

AGENDA

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, November 9, 2015

7:00 P.M. CALL TO ORDER

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

Excused: Chairman Bingham and Councilor Turner

Councilor Gruber explained that Chairman Bingham is out of the country and Vice-Chairman Turner is not feeling well this evening, so he will be acting Chairman for this meeting. Also, Town Manager Shane is not present this evening, so Assistant Town Manager, Chris Bolduc is here in his place.

I. APPROVAL OF MINUTES

Motion by Councilor Copp, seconded by Councilor Storey-King, to accept the October 26, 2015 meeting minutes as presented.

VOTE: 5-0 UNANIMOUS

II. MANAGER'S REPORT

Assistant Town Manager, Chris Bolduc, presented the following on the waste events that were held recently:

October 2015

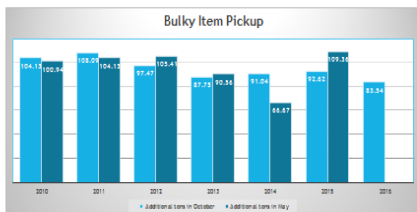
Waste and Recycling Events

Confidential Shredding October 3, 2015

- Event Cost = \$500.00
- Shredded = 5,000 pounds vs. Last year of 10,000 pounds
- Steady traffic during the event but slower than last year.

Bulky Item Pickup Week October 12-16th, 2015

- 83.4 Tons / \$4,970
- -10% to last year



Universal Waste Collection (Ewaste) October 17, 2015

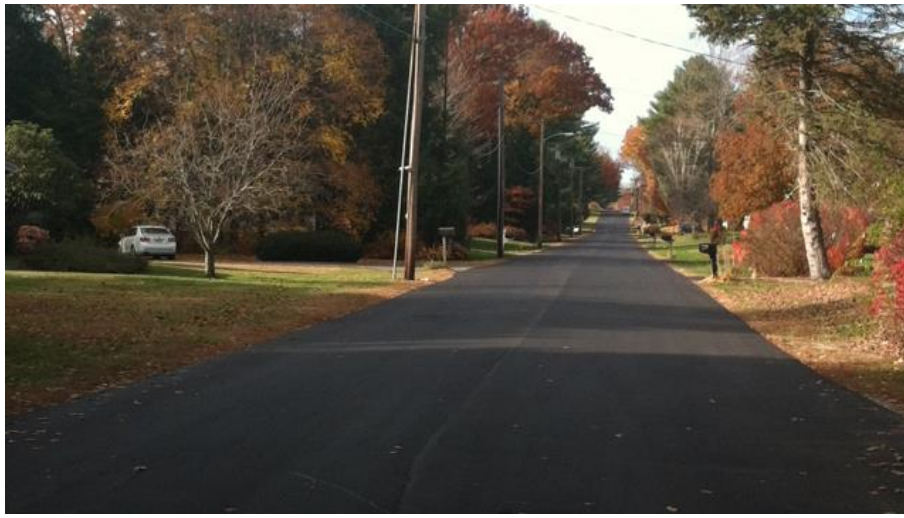
- TV's - 7,288 pounds
- Computers - 2,200 pounds
- Monitors - 615 units
- Air conditioners - 87
- Light Bulbs - 200
- Cost \$1,196 vs. Last year \$1,369
- Traffic down slightly

Assistant Manager Bolduc gave the following paving update:

Paving Update

- Blanchard Road - (Glenview to Bruce Hill Road)
- Bruce Hill Road (1000 Foot Maintenance Repair)
- Newell Ridge Road
- Oakridge Road Neighborhood
- Maple Street and Lawn Ave
- Cottage Farm Neighborhood
- Hedgerow Dr./Country Charm / Candlewick
- Pinewood Drive / Crestwood Drive
- Harris Road Access





III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

15 – 149 To consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 315 Blanchard Road.

Assistant Town Manager explained that this is a setback issue and the Code Enforcement Officer has determined that there are no health or safety issues. Staff is recommending approval.

Motion by Councilor Stiles, seconded by Councilor Edes, to authorize the Code Enforcement Officer to execute a Consent Agreement with the owners of 315 Blanchard Road.

VOTE: 5-0 UNANIMOUS

15 – 150 To adopt the committee charge for the new Conservation Subdivision Advisory Committee.

Town Planner, Carla Nixon explained that the Land Use Advisory Committee has recommended the adoption of a Conservation Subdivision Ordinance and appoint another committee to do work on this. The proposed committee charge is as follows:

The Conservation Subdivision Advisory Committee shall conduct the following steps in order to make recommendations to the Town Council on the advisability of adopting a Conservation Subdivision Ordinance:

- 1. Research and develop, with the assistance of a consultant and town staff, a draft conservation subdivision ordinance. The Committee shall take into consideration the results of an opinion survey conducted during the summer of 2015, and discussions by the Ad Hoc Land Use Advisory Committee on the subject.*
- 2. Consider which areas of town shall be subject to the provisions of a conservation subdivision. Options include: 1) All areas of town; 2) Only areas located within a designated Growth Area as described in the 2009 Comprehensive plan, as amended; 3) Only areas within the Rural Residential 1 and 2 zones.*
- 3. Consider whether the Conservation Subdivision ordinance should have waiver language to address unique hardships or situations specific to a proposed project.*
- 4. Determine if the current cluster subdivision ordinance provisions are sufficient to protect the rural character of the town or whether a more restrictive ordinance is needed.*

The Committee shall be comprised of 5 members of the community and one (non-voting) liaison each from the Planning Board and Town Council.

The Committee shall report its findings and recommendations to the Town Council no later than April 30, 2016.

Chris Neagle, Planning Board Chairman, said that he is a big proponent of the concept, but with all due respect to Town Staff, is disappointed in this proposal. A decision was made to have a Conservation Subdivision and there was specific criteria listed in the Land Use Committee report to the Town Council, and none of those are listed in the committee charge. To wait until April to decide whether we should adopt a Conservation Subdivision Ordinance is, with all due respect, disrespectful to him and the Land Use Committee. All we needed was a small committee to draft the ordinance. It came before the Council in August and he urged the Council to appoint the committee then, but instead they forwarded it to the Planning Board and it is now November. He is disappointed at the pace of this process.

Steve Moriarty, 34 Blanchard Road, was chair of the Ad Hoc Land Use Advisory Committee. It was the recommendation of the Land Use Committee to appoint this, smaller committee to work specifically on the Conservation Subdivision Ordinance.

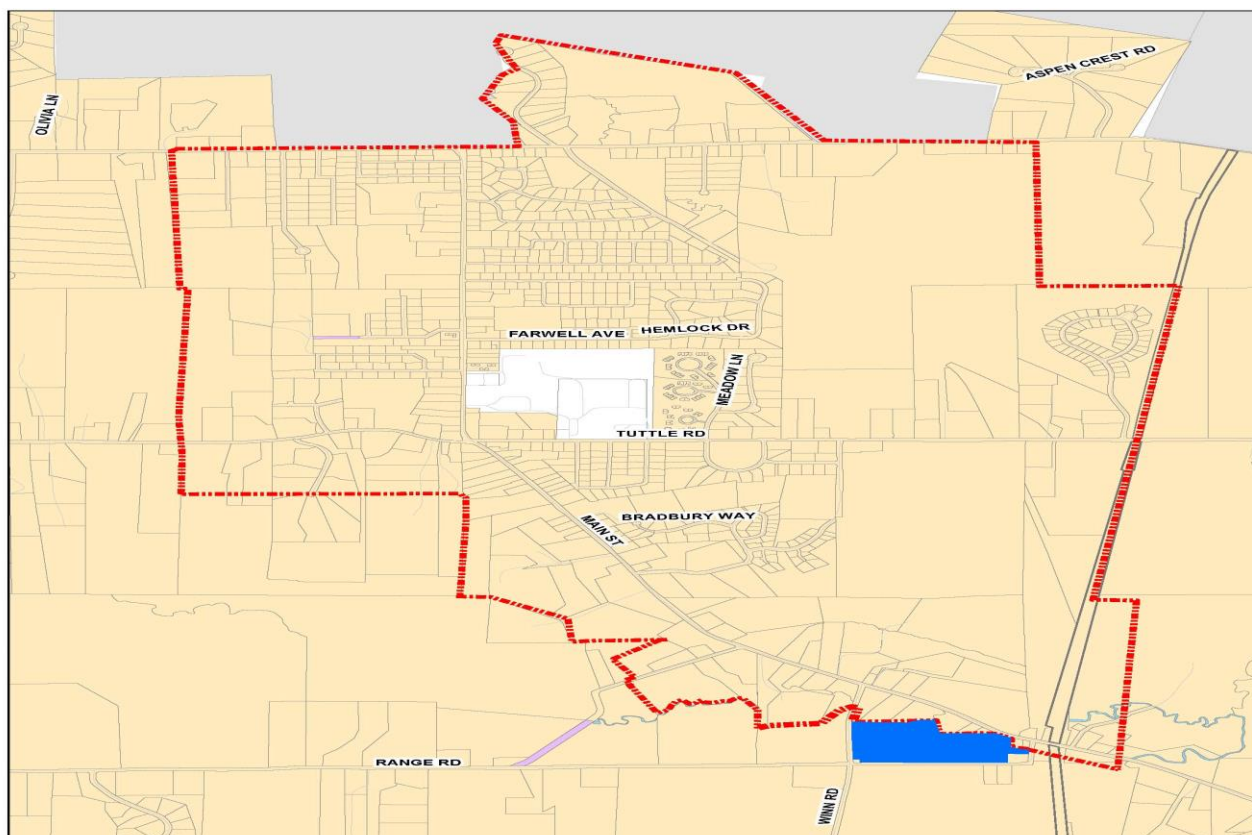
Motion by Councilor Stiles, seconded by Councilor Copp, to adopt the committee charge for the new Conservation Subdivision Advisory Committee and authorize advertising for committee members.

VOTE: 5-0 UNANIMOUS

15 – 151 To hold a Public Hearing to consider and act on amendments to the Town Center Growth Area and proposed zone changes as recommended by the Planning Board.

Town Planner, Carla Nixon explained that this was another recommendation from the Land Use Advisory Committee. The Council asked the committee to look at whether we should depict on the zoning map, what was described in the 2009 Comprehensive Plan as being a proposed Town Center Growth District. That area is described as extending from the MDR Zone to the Highway Commercial Zone, along the Route 9 corridor. (See map below). The area west of Route 9 has become quite controversial as it picks up the properties along Stockholm Drive and Strawberry Ridge and these are relatively new subdivisions with 4-acre minimum lot sizes. The concern is that if they are depicted in the growth area, that will cause that area to grow, and there will be less privacy for those residents. The growth area in and of itself does not change zoning. It is simply saying that this is the area of Town where growth should be directed. The purpose of a growth area is to put your growth where you have existing services. The second part of the action this evening is to consider changing the zoning in this

area from RR1 (4-acre minimum lot size) to RR2 (2-acre minimum lot size), and the committee recommended that action take place because changing the growth area without changing the zoning really does nothing. They go in hand in hand.

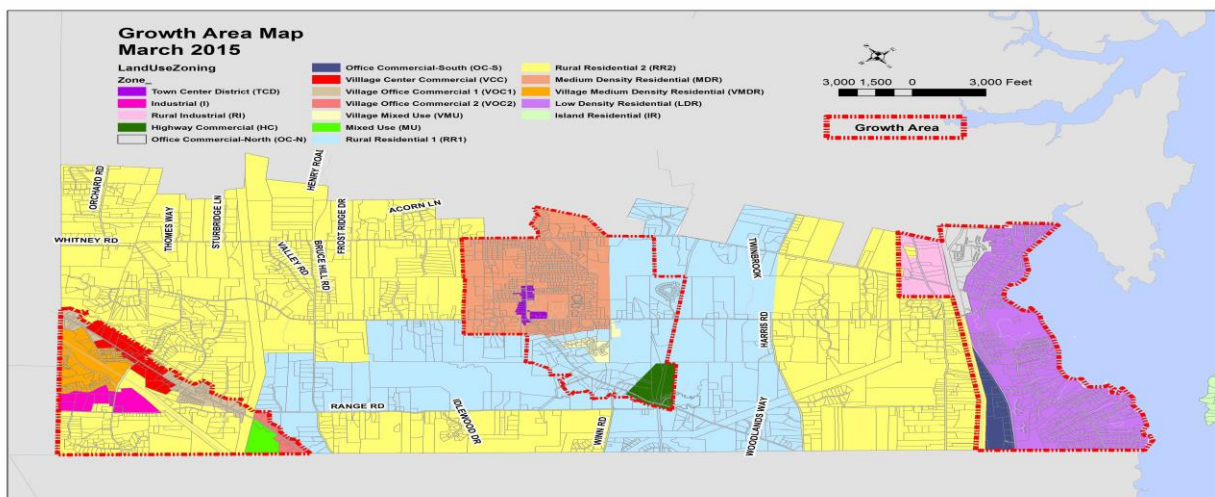


Proposed Growth Map - Main Street - Town Center Area



21 Acres Requested Growth Area
Growth Area

Steve Moriarty said that the 2009 Comprehensive Plan described 3 growth areas, the Foreside, the Center and the West. One of the Town Council's charges to the committee was to revisit the growth areas and determine whether any changes should be made. The committee came up with the areas depicted in red on the map below:



Mr. Moriarty said that the decision for the Council is to determine if these are the right boundaries, and if the zoning should be changed to facilitate growth, or leave it as it currently is.

Chairman Gruber opened the Public Hearing and requested that everyone please try to keep their comments to 5 minutes.

Brian Cashin of 12 Wildflower Way said that he would like to reiterate the points in the letter that he gave to the Town Council at their last meeting. The Town survey had 2 to 1 mandates to not change the RR1 and RR2 Districts. The survey had a 9.95 mandate to not disturb rural characteristic of our Rural Residential Districts. The recommendation is contrary to the survey results and the survey is the voice of the community. The process of taking a specific RR1 zone and culling out a small area of that zone, designating it for zone changes, and including it in the growth area, is tantamount to selective prosecution. The zoning recommendation is open ended and the Planning Board states that the lot size requirements within the RR1 zone portion of the growth area should be changed to allow more dense development. He feels that this recommendation should be disregarded.

Chris Neagle of Orchard Road said when looking at planning the worst thing you can do is to take into consideration what is there now, and if this is a good idea for those people. You need to step back and ask where this Town wants to aim its growth. This process can take years and he supports the recommendation.

Bob Vail of Cumberland Center said it is time for the Council to show some backbone (no offense). There is no justification to designate a growth area any place in this Town. The population in the state is still declining and there is no need for housing in the State of Maine. We don't do planning based on Cumberland County. We should be discouraging more housing because there is not a need for it.

Stephen Winn of 20 Stockholm Drive said that the survey told us that a 2 to 1 margin that the residents want to leave the RR1 and RR2 zones unchanged. The Planning Board held public hearings, that were very well attended by the public, and the sentiment was very much against the Planning Boards intent and recommendation. Someone asked if the Cianchette farm would be included in the growth area, the answer was no, because it is a farm. This seems very arbitrary to him and he hopes that there is not some underlying, insidious bias. The process and proposal is flawed on so many levels. It feels that his has been a rapid process and the people have spoken and he hopes that the Town Council listens and acts accordingly.

Richard Thompson, 213 Main Street said that he bought his land 32 years ago, built a house, and raised a family there. They would very much like to remain in their home. We are already in a growth area. He has seen it over the past 32 years that he has lived there. The speed of traffic on Main Street is unbelievable. The Village Green Property has displaced a lot of wildlife and he and his wife have contracted Lyme disease many times. Who is to say that someday the Town Forest will be developed? By the time those types of decisions are made, there will be other people on the Town Council. There is no compelling reason to make this change and he urged the Council not to make it.

Ken Cianchette of 43 Winn Road said that they would like to be included in the growth area. Yes, they are farm and they are always looking for ways to make the farm successful. In order to ensure that the land remains a working farm, they will look at creative ways to allow them to generate the necessary revenue to sustain the farm, such as Agra tourism or a Bed and Breakfast type of business. In order to do some long term planning and hopefully get some buy-in from the Council and to be responsible with the property, he hopes that they will be considered to be included in the proposed growth area.

Phil BIRTHISEL of 232 Main Street said that there is no sewer or natural gas on the west side of Main Street. Without services it really is not a growth area and it won't be very desirable to developers.

Marilyn Mathews of 215 Main Street said that she has seen an incredible increase in traffic on Main Street just since the Village Green neighborhood has been built. If you change zoning to make it possible to be developed, developers will be attracted to that area.

Dale Hahn of 7 Turkey Lane said that one of the reasons that she was attracted to this area is because it is an attractive rural community area. Things do change and there will be new development, but she is worried about where it might go (such as the Village Green subdivision). Change happens, but if it's not mindful, it can result in a not good place.

Chairman Gruber closed the Public Hearing.

Councilor Edes said the he agrees with Mr. Vail. He does not see why this designated area is needed.

Councilor Storey-King responded that the Town Attorney said that "Comprehensive Plans must address the State's goals established in 30A, MRSA section 4312. One of these goals is to encourage orderly growth and development in appropriate areas of each community and region while protecting the State's rural character, making efficient use of public services and preventing developmental sprawl". In defense of Village Green, we took a "totally yucky piece of property" and developed it into something nice where a lot of people live now. She also agrees with Councilor Edes and Mr. Vail. She is not sure that this is a hill to die on.

Councilor Stiles said the he also cannot find a reason to have a growth area, but he fought hard to get Range Road to be changed from 4 acre lots to 2 acre lots. He would like to see all zoning in Town be 2 acres lots.

Councilor Copp said that he does not want to make a decision this evening because the entire Council is not present. Village Green was a useless piece of land that now generated a lot of money in taxes to the Town. He does not necessary think that we need a growth district, but he also does not think that you can tell your neighbor that they cannot subdivide their land. We cannot afford to stay stagnant and we will continue to need new developments in Town. He will make a motion to table this. There are no projects on the horizon that this will affect in the immediate future.

Councilor Gruber said that this has been a good discussion and he appreciates all the public input. He has been thinking about this and he is concerned that if we agree tonight to allow the growth area, what happens when there is a new Council someday and they might use the area as a road map for growth.

Motion by Councilor Copp, seconded by Councilor Stiles, to table this item to the next meeting.

VOTE: 3-2 (Gruber and Edes opposed) MOTION PASSES

15 – 152 To hold a Public Hearing to consider and act on accepting Drowne Road, Wyman Way and Beach Drive as public roads.

Assistant Town Manager Bolduc explained that the Town staff and engineers have inspected the roads and staff is recommending acceptance of all three roads.

Councilor Copp said that there is a sign that says "No thru Traffic" at the end of Wyman Way. This is not appropriate for a Town road.

Assistant Town Manager Bolduc said that once it becomes a Town Road, it can likely be removed. This was part of the Planning Board approval.

Motion by Councilor Copp, seconded by Councilor Edes, to accept Drowne Road, Wyman Way and Beach Drive as public roads.

VOTE: 5-0 UNANIMOUS

15 – 153 To set a Public Hearing date of November 23rd to consider and act on the 2016 Shellfish License allocations, as recommended by the Shellfish Conservation Commission.

Motion by Councilor Copp, seconded by Councilor Edes, to set a Public Hearing date of November 23rd to consider and act on the 2016 Shellfish License allocations, as recommended by the Shellfish Conservation Commission.

VOTE: 5-0 UNANIMOUS

15 – 154 To set a Public Hearing date of November 23rd to consider and act on authorizing the Town Manager to execute a winter maintenance agreement with Castle Rock Drive.

Motion by Councilor Stiles, seconded by Councilor Edes, to set a Public Hearing date of November 23rd to consider and act on authorizing the Town Manager to execute a winter maintenance agreement with Castle Rock Drive.

VOTE: 5-0 UNANIMOUS

15 – 155 To set a Public Hearing date of November 23rd to consider and act on draft zoning amendments to Section 315-71 F (Residential Care Facilities) of the Cumberland Code, as recommended by the Planning Board.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to set a Public Hearing date of November 23rd to consider and act on draft zoning amendments to Section 315-71 F (Residential Care Facilities) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 5-0 UNANIMOUS

V. NEW BUSINESS

Councilor Edes – He is excited to announce that Cumberland resident, Brigadier General, Gerard Bolduc, has agreed to speak at the Memorial Day celebration next year.

He asked the Councilors present if they would be interested in looking into electronic voting for Council meetings. With 2 Councilors absent this evening, with electronic voting, they could still vote even though they cannot be physically present at a meeting.

Councilor Stiles wondered if electronic voting is legal.

Councilor Storey-King said that it is an interesting proposal but she's not sure that she is ready for it.

Councilor Storey-King – Congratulations to the Greely Girls Soccer Team for winning the State Championship.

Congratulations to Katherine Leggat-Barr who placed first in all cross-country classes in the State.

Congratulations to all the Greely Student Athletes for their individual and collaborative successes.

Councilor Gruber – Thank you to Cumberland/North Yarmouth Cub Scout Pack 13, who last Saturday, delivered a ton of food to the Food Pantry.

The Cumberland/North Yarmouth PTO will be hosting a “Stuff a Bus” event to benefit the Food Pantry. They also did it last year and it was a huge success.

The Aging in Place Community Forum was held on October 31st and over 200 people attended. Thank you to the committee and Bill and Linda Shane for all your hard work.

The Food Pantry just celebrated its 3rd anniversary. Thank you to everyone who has supported us through the years.

Thank you to all the apple orchards in Cumberland and North Yarmouth who have donated to the Food Pantry.

Councilor Stiles – The final total of donations to the 4-H auction to buy meat products for the Food Pantry was \$10,150.00. He is ready to start again for next year. Representative Timmons has already given him \$100 toward his goal and Councilor Copp will give him \$20 at every Council meeting.

Councilor Copp – Blackstrap Road is in the final stages of repair. There has been some traffic congestion on the Route 100 end, but they should be finished soon.

With the time change, a reminder to walkers and cyclists that it is extremely hard to see you in the dark. If you are going to go out walking or bicycling, please remember to wear something reflective.

VI. ADJOURNMENT

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

VOTE: 5-0 UNANIMOUS

TIME: 9:27 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary