

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

Monday, February 26, 2024

6:15 P.M. Workshop re: Discussion on the current school funding formula
6:45 P.M. Workshop re: Equity and Inclusion Plan

7:00 P.M. Call to Order

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

Excused: Councilor Douglass

I. APPROVAL OF MINUTES

Motion by Councilor Edes, seconded by Councilor Vail, to accept the February 12, 2024 meeting minutes as amended.

VOTE: 6-0 UNANIMOUS

II. MANAGER'S REPORT

Town Manager Shane said that nomination papers will be available next Monday at the Town Clerk's Office. Anyone interested in running for Town Council or School Board please come to Town Hall to get your nomination papers.

Chairman Segrist has been working with our State Representatives for 3-years now on the senior tax bill that will go vote tomorrow. He spoke to our State Representative, Steve Moriarty today and he is very confident that the bill will pass. This is very exciting for our senior residents.

Town Clerk, Jennifer Doten, administered the oath of office to new Deputy Fire Chief, Andrew Turcotte, Lieutenant, Jackson Small, and full-time Firefighter/Paramedic's Zachary Carriero, Mathew Hoyt, Steve Plympton, Anthony Cataldi, and Jordan Hancock.

III. PUBLIC DISCUSSION

Steve Sloan of 177 Range Road said that he is very conflicted about the proposed affordable housing project. He is not against income-controlled housing if there are social services available to be able to support it. When you look at some of our larger surrounding cities, they develop these income-controlled housing developments in areas that have public services, such as the Metro line, doctor's offices, and social services that people can have access to. We should take a step back and look at this strategically. We need to have things in place before we do this. Our public safety departments are not staffed adequately for this. We are setting people up for failure. They are going to have to use our emergency services for primary care. We are putting mechanisms in place to allow elderly residents to stay in their homes. Why don't we look at a way to decrease the residential tax liability so that they can stay in their homes? We can accomplish this through commercial growth. Commercial growth won't impact our schools, and will provide a tax base where we can improve our services.

Tim Mahalik of 31 Shady Run Lane said that he has 2 questions: 1) when will we begin to actively administer the affordable housing covenants that are associates with Small's Brook Crossing (a/k/a Crossing Brook)? That was Cumberland's first affordable housing project, and 2) in light of the housing crisis here, he asked that the amendments that were made to Small's Brook be revised as the Town Attorney, Ken Cole, said we had the opportunity to do. Specifically, it was elicited that the affordable

covenants would continue to restrict Small's Brook Crossing. There was a memo from Town Manager Shane dated November 11th that talks about terminating their accrued interest. There is also a misconception that there are 2 ways that the property can be transferred, 1) with the affordable covenants that were required to go through, and 2) if nothing worked you could sell it at market rate. That interest is represented in the memo as being paid to the Town in both cases, which is not correct. The second mortgage is important because it helps the subsequent buyer purchase at a reduced price. So, what are the affordable covenants at Small's Brook? There is supposed to be a pool of purchasers, they must be a resident of the Town for at least 1 year, people who work for the Town or School, and immediate family members of residents who have resided in the Town for 15-years. It is income restricted to 120% of the area median income with the people in the pool having the right of first refusal. He would like the leaders of our Town to provide the same opportunity to their employees, and volunteer to reverse the amendment to this contract zone agreement.

Bruce Sherwin of Blanchard Road said that we need to talk about the very bad deal that this affordable housing project is for this Town and its taxpayers. We are going to spend \$3,000,000 of our tax money, and \$200,000 of land to give to a developer who is only going to pay us \$40,000 a year for that loan. That's 80 years to pay us back. That's a bad deal. On top of that, there is going to be 107 households in the development, which is in a TIF district, so no money will go into the general fund or toward school expenses. How TIF money is used has to be voted on annually by the TIF Committee. The TIF Committee could be made up of different Town Councilors every year. People in this Town could be hurt, tax-wise, by this project. He can pay his taxes. He is not worried about himself, but there are residents who are going to have trouble because of this project. This is a very bad deal and Town officials have not explained it adequately.

IV. LEGISLATION AND POLICY

24 – 011 To hold a Public Hearing to consider and act on approval of a Wharfing Out Permit at 25 Ledge Road, as recommended by the Coastal Waters Commission.

Rick Thompson, Chair of the Coastal Waters Commission, explained that the Commission was onsite on February 6th to review the project and hold a public hearing. It is essentially a replacement pier that was destroyed in the storm of December 2022. It is the same configuration that was in existence prior to the damage and has been approved by the Army Corps of Engineers.

Chairman Segrist opened the public hearing.

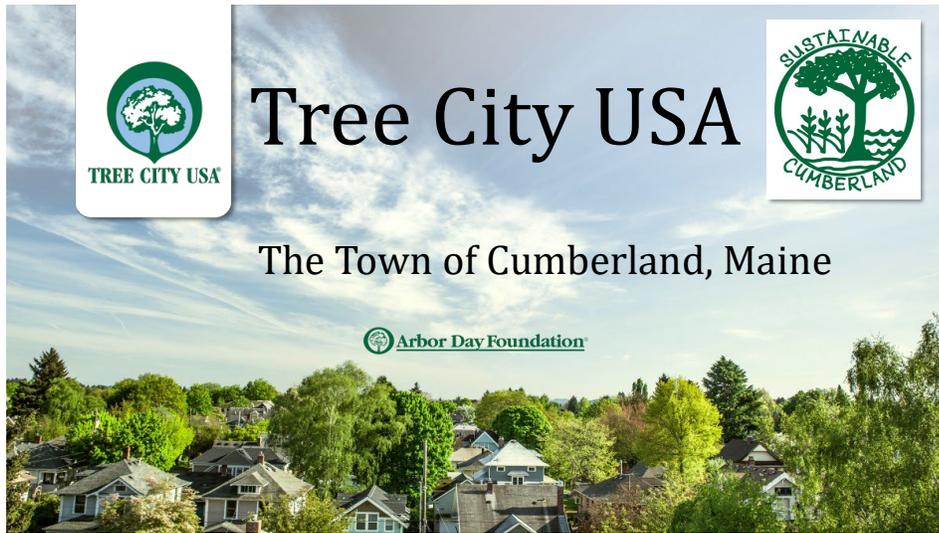
No public comment.

Motion by Councilor Filson, seconded by Councilor Copp, to approve the Wharfing Out Permit for 25 Ledge Road, as recommended by the Coastal Waters Commission.

VOTE: 6-0 UNANIMOUS

24 – 012 To hear a Proclamation from the Lands & Conservation Commission for the Town of Cumberland to become a Tree City.

Lands & Conservation Commission member, Riva Krut, said that Cumberland has made substantial investments in trees, trails, and forests, in addition to working with partners like the Chebeague and Cumberland Land Trust. It is reasonable to think that we already meet or exceed the standards to become a Tree City. She presented the following:



Tree City USA Tree City USA Summary

NATIONWIDE 2022

BY THE NUMBERS

- 3,574** TREE CITY USA COMMUNITIES (75 NEW)
- 48.39%** OF THE NATION LIVES IN A TREE CITY USA COMMUNITY
- 95.81%** RECERTIFICATION RATE
- 1,003,385** REPORTED NUMBER OF TREES PLANTED
- LARGEST:** New York, NY (POPULATION 8,500,000)
- SMALLEST:** Sibley (POPULATION 20)
- LONGEST-RUNNING ACTIVE TREE CITY USA COMMUNITY:** 16 (47 YEARS)
- \$1,513,966,192** SPENT ON URBAN FORESTRY MANAGEMENT
- \$9.33** average per capita

Tree City Maine*

Auburn 20 years	Bangor 18 years
Bath 26 years	Brunswick 6 years
Camden 25 years Growth Award for 1 years	Castine 14 years
Ellsworth 2 years	Falmouth 4 years
Farmington 46 years	Kennebunkport 46 years
Lewiston 20 years	Orono 27 years
Portland 43 years	Rockland 4 years
Saco 13 years	South Portland 43 years
Westbrook 46 years	Yarmouth 44 years

* Data from 2022

Introduction

- Value
- Program
- Benefits
- Standards



STANDARDS & STEPS

1. Tree Board or Department
 - No additional action required. We have this with LCC Subcommittees on Forests, Trails, Invasives, Community Orchard, Sustainability
2. Tree Care Ordinance
 - No additional action required: LCC Ordinance accepted here
3. Community Forestry Program With Annual Budget of >\$2 Per Capita
 - We already exceed this - Cumberland is >\$3
4. TC Arbor Day Proclamation + Observance
 - New, next slide and action request to TC
5. Annual application submission
 - New, no cost. LCC to oversee





Proclamation






OFFICIAL PROCLAMATION

WHEREAS	in 1872, the Nebraska Board of Agriculture established a special day to be set aside for the planting of trees, <i>and</i>	WHEREAS	trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, <i>and</i>
WHEREAS	this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, <i>and</i>	WHEREAS	trees – wherever they are planted – are a source of joy and spiritual renewal.
WHEREAS	Arbor Day is now observed throughout the nation and the world, <i>and</i>	NOW, THEREFORE,	We, the Town Council of Cumberland, Maine, do hereby proclaim the last Friday of April as ARBOR DAY in the city of Cumberland, Maine. We urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, <i>and</i>
WHEREAS	trees can be a solution to combating climate change by reducing the erosion of our precious topsoil by wind and water, cutting heating and cooling costs, moderating the temperature, cleaning the air, producing life-giving oxygen, and providing habitat for wildlife, <i>and</i>	FURTHER	We urge all citizens to plant trees to gladden the heart and promote the well-being of future generations.
WHEREAS	trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products, <i>and</i>	DATED THIS	<u>26th day of February, 2024</u> Town Council of Cumberland, Maine

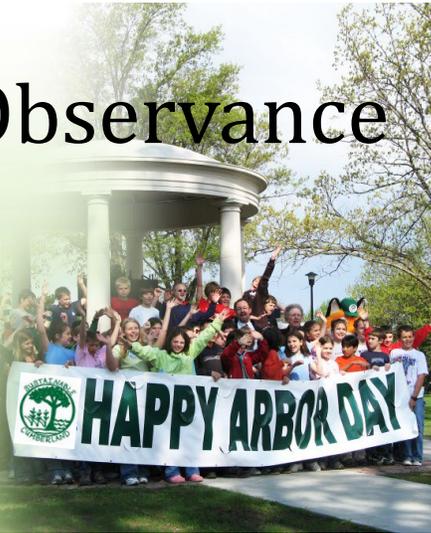


STANDARDS

Arbor Day Observance

Opportunity to inform and engage the broader community through:

- Tree Planting
- Awards Ceremony
- Education
- Can be provided under the auspices of LCC or its subcommittees Community Orchard, Forests, Trails, Invasives
- End April each year: article in Crier



Next Steps



Thank You Questions?



Learn more at arborday.org/treecityusa



Teri Maloney-Kelly sent the following comment via email:

LCC proclamation to adopt Cumberland as a Tree City. Please read the following comment into public record. "I appreciate this important proclamation. Our family homestead has hand planted more than 7,500 trees since 1952 and continue as resources are harvested. This resource has been destroyed throughout our community in the interest of growth and tax revenue. Focus and action needs be directed at replacing as much if not more of this natural resource as we destroy it. We should all go and plant a tree then give it a hug. Thank you for recognizing the Arbor Day Foundation and the work they do for our planet's health."

Councilor Copp made the following motion. Councilor Storey-King seconded the motion.

We, the Town Council of Cumberland, Maine, do hereby proclaim the last Friday of April as Arbor Day in the Town of Cumberland, Maine. We urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and we urge all citizens to plant trees to gladden the heart and promote the well-being of future generations.

VOTE: 6-0

UNANIMOUS

24 – 013 To hear the Lands & Conservation Commissions recommendation on the proposed 107-unit affordable housing project at Drowne Road.

Chairman of the Lands and Conservation Commission, Mike Schwindt, read the following recommendation from the Lands and Conservation Commission:

Some months ago, the Town Council took steps to help make more affordable housing available in Cumberland. Included were three potential projects that would have added 234 new homes in addition to the 34 new homes constructed through the normal course of 2023. At this point, we understand the 55-unit senior housing project along US Route 1 has been cancelled while the 72-unit project is still in the works as are the 107 units proposed for Drowne Road. We do not question the need for affordable housing in southern Maine.

Our primary concern is that the location of the proposed new housing on Drowne Road is inconsistent with land use objectives.

Our authorizing ordinance, Article III, Section 30-15, Purpose and Duties, requires us to "...promote the conservation of natural resources and encourage the conservation of water, land and open space and vistas within the Town...." The project was not timely referred so we could meet our responsibilities under the ordinance.

The land proposed for the Drowne Road project is primarily classified either as "Prime" or as "of Statewide Importance" farmland by the NRCS Web Soil Survey. According to the Conservation Subdivision Ordinance (250-6. D (7)) applicable to developments in the RRI and RR2 zones, these soil types are considered high-value conservation areas needing preservation. Thus, constructing three multi-storied buildings plus adding 184 parking spots is inconsistent with the best use of the limited high value agricultural lands available within the Town.

The removal of the ballfields at Drowne Road is also inconsistent with maintaining open spaces in the town. In listening to the discussions regarding the two existing baseball fields, the first alternative cited was to move them to the 12-acre plot adjacent to Stiles Way and Tuttle Road and adding two more fields plus a 175-car parking lot. We have not heard any discussion about moving the playing fields to North Yarmouth, which shares recreation activities with Cumberland. Wescustogo Hall, the location of the North Yarmouth field, already has a significant adjacent parking lot along with open space that may well accommodate baseball fields without paving more land. Other sites may also provide sufficient space without tying up 12 acres of open land.

Additionally, we believe the gifting of land given to the Town by Elizabeth Drowne to a private developer is contrary to her stated wishes and her vision of the Town's use of the property. We have concerns about the proposed use of the land as a project in private hands when considering the Will of Elizabeth Drowne, the donor. Her purpose in gifting the land in the Town Forest was to support education. The 1891 Will (Book 589/page 204) specified that all future income from the land is to be used for education.

With this project, there would be no potential income from the sale or lease of the land, nor will the land be used for education; instead, the land value would be materially diverted for 99 years at no charge with no direct benefit to education. While this may be deemed legal, it is clearly contrary to the intent of the donor.

The Drowne Road Project is even more insidious because it represents an ever-increasing incremental development of the gifted land inconsistent with the envisioned land usage at the time of donation, the terms of which the Town agreed to when it accepted the gift.

We also note the decision to use generated funds for education rests with "...the officers of said town who have charge of the schools therein." Since elementary and secondary education within Cumberland rests with MSAD #51, a 99-year no-cost lease would deprive that body of its decision-making authority and students of potential income for generations. Also, if the land is included in a TIF district, any property taxes generated from this or any other development cannot be used for education, further negating the stated purpose in the Will.

As a result, we believe the proposed use of the Town Forest land for the 107-unit housing project and 200 space parking lot is inconsistent with the intent of Elizabeth Drowne's gift and with the conservation of natural resources, land and open space within the Town and puts at risk the trust of potential future donors to the Town.

Recommendations: *We recommend*

- *The land not be used for the housing project.*
- *That all remaining land gifted by Elizabeth Drowne to the Town be placed in a conservation trust.*
- *That any future use of any unallocated land of the original gift parcel, or any portion of the original parcel that may in the future be considered for re-use or repurposing, be used in a manner consistent with the terms of the Will or placed in the conservation easement.*

Councilor Vail said that Mr. Schwindt has his respect, and he supports the first part of the recommendation. But the moment he stepped into unchartered territory with reference to the will and the use of land, that is outside the purview of the Lands and Conservation Commission. He does not believe that the letter came from the Lands and Conservation Commission, but rather from a group of citizens with a different agenda. He does not have a problem with it being presented in a different forum, but the fact that this agenda item is being presented thusly so, to him negates the whole value of the recommendation from the Lands and Conservation Commission.

Mr. Schwindt responded that according to the Lands and Conservation Commission Ordinance (30-15E) the commission shall "make recommendations to the Town Council as to the receipt of gifts in the Town's name for any of the Commission's purposes and administer each such gift for those purposes subject to the terms of the gift". That is all we are talking about.

Chairman Segrist asked for any public comment.

Denise Thorsson said that this recommendation went around to the Lands and Conservation Commission members and the sub-committees a couple of weeks ago. It then made its way outside the Commission and Mike Perfetti responded in opposition to it. This started to open up a dialogue on the email chain, along with Betsy Harding. Since this is on the record, she would like to put her response on the record as well:

Thank you, Mike and Betsy, for opening up a dialogue on this subject. There are several things that bothered me about this recommendation, but three of them stood out.

First: “Our authorizing ordinance, Article III, Section 30-15, Purpose and Duties, requires us to ‘...promote the conservation of natural resources and encourage the conservation of water, land and open space and vistas within the Town....’ The project was not timely referred so we could meet our responsibilities under the ordinance.”

I would argue that placing higher density developments around the Town center does exactly that. Encouraging varied housing density and mixed-use zoning around Town centers not only help to control sprawl, and thus conserves water, land, open spaces, and vistas but encourages healthier neighborhoods and a stronger community overall. Smart Growth techniques such as these have been proven to help smaller, rural towns such as ours develop in a sustainable way, while preserving green spaces and retaining a sense of place.

Second: “... constructing three multi-storied buildings plus adding 184 parking spots is inconsistent with the best use of the limited high value agricultural lands available within the Town.”

The center of town is the best place to add density, and to build up rather than out. The developer has carefully considered the approach from street level and has mitigated the “multi-storied building” eyesore factor by digging down. Regarding soil tests and “high value agricultural lands,” did the Town ever plan to use the ball field location for publicly funded agriculture?

Third: “We have concerns about the proposed use of the land as a project in private hands when considering the Will of Elizabeth Drowne, the donor. Her purpose in gifting the land in the Town Forest was to support education. The 1891 Will (Book 589/page 204) specified that all future income from the land is to be used for education.

With this project, there would be no potential income from the sale or lease of the land, nor will the land be used for education; instead, the land value would be materially diverted for 99 years at no charge with no direct benefit to education. While this may be deemed legal, it is clearly contrary to the intent of the donor.

The Drowne Road Project is even more insidious because it represents an ever-increasing incremental development of the gifted land inconsistent with the envisioned land usage at the time of donation, the terms of which the Town agreed to when it accepted the gift.”

The will has been brought up many times and I’m surprised no one has made the connection between this project and the direct positive impact it would have on education. For one, children (students) have much to benefit from a multigenerational environment, which this project would facilitate. The seniors who otherwise wouldn’t be able to afford to live here would have access to volunteer opportunities at the school – another benefit to students. The larger, more obvious benefit of this project to education is the ability for the teachers to live in the community in which they work and the numerous benefits that would provide them and their students.

The 2019 Cumberland growth memo written by Kristina Egan, Executive Director of the Portland Council of Governments, 88% of people working in Cumberland do not live in Cumberland, contributing greatly to the traffic issues so many dislike. The impact of this housing project and the ability for teachers and first responders supporting the school to live nearby would likely reduce commuter traffic, reduce wear and tear on infrastructure, and at the very least help reduce mounting teacher burnout by cutting out daily commutes from Saco, Biddeford, and elsewhere.

The intent of the will was to use the land for educational benefit. What that looked like in 1891 is likely starkly different than the reality of the situation we find ourselves in today, and it's not difficult for me to see how this project fits that original intent.

Lastly, using the word "insidious" to describe this issue in an official LCC recommendation is curious, to me. The arguments within the document are those that have been brought up by the same handful of individuals at the Town Hall and Val Halla meetings, and I think those two issues should have remained separate. Bill Shane and the Town Council have put this project forth with pure intent, seeking to help the Town manage growth sustainably and as cost-effectively as possible. It's a topic people are understandably passionate about, but I'm troubled by the tone and have a hard time finding the clear boundary between personal opinions and what is a justifiable, sound argument from a body tasked to focus on Lands and Conservation.

Gordon Lichter, a member of the Lands and Conservation Forestry Subcommittee, said that along with a few members of the Commission, he does not agree with all the conclusions and the letter submitted this evening opposing the housing development. He does agree with the recommendation that any land that's not used for the development be placed in a conservation trust to preserve the Town Forest and its existing trails in perpetuity. He also agrees that we should look at additional sites for the baseball fields, should they be moved. The letter from the Commission makes two main points; the soil on which the development is planned is classified as either prime or statewide importance by the NRCS. It is unstated whether the latest survey was conducted before or after the work was done to build the ballfields. Therefore, it is arguable that because of the work done and the ongoing maintenance of the ballfields, the soil has changed enough that it may no longer meet the same standards today. The second point in the letter is about Elizabeth Drowne's will and he believes that the Commission erred in its stance. Primarily he believes that the Commission failed by not admitting that its position about the will contradicts what is essentially settled law and acknowledging that the Town has the right to develop the land. At that point, any further argument should be moot, but the Commission continues that development wouldn't have any benefit to education as was stipulated in Ms. Drowne's original gift. He would argue that the development's potential to house teachers, other MSAD 51 employees, a School Resources Officer, or even school volunteers from the senior apartments alone is enough to meet the benefit to education requirement. He also wants to agree with what Denise just said about the word insidious. It seems inappropriate to him. The entire process began with overwhelming support from the community based on the last townwide survey. There was work diligently done to research and formulate the options that led to the RFP and referendum on the ballot next week. There was nothing insidious about their intent or any of the actions and it was disappointing to see that choice of word. As a member of the Commission, he wants to apologize for that insinuation and pledge to work harder in the future to promote our objectivity and communication with the Town Council. Personally, lack of economic diversity together with climate change are arguably the biggest threats to modern society, both globally and locally. Increasing housing density in existing population centers promotes community and actually helps preserve open space. This project is exactly the kind of development we should be seeking as it illustrates our understanding of these issues and demonstrates our commitment to being part of the solution. He wants to thank everyone involved for the work done to get us this far. It can't be understated how difficult it is to put in so much time as volunteers, and it speaks to the participants' pride in our Town and their desire to see it continue to thrive. He is inspired by their dedication to promote the greater good and share what we've built in Cumberland. He will be voting yes next week and encourages others to do the same.

Riva Krut, member of the Lands and Conservation Commission and sustainability subcommittee said that when the Lands and Conservation Commission's recommendation was made, she was the dissenting voice at the meeting. It was a tough decision and there were some very strong views among the Lands and Conservation members. You can be in favor of trees and open space, but it is also the case that we live in a complicated world. Often, we have to think of tradeoffs and what is going to matter more. Does housing people who cannot afford

housing, who work here, and add value to our community, matter as much or more than keeping land open? In this case, there is a tradeoff in a town that is as well endowed with open space as ours is. We should think long and hard about approving the proposal for affordable housing. She will be voting in favor of it next week.

Tim Mahalik said that teachers will not be able to live here so it is totally fallacious that the Town is saying that this is being built for teachers or Town employees. It has been well stated by Councilor Edes that they are not going to meet the income requirements. This is a solution in search of a problem. It's not the Town's problem except that we're destroying \$3,000,000 of perfectly good ballfields. In terms of intergenerational people enriching the school, we already have 40–50 people living in the old Drowne Road School now. How many of them volunteer at our school? We also have an aged population in our Town. We have enough old people, so if you're looking for that, we already have it. And, what about a place for the kids to play ball that they can walk to from the center of Town? That's educational as well.

Bruce Sherwin of Blanchard Road said what he thinks is insidious about this deal is that we have tied the little league to it. That is an attempt to tip the scales. There should be a referendum asking residents if they want to spend \$3,000,000 on ballfields. North Yarmouth should be helping pay for this. They use the fields too. He is in favor of affordable housing in the right place at the right time. This is not the right place, it's not the right time, and it's not the right deal. He challenged the Council and the new Town Manager to go back and find a project that works for the taxpayers and this Town. This one does not.

Teri Maloney-Kelly sent the following comment via email:

During public comment of this item, I request the following be read into public record. "I appreciate and thank the LCC for this recommendation, especially given the environmental impact of the project and the intended request of the donor. Regardless of any legal opinion, we can all agree that Cumberland would look very different than it does today had it not been from the generosity of the families from centuries and decades before us giving of their land and natural resources to our community. Imagine not having Twin Brook and all the other parks in Cumberland had these gifts not been donated? Let's honor the Intent of the gift and the LCC recommendation. Let's preserve the desire for citizens to want to give of their resources for the future health of our community. "

Councilor Vail said that the public needs to understand that there is no obligation to the Town to build new ballfields. However, we have come to an agreement that we are going to do something, and conversations will be had with North Yarmouth. There will also be conversations about other areas in which to move the fields.

Chairman Segrist said that there is no action on this item and thanked everyone for their comments.

24 – 014 To hold a Public Hearing to consider and act on the adoption of Chapter 175 (Noise Control), as recommended by the Ordinance Committee.

Councilor Storey-King said that one of the challenges with a noise ordinance is that they are very difficult to enforce, but we are going to give it a try. We took Kennebunk's ordinance and worked it around to meet our needs. It is still our hope that noise issues can be resolved by neighbors talking to each other. The enforcement of this would fall on the Code Enforcement Officer.

Chairman Segrist asked what would happen if there was a noise complaint after regular Town Hall hours when the Code Enforcement was not in the office? Would the Police Department have equipment and training to measure sound decibel levels?

Town Manager Shane said that he agrees with Councilor Storey-King, nuisance ordinances are very difficult to enforce and what most communities find is that noise complaints always seem to happen at obscure times. If we are going to ask the Police Department to do this, he would recommend bringing the Police Chief in to talk about the challenges. We have only had a couple of noise complaints over the last 5 years, so is this problem at a level that we want to add more training and equipment to solve a small problem?

Chairman Segrist said that other things to consider is the practicability of someone sitting there for 15 minutes with a noise measuring device that's been certified and that they have been trained to use. Is that pie in the sky wishing? The ordinance talks about noise from domestic power equipment (tools, mowers, etc.), but it doesn't talk about commercial equipment.

Town Manager Shane said that we really don't have a practical way to deal with actual noise that would bother people right now and this was the only thing that came forward that seemed like it was worth a shot, but the more we look at it, the more difficult it seems to be in regard to enforcement.

Councilor Copp said that the new trash pick-up program is going to make a lot of noise. He said we should be cautious because this is going to open up a can of worms and we need to do our homework.

Councilor Edes said that what has worried him about this is the burden that it will put on the Police Department. Every time someone is bothered by a noise, they are going to call the police.

The following comments were sent via email:

Good morning - I was not able to attend the meeting earlier this month where the noise ordinance was discussed but appreciated seeing the note from Bill. I also wondered if the Kennebunk noise ordinance would be sufficient to ensure that residential recreational installations such as pickleball courts, ice rinks with compressors, or other types of noise-generating activities would not fall within the definition of domestic power equipment. I also was not completely sure that a 55 daytime dBA and nighttime 45 dBA would be low enough to allow abutting neighbors to sleep, especially if the windows are open to any degree which can happen in the fall or spring.

Many sources of noise can be mitigated with equipment and I did not see language in the Kennebunk ordinance indicating that homeowners might be required to install such equipment but perhaps this is a given - if a resident is generating too much noise, and the Town can enjoin that individual from such noise, the noise-generating neighbor could install noise mitigating equipment to ensure the noise falls within the permitted decibel limits.

Please feel free to share this note with the Town attorney and thank you for your consideration of this request.

Margaret Fast

My advocacy and questions on this item extend beyond the invisible town line to include my neighbors in Falmouth, Windham and Gray as they endure the same impact as Cumberland citizens.

First inquiry is under 176-6 Exclusion, item G. This appears to address noise from residential waste collection. I do not see any reference to removal at commercial premises. If silent does that mean they are subject to a noise ordinance? If not do we address this issue specifically or anywhere? This is a consideration that needs to be given to the proposed convenience store in WC and the impact on the neighbors when dumping the dumpsters at any given hour of the day. The dumpsters being proposed are at the property line abutting the residential neighborhood.

Second inquiry is item H noise from registered MVs on public way. If exempt, where does this nuisance noise get addressed within our rules and regulations? Thinking the PD has been able to site folks for excessive noise from MV in the past. How does this differ from this? It states it only applies to public ways. Where do all the private ways within our town fit, if at all?

Last item in this section is item L, discharge of firearms. Some of you know this some of you don't. This has been an ongoing disruption in our neighborhood for at least 20 years. I realize how unnatural this noise should be when I have company with kids or dogs because it freaks them out. Not me, not so much anymore. Let me clarify when I talk about where it happens. I am not confused that it is coming from the Falmouth Rod and Gun club. I am not talking about the skeet shooting that goes on up near Forest Lake. This is about gunfire discharge noise coming from the residential area. All firearm discharge noise is unsettling whether legal guns or not. This activity has become particularly harmful and disruptive at the horse farm over the Falmouth line. What I would like clarity around is if the firearms are not those protected within code 92, shotgun, muzzleloader or pistol, i.e. not allowed, is the discharge a noise violation or violation of the firearm code, or both? Is this a code enforcement response for Bill Longley, or Cumberland PD? If the complainant is outside Cumberland does the complainant call their Town PD or code enforcement person who will then contact the appropriate Cumberland responder? How enforceable is this if it requires technical measurement and respondents do not get there while the activity is ongoing? Sorry, tedious but real-life questions to be answered. I do not have any public comment to make in the hopes these questions are addressed in the presentation.

Teri Maloney-Kelly

After some discussion, it was decided to table this item until March 25th in order to hold a workshop to discuss further.

Motion by Councilor Edes, seconded by Councilor Copp, to table to March 25th.

VOTE: 6-0 UNANIMOUS

24 – 015 To hold a Public Hearing to consider and act on a Mass Gathering Application for the Chickadee Classic Dog Show to be held on June 20th through June 23rd at the Cumberland Fairgrounds.

Chairman Segrist said that this is a wonderful event, the application is complete, the fee has been paid, and there is no need for public safety personnel to be assigned to the event.

Chairman Segrist opened the public hearing.

No public comment.

Chairman Segrist closed the public hearing.

Motion by Councilor Copp, seconded by Councilor Vail, to approve the Mass Gathering Application for the Chickadee Classic Dog Show to be held on June 20th through June 23rd at the Cumberland Fairgrounds.

VOTE: 6-0 UNANIMOUS

24 – 016 To consider and act on authorizing the Town Manager to enter into a 3-year lease agreement with Perry Weather for 1 weather station and 2 outdoor warning systems at Val Halla, and 1 outdoor warning system for Twin Brook.

Town Manager Shane explained that this is a lightning warning system for the golf course as well as Twin Brook. This allows staff to set warning horns at both facilities. He introduced John Jensenius to speak more about the importance of this system.

John Jensenius, of 44 Laurel Lane, said that he led the National Weather Service's lightning safety effort for 19 years before he retired. Since 2006, he has documented 479 lightning deaths across the country. In looking at the problem overall, the biggest issue is that people don't take action soon enough. They don't realize that they're in danger. Lightning can strike 10 miles away from a thunderstorm and it is often in the range where you're hearing thunder and not seeing lightning. It may not seem close but in reality, you are in danger. This system tells people that the storm is close enough that they need to get off the golf course or the fields at Twin Brook. This is a very good system to have in place and he is looking forward to seeing it in action.

Chairman Segrist asked for any public comment.

Denise Thorson asked what the range is on the 2 units at the golf course, and would it be possible to move it to a more central location and put another unit at the school? Does the school have a system already in place?

Town Manager Shane said that he is not sure if the school had any interest when asked if they wanted to participate in this program.

The following comment was sent via email:

I understand the intent of this purchase is for safety of folks recreating on Town properties. Wondering if it is a want not a need given folks have cell phones and notification in this manner would be immediate and widespread throughout our Town properties and not disrupt folks outside of the intended area? Will this system be in place year around? If this is deemed a needed expense, why not have 1 at the golf course and then someone could get on a golf cart to check the rest of the golf course property? 1 at Twin Brook with a similar system of notification like the golf course given how widespread that park is. Was any consideration given to our Broad Cove park as the walking distance from the shoreline to the parking lot is a long way away. Especially if you are carrying equipment and children. Might 1 better serve this Park versus 2 at the golf course? Just looking for the best bang for our buck if we are considering a new expenditure. I have public comment needed if above answered. Thank you I know it looks like a lot. Would have been much easier on all of us if I could have just asked at the meeting.

I know you will do your best to address my inquiries.

Best,

Teri Maloney-Kelly

Councilor Edes said that you can't fix stupid, and he cannot think of a bigger waste of money. If you are a parent and you think lightning is coming, you get your kid off the field. For \$88,000 a year, we can spend our money in better places. This is a nice to have, but he does not think it is necessary.

Councilor Vail said that we are the middle of the budget season, and he thinks that before we spend this money, he wants to see where we are with the budget.

Councilor Copp said that he tends to agree. Common sense goes a long way and \$88,000 is a lot of money.

Chairman Segrist said that he thinks that the point that was being made this evening is that some of these lightning strikes occurred without warning, and this system would help with that. That said, he also understands the budget concerns.

Councilor Filson said that she is not comfortable moving forward with this. It is expensive and she thinks about the people in the vicinity of Val Halla and in the center of Town who will probably hear the horn. But what about the fields in West Cumberland and Broad Cove? If we are going to move forward with this, she would like everyone to benefit from it. It seems like a very concentrated geographical area.

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

VOTE: 6-0 UNANIMOUS

V. NEW BUSINESS

Councilor Copp – in addition to his own donation to the 4-H fund that benefits the food pantry, he also had donations from his good friend, Dean, who donates often, as well as Curtis Ingraham.

Councilor Vail – 60 years ago this month, his family moved to Cumberland. The reason he brings this up is not because he has been here for 60 years, but because some of the nicest people that he has met are recent arrivals. The 60 years really means nothing. He has seen a rebirth in our Lion's Club, which has a lot of new members, and there are a lot of new residents getting involved on Town committees. Whether you have been here 59 years or 5 months and 9 days, your participation is welcomed and appreciated.

Councilor Filson – it was her 4-year-old son's birthday over the weekend, and he had his birthday at the fire station. A big thank you to the Fire Department and newly promoted Jackson Small who put on and took off his fire gear at the request of the 4-year-olds, as well as answering all their questions. It is a great perk for our community to be able to use the community room at the fire station.

Councilor Edes – when he came into the meeting this evening, he heard a story about something that happened to someone who supported the referendum that is beyond comprehension to him. It doesn't matter if you are for or against this project, we must keep it classy. He has heard stories about signs being stolen, and arguments on social media. Cumberland is better than that. To quote Linda Vail, I will be glad when this is over.

Councilor Storey-King – since our last meeting, we had a Recreation Advisory Committee meeting where Pete Bingham spoke about the need for indoor space. He is going to be working collaboratively with the school to begin some hopefully productive discussions about how we can start meeting more of the recreational needs of our communities. He also shared the budget and where we are at. Recreation is one of our biggest revenue-making departments. The new playground at Twin Brook was discussed and she hopes that when that project comes forward, we can support it knowing that the Recreation Department is a budget positive department.

The Library Advisory Board also met, and the library budget was shared. Our budget was compared to the budgets of other Towns, and we get more bang for our buck out of our Library than any town in the county. There is a library expansion committee beginning its work again from its drastic halt in 2020 due to Covid.

She also attended a Planning Board meeting where the Rusty Lantern project was presented. A lot of people attended that meeting and the owner seemed very open to hearing the neighbors' concerns and vision.

Chairman Segrist – his heartfelt thanks to Dan Small and Town Manager Shane for helping him get a knee scooter so quickly. It is much better to get around on that than crutches.

Our final affordable housing community meeting at Val Halla this Thursday at 6:00 p.m. If you are not registered for that, please go to the Town website to register.

The primary elections are on March 5th as well as the referendum, so if you have not early voted through the absentee ballot process, this is the last week that you can do that. Thursday is the last day that can happen. Please make sure you get out and vote.

VI. ADJOURNMENT

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

VOTE: 6-0 UNANIMOUS

TIME: 9:33 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary