

# **MINUTES**

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, October 12, 2015**

**6:00 P.M. EXECUTIVE SESSION** of the Appointments Committee pursuant to 1 M.R.S.A. § 405(6)(A)(1) re: a personnel matter.

Motion by Chairman Bingham, seconded by Councilor Turner to recess to Executive Session pursuant to 1 M.R.S.A. § 405(6)(A)(1) re: a personnel matter.

VOTE: 3-0 UNANIMOUS

TIME: 6:02 P.M.

## **7:00 P.M. CALL TO ORDER**

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

### **I. CALL TO ORDER**

### **II. APPROVAL OF MINUTES**

Motion by Councilor Gruber, seconded by Councilor Stiles, to accept the September 28, 2015 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

### **III. MANAGER'S REPORT**

Town Clerk, Tammy O'Donnell swore in Police Sergeant, David Young.

### **IV. PUBLIC DISCUSSION**

Mark McConnell of Maple Street said that the Lawn Avenue and Maple Street neighborhood is currently having drainage and pavement repair work done. There was an incident where the natural gas line was ruptured and the gas had to be shut off in the neighborhood. He was fortunate enough to meet with Summit Natural Gas and they asked if they could come inside his home to be sure that his boiler was running properly after the gas had been shut off. Fortunately, his system had reset itself and was running fine. His issue is that he is not aware that his neighbors had been notified that the gas had been shut off. He heard of one neighbor who didn't know how to reset one of her appliances that runs off natural gas. He asked what protocol the Town has in situations like this and who is responsible for making repairs if this happens again.

Town Manager Shane responded that this incident was not the fault of the contractor. The line was mismarked by over 6 feet. When the line was struck, Summit was onsite and informed the Town that they had picked up the underground telephone cable instead of the gas main. The PUC was onsite immediately and Summit personnel were working with the customers affected. The Town does not have a list of customers who are on natural gas. He said that the correct protocols were followed. Summit personnel are trained to reset appliances if need be, so customers should contact them directly for this type of assistance.

Sam York of Fox Run Road and Chairman of the Lands and Conservation Commission invited the Council and the public to the grand opening of the new and improved trails in the Town Forest. The ribbon cutting will be on Saturday, October 24<sup>th</sup> at 2:00 p.m.

Heidi Leseige of Pleasant Valley Road asked what the guidelines are for open burning. She is having an issue in her neighborhood and a dispute with a neighbor. The fires that the neighbor is having are producing thick smoke that is a nuisance at her home. On September 27<sup>th</sup> they came home to find that their smoke alarms were going off and there was smoke in the children's bedrooms on the second floor, due to a fire that the neighbor had. She found that the fire rules for the State and the rules for Cumberland leave some gray areas. The State has a nuisance ordinance which Cumberland does not. However, Cumberland's regulations says that a burn permit can be revoked if a nuisance is created. It also says that there will be no burning within 50 feet of any structure. The neighbor's fire pit is dangerously close to their fence and very close to the other neighbor's house. She is here this evening looking for help with the guidelines for fire pits.

Town Manager Shane asked Ms. Leseige if there have been any fires since he met with her at the property. She said there has not. He said that the Town does not regulate fire pits or smoke. The only thing that is permitted to be burned in Cumberland is leaves and brush. He advised Mr. Strom (the other neighbor) that he would have to file civil action with an attorney because the neighbors are not violating any ordinances. This has all come about because of a property boundary dispute. The majority of the homes on Pleasant Valley Road were placed on their lots as if it was a 3 rod road back in the 1700's, and it is actually a 4 rod road. Most of the homes are very close to or in the setbacks. We are doing a survey now to see how the extensive the boundary problems are.

Ms. Leseige said that she is not saying that they do not want the neighbor's using their fire pit. The issue is that since the boundary dispute began, the fires have become very smoky.

Town Manager Shane said that they have agreed not to burn again or the pit will have to be moved because it is currently in Town owned property. That was the compromise while the property line issue is untangled. He suggested sending this issue to the Ordinance Committee to consider adding it to a nuisance or solid waste ordinance.

## **V. LEGISLATION AND POLICY**

**15 - 135 To hold a Public Hearing to consider and act on authorizing the Town Council Chairman to send a letter to inform the Town of Windham that effective December 1, 2015, the Town of Cumberland will no longer be able to provide primary response services for Fire, EMS and Police. The Town will continue to assist with mutual aid calls as circumstances allow.**

Town Manager Shane explained that Councilor Copp and Councilor Edes have been very involved with the Windham Town Council to try to resolve this issue. The Town of Windham is trying to work with the homeowner's associations around the lake to fix the road conditions and lack of turnarounds. What we ultimately need is better winter maintenance on the roads and turn arounds for our emergency vehicles to get back out. He does not believe that Windham will be ready by this winter and we cannot send our equipment into those conditions again.

Chairman Bingham opened the Public Hearing.

Public discussion: Tony Plante, Windham Town Manager said that the Town of Windham spent some time researching the development in that area and there has been some development over the past few years that has contributed to the problem with the roads. The Windham Town Council voted in September to enact an emergency moratorium on development on Lakeside Drive, James Way, Atlantic Drive and Bruschi Road. This at least puts a halt on further development worsening this problem right now. Part of the problem is they are dealing with private ways that were built before their road standards went into effect. They are somewhat limited in being able to physically assist the road associations. Winter maintenance has been the

most challenging issue in that area and they are working with the residents and associations to make improvements. Councilor Chapman has helped coordinate a work day with the residents to deal specifically with the issue of hammerhead turnarounds. Mr. Plante said that they are getting closer to a solution and still have some hurdles to clear. They understand where Cumberland is coming from, but if action can be postponed and be brought back up before December 1<sup>st</sup>, they would appreciate it.

Donna Chapman, Windham Town Councilor, said that they have worked very hard since August to try to address this matter. She said that the hammerhead turnarounds should be done about the same time as the clean-up day. She is worried about Cumberland not being the first responders to that area. Windham is 7 minutes away.

Chairman Bingham closed the Public Hearing.

Councilor Copp said that Cumberland is not going to ignore emergency calls and he won't be surprised if we are still the first ones to show up on scene. If these issues are addressed he feels that we can revisit this. Snow season is right around the corner and he feels confident that the issues will be taken care of.

Councilor Edes said that we are going in a direction the Windham does not want us to go, but there are 800 plus acres in that area that can be developed. He hopes that Windham will develop a long term plan as well.

Motion by Councilor Turner, seconded by Councilor Copp, to authorize Chairman Bingham to send a letter to inform the Town of Windham that effective December 1, 2015, the Town of Cumberland will no longer be able to provide primary response services for Fire, EMS and Police. The Town will continue to assist with mutual aid calls as circumstances allow.

VOTE: 7-0                      UNANIMOUS

**15 – 136 To hold a Public Hearing to consider and act on authorizing the Town Manager to order a traffic count for the intersection of Blanchard and Skillin Roads to determine if the stop sign at Blanchard Road can be removed.**

Town Manager Shane said the Gorrill Palmer Engineers have agreed to do a traffic count to study the intersection giving us data to analyze. The cost will not exceed \$2,500. Mr. Neagle brought up a lot of good points about the increase in homes and traffic in that area. Manager Shane said that he recommends approving the traffic study.

Chairman Bingham opened the Public Hearing.

Public discussion: Brenda Sherwin, who lives on the corner of Skillin and Blanchard Road (owns a home daycare there), said that she likes the stop sign being there. There is a lot more traffic in that area now and before the stop sign was installed, there were a lot of accidents there. There is a lot of pedestrian and bike traffic in the area also.

Chris Neagle, 76 Orchard Road, thanked the Council for keeping this issue alive. Stop signs in general, create problems as well as safety benefits. Problems include wasted gasoline (pollution), money spent in gasoline by stopping, wear and tear on vehicles, and time. The basic question is why protect the left turn. He is not aware of any other intersection in the entire Town where the left turn is protected. He thinks the traffic study is worth the money, and fully supports it and hopes that neighborhood meetings will be held after the study results are in and before the sign is removed.

Chairman Bingham closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Turner, to authorize the Town Manager to order a traffic count for the intersection of Blanchard and Skillin Roads to determine if the stop sign at Blanchard Road can be removed.

VOTE: 4-3 (Edes, Gruber and Bingham opposed) MOTION PASSES

**15 – 137 To hold a Public Hearing to consider and act on an Automobile Graveyard/Junkyard and Automobile Recycling Permit for Cumberland Salvage for the period of October 31, 2015 – October 31, 2020.**

Chairman Bingham opened the Public Hearing.

Public discussion: none

Chairman Bingham closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to approve the Automobile Graveyard/Junkyard and Automobile Recycling Permit for Cumberland Salvage for the period of October 31, 2015 – October 31, 2020.

VOTE: 6-0-1 (Copp abstained) MOTION PASSES

**15 – 138 To hold a Public Hearing to consider and act on an Automobile Recycling Permit for Copp Motors for the period of October 31, 2015 – October 31, 2020.**

Chairman Bingham opened the Public Hearing.

Public discussion: none

Chairman Bingham closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Stiles, to approve the Automobile Recycling Permit for Copp Motors for the period of October 31, 2015 – October 31, 2020.

VOTE: 6-0-1 (Copp abstained) MOTION PASSES

**15 – 139 To hold a Public Hearing to consider and act on draft amendments to change the zoning from Rural Residential One (RR1) district to Village Mixed Use Zone (VMU) for the property located at 306 Tuttle Road, as recommended by the Planning Board.**

Town Manager Shane said that at the Planning Board meeting, Steve Moriarty came up with a great idea that any lots in the VMU zone that abuts Tuttle Road are required to have 20,000 square feet, not 5,000 of frontage. By that, we are able to get the landowner what he needed and protect the rest of the area on Tuttle Road from unintended consequences that sometimes come with some zone changes.

Chairman Bingham opened the Public Hearing.

Public discussion: none

Chairman Bingham closed the Public Hearing.

Motion by Councilor Edes, seconded by Councilor Gruber, to approve the draft amendments to change the zoning from Rural Residential One (RR1) district to Village Mixed Use Zone (VMU) for the property located at 306 Tuttle Road, as recommended by the Planning Board.

VOTE: 6-1 (Stiles opposed) MOTION PASSES

**15 – 140 To appoint a member to the M.S.A.D. 51 School Board.**

Councilor Copp said that the Nominating Committee met earlier and have chosen Michael Brown to fill the vacant School Board seat.

Motion by Councilor Copp, seconded by Councilor Gruber, to appoint Michael Broad to the M.S.A.D. 51 School Board to fill a vacancy until the next regular municipal election on June 14, 2016.

VOTE: 7-0 UNANIMOUS

**15 – 141 To hold a Public Hearing to consider and act on amendments to the Purchase and Sale Agreement for the Knight's Pond properties and to authorize the Town Manager to execute said agreements.**

Town Manager Shane explained that documents had to be revised prior to the closing this week. If and when the Lands for Maine's Future funds are released, it is important to indicate that money is to go to the Land Trust, not the Town.

Chairman Bingham opened the Public Hearing.

Public discussion: none

Chairman Bingham closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to amend the Purchase and Sale Agreement for the Knight's Pond properties and to authorize the Town Manager to execute said agreements.

VOTE: 7-0 UNANIMOUS

**VI. NEW BUSINESS**

**Councilor Edes** – he reminded everyone that it is bulky trash pickup week.

**Councilor Gruber** – the Aging in Place Committee will hold a community forum on Saturday October 31<sup>st</sup> beginning at 10:00 a.m. at the Middle School. This committee works very hard and he cannot thank them enough.

Congratulations to Councilor Stiles and the 4-H kids on another successful auction. The food pantry was able to purchase 3 pigs and a cow.

Last week there was a joint dinner meeting with the Cumberland Town Council, North Yarmouth Selectmen and the MSAD 51 School Board. It was a good meeting and he hopes that the finance committees can also get together to meet soon.

**Councilor Storey-King** – thank you to the Fire/Rescue department for a great job done in helping to save the football player from Leavitt High School who got received a hard hit from a Greely player who was wearing a cast. There is no doubt that their response saved the young man's life.

Condolences to the family of John Fulda who passed away recently. John was a longtime member of the Cumberland Fire Department. Per his wishes, there will be no service. Donations can be made to the fire department in his memory.

There is a confirmed case of viral meningitis at the Mable I. Wilson School. Everyone should be vigilant about spreading germs and hand washing.

To our friends in North Yarmouth, get informed about your local referendum items and remember to get out and vote.

**Councilor Turner** – Atlantic Regional Credit Union is offering free document shredding for their customers during the month of October, if anyone missed the Town's shredding event.

**Chairman Bingham** – Martha (Marty) Porch passed away recently. A lot of people know the Porch's through their ownership and operation of the Lobster Shack. Marty's service to the Town goes back 30 years, with the Comprehensive Plan Committee and Planning Board. Her family has done a lot for this Town.

**Councilor Stiles** – Thank you to all those who donated to the 4-H auction fund and to Councilor Copp for purchasing a pig for the food pantry. The donations help the 4-H children and their projects. Most of the kids use the money toward their collage funds. The meat products help those families who use the food pantry.

He felt that the joint meeting was a good meeting. We do need to work together at budget time so we know what each other is doing.

It is hunting season, so remember to wear orange if out walking in or near the woods.

**Councilor Copp** – Bulky pick up week is going on now and there are televisions sitting on the side of the road what will not be picked up. He did notice that there were fewer items left out that would fit into a Town trash bag. People seem to be doing better with this and hopefully our tonnage will be down.

357 days from today, the Cumberland Fair will start. He gave Councilor Stiles \$20 to go toward the 4-H auction next year and said he would try to do the same every Council meeting to help with the \$10,000 goal for next year.

**Town Manager Shane** – the Greely football physician, Dr. Kate Winn wrote a very nice note saying that the training and no-nonsense approach that Cumberland Rescue has saved that young man's life at the football game last week. The Fire/Rescue Department does a phenomenal job at keeping the high level of service that we have in this community. They are dedicated, they train every week, practice their trade, and give back to the community. He is very proud of all of those who serve the community and we are all fortunate to have them.

At the October 26<sup>th</sup> Council meeting, Town Attorney, Ken Cole will be here to give the Town an update on where we are with the Payson Property lawsuit. Tom Gorrill of Gorrill-Palmer Consulting Engineers will also be here to give us an overview of the Route One turning lanes that will hopefully be installed next summer. This is a partnership project with the State as part of our TIF District. We are looking to have center turn lanes from Tuttle Road north, almost to the Yarmouth town line, and from Pack Edge to the Falmouth town line.

- VII. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.  
Motion by Councilor Stiles, seconded by Councilor Edes, to adjourn to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.  
VOTE: 7-0 UNANIMOUS  
TIME: 8:41 P.M.

Reconvene to regular session at 9:37 P.M.

**VIII. ADJOURNMENT**

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

VOTE: 7-0 UNANIMOUS

TIME: 9:37 P.M.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary