

MINUTES

Cumberland Town Council Meeting
Town Council Chambers
MONDAY, April 28, 2014

6:30 P.M. Workshop with the Cumberland Historical Society re: issuance of Acceptance Deed to the Town for the building located at 4 Blanchard Road.

7:00 P.M. Call to Order

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

I. APPROVAL OF MINUTES

Motion by Councilor Bingham, seconded by Councilor Gruber, to approve the April 14, 2014 minutes as presented.

VOTE: 7-0 UNANIMOUS

II. MANAGER'S REPORT

Town Manager Shane said that because of the lengthy agenda, he would hold his report until the New Business portion of the meeting.

III. PUBLIC DISCUSSION

Boy Scout's Matthew Morgan and Ryan Reigs(?) are present this evening in order to earn their communications merit badge. One of the requirements of the communications merit badge is to attend a Town Meeting.

Chairman Stiles told the Boy Scouts that they are welcome to assist in the removal of buckthorn in the Town Forest if they are looking for other civic projects.

Teri Maloney-Kelly said that she took her grandchildren to Twin Brook to play disc golf and felt that residents (tax payers) should not be required to pay.

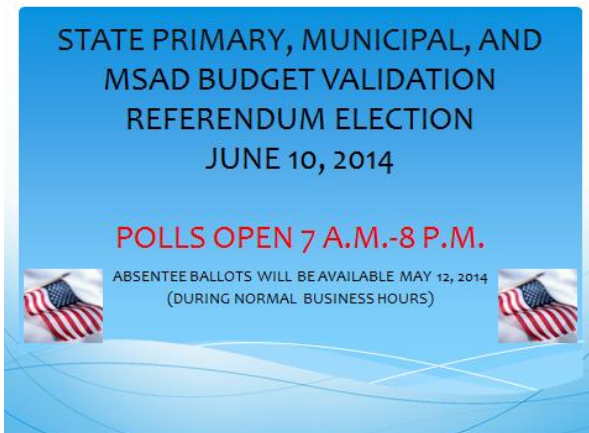
IV. LEGISLATION AND POLICY

14 – 069 Fire Department swearing in of Kevin Balvin, Jr. to the rank of Lieutenant.

Fire Chief Small said that Kevin Balvin, Jr. has been with the department since 2001. He started in the Explorer Program, then a student live in with the Gorham Fire Department. He proudly served 4 active duty years in the 82nd Airborne Division of the Army, and was a combat engineer in Iraq. Kevin is married to Megan and they have a 2 year-old daughter Katherine. Kevin is an EMT/Firefighter with the department. His primary responsibility will be the supervision of Engine 101 out of Central Station.

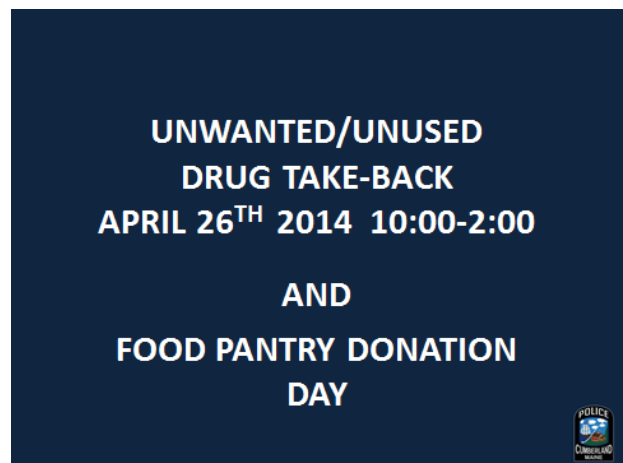
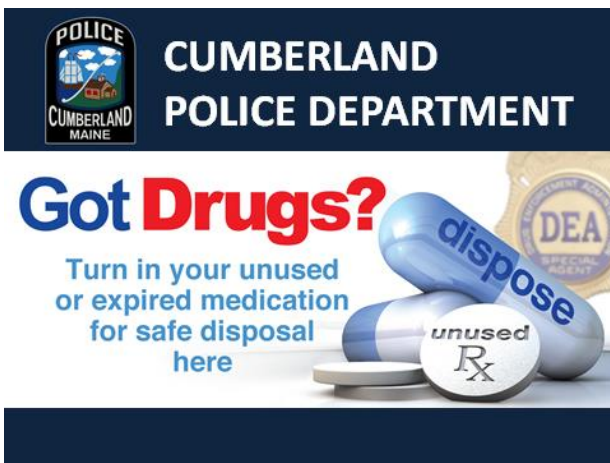
Town Clerk, Tammy O'Donnell conducted the swearing in of Kevin Balvin, Jr. to the rank of Lieutenant.

14 – 070 To hear a report from the Town Clerk re: declared candidates for June election.

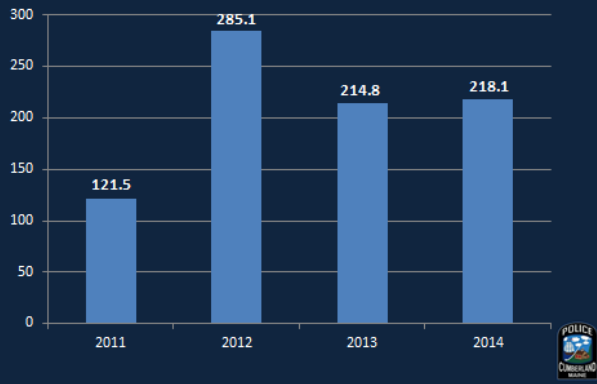


Chairman Stiles corrected the Clerk and said he and is the Cumberland Center candidate and Councilor Gruber is the At-Large candidate.

14 – 071 To hear a report from Police Lieutenant Milton Calder re: Prescription Drugs.
Lieutenant Calder presented the following on a very successful drug take back day on April 26th.



COLLECTION HISTORY



PARTICIPATION

- The Cumberland Police Department hosts a drop off site for residents to dispose of expired, or no longer needed prescription drugs.
 - The program is anonymous. No questions or requests for identification will be made.
- The Cumberland Police Department logo is visible in the bottom right corner of the slide.

- Participants can dispose of medications in their original container or by removing the medication from its container and dumping in the collection box.
 - All solid dosage pharmaceutical and liquid products in containers such as cough syrup may be accepted when tightly sealed.
- The Cumberland Police Department logo is visible in the bottom right corner of the slide.

EXCEPTIONS

- Intra-venous solutions, injectibles, and syringes will not be accepted due to potential hazard posed by blood-borne pathogens.
 - Illicit substances such as marijuana or methamphetamine are not a part of this initiative and should not be placed in collection containers.
- The Cumberland Police Department logo is visible in the bottom right corner of the slide.

FOOD PANTRY DONATIONS

- This year local law enforcement and the DEA will be collecting food pantry donations in support of the local food pantries.
 - Collections will take place during the same time as the drug take-back. Grocery carts will be located at the collection site and delivered to the pantry by the attending officers.
- The Cumberland Police Department logo is visible in the bottom right corner of the slide.

2014 CUMBERLAND TAKE-BACK



2014 CUMBERLAND TAKE-BACK



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2014 CUMBERLAND TAKE-BACK



2014 PORTLAND TAKE-BACK with CCSO and WCSH-TV

- 4/25/14 from 5:00 AM until 7:00 PM
- Over 1,000 participants
- 2,235 LBS of medications collected

2014 PORTLAND TAKE-BACK with CCSO and WCSH-TV



2014 PORTLAND TAKE-BACK with CCSO and WCSH-TV



2014 PORTLAND TAKE-BACK with CCSO and WCSH-TV



THANK YOU!



14 – 072 To hold a Public Hearing to consider and act on a Wharfing Out Permit for Gerard Cassidy for a proposed pier, seasonal ramp, and float system to be located at 17 Old Musket Road.

Town Manager Shane explained that all new piers, docks or wharfs go through the Coastal Waters Commission. The Commission held a site walk and a public hearing and they are recommending approval with one amendment to the conditions listed in the Council packet materials:

2.) *There shall be at least 8' 7" of clearance at the third "bent" (structural support column) as shown on the drawing "Proposed Dock system for Gerard Cassidy at 17 Ole Musket Road, Cumberland, Maine" as submitted by Waterman Marine Corporation, dated September 6, 2013.*

Chairman Stiles opened the Public Hearing.

Public discussion: None

Chairman Stiles closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Turner, to approve the Wharfing Out Permit for Gerard Cassidy for a proposed pier, seasonal ramp, and float system to be located at 17 Old Musket Road, as recommended by the Coastal Waters Commission.

VOTE: 7-0 UNANIMOUS

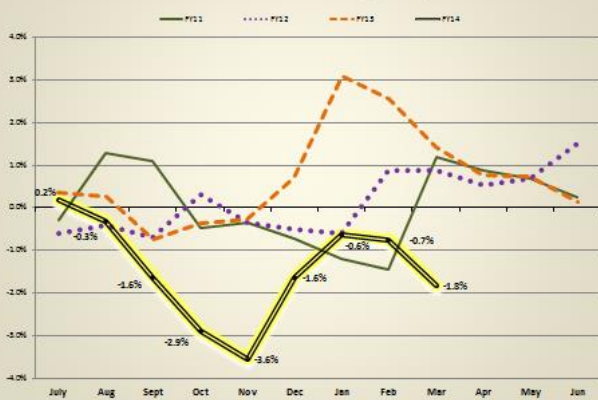
14 – 073 To hear a report from the Finance Committee re: 3rd Quarter Financials.

Town of Cumberland Financial Report as of March 31, 2014

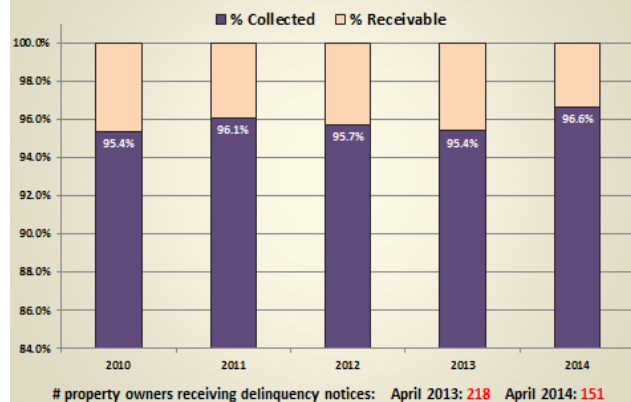
General Fund Revenues & Expenditures as of March 31st, 2014

	FY14 Budget	FY14 Actual	FY13 %	FY14 %
Total Revenues	\$ 3,579,779	\$ 2,717,103	74.3%	75.9%
Controllable Expenses	\$ 6,142,568	\$ 4,657,689	79.0%	75.8%
Fixed Expenses	\$ 16,612,770	\$ 13,064,404	77.2%	78.6%
Total Expenses	\$ 22,755,338	\$ 17,722,093	77.7%	77.9%

% Variance to 5 Yr Average Expenditures

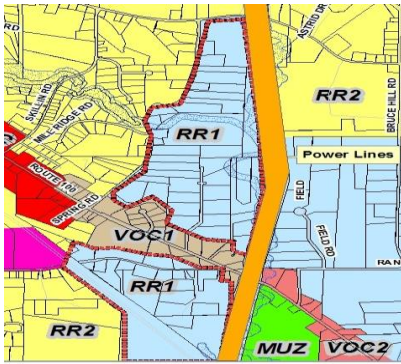


Property Tax Collection at March 31st

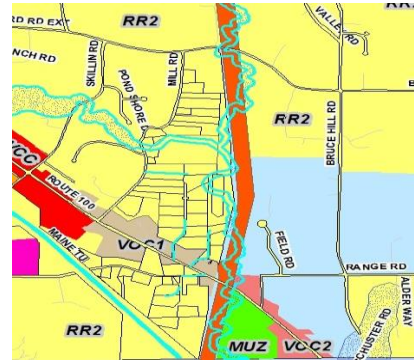


14 – 074 To hold a Public Hearing to consider and act on updates to the Official Cumberland Zoning Map as recommended by the Planning Board.

Town Manager Shane explained that back in November of 2012, Gary and Carin Wilson came before the Council to request that their property be zoned from RR1 (4 acre zoning) to RR2 (2 acre zoning) to allow them to divide their lot for their family. Their concern was that there were 2 subdivisions next to and across the street from their property that allowed for 2 acre zoning and their property was 4 acre zoning. At the January 28, 2013 Town Council Meeting, the Council sent the request to the Planning Board for their recommendation. The Planning Board voted 5-1 against the motion and encouraged the Council to look at the RR1 and RR2 zones town wide, starting with the Wilson's area. The Council established a Comprehensive Plan Update Committee in May of 2013 and asked that they look at the RR1 & RR2 zoning issue. In April 2014, the Council accepted the committee's recommendation, with the exception of the RR1 & RR2 changes, but at a Workshop in February, the Council decided to take this particular map amendment and move it forward. The Planning Board head a Public Hearing on just this map amendment and they voted 3-3. Those opposed were not opposed to the zone change, but were opposed to splitting it out and not including it in the entire zone change that the new Land Use Committee will be looking at.



PRESENT ZONING



PROPOSED ZONING

Chairman Stiles opened the Public Hearing.

Public discussion: Peter Rubins of Blanchard Road thinks that the new Land Use Committee should address this issue and bring forward their recommendation.

Deborah Murphy of 250 Blanchard Road said that she chose to move to Cumberland because it is a beautiful town that she loves. She is disappointed that the Town would consider rezoning and does not like the idea that if she were to sell her property someday, someone else could develop her land and destroy a beautiful piece of property. Why not develop Route One or Route 100? Please consider leaving the zoning as it is.

(no name stated) setting up a new committee to look at the zoning makes sense. This is not a small bit of land and it is not respectful to the Land Use Committee to rezone this portion before they can talk about it. There is an area in the eastern section that has a gorge with 2 rivers running through it. No a lot of people know about this. Please leave this piece for the committee to look at in the context of the entire Town.

Mark Isaacson of Blanchard Road asked that the Land Use Committee be allowed to consider this issue. This parcel is one of the nicest parcels in all of Cumberland and it should be protected. He hopes that the Wilson's problem can be solved without rezoning the entire area.

Linda Jensen (one of the Wilson's) said that her property over looks all the 2 acre lots in the new subdivisions on Route 100. Nobody came forward to complain about those lots, but everybody from Blanchard Road has a problem with rezoning this area. She doesn't understand it.

Bob Waterhouse of Range Road said that he has attended all the meetings and has done a lot of homework on this issue. He feels the process was flawed and hopes that the new Land Use Committee will get a lot of applicants. The committee will have a very difficult time coming up with a solution.

Chairman Stiles closed the Public Hearing.

Councilor Turner said that the zoning was changed from 4 acres to 2 acres in 1987 when we wanted to slow growth in our Town. It is very important that the new committee is even handed. We all want scenic vistas in our Town, but nobody wants to pay for them.

Councilor Bingham said that he is a large land owner and acknowledged that the 1987 zone change was a growth control measure.

Councilor Storey-King said that she lives on family land and that as a teacher, she would not have been able to afford to live in Town if she had not been given her land by family. She would like to see this issue go to the committee and go through the process.

Councilor Copp said that this isn't about the Wilson's; it is about fairness to the whole Town. He feels that this is a better solution than spot zoning. The Wilson's want to be able to give their children land and it is the right thing to do to allow them to do so.

Motion by Councilor Bingham, seconded by Councilor Gruber, to amend the Official Cumberland Zoning Map to change the RR1 District to the RR2 District north of the power lines at Wilson Road to Mill Road and south of Route 100 from the power lines to the turnpike, as presented to the Planning Board.

VOTE: 5-2 (Edes and Storey-King opposed) MOTION PASSES

14 – 075 To hold a Public Hearing to amend the Contract Zone Agreement for Cumberland Foreside Village (lot line changes).

Town Manager Shane explained that this amendment will put the Contract Zone with David Chase in conformance with the lot lines and use changes. The rear property will allow residential development, previously restricted to the area behind Exactitude. This is basically a housekeeping issue that needs to be addressed so that future development is not held up due to a dated CZA.

Chairman Stiles opened the Public Hearing.

Public discussion: None

Chairman Stiles closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Bingham, to amend the Contract Zone Agreement for Cumberland Foreside Village as recommended by the Planning Board and to authorize the Town Manager to update the current agreement as outlined in his attached memorandum.

VOTE: 7-0 UNANIMOUS

14 – 076 To hold a Public Hearing to consider and act on amendments to Chapter 200 (Roads and Public Property), Section 2 (Animals at large), of the Cumberland Code.

Town Manager Shane explained that this issue has come forward due to many complaints of the large number of dogs running freely on Town owned property. This issue has been discussed by the Twin Brook Committee, the Rines Forest Committee and the Val Halla Board. The problem is that our Police Department does not have a way to legally enforce any dog related issues except for a dog that is not on a leash, must be under voice control. We have policies, but not ordinances in place to handle these dog issues. The proposed ordinance amendments say that if someone has more than 2 dogs, the remaining dogs must be on a leash (only 2 allowed to be off leash). He learned from audience members this evening that there are also invisible leashes being used, which he did not realize.

Chairman Stiles opened the Public Hearing.

Public discussion: Anne Stickney is a dog walker who started her business in August of 2011. She appreciates Twin Brook and Val Halla as areas that she walks her groups of dogs. They are all well behaved, socialized dogs and she does use the invisible leash on her dogs. The dogs go home tired and socialized. She picks up after

all her dogs and also picks up after other dogs. She does not walk dogs that are dangerous. She feels that dogs on leashes are more dangerous and she hopes that the invisible leash will be an accepted use.

Denny Galladet of Range Road uses Twin Brook to run the trails 3-4 times a week and feels that it is a wonderful facility. He grew up with dogs and has had dogs all his life and likes them a lot. He gets jumped on by dogs on the trail close to half the time. It doesn't really bother him, but he feels that it has to be dealt with. There are a small percentage of dogs that are not under their owner's control. There should be better signage that explains what voice control means.

John Grostein (sp?) of Falmouth uses Rines Forest, Twin Brook and Val Halla and enjoys all the parks very much. It is important, especially for rescue dogs, to let them run. He hopes that leashes will not be made a requirement.

Councilor Storey-King said that she feels that the amended language is a nice compromise. We are not saying no dogs, we are just asking for some common sense and make this workable for everybody.

David Manson has been training dogs for approximately 16 years. There is no solution that will make everyone happy. Everybody should be allowed to use the park and everybody should be responsible. He has been walking with Ann for over a year and her dogs are all well behaved.

Alan Bornheimer of 358 Main Street (a customer of Ms. Stickney and Mr. Mason) urged the Council not to make this amendment. He feels it would be challenging to enforce.

Melissa Dupree walks her dog with Ms. Stickney and Mr. Mason. She started walking with them and her rescue dog learned how to relax, listen and have fun. She feels that imposing a leash rule will not make people pick up the waste or prevent dogs from jumping.

Chairman Stiles closed the Public Hearing.

Councilor Turner said that he agrees with Mr. Bornheimer that enforceability will be an issue. The Ordinance Committee should take a little more time with this issue.

Motion by Councilor Bingham, seconded by Councilor Turner, to table.
VOTE: 4-3 (Edes, Storey-King & Gruber opposed) MOTION PASSES

Councilor Copp told the public that when they return to speak on this issue again, he would like to know why the power lines won't work as a place to let dogs run off leash?

Ms. Stickney said that she would walk the power lines to be sure it is a good place for her dogs to run without bothering the neighbors there.

14 – 077 To hold a Public Hearing to consider and act on amendments to Chapter 17 (Animal Control), Section 3 (Dogs at Large) and Section 5 (Violations and Penalties), of the Cumberland Code.

Motion by Councilor Bingham, seconded by Councilor Turner, to table.
VOTE: 4-3 (Edes, Storey-King & Gruber opposed) MOTION PASSES

14 – 078 To consider and act on authorizing the Town Manager to execute an Acceptance Deed for the Historical Society building located at 4 Blanchard Road.

Town Manager Shane explained that the Historical Society building has been in need of repairs over the years and the effort of the Historical Society have had to be more focused on maintaining the building than preserving Cumberland history. He and Chris Bolduc met with Carolyn Small of the Historical Society and presented the idea of giving the building back to the Town. The Town will be responsible for preserving the building and making it a safe place for all the artifacts. Staff is recommending approval.

Motion by Councilor Storey-King, seconded by Councilor Edes, to authorize the Town Manager to execute an Acceptance Deed for the Historical Society building located at 4-A Blanchard Road.

VOTE: 7-0 UNANIMOUS

14 – 079 To consider and act on authorizing the Town Manager to accept delinquent taxes and issue a quitclaim deed, upon payment of \$12,005.59 for property identified as Tax Map R05/Lot 34.

Town Manager Shane explained that we have received the check but cannot apply it to the delinquent taxes until the Council accepts it. Staff is recommending acceptance.

Motion by Councilor Copp, seconded by Councilor Storey-King, to authorize the Town Manager to accept delinquent taxes and issue a quitclaim deed, upon payment of \$12,005.59 for property identified as Tax Map R05/Lot 34.

VOTE: 7-0 UNANIMOUS

14 – 080 To consider and act on forwarding a Contract Zone Agreement for Justin Fletcher for land at the end of Harris Road, to the Planning Board for a Public Hearing and recommendation.

Town Manager Shane explained that Justin Fletcher has requested permission to split his property at the end of Harris Road near the Falmouth Town line. Several decades ago, Harris Road went through to Route 9 until the Town of Falmouth chose to vacate the road when paper street rules come forward. There is currently a gravel roadway that is accessed by the Harris Road residents via a gate. Mr. Fletcher wants to split his lot and give the Town 1 acre of land to be used as a public road in the future. The gravel roadway would be closed because it is not a road that is built to Town standards. Maine Department of Transportation has been contacted and they have no issues with the proposed plan. This is consistent with our Comprehensive Plan to try to eliminate dead in streets. The action this evening will be to send it to the Planning Board for a recommendation.

Councilor Copp asked the Manager if Mr. Fletcher owns the property, including the gravel road, and can he close the gravel road to through traffic if he chooses to.

Town Manager Shane said that he does own the property and the road, but cannot close the road. There are 4-6 different owners who have a deeded right to the property. The only way they vacate their rights is if the Town owns the parcel with the gravel road.

Motion by Councilor Bingham, seconded by Councilor Turner, to forward the Contract Zone Agreement for Justin Fletcher for land at the end of Harris Road, to the Planning Board for a Public Hearing and recommendation.

VOTE: 7-0 UNANIMOUS

14 – 081 To consider and act on cancelling the May 26th (Memorial Day) Town Council meeting and rescheduling the June meetings from June 9th and 23rd to June 2nd and 16th, due to the June 10th election.

Motion by Councilor Gruber, seconded by Councilor Storey-King, to cancel the May 26th (Memorial Day) Town Council meeting and rescheduling the June meetings from June 9th and 23rd to June 2nd and 16th, due to the June 10th election.

VOTE: 7-0

UNANIMOUS

14 – 082 To consider and act on setting a special Town Council meeting of May 20th at 5:30 p.m. to countersign the Warrant and Notice of Election calling the June 10, 2014 M.S.A.D. 51 Budget Validation Referendum.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to set a special Town Council meeting of May 20th at 5:30 p.m. to countersign the Warrant and Notice of Election calling the June 10, 2014 M.S.A.D. 51 Budget Validation Referendum.

VOTE: 7-0

UNANIMOUS

V. NEW BUSINESS

Councilor Turner – there was a bus from Brunswick going into Twin Brook and he wondered if they contacted the Town to use the facility.

Town Manager Shane said he would inquire. The Council should be getting the weekly events schedule to know what is going on. He will make sure they are getting this.

Councilor Bingham – None

Councilor Storey-King – None

Councilor Gruber – he referred to an article in the Portland Press Herald entitled “Growing Old at Home” that emphasizes that we need to start planning for our aging population. Our state’s median age of 43.5 years is the highest in the United States. This is a major concern that we are going to have to deal with.

He recognized the volunteers hours at the food pantry since November 2013. We have 228 volunteers that work at the pantry who have put in well over 3,000 hours.

Sharon Marks, Rosemary Goranites, Jean Chadborne, Judy Ingram, Jean Lamson and Linda Shane are the volunteers with the most hours worked. Thank you to them and all the volunteers for the work they do.

Chairman Stiles – the Harness Horse Youth Foundation will be holding a camp at the fairgrounds on June 30th, July 1st and July 3rd for youth 9 years and older to experience harness racing. More information can be found at hhyf.org or by contacting him.

He has been contacted by Ira Hartman and Doug Pride to ask the Council to allow those licensed by the State to hold fireworks shows for events (weddings, etc.). He requested the Ordinance Committee to look at this request.

There was an educational session in the removal of buckthorn at Town Hall recently. We need volunteers to go into the Town Forest and Rines Forest to begin working on the removal of buckthorn.

He put out requests to residents to contribute to the 4-H fund to allow the Food Pantry to purchase meat. If 1,000 residents will donate \$10 each, that will help feed a lot of people. Donations can be made at Town Hall or by using PayPal on the Food Pantry website. This program helps the 4-H kids and the members of the Food Pantry.

Councilor Edes – None

Councilor Copp – he wants to be clear that he is not sold on the dog issue. He is not sure about dogs being allowed off leash at all. If you go to a school sporting event, dogs are always on a leash. Dogs do not need to run free at Twin Brook or Val Halla. If it was his decision, the rules would be much stricter.

Councilor Turner suggested considering a fenced in area at Twin Brook.

Town Manager Shane – the Food Pantry passed out over 55 Easter baskets and served 40 families at the Food Pantry. That equals 95 different families fed. The Girl Scouts are truly amazing with all the help they offer on a regular basis. They have developed many programs from recipe and ingredient packs to cooking classes in with Hannaford. Thank you to the Boys Lacrosse Team for their food drive donation recently. The generosity of our community is unbelievable and amazing.

- VI. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.
Motion by Councilor Bingham, seconded by Councilor Storey-King, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.
VOTE: 7-0 UNANIMOUS
TIME: 9:59 p.m.

Reconvene to regular session at 10:44 p.m.

- VII. ADJOURNMENT**
Motion by Councilor Storey-King, seconded by Councilor Gruber, to adjourn.
VOTE: 7-0 UNANIMOUS
TIME: 10:45 p.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary