work within the current ordinance while making sure that this will not be a problem for anybody.

Bob Maloney questioned how the Cops are going to address the neighbors' issues since they the property has been totally stripped of trees. He can hear the noise and he can now see and hear the traffic noise from the turnpike. If there is a gravel pit allowed, the neighbors will hear trucks, loaders, and tailgates. There is very little buffer left on the site.

Randy Copp requested a Council Workshop prior to the November 8th Public Hearing.

Town Manager Shane explained that there is no time available for a Workshop on November 8th (there is already a workshop scheduled).

Motion by Councilor Perfetti, seconded by Councilor Stiles, to set a Public Hearing date of November 8th to consider and act on a Moratorium Ordinance regarding extraction of earth materials and water extraction, pumping and/or bulk storage.

VOTE: 6-0-1 (Copp abstained) **PASSAGE**

10 – 150 To hold a Public Hearing to consider and act on authorizing the Town Manager to execute agreements with North Yarmouth for Animal Control Officer, Sidewalk Snow Plowing & Channel 2. *TABLED*

Motion by Councilor Stiles, seconded by Councilor Perfetti, to table this item.

VOTE: 7-0

UNANIMOUS PASSAGE

10 – 151 To set a Public Hearing date (November 8th) to consider and act on amendments to the Cumberland Traffic Ordinance to include No Parking Areas on Farwell Avenue near the Credit Union site.

Town Manager Shane explained that during the site plan review of the Credit Union on Main Street, the Planning Board and traffic engineer recommended that certain sections of Farwell Avenue be posted no parking. The Planning Board does not have the authority to post no parking areas only the Town Council has that authority. Staff is recommending approval.

Motion by Councilor Perfetti, seconded by Councilor Turner, to set a Public Hearing date of November 8th to consider and act on amendments to the Cumberland Traffic Ordinance to include No Parking Areas on Farwell Avenue near the Credit Union site.

VOTE: 7-0

UNANIMOUS PASSAGE

Motion by Councilor Stiles, seconded by Councilor Copp, to reduce the price of the small trash bags by 25 cents, effective immediately.

VOTE: 7-0

UNANIMOUS PASSAGE

V. NEW BUSINESS

Councilor Turner – He watched the process of the work on Route 88 today. It is incredible what Storey Brothers has done and how quickly the process is going. Everyone on the Foreside should appreciate it.

Councilor Copp – None

Councilor Porter – Greely has two teams in the playoffs. The Girls Soccer team has a home game tomorrow at 6:00. The Greely Girls Field Hockey team is battling for the Western Maine Finals. Good luck to his daughter Eliza and her teammates.

Councilor Perfetti – None

Chairman Storey-King – CMBA meeting this Wednesday at 6:30 p.m. at Town Hall.

Greely Football bon fire this Thursday at 6:30 p.m. The public is invited to attend.

Friday at 7:00 p.m. Greely vs. Falmouth football (home game).

November 4th at 7:00 p.m. a neighborhood meeting at Town Hall re: development of Doane Property.

Reminder that there is a donation challenge for the Veterans Monument project. An anonymous family will match donations from now until the end of the year, up to \$5,000.

Condolences to Tom and Jane Peterson and their boys. Your loss is our loss and our thoughts are with you.

Councilor Stiles – Will be absent on November 8th.

In regard to the moratorium, he would prefer to work on assuring that the controls are in place and if needed additional controls can be added.

Councilor Moriarty – Congratulations to the Greely Boys Cross Country team for their victory on Saturday. He ran in Twin Brook late Saturday afternoon and was impressed at how immaculate it was. There was no sign that a major event had occurred there earlier that day.

The Veterans Monument Committee will be selling pins on Election Day to raise money for Phase II (name stones) of the monument.

Town Manager Shane – This Saturday, the polls will be open at from 9:00 a.m. to noon at Town Hall for absentee voting, and on Sunday at the West Cumberland Community Hall 9:00 a.m. to 1:00 p.m. On Election Day, please bring a can of food for the food pantry. Polls are open on Election Day from 7:00 a.m. to 8:00 p.m.

VI. ADJOURNMENT

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

VOTE: 7-0 UNANIMOUS PASSAGE

TIME: 8:37 p.m.

Respectfully submitted by:

Brenda L. Moore
Council Secretary