

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, December 14, 2015

6:15 P.M. NOMINATING COMMITTEE WORKSHOP

7:00 P.M. CALL TO ORDER

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

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Edes, to accept the November 23, 2015 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

Motion by Councilor Stiles, seconded by Councilor Turner, to accept the December 2, 2015 special meeting minutes as presented.

VOTE: 5-0-2 (Edes & Copp abstained) MOTION PASSED

II. MANAGER'S REPORT

Captain Mark Stewart, of the Cumberland Fire Department presented a donation of \$500 to the Food Pantry. They also donated the proceeds from their Christmas tree sale (\$905) to the Food Pantry.

Shawn McBrierty of the Moonlite Sno-Skimmers Snowmobile Club presented the following request to allow the snowmobile club to use the trails in the Town Forest:

Town Forest Snowmobile Trail Proposal Presentation to Cumberland Town Council - 12/14/15



Stewards of the local trails and landowners for 43 years

Moonlite Sno-Skimmers, Cumberland and North Yarmouth Snowmobile Club

- Active Club for **43 years**, working to safely provide over 30 miles of **multi-use trail** access to Club Members, as well as benefiting non-members, dog walkers, snowshoers, cross country skiers, horse riders, mountain bikers, hikers and many other folks who are not members who use the **private property** where the sled trials are.
- Club has 25 or so Family and Business Members (\$33, \$43), ½ dozen or so of whom dedicate hours and hours each pre-season and during the short winter weeks for trail access, putting up and taking down nearly 300 trail signs, working with landowners, re-routing trails, administrative efforts, grooming, brush & tree cutting, etc.
 - 200ish sleds registered in both towns, so a little more than 10% are members. Similar rates to other towns and Clubs.
- We have one of the most difficult trail areas to maintain in the State, given the amount of new housing and re-routes that occur.



- These new **multi-use trails** intersect 3 times with the current snowmobile trail that has been there 30 or 40 years, running across from Drowne Road to the "Lama Field" through the "phragmites" and is wet, stump filled and has poor sight lines due to all the closed in brush and hanging trees.
- We are concerned these intersections may cause a safety issue. Both from going from soft ground to raised, hard pack multi-use trail crossings for the snowmobilers and potentially for an intersection issue for walkers, skiers, etc.
- The beginning of the new multi-use trail head at Drowne Road is on the snowmobile trail and may be the future location of the "Club House" where the grooming sleds are kept. (Also where a "post" and "bucket" need to be addressed.)
 - This trail network is the **historical backbone** to those members in Center Cumberland to get to snowmobile to places such as Rachel's at Val Halla and we are hoping to eventually get back across the Route 9, 102 pole line to Knights Pond (which access is currently shutdown by CMP).
 - Kids used to run the railroad tracks, prior to the Club re-opening the Tuttle Road crossing last year, after nearly 10 years of closure.
 - This system provides access to Route 9 and Irving, to Turkey Lane, Range Road and Falmouth over the "Bateman Trail" as the previous trail was re-routed a few years ago due to the Drowne Road housing development. (Old trail was where road is now.)
 - Bateman "cut" a trail for us, but it's bumpy, stumpy and there are multiple drainage crossing issues from Drowne Road runoff (5 culverts now on the Town Trail).
 - "Beaver Bridge" to Route 9 Irving Trail was just re-routed this fall on the other side of Kim Waite's gray house on Route 9, due to the new "blue" house built in the field where the snowmobile trail used to run near the horse fence.

Proposal:

- Would like to use .70 miles of the "outer loop" Town Forest Trail for seasonal, shared use with snowmobiles, similar to our partnership over in the Rines Forest.
- This loop would be from M3ish on the Town map, around the outer loop, to M11 and down to Drowne Road (where the trail used to be).
 - Unless it made sense to extend all the way over to the Town Hall parking lot as a "park and ride" something that has been asked for in the past by Members. (Or for emergency access.)
 - We would also propose a new 100' "cut" from the Outer Loop, over to the "Bateman Trail" to the "Beaver Bridge" and Route 9 and the Irving Station.
 - I have marked the trail with orange ribbons and could manually clear the trail area next weekend.
 - This would eliminate the "Bateman Trail" located behind the Drowne Road houses.
 - Bill Shane stated the Town might cover the cost to backfill with dirt and possibly extend that trail toward the "Beaver Bridge".
- The inside loop could still be signed as "No Snowmobiling" and be pedestrian only, etc. (M11-M16)
- If accepted, we would **propose putting a bridge of some kind across the open pipe culvert** near M3, where the "Logging Road" trail hooks into the system, which is a better place to enter the Forest for snowmobiles. (Possible use of "mats" Club recently purchased from CMP.)
- Will create the ability for the Club to groom and pack the outer trail during the winter and provide easier access to groom over to Route 9, Irving, Turkey Lane and the Falmouth line on the other side of Range Road and also groom over to Tuttle, Val Halla, Greely Road, the pole line, etc.
 - This would provide a hard base for skiers, snow shoers or, walkers.
 - We would request that the "pole" and "bucket" be removed (at each end?) and submerged for winter access on the Drown Road "cutout" where the Club House may eventually go.
 - Original discussion with Bateman about the trail not crossing the sidewalk, etc.



Current status of the snowmobile trail – Poor



Other needs that should also be addressed



Concerns from L&CC:

- 1) **Pedestrian Safety** – We travel and maintain over 30 miles of multi-use trails in Cumberland and North Yarmouth each winter with zero issues. (Biggest potential issue are dogs off leash, but we experience this already on our trails.) It's an 8-10 week situation to work together on.
- 2) **Speed** – There isn't a straight-away on the "outer loop" trail for more than 50-100'. This will reduce speed greatly from snowmobiles, I'd estimate 25 mph as top possible speed. (Picture next slide.) "Reasonable and prudent" for the conditions is the Maine Law. There is no speed limit we can enforce.
- 3) **Request to use aluminum nails for proper signs** – Not a problem.
- 4) **Noise/Change in "experience"** - (1) Every snowmobile manufactured after February 1, 1975...in this State must be constructed to limit total vehicle noise to not more than 78 decibels of sound pressure level at 50 feet...." Other common noise decibel levels: City traffic (80), Vacuum Cleaner (80), Lawn Mower (90), Chain Saw (110). Snowmobiles currently use the Town Forest and area. Never had a dog walker complain about being on our trails and having snowmobiles interfering with their experience. We get a lot of "thank you" responses for keeping the trails open.



Snowmobile related accidents in Maine 2014

There were 28,896 traffic crashes on Maine public roads: 44,426 vehicles 62,130 vehicle occupants (drivers and passengers) 287 pedestrians 206 bicycles 28 ATVs 11 snowmobiles – 2014 Maine Highway Safety Facts

<http://www.themtc.org/publications/databook/maine-highway-safety-facts.pdf>

<http://www.maineinjurylawyerblog.com/category/snowmobile-accidents>

<http://www.mesnow.com/pdfs/2015Guide.pdf>

Six fatal snowmobile crashes occurred during the 2013-2014 riding season, which is Nov. 30, 2013 to April 30, 2014: Jan. 31, Byron; Feb. 1, Dixfield (on public way so Maine State Police investigated); Feb. 23, Farmington; March 4, Dover-Foxcroft; March 7, New Portland (on a public way so Somerset County S.O. investigated); March 22, Hermon.

<http://www.dailybulletin.com/db/features/new-snowmobile-safety-campaign-unveiled/>

Last season, there were 177 snowmobile crashes in Maine. Six of these were fatal. According to the Maine Warden Service, the most common reasons for these crashes are speed, driving beyond one's ability, and driving outside the distance of people's headlights at night.

<http://www.maineinjurylawyerblog.com/2015/01/snowmobile-season-in-maine.html>

Next Steps?:

1. Disappointed the L&CC didn't support our request. Looking for Town Council acceptance and support of proposal to maintain our partnership across all trails.
2. Sign the trails properly, affixing permanent signs to the trees on the Outer Loop, with plywood backing, using aluminum nails.
3. Request the Town to backfill sand/gravel across the 100' "crossover" to the "Beaver Bridge" Trail and extend, if applicable, to property line, with a sign like Rines Forest.
4. Request the Town cover the open pipe/culvert from "Tuttle Road" trail to Outer Loop with an 8' wide bridge. (Possible "mat" we recently purchased from CMP could work, but it's 4' x 16', could possibly cut one in two.)
5. Educate our Members on the changes, promote via Facebook page (nearly 300 viewers), discuss at Club Meetings (1st and 3rd Wednesdays at Toddy Brook).
6. Be responsible Stewards of the Town Forest, assisting in cutting downed trees, grooming the outer loop trail, assisting as needed, etc.
7. Future partnerships for Town trail use, changes, etc.? Support of 102 line re-opening.

The Council requested to have this item put on the next agenda so that they can act on it.

III. PUBLIC DISCUSSION

State Representative, Mike Timmons said that today, Governor LePage today delivered a letter to Legislative leadership and the State Treasurer clarifying his position and future intentions regarding bonding in 2016. In the letter the Governor indicates that he will issue \$5 million in Land for Maine's Future bonds, which were ratified in 2012. Authority to issue another \$6.47 million in LMF bonds was allowed to expire in November, due to Legislative inaction.

Chairman Bingham asked if the 6.47 million in LMF bonds that was allowed to expire due to Legislative inaction are gone forever or if the Legislature can turn that around.

Mr. Timmons said that there is a bill coming forward that will extend the time limit for those bonds.

IV. LEGISLATION AND POLICY

15 – 166 To hold a Public Hearing to consider and act on amendments to the mooring application and Chapter 84 (Fees and Fines), Section 12 (Moorings) of the Cumberland Code, as recommended by the Ordinance Committee.

Chairman of the Coastal Waters Commission, Lew Incze, presented the following:

Coastal Waters Commission

LEW INCZE, CHAIRMAN

DECEMBER 14, 2015

John Berrett
Dave Carlson
Hugh Judge
Mike Schwindt
Dave Witherill (Co-Chair)

Deb Flannigan, Staff
Tom Gruber, Council Liaison

4 recommendations for your consideration

Coastal Waters Commission 2015 Recommendations — Overview

1. New Mooring Application Form & Fees
2. Update and "Housekeeping" of existing Ordinance
3. Establish a New Mooring Area in Broad Cove
3. Provide a recommendation concerning a Pier-Sharing MOU between the Town and 179 Foreside HOA at Broad Cove Reserve

Coastal Waters Commission 2015 1. Mooring Application & Fees

- New Application Form (substantially revised from old one)
 1. Affects all moorings going forward, renewals and new applications
 1. Updated and reorganized content, more information
 1. More streamlined process for annual renewals – Check box if all information remains as before
- New Fee Structure - \$50 residents (year-round and seasonal and property owners); \$250 non-residents

Questions?
Public Hearing 15-166

Chairman Bingham opened the Public Hearing.

Public discussion: None

Chairman Bingham closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Edes, to amend the mooring application and Chapter 84 (Fees and Fines), Section 12 (Moorings) of the Cumberland Code, as recommended by the Coastal Waters Commission.

VOTE: 7-0

UNANIMOUS

15 – 167 To hold a Public Hearing to consider and act on repealing and replacing Chapter 48 (Coastal Waters) of the Cumberland Code, as recommended by the Ordinance Committee.

Mr. Incze presented the following:

Coastal Waters Commission 2015

2. Ordinance Overhaul

- Over-all clean-up and replacement of dated, unnecessary, and confusing language
- Defines mooring rights for ROWs
- Revises and explains how mooring location assignments are made
- Improves definitions and use of terms throughout (clarity and consistency)
- Updates mooring inspection requirements

(continued)

Ordinance Overhaul

(continued)

- Adds an appeal process for administrative decisions
- Currently ~40 moorings; interest in new ones in Broad Cove

Questions?
Public Hearing 15-167

Chairman Bingham opened the Public Hearing.

Public discussion: None

Chairman Bingham closed the Public Hearing.

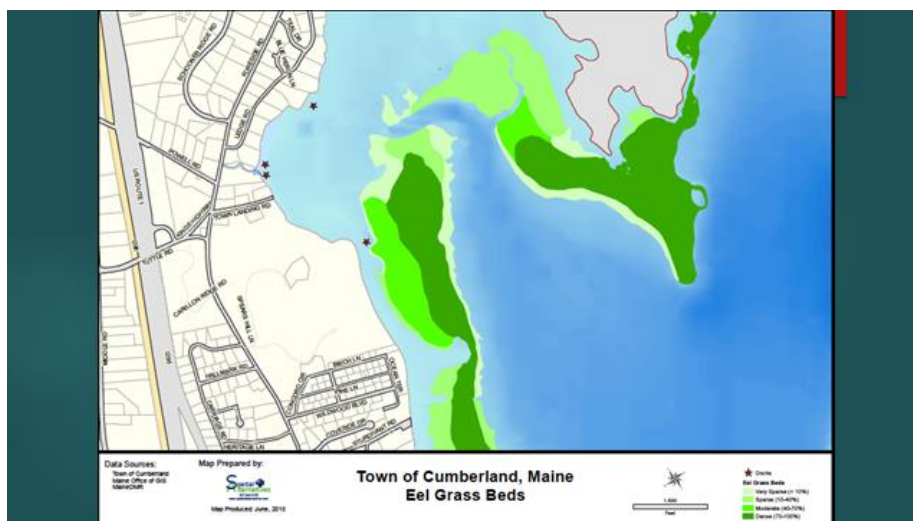
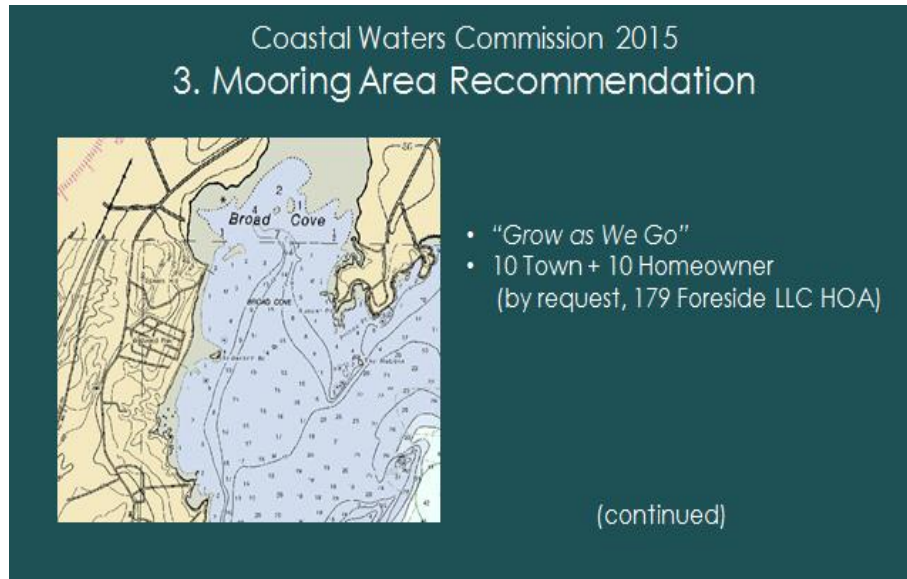
Motion by Councilor Gruber, seconded by Councilor Storey-King, to repeal and replace Chapter 48 (Coastal Waters) of the Cumberland Code, as recommended by the Coastal Waters Commission.

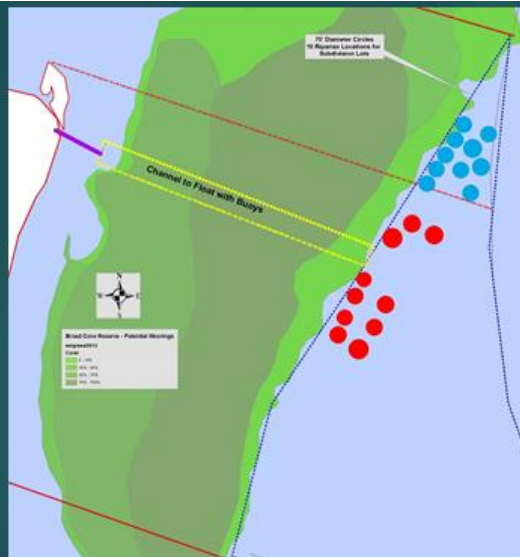
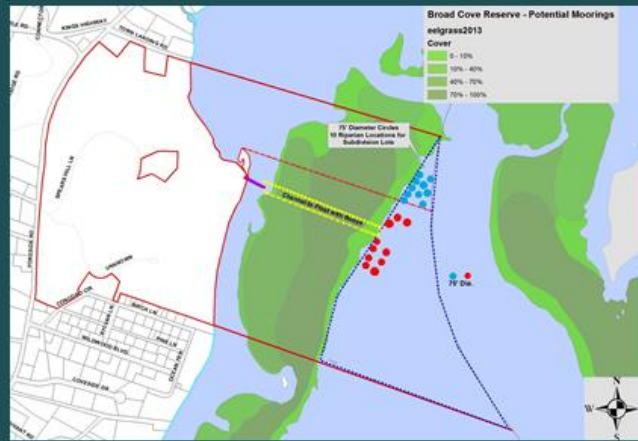
VOTE: 7-0

UNANIMOUS

15 – 168 To consider and act on authorizing the Town Manager to work with the Army Corps of Engineers and Coast Guard to create a new mooring area at Broad Cove Reserve.

Mr. Incze presented the following:





3. Mooring Area Recommendation (conclusion)

- Coast Guard & Army Corp Approval will be needed
- Tentative opening: Summer 2016
- 2 new floats for pier in 2016
 - multi-use, survey results
 - incorporated into future design
 - probably 12' x 24'



Questions?
Public Hearing 15-168

Motion by Councilor Gruber, seconded by Councilor Stiles, to authorize the Town Manager to work with the Army Corps of Engineers and Coast Guard to create a new mooring area at Broad Cove Reserve and add 1 or 2 additional floats in 2016.

VOTE: 7-0

UNANIMOUS

15 – 169 To hold a Public Hearing to consider and act on a Memorandum of Understanding with 179 Foreside Road, LLC for a future new pier at Broad Cove Reserve.

Coastal Waters Commission 2015
4. Pier-Sharing Agreement
(with 179 Foreside LLC HOA, *if* we go ahead with a pier replacement)

- Why is a new pier needed?
- What are the main points of the proposed agreement?
- What are the benefits to each party?

Engineering Report: Baker Engineers

Limited remaining service life



5 years or next major storm/icing

[illegible]

- HOA would pay ½ of capital cost of a replacement pier & floats, up to \$150,000
- HOA also would pay ½ annual maintenance up to \$5,000 (includes float storage), plus a matched contribution to capital reserve fund up to \$5,000 for maint./repair (5 yr renewable)
- Town maintains full ownership and rule (same rules for everyone)
- HOA would have their own dinghies (2; possibly up to 5 in future determined by need, practicality, and Town) [Recall that Town will also provide dinghies for public use.]

Benefits

- Agreement would help ensure existence of a quality pier into the future—benefit to HOA and Town, ~50-year life
- Town would realize huge initial capital cost savings in event of pier replacement (& operational savings first 5 years)
- HOA will have their own dinghies (Town will provide others)

*** Commission's unanimous recommendation ***



Agreement does not commit to pier replacement, a decision to be made later, but makes replacement much more affordable & attractive

- Survey results to date, future plans



**Questions?
Public Hearing 15-169**

Chairman Bingham opened the Public Hearing.

Nathan Bateman thanked the Council and the Coastal Waters Commission for all their hard work on coming up with an excellent design.

Ted Chadbourne of 50 Stockholm Drive asked if \$300,000 were spent on a new pier, would that expenditure be voted on by the residents?

Chairman Bingham said that it would be a budget item, not a bond.

Chairman Bingham closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Turner, to authorize the Town Manager to execute a Memorandum of Understanding with 179 Foreside Road, LLC for a future new pier at Broad Cove Reserve.
VOTE: 7-0 UNANIMOUS

15 – 170 To hold a Public Hearing to consider and act on amendments to Chapter 84 (Fees and Fines), Section 19 (Shellfish Licenses) of the Cumberland Code, as recommended by the Shellfish Conservation Commission.

Town Manager Shane explained that there is a shortage of clams in our clam flats right now. The Shellfish Conservation Commission has decided to reduce all recreational shellfish license fees to \$10.00 and to waive the senior resident licenses fee. The commercial license fees will remain the same.

Motion by Councilor Turner, seconded by Councilor Stiles, to amend Chapter 84 (Fees and Fines), Section 19 (Shellfish Licenses) of the Cumberland Code, as recommended by the Shellfish Conservation Commission.
VOTE: 7-0 UNANIMOUS

15 – 171 To consider and act on amendments to Chapter 261 (Taxation), Article I (Property Tax Assistance) of the Cumberland Code, as recommended by the Senior Circuit Breaker Committee.

Councilor Copp said that the Senior Circuit Breaker Committee met to discuss this item and feel that this is a good plan. The Town Manager and staff have work very hard to come up with this plan after the State eliminated the program.

Councilor Stiles added that the application is a little more complicated than the previous application, but Town Staff will be available to assist anyone who needs help filling it out.

Motion by Councilor Gruber, seconded by Councilor Copp, to amend Chapter 261 (Taxation), Article I (Property Tax Assistance) of the Cumberland Code, as recommended by the Senior Circuit Breaker Committee.
VOTE: 7-0 UNANIMOUS

15 – 172 To hear a report from the Tax Collector re: Foreclosed Properties.

Town Manager Shane said that we bring the foreclosed property list to the Council every year. He is happy to report that this year we only have one resident who has two properties on the list. Per the Council's policy, we allow taxpayers up to 3 months to work with staff to get the properties out of foreclosure. He recommends tabling this item to March 15th to work with them and get the taxes current.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to table to March 14, 2016.

VOTE: 7-0 UNANIMOUS

15 – 173 To appoint members to Boards and Committees.

Councilor Copp explained that the Nominating Committee met earlier this evening and is making the following recommendation:

Board of Adjustments and Appeals:

Reappoint Ron Copp, Sr., Christian Lewis, Michael Martin and Scott Wyman.

Board of Assessment Review:

Reappoint Mark Stevens and James Thomas

Board of Sewer Appeals:

Reappoint Ralph Oulton and Eileen Wyatt

Coastal Waters Commission:

Reappoint David Carlson and Hugh Judge

Appoint Anne Bulger

Cumberland Housing Authority:

Reappoint Connie Bingham and Bill Hanson

Appoint Sally Pierce

Lands & Conservation Commission:

Reappoint Ted Chadbourne, Ellen Hoffman and David Young

Appoint Sally Pierce and Anne Bulger

Planning Board:

Reappoint Jeff Davis

Appoint John Berrett

Prince Memorial Library Advisory Board

Reappoint David Echeverria

Recreation /Community Education Advisory Board

Appoint Patty Normandeau and Jeff Porter

Rines Property Citizens Advisory Committee

Reappoint Sally Stockwell, Bruce Wildes and Brian McAlister

Shellfish Conservation Commission

Reappoint John Berrett, Jessica Joyce and Robert Maloney

Appoint John Ryder and Ralph Oulton

Twin Brook Facility Advisory Committee:
Reappoint Michael Cooney, John Leavitt and Anne Witte

Val Halla Golf & Recreation Board of Trustees:
Reappoint Bill Hansen

Conservation Subdivision Advisory Committee:
Appoint Bob Waterhouse

The following committees will be sunset because they were task related committees and their work is complete:
Comprehensive Plan Update Committee
Cumberland Energy Advisory Committee
Land Use Committee
Veterans Monument Committee

Motion by Councilor Stiles, seconded by Councilor Copp, to accept the appointments as presented.
VOTE: UNANIMOUS

15 – 174 To authorize the Town Manager to accept a gift of 7.9 acres of land and to authorize the execution of a gift letter on the Town’s behalf in the amount of \$47,400.

Town Manager Shane explained that the property owners notified him that they are not going to list their land for sale until January and they prefer to wait until 2016 to gift the land to the Town. He recommended tabling this item to December 28th.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to table to December 28, 2015.
VOTE: 7-0 UNANIMOUS

15 – 175 To consider and act on the renewal of the Cumberland County Community Development Block Grant Program.

Town Manager Shane explained that this is a cooperative that we are involved in with multiple communities where we get together and decide how to spend the federal dollars that are sent to Cumberland County. This has been a successful program.

Motion by Councilor Turner, seconded by Councilor Copp, to authorize the renewal of the Cumberland County Community Development Block Grant Program.
VOTE: 7-0 UNANIMOUS

15 - 176 To set a Public Hearing date of December 28th to consider and act on Chapter 200 (Roads and Public Property), Section 2 (Animals at large) of the Cumberland Code, as recommended by the Ordinance Committee.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to set a Public Hearing date of December 28th to consider and act on Chapter 200 (Roads and Public Property), Section 2 (Animals at large) of the Cumberland Code, as recommended by the Ordinance Committee.
VOTE: 7-0 UNANIMOUS

15 – 177 To set a Public Hearing date of December 28th to consider and act on a Class I Liquor License application for Cumberland House of Pizza for the period of January 17, 2016 – January 17, 2017.

Motion by Councilor Stiles, seconded by Councilor Copp, to set a Public Hearing date of December 28th to consider and act on a Class I Liquor License application for Cumberland House of Pizza for the period of January 17, 2016 – January 17, 2017.

VOTE: 7-0 UNANIMOUS

15 – 178 To set a Public Hearing date of December 28th to consider and act on a Class I Liquor License application for Louie's Grill for the period of January 8, 2016 – January 8, 2017.

Motion by Councilor Stiles, seconded by Councilor Copp, to set a Public Hearing date of December 28th to consider and act on a Class I Liquor License application for Louie's Grill for the period of January 8, 2016 – January 8, 2017.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Edes – he attended the annual Employee Appreciation Luncheon recently. It was nice to recognize the great work that our Town employees do. Thank you to all of them.

Councilor Gruber – thank you to the Aging in Place Committee for all your hard work. The Committee will be submitting a 501-C-3 application which will put them into non-profit status. This will allow us to go after our own funding for our Aging in Place program.

The Down Easters Chorus performed a holiday concert at Town Hall recently. It was very well attended.

There will be a luncheon at the Congregational Church this Thursday.

The committee is working on a ride program with the Congregational Church.

Sally Maynard passed away last week. She will be missed in our community.

The Town Council Finance Committee will meet with the School Finance Committee next Monday to talk about each other's budget process.

Councilor Storey-King – thank you to the 7th graders at Greely Middle School who have been collecting items for a baby supply drive for the food pantry. It has been exciting seeing the student engaged in this.

Both the Greely boys and girls basketball teams are exciting to watch right now.

She has been noticing a lot of trash and cans and bottle litter around Town. We all need to be doing a better job of taking care of our community and not littering.

Councilor Turner – he feels that the Town did the right thing when we purchased the property at the Broad Cove Reserve.

Chairman Bingham – Mike Perfetti and the Cumberland Community Band played at the tree lighting recently. They really sounded great and do a tremendous job.

Happy Holiday's to everyone.

Councilor Stiles – the Joint Standing Committee met with North Yarmouth last week to discuss a management plan for the Knight's Pond Property. The meeting went very well.

The Library has a very good weekly e-newsletter that is very informative. Everyone should sign up and know what great programs are happening at the Library.

He reminded everyone that we are continuing to take donations for the 4-H auction for next year that will benefit the Food Pantry with meat products. He thanked Councilor Copp for his continuous donation of \$20 at every Council meeting.

He wished everyone a very Merry Christmas and a safe and Happy New Year.

Councilor Copp – he wants to recognize the hard work that the Town Manager put into bringing back the Senior Circuit Breaker program. The new program is possible because the Manager cares about our senior residents. He hopes that everyone eligible will take advantage of this new program.

During this holiday season, he urged everyone to remember those less fortunate.

Town Manager Shane – Deputy Chief, Evariste Bernier of the Cumberland Fire/Rescue Department was chosen as the Employee of the Year at the employee appreciation luncheon this year. Evariste is a dedicated employee who does so much and we are very fortunate to have him as an employee.

Police Officer, Ryan Martin responded to a rescue call for a man having a cardiac issue in North Yarmouth recently. Because of his EMT training, Ryan saved the man's life three times before the rescue arrived. Having our police officers being EMT certified is a tremendous service to our community.

The Food Pantry will be handing out 85 Christmas baskets this year. We truly appreciate all the donations that we receive.

VI. ADJOURNMENT

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

VOTE: 7-0 UNANIMOUS

TIME: 9:08 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary