

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, October 24, 2016

7:00 P.M. Call to Order

Present: Councilors Bingham, Edes, Gruber, Stiles, and Turner

Excused: Councilors Copp and Storey-King

I. APPROVAL OF MINUTES

Motion by Councilor Bingham, seconded by Councilor Stiles, to accept the October 10, 2016 meeting minutes as presented.

VOTE: 5-0 UNANIMOUS

II. MANAGER'S REPORT

Cameron Plourde shared his Eagle Scout project at Knight's Pond that he recently completed. He relocated a hiking trail that was on private property, rebuilt a shoulder for parking and built a bridge. The project took 6 months and he thanked everyone who helped him complete it.

III. PUBLIC DISCUSSION

Dale Denno of Main Street wants to make the public aware of the 2nd Annual Forum on Aging that will be held this Saturday from 8:30 a.m. to 2:00 p.m. at Greely Middle School. The program is free and lunch will be served.

IV. LEGISLATION AND POLICY

16 – 136 To hear a report from Northern New England Passenger Rail Association re: construction of a four mile double railroad track.

Patricia Quinn, Executive Director of the Northern New England Passenger Rail Authority is here this evening to talk about an upcoming project to install a double track through Falmouth, Cumberland and a small portion of Yarmouth. The Downeaster currently offers 5 round trips per day between Portland and Boston and there are currently 6 trains per day that come up north of Portland to Freeport and Brunswick. There will be no additional train traffic through Cumberland, but the goal is expand the service so that all 5 of the roundtrip trains can operate from Brunswick to Boston (that would be 10 trains per day). The train crossings in Cumberland are at Muirfield Road, Tuttle Road and Greely Road. The project will add a 2nd track within the railroad right-of-way, on Pan Am property, that would start just north of Field Road in Falmouth and continue all the way through to Royal Junction (which is on the other side of Greely Road). Adding the second track will allow freight trains to pass each other, a passenger train and freight train to pass each other or 2 passenger trains to pass each other, keeping the trains moving and not having to wait. Besides the fact that there will be some interruption to traffic during the installation of the 2nd track, and as a result there will be 10 trains per day (versus 6 trains per day now), the impact to the community should be very minimal.

Councilor Bingham asked when the project would begin.

Ms. Quinn said that this will hopefully be a one season project starting in the spring of 2017 with the new tracks being used during the summer of 2018, but this all depends on the schedule of Pan Am's other projects.

Councilor Gruber requested that as projects such as this are in the planning stage, could the Town be notified as soon as possible that they are coming? In regard to this project, does the Town have a say in this since it is being done on Pan Am property?

Ms. Quinn responded that the project is in fact being done on private property, but it is being funded with public money so the public should have the opportunity to provide input, which is why they are here this evening.

Scott Steinberg of 12 Turnberry Drive said that he is not here this evening to challenge the rail expansion, but to ask the Council to take proactive measures to ensure that the impact of this expansion to our peaceful community is minimal. The addition to the rail will increase the number of daily trains, therefore increasing the noise pollution that we already experience due to the massive increase of train traffic through Cumberland over the past decade. Noise mitigation is a common practice and measures are routinely adopted when noise pollution increases to unacceptable levels. Railroad quiet zones have been implemented in Portland, Falmouth, Freeport and Yarmouth. Mr. Steinberg asked the Council to please take a proactive stance on this coming change and create a quiet zone sub-committee to study and make a recommendation on the implementation of quiet zones in Cumberland.

Tim Ferris of 9 Turnberry Drive sent the following comments to the Council:

We thank you for the opportunity to discuss the forthcoming project at today's Town Council meeting. Cumberland is a rural town with quiet neighborhoods, farmland, excellent schools and public lands. Many of us have either chosen to remain here or moved here for these very reasons. You, as our town representatives, and the citizens of Cumberland share this responsibility to maintain these qualities.

A number of Cumberland residents have drafted statements and questions regarding the forthcoming railroad project and the potential implementation of Quiet Zones. These questions and statements include, but are not limited to, the following:

- 1. This is a rural community, we as a town, should protect that valuable quality.*
- 2. Increased rail traffic along this route and the planned major rail system modification brings with it safety issues, increased noise, potential pollution as well as traffic interference.*
- 3. What is the railroad doing to mitigate these issues?*
- 4. What can the Town do to ensure that this project has limited impact on the rural nature of this community (i.e. safety, noise, pollution, traffic)?*
- 5. Does the forthcoming rail project include improvements and/or safety enhancements to the existing crossings?*
- 6. Do the trains have "positive control" equipment (to prevent a collision if the operator is distracted)?*
- 7. Are standard DOT-111 tank cars used for flammable liquids?*
- 8. As there will be two tracks through Cumberland allowing trains to pass, do you anticipate crossings will be blocked by waiting trains for any period of time?*
- 9. Have all government approvals (licenses, permits, etc.) been obtained? Any outstanding approvals (eg: Environmental Categorical Exclusion)?*
- 10. Describe source(s) of funds. Are more available for any project scope changes?*

Maintaining Cumberland's rural setting and ensuring the safety of its residents is critical to our future and our Town. I am leading a team of Cumberland residents that share this common goal. The team is keenly interested in working with you and the Railroad to address these issues and move forward with a plan in-line with our shared interests.

Thank you for this opportunity.

*Sincerely,
Tim Ferris*

16 – 137 To hear a presentation from Police Lieutenant, Milt Calder “Lessons Learned from other State’s Marijuana Legalization”.

Lieutenant Calder presented the following:

WHAT DOES LEGALIZING RECREATIONAL MARIJUANA LOOK LIKE



Considerations

- Scientists are still studying the effects of marijuana on the user and bystander
- Maine is still working to determine how to effectively enforce its current policies on decriminalization and medical marijuana
- Marijuana legalization is not a viable solution to generate revenue and grow Maine's economy

Health Concerns

- Intoxication
- Addiction
- Psychological or mental health impact
- Brain development and deterioration
- Health / Safety of youth
- Hazards of refining products



Business Concerns

- Dispensary and Retail Store Locations
- Employees Under the Influence
- Life Insurance - ↑ of a non-smoker
- Cleaning expenses from marijuana
 - Damage to hotel rooms
- Damaged Rental Units/Homeowners



Safety Concerns

- Marijuana use, and its impairment of motor coordination and reaction time doubles the risk of car crashes
- Air quality considerations (tenant, growing facilities / private grow)

Laws on Marijuana



- Federal and international laws prohibit growing, buying or using marijuana
- Medical Marijuana is legal in Maine under certain circumstances
- 23 states have some form of legalized medical marijuana
- Four states and D.C. legalized recreational / medical marijuana

THC Concerns

- Marijuana is more potent than it was 20 years ago and is more addictive and harmful than previously believed
 - THC in marijuana has more than doubled since 1998
 - Smoking one marijuana joint today is like smoking 3 joints in the 1980s
- Marijuana is not a benign substance, especially for youth, with documented negative impacts on health, development and brain functioning



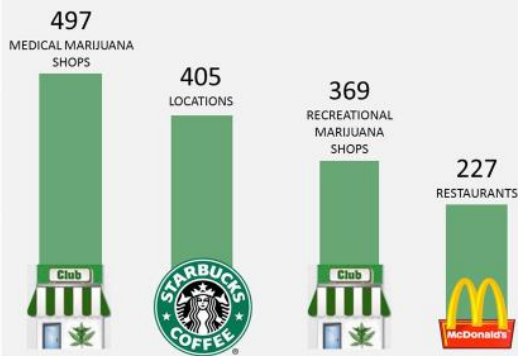
WHAT MAINE CAN EXPECT IF MARIJUANA IS LEGALIZED

Lessons from Colorado



Denver:
The Mile
HIGH City

Colorado Businesses...



Marijuana Businesses

“Ganjapreneurs
flock to Colorado
following marijuana
legalization”

“From ‘Cannabranders’ to
The Medicine Man,
everyone’s rushing to cash
in on the green in colorful
Colorado”

The Daily Beast
January 29, 2014



“Colombians Launder Funds Through Colorado to Operate Marijuana Businesses”



Four indicted on April 22, 2014 after November 21, 2013 search warrants targeted 15 “medical” marijuana shops, cultivation warehouses and homes.

“Legal pot blamed for some of influx of homeless in Denver this summer”

The Denver Post, July 25, 2014

- Haven of Hope: 500% rise over normal in homeless in summer 2014 (50 to 300)
- Salvation Army: 33% rise since 2014 compared to 2013
- Salvation Army: Survey 25% increase related to marijuana

Pot and Colorado Tourism

“Ski stoned, be chauffeured in a limo and the pot and munchies are included in the \$1,200 cost: Weed tourism hits Colorado slopes”

*Daily Mail Reporter
December 27, 2013*



Pot and Colorado Tourism

“Roll up for the county fair: Denver offers joint-rolling contests and prizes for the biggest marijuana plant at summer show”

*The Associated Press,
January 28, 2014*



Kids Safety Concerns Marijuana Edibles



Kid-friendly: shapes and colors attractive to children, like candy and soda

95% pure THC (joints are 15% THC)



Aggressive marketing: Free samples, billboard advertising, and other big tobacco tactics

Contaminants: In 2015, CO recalled 100s of thousands of edibles containing banned pesticides



Source: Marijuana Business Journal; other media. Photo: Marijuana Nordella, Astin Gattuso, Peter Piquero, Jerry Galaris, Creative Staff, Lori Prada, Alex Jeff

Marijuana Edibles



Girl Scouts setup cookie stands in front of pot shops = normalization of marijuana



Can you tell the difference?

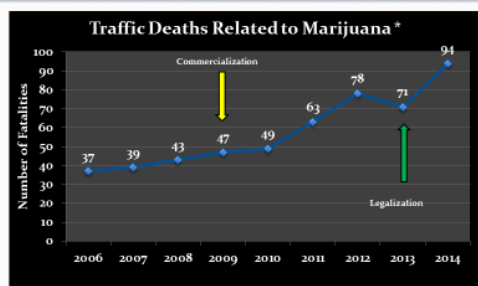
Edibles

Edibles exist in many forms

- Candy bars
- cookies
- Mints
- Gummy bears, worms, etc.
- Drinks
- About anything



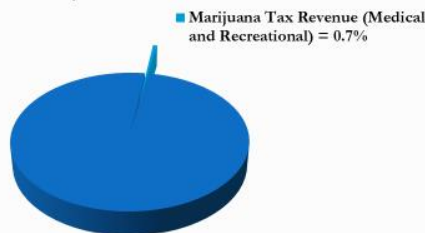
Marijuana and Traffic Fatalities



SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2013 and CDOT/RMHDITA 2014. NOTE: Cannot confirm 100% reporting prior to 2012.

Colorado General Fund

Colorado's Total General Fund
Revenue, FY 2015*



* Preliminary Numbers Based on June 2015 Forecast

The Maine Ballot to Legalize Recreational Marijuana Would Allow For:

- Maine Attorney General – Lawful for youth to possess and use marijuana
- Personal Possession: 2.5 ounces of marijuana or concentrates
- Commercial Sale and Home Production of Edibles and Concentrates
- Pot Clubs
- Lowest Marijuana Excise Tax in Nation
- Landlords no right to impose smoke-free policies

Personal Possession

2.5 ounces
=
150 joints



2.5 ounces of THC
concentrates

Commercial Sale and Home Production of Edibles and Concentrates

- Retail sale and home manufacturing of edibles is permitted
- There are no health or safety restrictions related to the potency risk these products pose
- No penalties for pot shops selling to minors. Pot shops are shielded from responsibility to verify IDs are valid

Pot Clubs



Maine Marijuana Excise Tax

Pot Excise Taxes in Various States



*The 10% tax is the only tax ME would levy on marijuana - it would be levied as a special sales tax but effectively functions as an excise tax. **Oregon tax is currently 25%, but only for a limited time in 2016, and will then fall to 17-20%. ***Alaska taxes marijuana at \$50 per wholesale ounce.

THE CHOICE IS YOURS....

Family-Friendly Environment



Tourism



Boating, Skiing,
Snowmobiling,
Fishing, Hunting



Chairman Turner took item 16-145 out of order and it was considered next.

16 – 138 To hear a report from the Finance Director re: 4th quarter and 1st quarter financials. Finance Director, Heather Perreault presented the following:



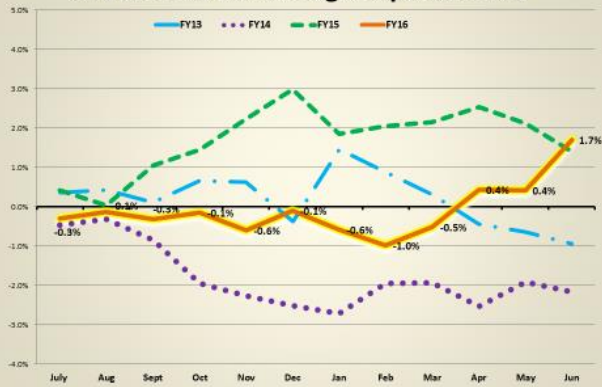
Town of Cumberland

FY2016 Final Results & FY17 Q1 Revenues/Expenses

General Fund FY2016 Revenues & Expenditures

	FY16 Budget	FY16 Actual	Over (Under) Budget
TOTAL REVENUES	\$ 4,555,489	\$ 5,278,050	\$ 722,561
			<i>Over Budget</i>
Controllable Expenses	\$ 7,381,649	\$ 7,735,541	\$ 353,892
Fixed Expenses	\$ 18,530,481	\$ 18,553,600	\$ 23,119
TOTAL EXPENSES	\$ 25,912,130	\$ 26,289,141	\$ 377,011
			<i>Over Budget</i>
GF Net Revenues over Expenditures			\$ 345,550

% Variance to Average Expenditures



FY2016 General Fund Surplus

Net Revenues over Expenditures	345,550
Homestead reimbursement	191,612
Overlay	328,239
TOTAL SURPLUS	865,401

FY2016 General Fund Surplus

Use of Surplus to reduce FY17 Property Tax Rate	205,000
Town Building Maintenance	50,000
Broad Cove Reserve pier & legal	150,000
Senior Property Tax Relief (172 families, \$112,000)	50,000
Other	90,000
Increase to Fund Balance	320,401
TOTAL USES	865,401

General Fund FY2017 Q1 Revenues & Expenditures

	FY17 Budget	FY17 Actual	FY17%	FY16 %
TOTAL REVENUES	\$ 4,513,720	\$ 1,574,949	34.9%	27.0%
Controllable Expenses	\$ 7,462,114	\$ 2,046,369	27.4%	27.5%
Fixed Expenses	\$ 19,109,524	\$ 6,307,480	33.0%	33.0%
TOTAL EXPENSES	\$26,571,638	\$ 8,353,849	31.4%	31.4%

General Fund FY2017 Q1 Selected Revenues

	FY17 Budget	FY17 Actual	FY17%	FY16 %
Excise Tax	\$ 1,480,000	\$ 499,373	33.7%	32.9%
State Revenue Sharing	\$ 385,710	\$ 98,805	25.6%	30.9%
Permits & Impact Fees	\$ 158,000	\$ 212,851	134.7%	32.9%
EMS Billing	\$ 186,200	\$ 68,078	36.6%	20.9%
Recreation	\$ 726,143	\$ 181,297	25.0%	16.7%
Val Halla Golf Club	\$ 649,870	\$ 199,981	30.8%	28.8%

16 – 139 To hold a Public Hearing to consider and act on an Automobile Graveyard/Junkyard permit for Cumberland Salvage, Inc.

Town Manager Shane said that the application is complete and staff is recommending approval.

Chairman Turner opened the Public Hearing.

Public discussion: none

Chairman Turner closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Bingham, to approve the Automobile Graveyard/Junkyard permit for Cumberland Salvage, Inc.

VOTE: 5-0 UNANIMOUS

16 – 140 To hold a Public Hearing to consider and act on continuing to allow snowmobiles in the Town Forest.

Town Manager Shane said that last year, the Town Council authorized the snowmobile club to use the Town Forest trails. The club did a great job grooming the trails throughout the winter, allowing people access to the forest all winter long. There were no problems reported and the Manager said the he is recommending approval going forward.

Chairman Turner opened the Public Hearing.

Sam York, Chairman of the Lands & Conservation Commission said that things went smoothly last winter, but there was not a lot of snow, therefore not a lot of grooming of trails was necessary. The Commission never anticipated snowmobiles being on the trails, but it seems to be working with a few things to be ironed out. He recommended that this not become an automatic renewal every fall, but a formal review be done annually before approval is granted.

Shawn McBreairty of the Moon-Lite Snow Skimmers Club (and a member of the Lands & Conservation Commission) said that the club is hopeful that they will get approval to continue grooming the trails in the Town Forest and they appreciate the support that they receive from the Town.

Chairman Turner closed the Public Hearing.

Councilor Bingham agreed with Mr. York that there was not enough snow last year and making it an annual review, at least for one more year, is a good idea.

Councilor Stiles said that there are a lot of elderly residents who use those trails and they might feel as though they cannot get out of the way of a snowmobile quickly enough and feel intimidated by this. We need to be mindful of their concerns.

Motion by Councilor Bingham, seconded by Councilor Stiles, to allow snowmobiles in the Town Forest as recommended by the Town Manager and to review it again next year.

VOTE: 5-0 UNANIMOUS

16 – 141 To hold a Public Hearing to consider and act on authorizing the Town Manager to begin bidding and advertising for the Middle Road reconstruction and waterline project.

Town Manager Shane said that we are nearing the end of the design phase of the Middle Road reconstruction project and we are ready to go to bid on December 12th. He is asking the Council for authorization to advertise bidding for the project. He spoke to Summit Natural Gas and it looks like they can install the gas lines during reconstruction of the road.

Chairman Turner opened the Public Hearing.

Public discussion: none

Chairman Turner closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Gruber, to authorize the Town Manager to begin bidding and advertising for the Middle Road reconstruction and waterline project.

VOTE: 5-0 UNANIMOUS

16 – 142 To hold a Public Hearing to consider and act on authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 16 Mill Ridge Road.

Town Manager Shane explained that is another case of a letter of no action issued by the Code Officer many decades ago that has now come up during a title search on the property. Banks do not recognize letters of no action and require a Consent Agreement authorized by the Town Council. This is a case of a setback being too close to a property line.

Chairman Turner opened the Public Hearing.

Public discussion: none

Chairman Turner closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Stiles, to authorize the Code Enforcement Officer to execute a Consent Agreement with the owners of 16 Mill Ridge Road, and to collect \$500.00 for legal and administrative fees.

VOTE: 5-0 UNANIMOUS

16 – 143 To set a Public Hearing date of November 14th to consider and act on amendments to Article 8, Chapter 315 (Zoning), Section 79 (Contract Zoning) of the Cumberland Code, as recommended by the Planning Board.

Motion by Councilor Bingham, seconded by Councilor Stiles, move to set a Public Hearing date of November 14th to consider and act on amendments to Article 8, Chapter 315 (Zoning), Section 79 (Contract Zoning) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 5-0 UNANIMOUS

16 – 144 To set a Public Hearing date of November 14th to consider and act on acceptance of the Central Fire Station Building Committee's final plan and recommendation.

Motion by Councilor Stiles, seconded by Councilor Gruber, to set a Public Hearing date of November 14th to consider and act on acceptance of the Central Fire Station Building Committee's final plan and recommendation.

16 – 145 To set a public hearing date of November 14th to consider and act on adopting a moratorium ordinance regarding retail marijuana establishments and social clubs.

Town Manager Shane explained that this will allow the Ordinance Committee some time to deal with this issue if it passes in the election.

Councilor Bingham said that he doesn't think that pot shops will start opening in Cumberland and we have more important things to work on. He does not support this.

Councilor Stiles said the he would rather be out in front of any issues that could arise from this rather than behind them.

Motion by Councilor Edes, seconded by Councilor Stiles, to set a public hearing date of November 14th to consider and act on adopting a moratorium ordinance regarding retail marijuana establishments and social clubs.

VOTE: 5-0 UNANIMOUS

V. NEW BUSINESS

Councilor Bingham – he will be leaving tomorrow evening for Nepal and Friday morning will fly to a remote section of the Himalia's to start a trek to the Mount Everest base camp. This trip is something that he has always wanted to do.

Councilor Gruber – he attended the Cumberland County Municipal Oversight Committee Meeting for community block grants. We are going to submit two grant applications for a generator for the senior apartment complex on Drowne Road. There is no emergency power supply there.

News Channel 13 and the Good Shephard Food Bank did a school spirit challenge recently. He heard that there was over 25,000 pounds of food donated that day. We receive a percentage of the funds or a percentage of food weight from Good Shepard for our food pantry.

Councilor Edes – he encouraged people to get out and vote. He also encouraged people to get informed on the proposed performing arts center. He wanted to be a member of the Town Council because this is his home Town and he wants to help make it better and help keep taxes down. The school has a lot of projects coming up and he encouraged people to think about what a new performing arts center will do to their tax bill.

He wished Councilor Bingham a safe trip. He has quite an adventure coming up.

Chairman Turner – the memorial service for Dick Sweetser was last Sunday. It was a very emotional service and very well attended. He sent his condolences to Connie and the entire Sweetser family.

Happy birthday to Councilor Bingham.

Cumberland residents Sharon & Bob Collins and Larry Aufiero were deployed by the Red Cross to assist the flood victims in North Carolina. We thank them for their service.

Councilor Stiles – None

Town Manager Shane – We are up to about 1800 voters in our community who have voted absentee. This is very good and we are on track to break our past records. We also have 5% of newly registered voters.

Meet the candidates night will be held tomorrow evening at 7:00 p.m. in the Council Chambers.

There will be a neighborhood meeting on Wednesday evening at 6:00 p.m. to discuss the closure of the old landfill site on Drowne Road.

The Aging in Place Forum is this Saturday from 8:30 to 2:00 at the Middle School.

VI. ADJOURNMENT

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

VOTE: 5-0

TIME: 8:58 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary
(Minutes prepared by DVD. Not present at meeting)