

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, June 1, 2015**

## 6:00 P.M. CALL TO ORDER

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

**Excused:** Councilor Copp

**EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property and § 405(6)(E) consultation with the Town Attorney.

Motion by Councilor Bingham, seconded by Councilor Turner, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property and § 405(6)(E) consultation with the Town Attorney.

VOTE: 6-0 UNANIMOUS

TIME: 6:00 P.M.

Reconvene to regular session at 7:00 P.M.

Motion by Councilor Stiles, seconded by Councilor Turner, to add Agenda item 15-076 to set a Public Hearing date of June 15<sup>th</sup> to consider and act on an agreement with 179 Foreside, LLC for a licensing agreement for use of the pier and float located at 179 Foreside Road.

VOTE: 6-0 UNANIMOUS

## I. **APPROVAL OF MINUTES**

Motion by Councilor Bingham, seconded by Councilor Turner, to accept the May 11, 2015 minutes as presented.

VOTE: 6-0 UNANIMOUS

## II. **MANAGER'S REPORT**

The Council thanked Susan McGinty for her service as Cumberland's representative on the Ecomaine board for the past 23 years. Susan was presented with a Town chair.

Bob Storey, President of the Cumberland Cemetery Association explained that there is a tool shed located in the Congregational Cemetery that is in disrepair. The Cemetery Association hopes to preserve the integrity, appearance and safety of all cemeteries in Town and asked the Town Council to consider alternative uses or location for the structure. It has no value to them and they have no expectation of using it in the future.

Town Manager Shane suggested posting notices to see if the building was of any interest to anyone who wants to take it down and move it out of the cemetery. If we don't hear from anyone by Labor Day, we will put it a Council agenda to authorize the demolition of the building.

## III. **PUBLIC DISCUSSION**

None

#### **IV. LEGISLATION AND POLICY**

**15 – 067 To hold a Public Hearing to consider and act on amendments to the Town Center District (TCD) Zone to allow outdoor seating without requiring any additional parking or counting toward the 48 maximum indoor seats (Maximum 16 outdoor seats), as recommended by the Planning Board.**

Councilor Storey-King explained, on behalf of the Ordinance Committee, that outdoor seating is prohibited at Louie's Grill, but is not prohibited at Food Stop (directly across the street) or at Doc's Café. Food Stop is grandfathered and Doc's went through the Planning Board process and got permission for outdoor seating. There is a corner of property at the front of Louie's that Mr. Guidi wants to allow 3 or 4 outdoor tables. The Ordinance Committee created some language, sent that language to the Planning Board and now feels that there are 2 options to consider. One option is to consider outdoor seating to not count against total restaurant seating, and the other is to consider outdoor seating to not count against total seating with no additional parking requirement. The Ordinance Committee is recommending the second option because of the seasonal nature of outdoor seating, and hopefully encouraging people to bike or walk there. The action this evening is an ordinance change and Mr. Guidi still has to go before the Planning Board for approval to get his proposed use accepted.

Chairman Gruber opened the Public Hearing.

Carolyn Currie, an abutter at 321 Main Street said that she has no issue with parking, but would like to address the issue of buffering and noise mitigation, as the outdoor seating will be directly beside the south facing windows of her home. While Main Street does have some traffic noise, it is not continuous all day, and they have found that voices carry in a very different way than the white noise of traffic. She requests:

- 1) Restricting the hours of use until after 9:00 a.m. and require that nobody is out there after 9:00 p.m., including staff.  
Chairman Gruber advised Ms. Curry that the Planning Board will address this concern.
- 2) No smoking be allowed on the premises per state law, with signage to alert customers.  
Chairman Gruber advised Ms. Curry that the Planning Board and State will address this concern.
- 3) A continuation of the 6 foot fence along the driveway up to the picket fence in place now, in order to maintain their privacy.  
Chairman Gruber advised Ms. Curry that the Planning Board will address this concern.
- 4) Noise, lighting and music restrictions.  
Chairman Gruber advised Ms. Curry that the Planning Board will address this concern.
- 5) Police the area so kids and others do not use the outdoor seating during the off hours to hang out.  
Chairman Gruber advised Ms. Curry that the Police Department will address this concern.

Ms. Curry thanked the Council for listening and her hope is to have a balanced and fair neighbor situation in a mixed use zoning area.

Jim Guidi, owner of Louie's Grill, said that this outdoor seating is necessary for his daytime, lunch business. He does not see it as an evening operation and he will not be installing any outdoor lights. He simply wants the opportunity to compete with the other restaurants who offer outdoor seating.

Motion by Councilor Storey-King, seconded by Councilor Bingham, to amend Section 315-21 B. (9) Cafes, maximum 2,500 square feet, with no drive-through and in accordance with Section 315-21 B. (9) Cafes, maximum 2,500 square footage shall not include internal storage areas and outdoor seating areas. Square footage shall include bathrooms, prep areas, cooking area and dining area.

Section 315-21 F. (3) Café Standards. (d) Outdoor Seating is permitted but must be buffered from adjacent uses by fencing and plantings unless located between the front of the structure and the public way. Outdoor Seating shall not be counted toward the total seating referenced in § F. 3 (a). Outdoor seating shall be permitted for up to 16 seats unless the Planning Board finds the unique characteristics of the site allows for additional outdoor seating. No additional parking shall be required for outdoor seating, as recommended by the Ordinance Committee.

VOTE: 6-0                      UNANIMOUS

**15 – 068      To hold a Public Hearing to consider and act on an amendment to the Contract Zone Agreement with Osgood Village to define income requirements for the two affordable units, as recommended by the Planning Board.**

Town Manager Shane explained that this came up after one of the owners had a very difficult time meeting the low income standards that were placed in the Contract Zone Agreement. The Planning Board agreed to follow the Council’s recommendation and make the income requirement in line with the median standard income requirements of \$77,000, as defined by the Metropolitan Statistical Area (MSA). Staff is recommending the same.

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Edes, to amend the Contract Zone Agreement for Cumberland Center Group, LLC, Osgood Village Condominiums to amend Section II (A)(2) (Permitted Uses Within the Contract Zone) “Affordable Housing”, exclusively for occupancy as ~~“low income”~~ “affordable income” household, which shall have the same meaning as the Federal median income by family size for ~~“low income”~~ “affordable income” households as published by the current Department of Housing and Urban Development (HUD) for the applicable Metropolitan Statistical Area (MSA), as recommended by the Planning Board.

VOTE: 6-0                      UNANIMOUS

**15 – 069      To hold a Public Hearing to consider and act on amending the Traffic Ordinance to prohibit parking in Fire Lanes and within 10’ of a fire hydrant, as recommended by the Ordinance Committee.**

Town Manager Shane explained that there is no State Law that prohibits parking in front of a fire hydrant, so the Traffic Ordinance had to be amended to it can be enforced. The police and fire departments have reviewed this and are recommending approval.

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Edes, seconded by Councilor Stiles, to amend the Traffic Ordinance to prohibit parking in Fire Lanes and within 10’ of a fire hydrant, as recommended by the Ordinance Committee.

VOTE: 6-0                      UNANIMOUS

**15 – 070 To hold a Public Hearing to consider and act on amendments to Section 315-4 (Definitions and Uses) of the Cumberland Code to add: Catering Service, Commercial Kitchen, Outdoor Seating Area, Café, Health and Fitness Studio, as recommended by the Planning Board.**

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Turner, to amend Section 315-4 (Definitions and Uses) of the Cumberland Code to add: Catering Service, Commercial Kitchen, Outdoor Seating Area, Café, Health and Fitness Studio, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

**15 – 071 To hold a Public Hearing to consider and act on adding the following permitted uses in Section 315-14 Village Center Commercial (VCC), and Section 315-11 Highway Commercial (HC) districts of the Cumberland Code: Commercial Kitchens, Catering, Outdoor Seating Area, Café and Health and Fitness Studio, as recommended by the Planning Board.**

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Turner, to add the following permitted uses in Section 315-14 Village Center Commercial (VCC), and Section 315-11 Highway Commercial (HC) districts of the Cumberland Code: Commercial Kitchens, Catering, Outdoor Seating Area, Café and Health and Fitness Studio, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

**15 – 072 To hold a Public Hearing to consider and act on adding as permitted uses to Section 315-15 Village Office Commercial 1 (VOC1) of the Cumberland Code: Commercial Kitchens, Catering and Health and Fitness Studio, as recommended by the Planning Board.**

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Turner, to add as permitted uses to Section 315-15 Village Office Commercial 1 (VOC1) of the Cumberland Code: Commercial Kitchens, Catering and Health and Fitness Studio, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

**15 – 073 To hold a Public Hearing to consider and act on adding as permitted uses to Section 315-20 Rural Industrial (R1), and Section 315-19 Industrial (I) districts of the Cumberland Code: Commercial Kitchens and Catering, as recommended by the Planning Board.**

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Turner, to add as permitted uses to Section 315-20 Rural Industrial (RI), and Section 315-19 Industrial (I) districts of the Cumberland Code: Commercial Kitchens and Catering, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

**15 – 074 To consider and act on authorizing the Town Manager to process Senior Circuit Breaker Program payments.**

Motion by Councilor Bingham, seconded by Councilor Edes, to authorize the Town Manager to process Senior Circuit Breaker Program payments as presented.

VOTE: 6-0 UNANIMOUS

**15 – 075 To consider and act on authorizing the Code Enforcement Officer and the Town Attorney to initiate and prosecute a land use enforcement action pursuant to Rule 80K of the Maine Rules of Civil Procedure against Thomas Greenlaw for ongoing violations of Maine's junkyard law at his property located at 1 Longwoods Road in Cumberland.**

Town Manager Shane explained that this was reported as a complaint to the Town that there were materials being brought onto Mr. Greenlaw's property. Several years ago, the Town Council rescinded Mr. Greenlaw's junkyard license due to violations. Per court order, Mr. Greenlaw was to clean up his site to the Town's satisfaction, and keep it in that condition. (photos of current condition below)







Thomas Greenlaw of 1 Longwoods Road said that he has not hauled any scrap metal of any kind on to his property. Everything that he has on his property is in conjunction with Mr. Longley's (Code Enforcement Officer) and the Town Manager's permission to have one vehicle at a time on his property to repair. He has 2, 75 gallon tanks that will replace the oil tank in his house and his shop. That is the only thing that he had brought in and it is not scrap metal. He has no idea what the Code Enforcement Officer is talking about. He only does occasional mechanical work on his family's vehicles.

Town Manager Shane said that this issue is unfair to the neighborhood and continues to be a problem. This is a direct violation of the court order and Mr. Greenlaw continues to accumulate material on the property.

ORDERED by Councilor Bingham, seconded by Councilor Turner, that the Code Enforcement Officer and the Town Attorney are hereby authorized to initiate and prosecute a land use enforcement action pursuant to Rule 80K of the Maine Rules of Civil Procedure against Thomas Greenlaw for ongoing violations of Maine's junkyard law at his property located at 1 Longwoods Road in Cumberland.

VOTE: 6-0 UNANIMOUS

**15 – 076 To set a Public Hearing date of June 15<sup>th</sup> to consider and act on an agreement with 179 Foreside, LLC for a licensing agreement for use of the pier and float located at 179 Foreside Road.**

Motion by Councilor Bingham, seconded by Councilor Stiles, to set a Public Hearing date of June 15<sup>th</sup> to consider and act on an agreement with 179 Foreside, LLC for a licensing agreement for use of the pier and float located at 179 Foreside Road.

VOTE: 6-0 UNANIMOUS

**V. NEW BUSINESS**

**Councilor Edes** – condolences to the families of Stan Brown and Pat Jordan who passed away recently. They were both longtime residents who raised their families in Cumberland.

**Councilor Storey-King** – she attended the Public Safety banquet on May 16<sup>th</sup> which included the Fire and Police Departments. It was a delightful event. It's nice to see our departments working together.

The Memorial Day parade and speech was fabulous again this year.

The Town Council and Town Manager recently received an anonymous letter. We do not act on anonymous letters. She is a little bothered by anonymous letters because she thinks they are based on fear. She has worked hard over the years to try to alleviate those fears. The Council wants to hear from residents and wants them to feel comfortable bringing any issue to them so they can respond.

She will attend Greely graduation on Sunday and will present the Kimball Award to an outstanding citizen.

**Councilor Bingham** – he agreed with Councilor Storey-King that the Memorial Day parade was another great event. Well done.

**Chairman Gruber** – The Aging in Place Committee continues to meet. They are doing great work. A survey from the AIP Committee will be going to all residents very soon, and there will be a table on Election Day where anyone can complete the survey.

He will be testifying in Augusta on Friday regarding LD1205, Senior Housing Bond.

He has been selected to be on the Tri-State Learning Collaborative on the Aging Council Advisory Committee (Maine, NH & Vermont).

The Food Pantry continues to do well. We recently had some Greely High School seniors spend time at the pantry for their senior project.

**Councilor Stiles** – a reminder that he is collecting for the 4-H auction that will benefit the Food Pantry with meat. If 1,000 people from Cumberland and North Yarmouth donate just \$10, we can raise \$10,000 and help a lot of people with food.

Two of his grandchildren are graduating this year and both will be attending the University of Maine.

He reminded everyone to get out and vote next week. Attendance at the school budget validation meeting was very low and he hopes that those who feel strongly about the school budget one way or the other will vote.

**Councilor Turner** – he agreed with Councilor Stiles. He would like to see a sufficient number of people vote so he knows that people are still in favor of the three Councilors who fill the uncontested Town Council seats on the ballot.

**Town Manager Shane** – we put out our bids for roadwork recently, and discovered that the good news is that the construction industry had recovered nicely and contractors are very busy. Consequently, the prices are far exceeding our budget. We have decided to postpone projects and rebid them in the fall for winter work, when the contractors are not so busy and we can save some money.

**VI. ADJOURNMENT**

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

VOTE: 6-0                      UNANIMOUS

TIME: 8:29 P.M.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary