

# MINUTES

Cumberland Town Council Meeting  
Town Council Chambers

**MONDAY, August 13, 2012**

**6:00 p.m. Workshop**

**7:00 p.m. Call to Order**

**6:00 p.m. Workshop** re: Codification of Town Codes and zone change request for Mark Kuntz properties on Goose Pond Road.

## **7:00 p.m. Call to Order**

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

**Excused:** Councilor Perfetti

### **I. APPROVAL OF MINUTES**

July 23, 2012

Motion by Councilor Stiles, seconded by Councilor Gruber to approve the minutes with one amendment.

VOTE: 6-0

UNANIMOUS PASSAGE

### **II. MANAGER'S REPORT**

The Tuttle Road sidewalk project has been postponed due to the water main being too close to the storm drain. We are waiting the arrival of specialty grates that will allow the storm water to go into the drainage system. The completion of the project should still be on schedule.

The Town paving schedule has been locked in. We will be working with Dayton Sand & Gravel. They will begin in mid-September and paving Greely Road, Middle Road, Autumn Ridge Road, and Friar Lane.

### **III. PUBLIC DISCUSSION**

Paul Weiss of Blanchard Road said that he had an opportunity to view the joint meeting with Falmouth and Yarmouth regarding the natural gas pipeline. He made a formal request of the Council for permission to give a presentation on natural gas (he will also be making the request to the Towns of Falmouth & Yarmouth). Mr. Weiss said that there was very little information given at the joint meeting about the environmental impact of the natural gas pipeline, and some of the facts given were incorrect (i.e. statements about it being a domestic gas resource for example. The gas would be coming from Nova Scotia). There are significant environmental consequences for the natural gas boom that is occurring across the country. He would like to offer choices to the Town as an alternative to natural gas. Fracking technology has caused enormous pollution and destruction across the state of Pennsylvania. Huge areas of ground water have been polluted with all kinds of petrochemicals, hydrocarbons, and heavy metals. The process itself uses approximately 5,000 gallons of water per well, so not only are they using enormous amounts of water, but also that water is becoming highly polluted. Water is being trucked across that state and is being held in clay tailing ponds, many of which leak. A significant percentage of methane gas leaks from those wells. Methane is approximately 20% the equivalent of CO2 for pollution. It is highly toxic and very bad for the atmosphere. In Mr. Weiss's opinion, Cumberland attempting to lock into a technology that is another carbon form is a very poor method of going into the future. We want to be getting off carbon based fuels, and this technology is a horrible mistake for Cumberland. Studies have shown it to be equivalent, if not worse, than coal for CO2 omissions. To pretend that natural gas is an environmental savior is ludicrous. It comes at a cost. Mr. Weiss urged the Council to do some reading on the subject. There are a lot of other options. Solar electricity is about \$4.50 per watt. 350 homes in Cumberland could be converted to solar electricity for the cost of connecting to the natural gas pipeline. Again, he offered to give a presentation of other, safer options that are available.

Chairman Moriarty explained to Mr. Weiss that the three towns (Cumberland, Falmouth, & Yarmouth) are proceeding on parallel tracks to pursue funding for the legal and regulatory aspects. He cannot guarantee Mr. Weiss a forum in which he is able to address all three towns at once, but offered him the opportunity to speak at a future Cumberland Town Council meeting.

Councilor Gruber thanked Mr. Weiss for speaking this evening. He thinks it important that everyone gets the opportunity to hear both sides.

#### IV. LEGISLATION AND POLICY

12 – 134 To hear a report from the Finance Committee Chair re: 4<sup>th</sup> quarter and year end financials.

Finance Director, Alex Kimball gave the following presentation:

End of Year 2011-12  
Budget Update

### Revenues finish well

Controllable Revenues Through 06/30/12

Description	2011-2012		Percent Collected	2010-11 %
	Budget	Actual		
Misc Revenues	\$ 2,401,116	\$ 2,406,205	100%	102%
Dept Revenues	\$ 1,090,800	\$ 1,246,737	114%	98%
<b>Total Revenues</b>	<b>\$ 3,491,916</b>	<b>\$ 3,652,942</b>	<b>105%</b>	<b>101%</b>

  

Selected Revenue Lines	2011-12			10-11
	Budget	Actual	11-12	
Excise Tax	\$ 1,330,446	\$ 1,348,456	101%	102%
State Revenue Sharing	\$ 550,000	\$ 619,317	113%	112%
Building Permits	\$ 40,000	\$ 60,717	152%	98%
Recreation Revenues	\$ 409,057	\$ 583,928	143%	96%
Bags/Universal Waste	\$ 300,000	\$ 270,723	90%	87%

### Overall Revenues

Total Revenues	Budget	Actual	11-12	10-11
Property Taxes	\$ 17,438,614	\$ 17,418,219	100%	100%
Homestead State Reimburse	\$ -	\$ 138,230	N/A	N/A
Impact Fees	\$ 40,000	\$ 73,805	185%	91%
Misc Revenues	\$ 2,401,116	\$ 2,406,205	100%	98%
Dept. Revenues	\$ 1,090,800	\$ 1,246,737	114%	101%
<b>Total Revenues</b>	<b>\$ 20,970,530</b>	<b>\$ 21,283,196</b>	<b>101.5%</b>	<b>100.8%</b>
Excess over budget		\$ 312,667		
Excess excluding HSR		\$ 174,437		

### Town of Cumberland Year To Date Expenses Through June 30, 2012

Department	Budget	2011-12		2010-11 Used
		YTD Expenses	Used	
General Administration	\$ 1,018,843	\$ 1,033,556	101.4%	95.1%
Public Safety	\$ 1,865,778	\$ 1,873,977	100.4%	102.0%
Public Works	\$ 1,557,165	\$ 1,525,233	97.9%	97.9%
Parks & Recreation	\$ 658,242	\$ 727,407	110.5%	105.0%
Library	\$ 363,875	\$ 355,262	97.6%	99.6%
Other Expenses	\$ 351,355	\$ 385,487	109.7%	110.7%
<b>Controllable Expense Total</b>	<b>\$ 5,815,258</b>	<b>\$ 5,900,920</b>	<b>101.47%</b>	<b>100.20%</b>

  

Other Expenses	Budget	YTD Expenses	Used	Used
MSAD #61	\$ 12,354,475	\$ 12,354,475	100.0%	100.0%
Debt Service	\$ 951,583	\$ 905,586	95.2%	92.7%
County Tax	\$ 601,242	\$ 601,242	100.0%	100.0%
Capital Imp. Plan	\$ 333,485	\$ 333,485	100.0%	100.0%
Insurance	\$ 263,275	\$ 292,326	111.0%	123.1%
<b>Other Expense Total</b>	<b>\$ 14,504,060</b>	<b>\$ 14,487,094</b>	<b>99.88%</b>	<b>100.01%</b>
<b>All Expenses Total</b>	<b>\$ 20,319,318</b>	<b>\$ 20,388,014</b>	<b>100.34%</b>	<b>100.06%</b>

### 2011-12 General Fund Budget vs. Actual

	Budget	Actual	\$ Variance	% Variance
Revenues	\$ 20,970,529	\$ 21,283,196	\$ 312,667	1.5%
Expenses	\$ 20,319,318	\$ 20,388,014	\$ 68,696	0.3%
Net Effect	\$ 651,211	\$ 895,182	\$ 243,971	1.2%

### Use of End of Year Fund Balance

General Fund Net Gain	\$ 895,182
Twinbrook Closeout	\$ 231,369
Circuit Breaker	\$ 66,000
Road Improvements	\$ 195,000
Equipment Reserves	\$ 150,000
Val Halla	\$ 158,000
General Fund	\$ 94,813
Remaining balance	\$ -

### Property tax collection rate declined

	Property Tax Collections through June 30th			
	2008-09	2009-10	2010-11	2011-12
Tax Commitment	\$ 15,901,519	\$ 16,612,279	\$ 17,647,491	\$ 18,318,972
Taxes Collected	\$ 15,588,250	\$ 16,340,683	\$ 17,359,863	\$ 17,939,919
Percent Collected	98.03%	98.37%	98.37%	97.93%
% Difference		0.34%	0.01%	-0.44%
\$\$ Difference		\$ 55,675	\$ 893	\$ (80,481)

**12 – 135 To authorize the Town Manager to complete year end departmental transfers per the recommendation of the Finance Committee**

Chairman of the Finance Committee, Councilor Stiles, explained that the purpose of this is to amend the Council action from their June 18, 2012 meeting.

Motion by Councilor Stiles, seconded by Councilor Gruber, to amend the June 18, 2012 Council Order # 12-096 to reallocate end of year fund balance as follows:

Twin Brook Fund:	\$ 231,369
Senior Circuit Breaker Fund	\$ 66,000 (formerly \$75,000)
Road Improvement Fund	\$ 195,000 (formerly 95,000)
Equipment Reserve Fund	\$ 150,000
Val Halla	\$ 158,000 (formerly 58,000)
General Fund	\$94,813 plus any additional end of year fund balance (formerly \$80,000)

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 136 To appropriate up to \$15,000 and authorize the Town Manager to enter into agreements for legal and engineering studies for gas service with Falmouth & Yarmouth, as discussed at the joint meeting on July 18, 2012.**

Town Manager Shane explained that this was the direction that came out of the joint meeting with Cumberland, Falmouth, and Yarmouth. All three towns agreed that this project was at least worth exploring further. The cost is approximately \$45,000 divided equally between the three towns.

Public discussion:

Bob Moore, Cumberland resident and President of Dead River Company, said that he feels that natural gas is a great fuel, a great source of energy, and feels that it will save the United States. However, he does not want the Government picking energy sources with his tax dollars. Let the market do the work and when natural gas makes sense, it will come here. It's not here yet, because economically, it does not work for the gas companies because the demand is not here.

Mark McConnell, a Cumberland resident, said that he was present at the joint meeting. He is pleased that this is a collaborative effort with Falmouth and Yarmouth if all three towns have a common goal. However, he agrees with Mr. Moore in that he does not feel that this particular project is a good idea. It would be an ideal situation for Cumberland to attract more business, but he does not believe that will happen. A particular place for the natural gas to go to (such as a business park) as opposed to individual homes, makes more sense. He doesn't see how it will work otherwise. He feels this needs much more input from the public.

Paul Weiss said that he feels the Council has not heard all the options, and it would be a shame to see his tax dollars funding a carbon based energy source. We are all going to pay for natural gas. Our children and their children will pay. We have to make smart choices based upon economic and environmental logic. That is not what the Council is doing. Mr. Weiss requested that the same amount of money be spent on looking at alternative energy solutions.

Councilor Turner said that he agrees with Mr. Moore and he strongly believes in the free enterprise system taking care of things rather than the government. He would not be in favor of the Town running a utility.

Chairman Moriarty said that it was clear from the joint meeting that none of the three towns was interested in a municipal owned and operated utility.

Councilor Storey-King said this request is for *up to* \$15,000, but the Manager has indicated that it will likely be \$6,000 - \$7,000 since there will be no engineering cost. The money will not come out of the general fund, but from TIF monies. She said that she feels that the Town needs more information in order to make a decision.

Councilor Copp agreed. He wants more information and to spend \$15,000 to learn more is worth it to him. He owes it to the citizens of the Town to learn more.

Motion by Councilor Copp, seconded by Councilor Turner, to appropriate up to \$15,000 and authorize the Town Manager to enter into agreements for legal and engineering studies for gas service with Falmouth & Yarmouth, as discussed at the joint meeting on July 18, 2012.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 137 To hear a report from the Chief of Police re: the recent COPS Grant and to consider authorizing the Town Manager to accept a grant of \$125,000 in federal funds over a three-year period under the 2012 COPS Hiring Program.**

Police Chief, Charron said that since late 2007, the Police Department has been operating with 10 full time officers (down from 11 in early 2007). Staffing shortage factors include:

- Loss of an officer to SAD 51 for the school year (DARE Officer)
- Use of accrued time off and extended leave due to injuries
- Training requirements (984 hours in 2011 or 24.6 weeks)
- Instruction requirements of officers at Maine Criminal Justice Academy
- Time away for court, DMV appearances, Grand Jury, or felony intake
- Increasing demand to provide officers at community (Town/SAD 51) or consumer paid events

Chief Charron said that it is common to have one officer working alone for 14 hours per day. This concerns him for the safety of the community and the officer.

The details of this grant are that the Federal Government will provide \$125,000 (over a three year period), and the Town will provide \$72,909 (over a three year period). The grant requires that the successful applicant will be a post 9/11 military veteran (honorably discharged), and the police department commits to addressing a community issue which has been identified as a school based educational program (such as a DARE-type program at the 5<sup>th</sup> – 6<sup>th</sup> grade level).

Chairman Moriarty asked Chief Charron what obligation the Town has after the 3-year period.

Chief Charron said that if we accept the grant, the Town agrees to fund the position for 1 fiscal year at the conclusion of the grant period.

Motion by Councilor Gruber, seconded by Councilor Storey-King, to authorize the Town Manager to accept a grant of \$125,000 in federal funds over a three-year period under the 2012 COPS Hiring Program.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 138 To hold a Public Hearing to consider and act on amendments to the Cumberland Solid Waste & Recycling Ordinance.**

Chairman Moriarty explained that he and the Town Manager spoke about this item before the meeting this evening. Chairman Moriarty feels that the ordinance needs some more work as there are references in it that are not clear.

Councilor Storey-King suggested tabling this item until the Ordinance Committee can review it.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to table this item.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 139 To hold a Public Hearing to consider and act repealing the Cumberland Public Swimming Pool Ordinance.**

Town Manager Shane explained that due to State Legislation, municipalities no longer have the authority to inspect public swimming pools. The State will handle public swimming pool (only 1 in Town) licensing, and the Town ordinance is no longer valid.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to repeal the Cumberland Public Swimming Pool Ordinance

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 140 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the 141<sup>st</sup> Cumberland Fair to be held from September 23<sup>rd</sup> – 30<sup>th</sup>, 2012 at the Cumberland Fairgrounds.**

Motion by Councilor Copp, seconded by Councilor Stiles, to approve the Mass Gathering Permit for the 141st Cumberland Fair to be held from September 23 - 30, 2012 at the Cumberland Fairgrounds.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 141 To consider and act on a permit request by the Greely Football Boosters Club to hold a bonfire at the Twin Brook Recreation Facility on October 18, 2012.**

Town Manager Shane explained that we were hopeful that missing information would be turned into Town Hall today, but it was not. He recommended that this item be tabled.

Motion by Councilor Stiles, seconded by Councilor Gruber, to table to August 27, 2012.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 142 To consider adoption of the zoning change request policy as recommended by the Town Council's Ordinance Committee.**

Chairman Moriarty referred to a new zone change request form that would be used by a resident to request a zone change. The Ordinance Committee developed this new policy after realizing that there was a need for a uniform method of dealing with zone change requests. The policy makes the process easier for the applicant and Town staff.

Motion by Councilor Stiles, seconded by Councilor Copp, to adopt the zoning change request policy as recommended by the Town Council's Ordinance Committee.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 143 To hear a report from the Town Manager and to consider and act on sending to the Planning Board for a Public Hearing and a recommendation, the request from Mark & Brenda Kuntz re: draft zoning amendments to the Official Cumberland Zoning Map to change Tax Assessor Map R07 Lots 44, 45, 45A and 45B from the Industrial District (I) to the Rural Residential District 2 (RR2).**

Councilor Stiles said that there was a workshop regarding this item before the Council meeting this evening. The request is to re-zone a piece of property to allow for a house lot in the Industrial District. All parties involved agree and it seems to make sense.

Motion by Councilor Stiles, seconded by Councilor Turner, to send to Planning Board for a Public Hearing and a recommendation, the request from Mark & Brenda Kuntz re: draft zoning amendments to the Official Cumberland Zoning Map to change Tax Assessor Map R07 Lots 44, 45, 45A and 45B from the Industrial District (I) to the Rural Residential District 2 (RR2).

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

**12 – 144 To set a Public Hearing date (August 27<sup>th</sup>) to consider and act on a Contract Zone Agreement request for Telos Capital, LLC and Walnut Hill, Inc. for two affordable housing projects on Route 100, following recommendation by the Planning Board.**

Chairman Moriarty explained that the Council voted to send these two projects to the Planning Board for their review and their non-binding recommendation. The Planning Board will meet on August 21<sup>st</sup> and it is anticipated that there will be a Planning Board recommendation after that meeting. The Council can then consider it at their August 27<sup>th</sup> meeting.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to set a Public Hearing date of August 27<sup>th</sup> to consider and act on a Contract Zone Agreement request for Telos Capital, LLC and Walnut Hill, Inc. for two affordable housing projects on Route 100, following recommendation by the Planning Board.

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

**12 – 145 To set a Public Hearing date (September 10<sup>th</sup>) to consider and act on adoption of the proposed Code Adoption Ordinance.**

Town Manager Shane explained that in order to codify a series of Town ordinances, it is necessary to adopt a process in which to adopt an ordinance.

Motion by Councilor Stiles, seconded by Councilor Copp, to set a Public Hearing date of September 10<sup>th</sup> to consider and act on adoption of the proposed Code Adoption Ordinance.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 146 To set a Public Hearing date (September 10<sup>th</sup>) to consider and act on adoption of the Code of the Town of Cumberland.**

Motion by Councilor Copp, seconded by Councilor Turner, to set a Public Hearing date of September 10<sup>th</sup> to consider and act on adoption of the Code of the Town of Cumberland.

VOTE: 6-0 UNANIMOUS PASSAGE

**12 – 147 To set the Fall Bulky Waste Pickup week for October 15<sup>th</sup> – 19<sup>th</sup>.**

Motion by Councilor Gruber, seconded by Councilor Storey-King, to set the Fall Bulky Waste Pickup week for October 15<sup>th</sup> - 19<sup>th</sup>.

VOTE: 6-0 UNANIMOUS PASSAGE

**V. NEW BUSINESS**

**Councilor Turner** – He was recently elected to the Maine Municipal Association Legislative Policy Committee. He thinks it will be an interesting experience. The committee assists municipalities with setting priorities.

**Councilor Copp** – He and his wife took a ride through the Doane Property project. There are 5-6 homes under construction, the road is paved, and it looks very nice.

He received a compliment from a person who lives out of town regarding how nice the sports fields are in Cumberland. It is a testament to the Parks and Recreation Department and the outstanding job they do.

**Councilor Storey-King** – With the upcoming election, she reminded those running for legislative seats that they are welcome to come to any Council meeting and introduce themselves during public discussion.

**Chairman Moriarty** – None

**Councilor Stiles** – Asked the Manager for an update on the clean-up on the Greenlaw junk yard and the compliance of cleaning the site up.

Town Manager Shane responded that the last time the Town checked, the site was in compliance and there have been no complaints.

Councilor Stiles said that there is a traffic problem on Route 100 and Range Road where Hart Animal Shelter holds frequent yard sales. Parking on both sides of the road and people carrying large items back to their vehicles makes passage of traffic very difficult and dangerous. This past weekend was also craft fair weekend at the fairgrounds, making it even more dangerous.

**Councilor Gruber** – In response to Councilor Copp’s comments about the sports fields, he runs in to a number of soccer coaches who say that they prefer to play in Cumberland because of our fields. We should be very proud.

The community garden is also looking very good this year.

**Town Manager Shane** – None

**VI. ADJOURNMENT**

Motion by Councilor Stiles, seconded by Councilor Gruber, to adjourn.

VOTE: 6-0 UNANIMOUS PASSAGE

TIME: 8:55 p.m.

Respectfully submitted by:

Brenda L. Moore  
Council Secretary