

MINUTES

Cumberland Town Council Meeting
Town Council Chambers
MONDAY, February 25, 2013

6:00 p.m. Workshop re: FY'14 Budget

7:00 p.m. Call to Order

Present: Councilors Stiles, Turner, Copp, Storey-King, Jennings, and Gruber

Excused: Councilor Perfetti

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Jennings, to accept the February 11, 2013 minutes as presented.

VOTE: 6-0

UNANIMOUS

II. MANAGER'S REPORT

A few months ago, the Town sent a letter to the S.A.D. requesting that they assess the number of Cumberland School Board members (presently 5) allowed based on census numbers. Under state law, we are entitled to have another member based on the 2010 Census numbers. According to a letter from the Commissioner of Education, the SAD 51 Board of Directors is not apportioned in accordance with the principals of one-man, one vote. A reapportionment committee must be formed consisting on a municipal officer and one citizen at large, meet within 20 days of receipt of the letter, and report back to the Commissioner.

The Yarmouth Town Council voted last Thursday to use Summit Natural Gas for gas main installation. Falmouth will be voting on the same issue this evening. Yarmouth has invited the Cumberland and Falmouth Town Council's to meet to get some feedback from each Council as what each would like to see moving forward with the gas main project. The meeting will be either the evening of March 5th or 12th in Yarmouth.

Three items have been added to the agenda this evening. Two have to do with release deeds received today on foreclosed properties. The other item is to consider and act on authorizing the Council Chairman to sign a letter on behalf of the Town Council in opposition of the request from the Commissioner of the Department of Environmental Protection to allow solid waste from the closed MERC facility in Biddeford to the State Landfill at Juniper Ridge.

Motion by Councilor Copp, seconded by Councilor Jennings to add Council items 13-040, 13-041 & 13-042 to the February 25, 2013 Town Council Agenda.

VOTE: 6-0

UNANIMOUS

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

13 – 024 To consider and act on authorizing the Town Manager to negotiate with Kerri Farms Subdivision owners for payment of delinquent property taxes and issue a quitclaim deed for open space property identified as Tax Map R08/Lot 41I.

Councilor Copp explained that on February 13th he attended a meeting with the Kerri Farms owners, the Town Manager, and Town Attorney. At the meeting, one of the residents brought up the fact that in 2000, the owners were advised by letter, that the Town had taken ownership of the open space property in the subdivision. They want to resolve this issue, but feel that they should be granted some leniency since they were told (by the Town) that the Town had already taken the open space property due to non-payment of taxes.

Roger Domingo of 4 Kerri Drive said that the neighborhood has gotten together to discuss the situation and were hoping to get the opportunity to have a discussion with the Town and work this out, but for 13 years, they have been under the impression that the Town already took the land. The neighborhood has formed an association according to the subdivision bylaws.

Councilor Turner said that it is reasonable to think that over the past 13 years some of the properties in this subdivision have been sold (or refinanced). Why didn't a title attorney find the red flag during numerous title searches? He thinks it is reasonable to consider reducing or eliminating the interest and fees.

Town Manager Shane explained that the subdivision is currently out of conformance due to the fact that they are required to have the open space. He understands the confusion. They received a letter that the Town had taken ownership (in 2000) and thought that was that. The taxes due with fees and interest are almost \$10,000. \$6,729.00 would be the amount due if the Council chose to waive the interest (\$6129 in taxes and \$600 in attorney's fees).

Councilor Gruber asked if the owners were notified each year that the taxes were delinquent.

Town Manager Shane said that notices were mailed to Silver Ridge Custom Homes. The owners have requested that tax bills be sent to them going forward.

Councilor Gruber said that he also does not understand why this never showed up on any title search. If it were him, he would go after the title attorney who missed it.

Sara Bumby of 15 Kerri Drive (purchased 6 months ago) contacted the title company who did her title search and was advised that the title search showed that the Town foreclosed on the open space and now owns the land. Also, there is not exact language in the deeds indicating that the open space property is needed to make the lots conform. She was also told that due to the 2000 letter, the Town had foreclosed and released the residents from ownership and responsibility of taxes.

Robin Sawyer of 16 Kerri Drive said that the owners of Kerri Farms are in the process of forming a new homeowners association and intend to be responsible homeowners and take the necessary actions.

Town Manager Shane explained to the Council that the amount of taxes due without interest is \$6,729. He said that the homeowners are respectfully asking that the Council consider forgiving more (the interest and attorney fees are almost \$3,100). The Council has that option if they so choose.

Councilor Jennings said that he agrees with the homeowners and feels that they were blindsided by this (particularly the new owners). He feels that this is something that the Council has to make right.

Sara Bumby, 15 Kerri Drive said the Town made an error and so did the homeowners. But when the Town said they were taking ownership of the land, it was assumed and reasonably implied that the Town had done their homework and knew that they could take ownership of the land. While she appreciates the advice that the owners can go back to their title insurance, that is not an option for the majority. They are looking to the Town to help them far more than \$6,100.

Councilor Turner said that it is the responsibility of everyone to know what is in their deed.

Motion by Councilor Copp, seconded by Councilor Jennings, to authorize the Town Manager to negotiate with Kerri Farms Subdivision owners for payment of delinquent property taxes and issue a quitclaim deed for open space property identified as Tax Map R08/Lot 41I, in the amount of \$6,729.00 to be paid by March 15, 2014.

VOTE: 6-0 UNANIMIOUS

***the next two items were taken out of order**

13 – 032 To consider and act on authorizing the Town Manager to accept delinquent taxes in the amount of \$10,769.41 and issue a quitclaim deed for property located at 43 Wilson Road, Tax Map R07C/Lot 13.

Town Manager Shane said that the check was received today and will be credited tomorrow if the Council approves this item.

Councilor Storey-King said that she wants to make the point that this payment of delinquent taxes includes fees and interest.

Motion by Councilor Copp, seconded by Councilor Jennings, to authorize the Town Manager to accept delinquent taxes in the amount of \$10,769.41 and issue a quitclaim deed for property located at 43 Wilson Road, Tax Map R07C/Lot 13.

VOTE: 6-0 UNANIMOUS

13 – 033 To consider and act on authorizing the Town Manager to accept delinquent taxes in the amount of \$11,659.36 and issue a quitclaim deed for property located at 23 Mill Road, Tax Map R07C/Lot 07.

Town Manager Shane said that as of 5:00 today, we have not received payment.

Jeff Wilson said that he was under the impression that he should pay the back taxes tomorrow, after the Council votes to accept them. It was a misunderstanding and he will come to Town Hall tomorrow with the money.

Motion by Councilor Turner, seconded by Councilor Jennings, to authorize the Town Manager to accept delinquent taxes in the amount of \$11,659.36 and issue a quitclaim deed for property located at 23 Mill Road, Tax Map R07C/Lot 07, upon payment of taxes by February 26, 2013.

VOTE: 6-0 UNANIMOUS

13 – 025 To hold a Public Hearing to consider and act on draft amendments to Chapter 250 (Subdivision of Land), Section 6(D)(3) (Review and approval of plan for minor subdivision) of the Cumberland Code, as recommended by the Planning Board.

Chairman Stiles opened and closed the Public Hearing (no public present).

Town Manager Shane explained that most of the next few items are housekeeping items brought forward by the Planning Board.

Motion by Councilor Copp, seconded by Councilor Gruber, to amend Chapter 250 (Subdivision of Land), Section 6(D)(3) (Review and approval of plan for minor subdivision) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

13 – 026 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 229 (Site Plan Review), Section 10 (Approval Standards), Section 11 (Expiration of Approval), and Section 12 (Standard Condition of Approval) of the Cumberland Code, as recommended by the Planning Board.

Chairman Stiles opened and closed the Public Hearing (no public present).

Motion by Councilor Gruber, seconded by Councilor Turner, to amend Chapter 229 (Site Plan Review), Section 10 (Approval Standards), Section 11 (Expiration of Approval), and Section 12 (Standard Condition of Approval) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

13 – 027 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 315, Article V (Aquifer Protection) of the Cumberland Code to amend Section 315-36 (Regulations), and Section 315-37 (Continued Compliance), as recommended by the Planning Board.

Chairman Stiles opened and closed the Public Hearing (no public present).

Town Manager Shane explained that the Aquifer Protection Ordinance has been a work in progress for about a year. There was a meeting with effected landowners/business owners last week that was well attended. It is important to educate the public how important our 5 billion gallon aquifer is to our community and what a valuable resource it is.

Motion by Councilor Gruber, seconded by Councilor Storey-King, to amend Chapter 315, Article V (Aquifer Protection) of the Cumberland Code to amend Section 315-36 (Regulations), and Section 315-37 (Continued Compliance), as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

13 – 028 To hold a Public Hearing to consider and act on draft zoning amendments to Chapter 315, Article VII (Non-conforming uses, buildings, or structures) to amend Section 315-74 of the Cumberland Code, as recommended by the Planning Board.

Chairman Stiles opened and closed the Public Hearing (no public present).

Motion by Councilor Jennings, seconded by Councilor Turner, to amend Chapter 315, Article VII (Non-conforming uses, buildings, or structures) to amend Section 315-74 of the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

13 – 029 To hold a Public Hearing to consider and act on draft zoning map amendments to re-zone property identified as Tax Map U21/Lot 17B (27 Neba Way) from Village Office Commercial I (VOCI) to Rural Residential 2 (RR2), as recommended by the Planning Board.

Chairman Stiles opened and closed the Public Hearing (no public present).

Town Manager Shane explained that this is a back lot that does not abut Route 100, and was included in the Route 100 zone changes to VOCI. It does not make sense that it is in the commercial area since it is surrounded by residence's that are RR2 lots. The Planning Board has agreed with the zone change request of the applicant.

Motion by Councilor Turner, seconded by Councilor Copp, to amend the Official Cumberland Zoning Map to change Tax Assessor Map U21/Lot 17B (27 Neba Way) from Village Office Commercial I (VOCI) to Rural Residential 2 (RR2), as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

13 – 030 To hold a Public Hearing to consider and act on draft zoning map amendments to re-zone property identified as Tax Map R07C/Lot 6 (40 Wilson Road) from Rural Residential 1 (RR1) to Rural Residential 2 (RR2), as recommended by the Planning Board.

Chairman Stiles opened and closed the Public Hearing (no public present).

Town Manager Shane explained that this situation is a little different since the surrounding properties are all in the RR1 Zone. The Planning Board recommends denial of the request as well as a Town wide review of the RR1 and RR2 Zone. Town Planner, Carla Nixon will be at the Council meeting in March to review the Comprehensive Plan and the formation of a small committee to review updates that need to be done to the Comp Plan, and report back to the Council. The RR1 and RR2 zones will be looked at by the committee.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to deny the request to amend the Official Cumberland Zoning Map to change Tax Assessor Map R07C/Lot 6 (40 Wilson Road) from Rural Residential 1 (RR1) to Rural Residential 2 (RR2), as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

13 – 031 To hear a report and authorize the Town Manager to process Senior Circuit Breaker Program payments.

Town Manager Shane explained that the Town has the program, which will match up to \$750 of the State refund to seniors who have lived in our community for at least 10 years, and are 67 years old or older. It is a popular program with over 100 applicants this year.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to authorize the Town Manager to process Senior Circuit Breaker Program payments not to exceed \$75,000.00.

VOTE: 6-0 UNANIMOUS

13 – 034 To set a Public Hearing date (March 11th) to consider and act on a Mass Gathering Permit for the Cumberland Youth Boys Lacrosse Jamboree to be held on May 4th from 8:00 a.m. to 5:00 p.m. at Twin Brook Recreation Facility.

Motion by Councilor Copp, seconded by Councilor Turner, to set a Public Hearing date of March 11th to consider and act on a Mass Gathering Permit for the Cumberland Youth Boys Lacrosse Jamboree to be held on May 4th from 8:00 a.m. to 5:00 p.m. at Twin Brook Recreation Facility.

VOTE: 6-0 UNANIMOUS

13 – 035 To set a Public Hearing date (March 11th) to consider and act on a Mass Gathering Permit for the Cumberland Youth Girls Lacrosse Round Robin to be held on June 1st from 8:00 a.m. to 5:30 p.m. at Twin Brook Recreation Facility.

Motion by Councilor Storey-King, seconded by Councilor Jennings, to set a Public Hearing date of March 11th to consider and act on a Mass Gathering Permit for the Cumberland Youth Girls Lacrosse Round Robin to be held on June 1st from 8:00 a.m. to 5:30 p.m. at Twin Brook Recreation Facility.

VOTE: 6-0

UNANIMOUS

13 – 036 To set a Public Hearing date (March 11th) to consider and act on a Class I Liquor License, Special Amusement Permit, and Auxiliary Mobile Golf Cart License for Rachel's on The Green at Val Halla, for the period of April 2013 – April 2014.

Motion by Councilor Turner, seconded by Councilor Copp, to set a Public Hearing date of March 11th to consider and act on a Class I Liquor License, Special Amusement Permit, and Auxiliary Mobile Golf Cart License for Rachel's on The Green at Val Halla, for the period of April 2013 – April 2014.

VOTE: 6-0

UNANIMOUS

13 – 037 To set a Public Hearing date (March 11th) to consider and act on authorizing the Town Manager to negotiate a 3-year contract extension with Rachel's On the Green at Val Halla.

Motion by Councilor Jennings, seconded by Councilor Copp, to set a Public Hearing date of March 11th to consider and act on authorizing the Town Manager to negotiate a 3-year contract extension with Rachel's On the Green at Val Halla.

VOTE: 6-0

UNANIMOUS

13 – 038 To appoint a member to the PACTS Board for Regional Transportation.

Councilor Gruber volunteered to become a member.

Town Manager Shane suggested himself and Town Planner, Carla Nixon as alternates.

Motion by Councilor Turner, seconded by Councilor Jennings, to appoint Town Councilor, Tom Gruber to the PACTS Board for Regional Transportation, and appoint Town Manager, William Shane, and Town Planner, Carla Nixon as alternates.

VOTE: 6-0

UNANIMOUS

13 – 039 To hear a report from the Finance Committee Chair re: FY'14 Budget Meeting Workshops:

Councilor Gruber, Chairman of the Finance Committee, explained that the Council has held two workshops to date. The following meeting dates are set to review and vote on adoption of the FY14 budget:

Monday, March 11th Workshop after Council Meeting adjournment

Saturday, March 16th 8:00 a.m. to completion

Monday, March 25th Public Hearing on acceptance of the FY'2014 Budget

Motion by Councilor Gruber, seconded by Councilor Storey-King, to set the following dates for FY'14 budget meeting workshops and a public hearing:

- Monday, March 11th Workshop after Council Meeting adjournment
- Saturday, March 16th 8:00 a.m. to completion
- Monday, March 25th Public Hearing on FY'2014 Budget

VOTE: 6-0

UNANIMOUS

13 – 040 To consider and act on authorizing the Council Chairman to sign a letter on behalf of the Town Council in opposition of the request from the Commissioner of the Department of Environmental Protection to allow solid waste from the closed MERC facility in Biddeford to the State Landfill at Juniper Ridge.

Town Manager Shane explained that with the closing of the trash incinerator in Biddeford, 300,000 tons of trash that used to go through that facility annually, now needs to go somewhere else. 200,000 tons of that trash came from out of state and 100,000 tons of trash came from the communities around the Biddeford area.

The Juniper Ridge landfill is presently used as a bypass landfill when one of the incinerators is off line. It has been a safety net for the majority of the state. Allowing 100,000 tons of trash to go a state landfill when there is already capacity at EcoMaine, is in conflict with the state's own plan and is bad environmental and fiscal policy.

The municipalities who own EcoMaine (including Cumberland) are asking the DEP Commissioner to take another look at this and reconsider.

Motion by Councilor Gruber, seconded by Councilor Jennings, to authorize the Council Chairman to sign the attached letter on behalf of the Town Council in opposition of the request from the Commissioner of the Department of Environmental Protection to allow solid waste from the closed MERC facility in Biddeford to the Juniper Ridge State Landfill in direct conflict with the State's own hierarchy of waste disposal.

VOTE: 6-0 UNANIMOUS

13 – 041 To consider and act on authorizing the Town Manager to accept a release deed for property located at 32 Sullivan Drive and to auction said property pursuant to the attached release.

Town Manager Shane explained that staff was able to negotiate a release with the property owner. The property now has much more value and does not have to go through a quiet title action. Back taxes will be paid, and the balance after legal fees will go directly to the land owner.

Motion by Councilor Copp, seconded by Councilor Turner, to authorize the Town Manager to accept a release deed for property located at 32 Sullivan Drive and to auction said property pursuant to the attached release. I authorize the Town Manager to disburse all proceeds necessary to pay off all taxes and fees due to the Town on properties located at 32 Sullivan Drive and 26 Sullivan Drive and to pay any remaining monies to Joy Andreasen.

