

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, November 26, 2012

5:45 p.m. Workshop with John Sevee re: Aquifer 101

7:00 p.m. Call to Order

Present: Chairman Moriarty, Councilors Turner, Storey-King, Stiles, Gruber, Copp & Perfetti

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Copp, to approve the October 22, 2012 minutes as presented.

VOTE: 7-0

UNANIMOUS PASSAGE

II. MANAGER'S REPORT

Presentation of Business Friendly Community Award from Commissioner George Gervais, of the Maine Department of Economic and Community Development.

Commissioner Gervais presented Economic Development Director, Alyssa Tibbetts the Business Friendly Community Award (and two road signs), adding that Cumberland is really deserving of this award.

Dean Miller of Maine Standards commented that their company searched for some time for a location to relocate to. When they met with Town Manager Shane and Ms. Tibbetts, they knew that Cumberland was the perfect fit for them, and Maine Standards hopes to be good members of the community for a long time.

Nathan Bateman said that Bateman Partners has been actively developing in the State of Maine for the past 35 years. Of all the communities that they have developed in, Cumberland has been the most user friendly community. To be able to go from a vision, a little under two years ago, to actual implementation of their project is a true testament to Mr. Shane, Town Staff, the Town Council, and Planning Board.

Chairman Moriarty thanked Mr. Gervais, Mr. Miller and Mr. Bateman. This is a time of pride for the Town and the realization of something we have been working toward for some time now. The signs will be displayed very proudly.

Town Manager Shane said that while he has received a lot of the credit for this, Alyssa Tibbetts was the one who crafted the application and did most of the heavy lifting for this achievement.

III. PUBLIC DISCUSSION

Pete Wilson of 18 Oak Ridge Road requested that the Town adopt a policy allowing police videos of traffic stops be made public and immediately available to any citizen of the Town, upon their request. If the video involves a minor, make the video available to their parents or the minor. Mr. Wilson said that he feels the videos are Town property that citizens pay for, and it should not be difficult to obtain. Police

work should be transparent and if someone is embarrassed by the video, they likely ought to be. He hopes the Council takes this seriously as it makes a lot of sense to him.

Town Manager Shane responded that the Town has no policy because there are so many civil issues related to this. For example, if someone were to get stopped by the Police and arrested for OUI, and it was determined that their blood alcohol level was in fact under the legal limit, all of a sudden the public has access to the video, That would become very problematic for that individual who, in fact, did not commit an unlawful act. Some cases take months or years before they go to trial. The cases that result in no conviction do not require that the tapes are kept.

Bert Kendall, Commander of the American Legion Post 91 in Yarmouth was present to follow up on a letter that he sent to the Council approximately a month ago. The letter was asking for the support of the Council to celebrate the 60th anniversary of the end of the Korean War on Veterans Day 2013. He has appeared before the Council in Yarmouth and the Select Board in North Yarmouth, and both gave their support. There will be a planning committee formed consisting of a Korean War Veteran, members of the post, residents of the Town's, and a member from each Town's Council/Select Board. There will be a parade beginning at Moss Side Cemetery in Cumberland, into North Yarmouth, then into Yarmouth, with the residents of all three Towns lining the streets to celebrate in a way that these Veterans deserve. Mr. Kendall said that he is here this evening simply to ask the Council for their support and the committee will handle the planning.

Councilor Gruber thanked Mr. Kendall and the entire American Legion Post 91 for donating turkeys to the food bank this year.

Chairman Moriarty said that he fully supports the plan, but was not entirely sure what Mr. Kendall needed from the Council.

Mr. Kendall said that once he knows that he has the support from the three Towns, he will write each Town a letter advising them that a planning committee will be formed, and ask that a member of the Council/Select Board represent their Town (or suggest someone) on the committee.

Motion by Councilor Storey King, seconded by Councilor Gruber, to support the efforts of the American Legion Post 91 and participate in the parade planning of the 60th anniversary of the end of the Korean War on Veterans Day 2013.

Councilor Storey-King volunteered to represent Cumberland on the planning committee.

Paul Murphy, representing the Cumberland/North Yarmouth Lions Club said that he is in charge of coordinating the Tree Lighting Ceremony (on the corner of Tuttle Road and Main Street), which is scheduled for December 3rd. Last week, he was inspecting the tree lights with Peter Bingham and Fire Chief Dan Small, and they discovered that the lights did not work. The Public Services Department will send an electrician to determine what needs to be done in order to light the tree. According to Mr. Bingham, new lights will cost approximately \$1,200. The Lions Club cannot afford this cost and Mr. Murphy respectfully requested that the Town consider taking over the maintenance and replacement of the lights this year and in the future.

Town Manager Shane explained that it is not simply the cost of new lights, it is also taking the existing lights off the tree and putting the new lights up, with the use of a bucket truck (approximately \$850), and the power source.

Councilor Perfetti said that the Council will get the tree lit and asked the Manager what he needed from the Council to make it happen.

Town Manager Shane said that the Lions have accepted responsibility for the tree for decades and it has gotten to be a much larger expense than it was in the past. The Lions Club does so much for this community that goes unrecognized and this is a very small request compared to the value of the club to the community.

Councilor Copp said that he would like to give the Manager authorization to go forward with this request, but wants to go one step further and challenge the entire Council to see how much money they can collect by the next meeting to help pay for the cost of the new lights.

Councilor Gruber asked Mr. Murphy if the Town agrees to pay up to \$2,500 and the cost exceeds that amount, would the Lions Club step up and pay the difference?

Mr. Murphy said that the Lions Club would, but he did not have the exact amount that they would be willing to contribute. The directors of the club were meeting to discuss that this evening.

Chairman Moriarty asked there was a consensus of the Council that they authorize the Town Manager to spend up to \$2,500 to light the tree this year.

The Council agreed unanimously.

Carin and Gary Wilson, who currently own a home in North Yarmouth but also own a little over 5 acres in West Cumberland, read the following letter to the Council:

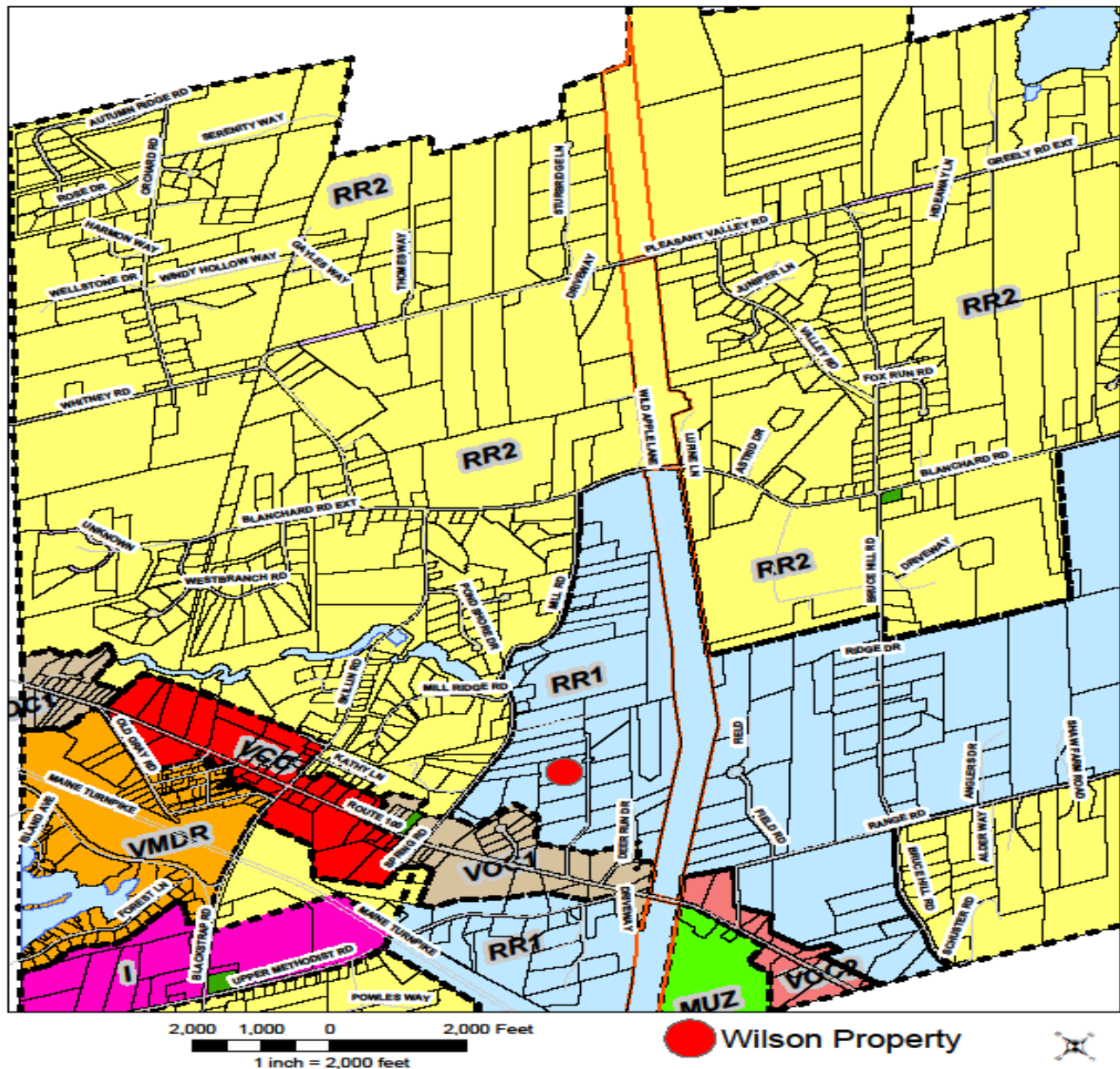
We are here to propose that this area gets changed from an RR1 zone, which is a minimum of 4 acre lots, to an RR2 zone to be consistent with the land around it.

Our property overlooks the Morrison Hill Development which is approved lots of less than a 1/2 an acre. All additional land surrounding us is an RR2 zone which is two acre lots.

We understand that there is a district goal to raise student population in our schools. Rezoning this area would work towards meeting this goal.

Our zone has gone through tremendous changes since it was zoned in the 1980's. We appreciate your consideration to rezone the RR1 zone from the power line to Mill Road or the land that is directly affected by the Morrison Hill Development.

Thank you for your time.



Chairman Moriarty thanked the Wilson's for bringing this forward and explained that the Ordinance Committee has a process for dealing with this type of request. This situation will be a challenge for the Ordinance Committee because of the size of the property and the other parcels and property owners involved.

Mrs. Wilson said that they realize this process will take a long time and they do not have any sort of a deadline.

Chairman Moriarty explained that the Ordinance Committee would consider the request and report back to the Town Council with a recommendation.

IV. LEGISLATION AND POLICY

12 – 182 To hold a Public Hearing to consider and act on the 2013 Shellfish License allocations, as recommended by the Shellfish Conservation Commission.

Mike Brown, Chairman of the Shellfish Conservation Commission, explained that the clam flats remain closed between May 31st and November 1st each year. The license allocations are identical to last year with the one exception of decreasing the number of non-residential recreational licenses from 40 to 25.

Chairman Moriarty opened the Public Hearing.

Public discussion: None

Chairman Moriarty closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to set the 2013 Shellfish License allocations recommended by the Shellfish Conservation Commission as follows (pending approval from the Department of Marine Resources):

RECREATIONAL:

Unlimited resident recreational licenses

25 non-resident recreational licenses

8 monthly resident licenses

2 monthly non-resident licenses

COMMERCIAL:

5 resident commercial licenses

1 non-resident commercial license

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 183 To set a Public Hearing date (December 10th) to consider and act on amending the Cumberland Shellfish Conservation Ordinance, as recommended by the Shellfish Conservation Commission.

Motion by Councilor Stiles, seconded by Councilor Gruber, to set a Public Hearing date of December 10th to consider and act on amending the Cumberland Shellfish Conservation Ordinance, as recommended by the Shellfish Conservation Commission.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 184 To hold a Public Hearing to consider and act on amendments to the Official Overlay Zoning Map around the east side of Knight's Pond (Map R06/Lot 29, and a portion of Map R06/ Lot 33) from Resource Protection (RP) to Limited Residential (LR), as recommended by the Planning Board.

Chairman Moriarty explained that a neighborhood meeting for this area is tentatively planned for the evening of Thursday, December 6th. It would be premature to act on this item prior to the neighborhood meeting.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to table this item until it is ready for further review.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 185 To hold a Public Hearing to consider and act on repealing and replacing Chapter 235 (Solid Waste) of the Cumberland Code.

Chairman Moriarty explained that the Ordinance Committee reviewed the Solid Waste Ordinance and did some clean-up of definition of Household trash and some other items.

Chairman Moriarty opened the Public Hearing.

Public discussion: None

Chairman Moriarty closed the Public Hearing.

Councilor Storey-King recommended removing the #1 in Article III, Section 236-6 (Acceptable Bulky Items) since there is no #2, and deleting #3 in Article IV, Section 235-10 (E)(3) “*Trucks must be cleaned before handling recyclable materials*”. This language is old and is no longer needed.

Town Manager Shane agreed.

Motion by Councilor Stiles, seconded by Councilor Copp, to repeal Chapter 235 (Solid Waste) of the Cumberland Code and replace it with the new Chapter 235 (Solid Waste), as recommended by the Ordinance Committee, with the noted corrections that Councilor Storey-King made this evening.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 186 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 315, Article I, Section 315.4 (Definitions) of the Cumberland Code, as recommended by the Planning Board.

Chairman Moriarty explained that this item adds a definition to the Zoning Ordinance for “Accessory Dwelling Unit” also known as an in-law or accessory apartment.

Chairman Moriarty opened the Public Hearing.

Public discussion: None

Chairman Moriarty closed the Public Hearing

Motion by Councilor Gruber, seconded by Councilor Stiles, to amend Chapter 315, Article I, Section 315.4 (Definitions) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 187 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 315, Article VI, Section 315-45A (Accessory Apartments) of the Cumberland Code, as recommended by the Planning Board.

Chairman Moriarty said that this amendment provides standards for the conversion of a structure into an Accessory Dwelling Unit.

Chairman Moriarty opened the Public Hearing.

Public discussion: None

Chairman Moriarty closed the Public Hearing

Motion by Councilor Copp, seconded by Councilor Gruber, to amend Chapter 315, Article VI, Section 315-45A (Accessory Apartments) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 188 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 315, Article II (Zoning Districts), Sections 315-6 through 11, §315-15 through 18, §315-20 and §315-21 of the Cumberland Code, as recommended by the Planning Board.

Chairman Moriarty explained that this allows for Accessory Dwelling Units in each of the defined residential districts of the Town.

Chairman Moriarty opened the Public Hearing.

Public discussion: None

Chairman Moriarty closed the Public Hearing

Motion by Councilor Copp, seconded by Councilor Storey-King, to amend Chapter 315, Article II (Zoning Districts), Sections 315-6 through 11, §315-15 through 18, §315-20 and §315-21 of the Cumberland Code, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 189 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 229, Site Plan Review, Section 229-2B (Classification Levels) of the Cumberland Code, as recommended by the Planning Board.

Chairman Moriarty explained that this item refers to adding a reference of Accessory Dwelling Unit to the Site Plan Review Ordinance.

Chairman Moriarty opened the Public Hearing.

Public discussion: None

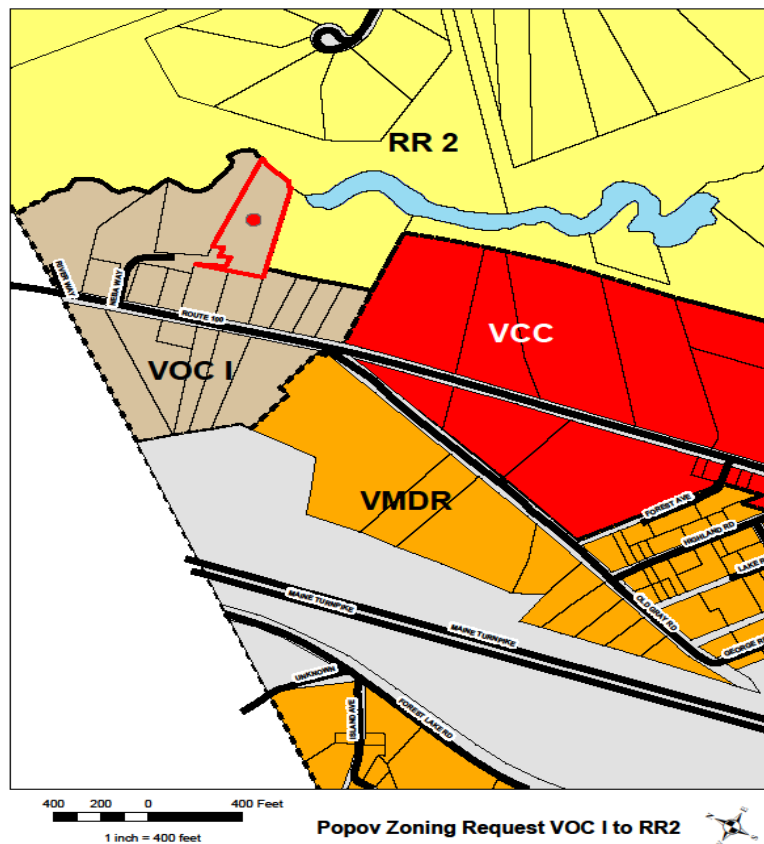
Chairman Moriarty closed the Public Hearing

Motion by Councilor Gruber, seconded by Councilor Turner, to amend Chapter 229, Site Plan Review, Section 229-2B (Classification Levels) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 190 To consider and act on forwarding to the Ordinance Committee, a zone change request from Matt Popov to change property identified as Tax Map U21/Lot17B from VOC1 to RR2.

Town Manager Shane explained that this property is in the VOC1 Zone and directly abuts the RR2 Zone. Mr. Popov would like to build a home on the property and the VOC1 Zone does not allow residential housing. When the Route 100 Corridor was rezoned, this property was included in that zone, even though it has no frontage on Route 100 (it is located on Neba Way. See map below).



Motion by Councilor Copp, seconded by Councilor Gruber, to forward to the Ordinance Committee, a zone change request from Matt Popov to change property identified as Tax Map U21/Lot17B from VOC1 to RR2.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 191 To forward to the Cumberland Housing Authority for a recommendation, consideration to authorize a Memo of Understanding (MOU) between Cumberland Housing Authority and Regional Transportation Program (RTP) for weekly bus service for senior citizens.

Chairman Moriarty explained that this item is for proposed, once per week, bus service for our senior residential areas. Because the Cumberland Housing Authority manages the Town owned senior housing units, they should review the proposal before it goes any further.

Councilor Gruber said that the need for assistance is growing in our senior population. Statistics show that over the next 20 years, our population of those over 65 will increase by 82%. Having transportation and assistance available to them is so important.

Councilor Storey-King said that RTP depends on volunteer drivers. Anyone who qualifies Maine Care Service is eligible for RTP transportation. There is a real need for this in our community, not only for the elderly, but also for others as well.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to forward to the Cumberland Housing Authority for consideration and recommendation, a Memo of Understanding (MOU) between the Town of Cumberland and Regional Transportation Program (RTP) for weekly bus service for senior citizens.

VOTE: 7-0 UNANIMOUS PASSAGE

V. NEW BUSINESS

Councilor Turner – None

Councilor Copp – A special thank you to the Cumberland Public Works Department for getting out very early in the morning last week to sand the roads. There was a lot of black ice and he got calls to accidents in surrounding towns, but none in Cumberland.

Councilor Storey-King – None

Councilor Perfetti – None

Chairman Moriarty – The annual Greely Hockey Turkey Trot had over 440 finishers this year (a record from past years).

The Council met earlier in workshop to discuss aquifer protection with John Sevee of Sevee and Maher Engineers. There may be an agenda item at the next meeting regarding Mr. Sevee's proposed amendments to the current aquifer protection provisions of the Zoning Ordinance.

Town Manager Shane said that he would like the Council to consider a moratorium to allow for the time it will take to review Mr. Sevee's very comprehensive aquifer protection ordinance changes.

Councilor Copp said that he would not be in favor of a moratorium. We just received an award this evening for being business friendly, and in his opinion, a moratorium is not business friendly.

Councilor Perfetti said that he is in favor of a moratorium, perhaps with a shorter expiration, to give the Council time to review the ordinance amendments, and talk to residents and get their input on how to protect the resource, and protect residents and business owners' interest.

Councilor Stiles – The Council received a letter from a resident praising Police Chief Charron.

Senator Collins staff will be holding office hours at Town Hall on Tuesday, December 4th from 11:30 – 12:30. Any resident is welcome to stop by.

Councilor Stiles advised the Manager of a resident concern that the Portland Water District overflow pipe has been flowing since Range Road was completed (approximately 2 years). The resident feels that the continuous flow is making his property wet.

Councilor Gruber – He began substitute teaching recently. He applauds all teachers for their hard work. He has great respect for teachers.

The Community Food Bank has been open for 4 Friday's now, a bonus Saturday, and the day before Thanksgiving. 21 families were served Thanksgiving baskets and they intend to do the baskets for Christmas as well. The community and civic groups have been very generous with donations.

Town Manager Shane – None

VI. ADJOURNMENT

Motion by Councilor Gruber, seconded by Councilor Storey-King, to adjourn.

VOTE: 7-0

TIME: 9:19 p.m.

WORKSHOP re: timeline to advertise, interview, and fill vacant Town Council seat.

Respectfully submitted by,

Brenda L. Moore
Council Secretary