

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, January 25, 2010

7:00 p.m. Call to Order

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Present: Chairman Copp, Councilors Turner, Perfetti, Porter, Moriarty, Stiles and Storey-King.

I. APPROVAL OF MINUTES

January 11, 2010

Motion by Councilor Porter, second by Councilor Stiles, to approve the minutes as presented.

VOTE: UNANIMOUS 7-0

II. MANAGER'S REPORT

Just one item to report, President of the Public Services Union has agreed to extend their agreement for one year with no salary increase and an additional contribution of 10% to their health insurance. Thank you to Dan Burr and the crew. This speaks volumes of their teamwork.

III. PUBLIC DISCUSSION

Ms. Rita Yanvinski from 16 Ole Musket Road had questions on the information signs that the town has in many locations. What is the payback of the signs and the cost? How much does it cost per sign? How is the content cost determined? What is the cost of the labor and transportation? Who approves the duration of the signs? Is there any value to having the signs up? Has anyone done a financial analysis on this? "I would like to receive the answers prior to the next council meeting."

Ms. Yavinski gave a copy of her questions to Chairman Copp.

Mr. Higgins of Hedgerow Drive representing the Cumberland Taxpayers Association spoke about his concern with the level of town debt. The town debt, with the Rt. 88 approval is \$16,000,000.00. "Let me give you some comparisons for town only debt. Freeport with over 8,000 people has \$3,000,000.00, Windham with 17,000 people has \$2,300,000.00, Yarmouth with more people than us, \$10,000,000.00, Brunswick with over 22,000 people has less debt than we do. Our debt service is about ¾ of a million now; it will go up to 1.1 million with this Rt.88 project if approved? I have a question for Bill, "When do you plan to stop spending?" Councilor Porter responded to Mr. Higgins that it is not Mgr. Shane who makes the decision to

spend the town's money, "It is up to the seven council members to decide what will get spent." Mr. Higgins stated that we are in a crisis right now. Councilor Porter responded that we are looking forward to having residents show up to the budget meetings. "In the eleven years that I have been on the council, there has not been the amount of people in this room show up."

Mr. Albert Frye of Frye Drive spoke. "This is the wrong thing to do. The town spent a fortune on Blanchard Road."

Public discussion closed.

IV. LEGISLATION AND POLICY

10 – 006 (a) To receive a Certificate of Sufficiency of Petition from the Town Clerk.

Motion by Councilor Moriarty, second by Councilor Turner, to receive the Town Clerk's Certificate of Sufficiency of Petition.

VOTE: Unanimous 6-0 (councilor Perfetti absent)

(b) To hold a Public Hearing to act on setting a Special Municipal Referendum Election date.

Manager Shane explained the history of some past elections. "There have been some questions as to a March election vs. a June election. The average of the non June elections is 25% the average of the June elections is about 25%, it is a toss up. The cost to hold a special election is \$1,175.00. He explained that as difficult as this is, any municipal project worth building should be built during this time table right now, primarily because of interest rates and financing. This spring we are looking to bond the Rt. 88 project. The engineers estimate is \$5.2 million to \$7.5 million. I'm recommending that we go not to exceed \$4.5 million, which is about 60% to 87% of the engineers estimate. The one thing that is missing from the discussion is that in the majority of these bond projects in the last five years, the monies have come from TIF funds. TIF monies are basically taxes that are charged to properties that are sheltered from the state. These projects are all in the TIF districts. This allows us to recoup the full amount of the monies to build these projects. Our number one priority over the next few years is going to be economic development."

Public hearing opened by Chairman Copp.

Mr. Mike Lebel from Cumberland Foreside appreciated the comments from the Cumberland Taxpayers Committee. "However, I am disappointed that no one participated in the discussions for the past two years. This is basic fundamental infrastructure management. Now is the time to do this. If you take a ride down Rt. 88 tomorrow morning you will see a perfect example of what the drainage issues are. This is not a new vision for us to see major improvements on this road. It has had no attention. If we don't do this, no one will do it. It would be irresponsible to push this project off."

Ms. Yavinski asked if a decision has been made to have the election in March. “The other option would be June? When will we know the impact of the school budget? The school budget also has to be approved in June? Would it not make sense, for this council to extend to the community the ability to understand the total impact on finances and taxes by letting this community vote on the school budget and this project at the same time? I recommended that the council put this project out to referendum. The people of the town should be able to vote on this issue. Would it not have been a different environment if the council then had taken the initiative and put this item out to referendum instead of having people go around signing petitions and creating the kind of polarization that sometimes results in the not most productive dialog? My recommendation to this council tonight is, understanding that you can go forward probably in March. My assumption is that you have all discussed it and have decided what you want to do. To sit back and say it would be good to give the people of this town the ability to sit back and understand the benefit of knowing their financial obligations for next year. It would behoove this council to step back.”

Councilor Storey-King responded that there is no guarantee that the school will have their vote on the same day as the June election.

Councilor Moriarty responded to the comment regarding the council choosing on its own initiative to put the matter to referendum. “There is no such option under the Town Charter. When the council votes to spend, its decision may be submitted to referendum upon petition and the result is binding. I will acknowledge that we have the inherent power to put anything out to a non-binding referendum at any time, however, if after that vote, the council voted one way or the other, it would still be subject to a binding referendum under the charter with the same petition requirement, the same election requirement, and so forth. That’s why we generally don’t go for advisory non-binding referendum. It is not an option under the charter.”

Mrs. Susan Bisbing asked if the referendum is not held in March and held in June, “would this project still be done this year?” Manager Shane answered that, “no, that if it received a positive vote in June, it could go to the bond bank in November to lock in those rates and then we would be out to bid, probably in January. We would lose a full year. Mrs. Bisbing replied, “I very much want the referendum to take place in March then. We are at the cost we are now because for the last 20 years, nothing has been done to that road. I commend you and I thank you, and I hope that March is the date of the referendum.”

John Tarling from Foreside Road stated that drainage issue is a very big problem. “We need to think twice before we stop this project.”

Mr. Higgins spoke, stating that there is one problem with Mr. Lebel’s comments; “We do not have the money, even if it’s 50% off. I’m not proud of the fact that we spent \$460,000.00 on a turning lane, \$350,000.00 for Castle Rock infrastructure, which was basically a gift to Elvin Copp. I’m not proud of the fact that we spent \$140,000.00 on a bridge for Corey Road, which basically serves one resident. Why did we spend \$20,000.00 on a bridge on Turkey Lane? We don’t have the money for

this project. It would be nice to fix it, it would be nice to fix Greely Road, but we just don't have the money."

Councilor Storey-King asked, "How many members there are in the association?"

Mr. Higgins responded that they have approximately 50 members at the moment. They hope to have a couple of hundred within the next few months.

Mr. Frye asked why we haven't fixed Main Street 40 yards beyond the High School. Let's pay our bills. If we don't have the money, stay home. That's what we should do. "When you start borrowing money you're in trouble."

Mrs. Bisbing stated that there are not just a couple of homeowners affected by this, "there are 470 households."

Ms. Yavinski stated that she is trying to understand the difference in cost of having the election in March or in June. "Just so I am clear, if we had it in June, the financing rates that Bill had on his chart, still hold is that correct? That is correct. If we have it in conjunction with the school budget, we would understand the totality of the financial impact on the town, is that correct? Chairman Copp responded "maybe." Councilor Storey-King stated that that would be if the school decides to have their election at the same time. We are locked in on when our election is; the MSAD is not. Ms. Yavinski continued, hopefully there is a congenial relationship between the M.S.A.D. and the council. The downside is that we would have the same financing, but it would not be able to start until the following spring. The only upside to having it in March would be that we would have the same financing, we wouldn't be able to correlate the financial impact with the impact of the school budget, so that would be a negative. What was absent from the slide, were the projects that have come in over budget. Yarmouth had to phase their project. It would seem the logical thing would be to have the election in June. The pluses of a June date far outweigh the March date."

Councilor Storey-King stated that we have not had a lot of traffic on this issue for the last couple of years. "Some are concerned about the cost of the election. I was pleasantly surprised by the cost of \$1200.00. The council is not adding this cost to the town, although we have to approve the referendum formally; we are not the ones putting the referendum out there. The people who chose to put this to referendum, are the people who are adding this expense to the town, and that's fine. My concern is that construction rates, at some point, have to go up. These companies are working for nothing. They are working to keep their people employed. They are not making bundles of money. This favorable market for construction is not going to last indefinitely.

"One person is concerned that this council does not know what the finances are for this town. We had a meeting at 6:30 tonight of the finance committee. We do only have three councilors on this committee; however, every councilor was here for this meeting. The assumption that our decision to move forward on this project after years of work is somehow undemocratic, made me a little crazy. To assume that we are taking this lightly and are not connected to our citizens is upsetting. We are the most connected elected body to their citizens. To assume that this project is being pushed through, by people who have decided at the eleventh hour to become involved in this decision making process, I find hard to be patient with. It upsets me that we are looking at further cuts. I am

also concerned about the misinformation being told about side streets. A point of fact, it is getting very expensive to live here. People cannot afford to sell their houses. Our senior citizens are our fastest growing demographic. To think that we are not taking care of them, I also take offense to that. Later on tonight, you will see us approve tax benefits to our senior citizens.

I have supported this, with safety as the number one concern. I had a student who totaled her car on this road. I think widening the shoulders on Rt. 88 makes sense for the same reason widening the shoulders on Range Road were approved. Drainage is my second reason for voting for this. The clam flats have not only been closed for a year, they have been closed for a year and half, and they won't be open next year at the way things are going. This is not just a clam digging issue, this is a pollution problem, a people generated pollution problem. I hate taxes just as much as the next person. I think that people in Cumberland do have a voice. We are a representative government. We have good turnout in our elections, which I am very proud of."

"In closing my fear is that this is going to become an issue that will divide this town. I hope that this does not happen. I'm going to stand by my decision to support this project. All we are trying to do is to take care of a road that we have, to take care of a bay that we have."

Councilor Porter stated that this will be a good honest debate. "If people don't support this issue, they will vote against it; that's o.k. Councilor Porter stated thank you to Ms. Yavinski, for participating in this issue for a while now. The one thing that does bother me is that we have had a two year process for this project, a number of site walks and people have chosen not to participate. I would throw this last point out, if you honestly believe that nothing needs to be done, that the road does not need to be fixed, then I can see why you would not want to go forward with this. However, if you do believe that this road needs to be fixed, then I can't see why you would not want to go forward now. As a council, we make decisions all the time. Some of them are right, and some of them are wrong. Nothing is black and white. This isn't the good vs. the evil. As part of the budget process, people do not participate. I'm here to have a positive effect on my community. The only issue tonight is when we vote. When I add everything up, it is easy for me to see that the March time frame is in the best interest of our community."

Councilor Turner stated he agreed with what both previous councilors had to say. "We need to keep communicating to the community why we think it makes sense. I hope Councilor Storey-King's concern doesn't become a real one as far as pitting the Foreside against the Center, which has happened previously. I understand people's concerns. I understand Mr. Higgins concerns. Everything is a balancing act, and the bottom line is that is the bids don't go out after this March referendum, then the likelihood is that a year from now, the bids are going to come in considerably higher. To sit on our hands on this particular project is ludicrous in my mind. The cost can be considerably higher down the road. The drainage problems are horrendous on Rt. 88. I share Shirley's views that we are all in the same community, and need not have personal attacks. I for one am ready to support the idea of a March referendum."

Councilor Perfetti apologized for being late. "Frankly, I'm not going to respond to people's criticism. I caution people who think that there is some back room thing going on between the councilors, we do not communicate as often as you think. To me this is all about timing, to me a

March election is too fast. I've had some thoughts about inflation, but I also read the economists, and there is also talk about deflation. It's a risk no matter what we do. I would like to have the biggest turnout we can possibly have. I don't see a lot of downside to waiting until June. I feel strongly about having a larger turnout."

Councilor Moriarty stated that we are elected by all residents of the town. "We have to use our best judgment to represent all of you to the best of our ability. Almost three years ago, we advertised publicly for a Rt. 88 advisory committee. This group has been meeting for 2 ½ years. This group has been meeting with virtually no public input, and certainly no public opposition, despite bus tours, walking tours of the road, and presentations in this room. It is not until very late in the game that any reservation has been raised. We voted to spend up to \$4.5 million dollars, but not to spend \$4.5 million on the dot. We have not committed to spending that full amount of money; that is a cap, not a guaranteed minimum. We know we are in hard times. If there is a silver lining, it is that the cost of borrowing is very low. We have Rt. 88, we have had it for a long time, and we have done nothing with it for a very long time. That is why it needs to level of improvement that it needs right now. I stand by the vote that I cast in December. For reasons previously stated, I think that March is a fair, supportable, and reasonable date. I urge the folks here tonight, and the folks at home to seriously consider and endorse the recommendations of this committee."

Chairman Copp stated that the council has a responsibility to the whole town. "We put this out in hope that it would go out to bid in early spring, thinking that the climate would be better than it would be in mid summer. We are not trying to rush this through. We are trying to save taxpayers money. We are trying to get this done as effectively and cheaply as possible. We have everything to gain by getting this done early. We are trying to get this done and save the taxpayers money."

Julie Restuccia of Cumberland Foreside spoke. "I have been a part of this project for 20 years. This project is a long time coming. It is a maintenance project. I wish more people, if they had thoughts that came to mind once they were aware of the cost, I wish they had taken part in the process all the way along. There was no division among the committee. I sincerely hope that the town will support this. If people have questions, I hope that they pose them to the committee, and the council, and they do come out to vote."

Chairman Copp closed the public hearing at 8:20 p.m.

Motion by Councilor Porter, second by Councilor Turner, to set a Special Election date of March 2, 2010, to hold a Special Municipal Referendum Election to place the following question before the voters:

"Do you support the Town Council's decision of December 14, 2009 to issue bonds and expend up to \$4,500,000 for major road reconstruction, shoulder, drainage, and bicycle and pedestrian safety improvements on portions of Wildwood Boulevard, Tuttle Road, Kings Highway, Sea Cove Road, Carriage Road, Hallmark Road, Town Landing Road, and along Route 88 from 800 feet north of Teal Road to the Falmouth town line?"

VOTE: 6-1 (Councilor Perfetti opposed)

10 – 007 To appoint Chris Bolduc as Director of Public Services.

Mgr. Shane stated that per the town charter any dept. head appointment has to be approved by the town council. “It is my great privilege to recommend that Chris Bolduc be appointed as your new Public Services Director. Recreation will stand by itself. Chris will be in charge of parks, highways, Val Halla Operations Committee, capital projects in the Town, and also be in charge of basically any capital investments that we make in any of our Town buildings. It is with great pride, and a privilege that I recommend that Chris Bolduc be appointed the new Public Services Director.”

Councilor Moriarty asked if the position of Operations Director is being blended into Public Services Director. Town Manager Shane stated that that is correct.

Mr. Bolduc stated he truly appreciates the opportunity that the Manager has given him. “Bill has taught me a lot over the past year, and I truly appreciate the confidence he has in me.”

Motion by Councilor Storey-King, second by Councilor Perfetti, to appoint Chris Bolduc as Director of Public Services.

VOTE: Unanimous 7-0

10 – 008 To hear a presentation re: The Cumberland Maine Business Association.

Ms. Alyssa Daniels introduced herself. She has worked with Manager Shane previously, and is a recent graduate of University of Maine School of Law. Ms. Daniels has passed both the State of Maine and the State of Massachusetts Bar Exams.

She has been assisting the Town with Ordinance Codification and the Town Report. Ms. Daniels had been working to establish a foundation for Cumberland’s economic development initiatives. “This is an exciting new endeavor for the Town of Cumberland. We anticipate that it will be a 2-5 year period that we will have to work diligently to broaden Cumberland’s economic horizons.”

“We are focused on building the commercial tax base in Cumberland, in order to mitigate the tax burden on residents, as well as to create jobs, and stimulate the local economy.” Ms. Daniels explained that her role in this will be to actively pursue new business opportunities and to make connections throughout the state in order to meet the goals of increasing the commercial tax base.

Additionally, she will serve as a liaison to new businesses in order to assist them through the process of expanding or building in Cumberland.

In order to accomplish the Towns economic goals, she has so far worked with and will continue to work with the Town Manager and the Town Planner to identify Cumberland’s most attractive commercial properties and the best uses for each, namely commercial properties on Rt. 1 and Rt. 100 are the primary focus. Ms. Daniels has developed a brochure to generate interest in Cumberland to be

a premier location for new businesses. She has also recently developed a brief guide to doing business in Cumberland for prospective business owners and developers.

Ms. Daniels explained that, "The most exciting development in the process thus far, has been the recently formed Cumberland Maine Business Association. The goal of the CMBA is to build a support base for local businesses and to gather resources from which they will be able to draw upon in the future. To date, there are 42 members, and hope the number will continue to grow as the number has over the past month. There is no intent for the Town of Cumberland to form its own Chamber of Commerce. The Association will however, take advantage of and build upon their existing relationships with the Falmouth/Cumberland Chamber, and the Portland Regional Chamber." Two weeks ago Ms. Daniels was elected to the Board of Directors for the Falmouth/Cumberland Chamber. The inaugural event will be held a week from Wednesday, February 3, 2010, at Val Halla. Mr. Chris Hall, who is the Senior Vice President of Government Relations for the Portland Chamber, will be a guest speaker. At this event, Ms. Daniels will officially launch the new web site for the CMBA. The web address is www.theCMBA.com." Ms. Daniels previewed the web site for the council.

Councilor Porter gave congratulations to Ms. Daniels. One question, "Is the initial goal just to log the businesses that are in Cumberland and get that on to the web site?" Ms. Daniels replied that she feels that is the best place to start. Councilor Porter asked, "Will you also be involved in meeting with commercial investors? When we get to that point, I'd be happy to make some introductions to people I know. I think it's important for people to realize that we are open for business. Thank you for your efforts."

Chairman Copp thanked Ms. Daniels.

10 – 009 To hear a report from the Finance Committee Chair re: FY'10 2nd quarter financials and to set dates for FY'11 municipal budget meetings.

Councilor Stiles deferred to Finance Director Alex Kimball. Mr. Kimball explained a general overview. "Comparing this year to last year we are doing a little better. Next up is the revenues. Revenues are also doing a little better. Excise tax is actually doing a little better this year. This is a positive sign. One of our biggest revenues that have come down pretty significantly is state revenue sharing. We dropped our amount for this year, but unfortunately we could have dropped it more. Expenses are more in line this year. Thus far, it has been a milder winter; this is one thing that we are keeping an eye on. Property taxes seem to be lagging by .05%; this is an early indicator of something to keep an eye on as well." Chairman Copp thanked Mr. Kimball.

Motion by Councilor Moriarty, second by Councilor Stiles, to set the following dates for FY'11 municipal budget meetings:

- Monday, February 15th – Budget Workshop w/ the Finance Committee, 9:00 a.m.
- Monday, February 22nd – Presentation of Manager's Budget to Town Council, in workshop
- after the regular meeting.
- Saturday, March 6th - Town Council Budget Workshop, 8:00 a.m.
- Monday, March 22th – Public Hearing on FY'11 Budget, 7:00 p.m.

VOTE: Unanimous 7-0

10 – 010 To authorize the Town Manager to process Senior Circuit Breaker Program payments, not to exceed \$47,936.22.

Mgr. Shane stated that we have had 81 applicants that have qualified for the program, with 74 having submitted all necessary paperwork. If approved tonight, the checks will go out within two weeks.

Councilor Moriarty asked what the line item is in the budget for this item. Do we have sufficient funds? Manager Shane stated that we have over \$100,000.00.

Motion by Councilor Porter, second by Councilor Storey-King, to authorize the Town Manager to process Senior Circuit Breaker Program payments, not to exceed \$47,936.22.

VOTE: 7-0 Unanimous

10 – 011 To hold a Public Hearing to consider and act on amending Section 204.14.4.3 (Industrial District – Side Setback) of the Cumberland Zoning Ordinance.
TABLED TO 02/22/10

Motion by Councilor Porter, second by Councilor Storey-King, to table this item to February 22, 2010 pending Planning Board review and recommendation.

VOTE: 7-0 Unanimous

10 – 012 To set a Public Hearing date (February 8th) to consider and act on a Mobile Service Cart License for Val Halla Golf Course for the period of February 2010 – February 2011.

Mgr. Shane stated that Mr. Sparrow stated he is not interested in the mobile vending cart license. We have had many events at the golf course that do very well with the vending cart. The Town Clerk and the Town Manager have discussed this and decided to renew the license and then see if we can sublet the cart through somebody else. This way we are still on the same schedule with the state and we are not trying to do this in the eleventh hour in the middle of the season.

Motion by Councilor Moriarty, second by Councilor Turner, to set a Public Hearing date of February 8th to consider and act on a Mobile Service Cart License for Val Halla Golf Course for the period of February 2010 – February 2011.

VOTE: 7-0 Unanimous

V. NEW BUSINESS

Councilor Perfetti – None

Councilor Turner – None

Councilor Porter – Encourage residents to check the unclaimed property list on the state treasurer's website.

Councilor Storey-King – Would like to publicly thank the people who work at Twin Brooks. The trails were fantastic. On that note, the trails on the Tuttle Road side are not open to dogs.

Chairman Copp – Received a call before the meeting regarding the passing of Robert Andreasen. He would like to send condolences to the family.

Councilor Stiles – Do we have anything in place for people to make donations to the Veterans Memorial? We received a \$1,000.00 donation at the last meeting from the Veterans of Foreign Wars. It would be nice to have the monies funded by Memorial Day. Update on tree trimming on Range Road. The tree trimming is not part of the construction project. The trimming is being done by CMP. CMP have assured us that they would move the telephone pole that is in the road.

Councilor Moriarty – I have one item on behalf of the nominating committee. I have talked to Pam Russell about appointing her to the Recreation Advisory Board. She is very interested. I have consulted with Councilor Porter, and Councilor Turner, my colleagues on the Nominating Committee, and they have agreed with the nomination.

Motion by Councilor Moriarty, second by Councilor Perfetti, to nominate Pam Russell to the Recreation Advisory Board.

VOTE: 7-0 Unanimous

Town Manager Shane – Certificate of appreciation from 4H Swiners Club.

VI. EXECUTIVE SESSION: pursuant to Title 36 M.R.S.A., § 841, re: Poverty Abatement Request for property identified as Map U19/Lot 06.

VII. Motion by Councilor Moriarty, second by Councilor Stiles, to recess to Executive Session pursuant to Title 36 M.R.S.A., § 841, re: Poverty Abatement Request for property identified as Map U19/Lot 06.

VOTE: 7-0 Unanimous

TIME: 9:20 P.M.

Motion by Councilor Porter, second by Councilor Stiles, to come out of Executive Session.

VOTE: 7-0 Unanimous

TIME: 9:20 P.M.

Motion by Councilor Porter, second by Councilor Moriarty, to deny the poverty abatement request on property identified as Map U19/Lot 06.

VOTE: 7-0

TIME: 9:22 P.M.

VIII. ADJOURNMENT

Motion by Councilor Stiles, second by Councilor Turner, to adjourn.

VOTE: 7-0 Unanimous

TIME: 9:35 P.M.

Respectfully submitted,

Tamara O'Donnell
Deputy Town Clerk