VOTE: 6-0 UNANIMOUS

13 – 042 To consider and act on authorizing the Town Manager to accept a release deed for property located at 8 Highland Avenue and to auction said property pursuant to the attached release.

Chairman Stiles explained that this item is the same situation as the previous item.

Motion by Councilor Turner, seconded by Councilor Jennings, to authorize the Town Manager to accept a release deed for property located at 8 Highland Ave. and to auction said property pursuant to the attached release. I authorize the Town Manager to disburse all proceeds necessary to pay off all taxes and fees due to the Town on properties located at 8 Highland Ave. and 98 Longwoods Road and to pay any remaining monies to Jennifer Green.

VOTE: 6-0 UNANIMOUS

Councilor Copp moved to appoint Councilor Gruber to the School Board Reapportionment Committee and to allow Councilor to appoint a citizen of his choice. Councilor Jennings seconded. (Explanation under Manager's Report).

VOTE: 6-0

UNANIMOUS

V. NEW BUSINESS

Councilor Turner – The Public Works department did another great job with snow removal.

Maine Municipal Association is having a Legislative Policy meeting this Thursday to consider alternatives to various legislative bills. The roll of the committee is to determine what is and what is not important. He urged the Council and public to contact him with concerns or items of importance to them, and he will pass that information along.

Councilor Copp – Early Sunday morning, there was a house fire on Skillins Road. The homeowners have been displaced from their home and there was a home daycare business there. The owners are now scrambling to find an alternate location for the daycare. They are hopeful to find a place to rent in Cumberland while they rebuild. They are longtime residents of the Town, and are good people who have lost a lot.

The Fire and Police Departments did a terrific job responding to and fighting the fire.

Councilor Storey-King – The Maine Townsman had an article about schools becoming more secure. The article highlighted our community and the efforts that our school district has made, and continue to make, to keep our schools safe. The article kept a balanced perspective on the fact that we are already a safe community with an excellent police force. It was nice to see some positive press for our school district.

The list of winter season, student athlete successes to date are (in addition to both boys and girls basketball teams):

- Girls hockey team won the state championship
- Boys swim team won the state championship
- Girls alpine ski team won the state championship
- Girls swim team came in second place
- Girls indoor track came in second place
- Nick Vogle won the individual state title for his weight division in wrestling
- Boys hockey playoffs begin this weekend with Greely going into the tournament in first place

Councilor Gruber – The Community Food Pantry continues to do well. More and more people in need are being serviced by the Food Pantry. Councilor Gruber would like to personally thank Bill and Linda Shane who have put so much effort into making the Food Pantry a successful operation. He also would like to thank the residents of Cumberland and North Yarmouth for stepping forward to help out with volunteering and contributions.

The Council will be holding a budget workshop beginning at 8:00 a.m. on Saturday, March 16th. He invited the public to come with their ideas, questions, issues or concerns about taxes.

Chairman Stiles – The Falmouth/Cumberland Community Chamber will be hosting their 3rd Annual Legislative Forum on March 8th from 7:30 – 9:00 a.m. Representatives Mark Dion, Mary Nelson, Steve Moriarty and Senator Dick Woodbury will offer their views of key issues facing them this legislative season. It will be held at the Falmouth Memorial Library, 5 Lunt Road, Falmouth.

Councilor Jennings – He would like to thank Councilor Gruber and Town Manager Shane for all of the work that they have done on the budget to date. His work with the Finance Committee has been fascinating. He would also like to make sure that all interested citizens come out to the March 16th @ 8:00 a.m. budget workshop meeting.

The Cumberland Youth Lacrosse Committee will be hosting a comedy night and silent auction on March 27th. More information will be brought forward as he gets it.

Town Manager Shane – To echo what Councilor Turner said, the Public Works crew have had a tireless few weeks with little rest between storms. They have done a fantastic job and have had to deal with equipment failures during the last two storms. They have not complained and have kept pushing on through each storm. Thank you to Storey Brothers and A.H. Grover for assisting with snow removal. Another example of what a great community we have and how everybody pitches in to help. The budget related to snow removal is pretty much maxed out at this point. We reached our annual snow maximum in two storms. Thank you to Chris Bolduc for his leadership as well as Steve Googins.

VI. ADJOURNMENT

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

VOTE: 6-0

UNANIMOUS

TIME: 8:29 p.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary