

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, June 20, 2016

6:00 WORKSHOP re: Eagle Scout project for Greely Woods

6:30 WORKSHOP with Jeff Storey re: Forest Harvesting at Twin Brook

7:00 P.M. CALL TO ORDER

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

Excused: Councilor's Edes and Storey-King

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Stiles, to accept the June 6, 2016 meeting minutes as presented.

VOTE: 4-0-1 (Turner abstained) MOTION PASSES

II. MANAGER'S REPORT

Town Manager Shane said that because of the lengthy agenda, he would hold his report to New Business.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

16 – 079 To swear in newly elected Town Councilors.

Town Clerk, Tammy O'Donnell administered the oath of office to Councilor Bingham.

16 – 080 Election of Council Chair and Vice-Chair.

Motion by Councilor Gruber, seconded by Councilor Copp, to nominate Councilor Turner as Town Council Chairman.

VOTE: 4-0-1 (Turner abstained) MOTION PASSES

Newly elected Council Chairman Turner commenced with chairing the meeting.

Motion by Councilor Stiles, seconded by Councilor Bingham, to nominate Councilor Edes as Town Council Vice-Chairman (pending his swearing in at the next meeting).

VOTE: 5-0 UNANIMOUS

16 – 081 To appoint Eliza Porter as Deputy Town Clerk and Communications Director.

Town Clerk, Tammy O'Donnell administered the oath of office to Eliza Porter as Deputy Town Clerk.

Motion by Councilor Gruber, seconded by Councilor Stiles, to appoint Eliza Porter as Deputy Town Clerk and Communications Director.

VOTE: 5-0 UNANIMOUS

16 – 082 To hold a Public Hearing to consider and act on a moratorium on LED lighting.

Town Manager Shane explained that this came about at the request of the Ordinance Committee to allow them time to work on an ordinance for internally illuminated signs. Presently, internally lit signs are not allowed, even though there are a few in Town that were installed prior to our current ordinance.

Chairman Turner opened the Public Hearing.

Public discussion: None

Chairman Turner closed the Public Hearing.

Councilor Stiles made the following motion. Councilor Bingham seconded.

The Town Council of the Town of Cumberland hereby ordains that this Moratorium Ordinance Regarding Internally Illuminated Signs be, and hereby is, enacted as follows:

WHEREAS, the Town of Cumberland has enacted as part of its Zoning Ordinance Section 315-63, which regulates signs within the Town; and

WHEREAS, the stated intent of Section 315-63 is to “provide for attractive, coordinated, informative, and efficient signs with the express purpose of protecting property values, enhancing the physical appearance of the Town and providing for public safety;” and

WHEREAS, the Zoning Ordinance allows illuminated signs subject to certain restrictions but does not specifically regulate internally illuminated signs, **which consist of any sign illuminated directly or indirectly by a light fixture located within the sign structure, including LED electronic message center signs, signs with backlit channel lettering or halo lighting, or any other type of sign with a light source incorporated into the body of the sign and that has light emanating through or from the message of the sign;** and

WHEREAS, advances in technology have allowed the installation and maintenance of internally illuminated signs that may result in extremely bright signs, with or without changeable text; and

WHEREAS, the use of these signs may in some cases be inconsistent with the stated intent of Section 315-63 due to their brightness and other impacts on surrounding properties and public ways; and

WHEREAS, there is a strong likelihood that the Town will continue to be subjected to this type of sign and potential negative impacts resulting from these signs due to the lack of adequate regulations or restrictions on the location and effects of them; and

WHEREAS, amendments to the zoning and other land use ordinances require public hearings by the Planning Board and a vote by the Town Council; and

WHEREAS, in the judgment of the Town, these facts continue to create an emergency within the meaning of 30-A M.R.S.A. § 4356(1)(B) and require enactment of the Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town of Cumberland hereby ordains that the Moratorium Ordinance be, and hereby is, adopted for 180 days from the date of adoption of this Ordinance, unless earlier repealed by action of the Town Council.

BE IT FURTHER ORDAINED, that the Planning Board, Board of Adjustment and Appeals, all Town agencies and all Town employees shall neither accept nor approve applications, plans, permits, licenses, and/or fees for any new internally illuminated signs governed by this Moratorium Ordinance for said period of time;

BE IT FURTHER ORDAINED, that those provisions of the Town's Zoning Ordinance and any other regulations that are inconsistent or conflicting with the provisions of this Moratorium Ordinance, are hereby repealed to the extent that they are applicable for the duration of the Moratorium Ordinance hereby ordained, but not otherwise; and

BE IT FURTHER ORDAINED that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid.

VOTE: 5-0 UNANIMOUS

16 – 083 FY'17 Town Council Committee Assignments.

Motion by Councilor Bingham, seconded by Councilor Gruber, to approve the FY'17 Town Council Committee Assignments as presented.

VOTE: 5-0 UNANIMOUS

16 – 084 To consider and act on Commercial Hauler's license renewals for FY'17.

Town Manager Shane explained that this is an annual renewal and staff is recommending approval.

Motion by Councilor Stiles, seconded by Councilor Bingham, to approve the Commercial Hauler's license renewals for FY'17.

VOTE: 4-0-1 (Copp abstained) MOTION PASSES

16 – 085 To hear a report from the Finance Committee Chair and to authorize the Town Manager to transfer inter-departmental operating funds for FY'16.

Councilor Stiles explained that the Finance committee has reviewed the end of year financials and is recommending the following transfer of funds and the closing of the FY2016 budget:

\$10,000 to the 100 year celebration, \$45,000 to Aging in Place, \$7,000 to the Archeological Dig at Broad Cove Reserve, \$50,000 to Broad Cove Legal, \$100,000 to Broad Cove Pier, \$20,000 to Brown Tail Moth spraying, \$8,000 to Cemetery Signs, \$50,000 to Senior Property Tax Relief, \$50,000 to West Cumberland Hall Remodel, \$130,000 to FY'17 Budget for Roads, \$75,000 to FY'17 Budget for Debt Service Reserve, and any additional revenues will be added to Fund Balance (approximately \$150,000).

Brad Hilton of Blanchard Road said congratulations for having the revenues greater than the expenses for FY'16. He added that if the revenues and expenses had come out equal and there were no excess revenues, the budget would remain as the Council had passed it. It sounds like now there is a significant amount of money "to play with", but it does not sound like any of it will be used to reduce the mil rate. Why doesn't the Council take that money and put it toward reducing the mil rate and lowering property taxes for the residents?

Councilor Stiles responded that the items that he listed would be expenses that would add to the mil rate if they didn't set aside the money now.

Mr. Hilton said that this happens year after year. He feels that the Council should take 50% of any left over revenues and put it toward reducing the mil rate.

Motion by Councilor Bingham, seconded by Councilor Stiles, to authorize the Town Manager to use excess and end of year operating revenues and interdepartmental operating balances to close-out all departmental budgets for FY2016 as recommended by the Finance Committee.

VOTE: 5-0 UNANIMOUS

Motion by Councilor Bingham, seconded by Councilor Stiles, to authorize the Town Manger to transfer end of year fund balance to the following accounts, as recommended by the Finance Committee:

- \$ 10,000 to 100 year celebration
- \$ 45,000 to Aging in Place
- \$ 7,000 to Archeological Dig at Broad Cove Reserve
- \$ 50,000 to Broad Cove Legal
- \$100,000 to Broad Cove Pier
- \$ 20,000 to Brown Tail Moth
- \$ 8,000 to Cemetery Signs
- \$ 50,000 to Senior Property Tax Relief
- \$ 50,000 to West Cumberland Hall Remodel
- \$130,000 to FY'17 Budget – Roads
- \$ 75,000 to FY'17 Budget – Debt Service Reserve

Any additional revenues will be added to Fund Balance (Est. \$150,000)

VOTE: 5-0 UNANIMOUS

Motion by Councilor Bingham, seconded by Councilor Copp, to authorize the Town Manager to transfer between Town Reserve Accounts the following amounts, as recommended by the Finance Committee: Close out the Affordable Housing Fund and Transfer balances and future revenues to the Land Acquisition Fund.

VOTE: 5-0 UNANIMOUS

16 – 086 To set a Public Hearing date of July 11th to authorize the Town Manager to amend TIF District #1 to allow a Credit Enhancement Agreement for the Memory Care Facility.

Motion by Councilor Bingham, seconded by Councilor Stiles, to set a Public Hearing date of July 11th to authorize the Town Manager to amend TIF District #1 to allow a Credit Enhancement Agreement for the Memory Care Facility.

VOTE: 5-0 UNANIMOUS

16 – 087 To consider and act on authorizing the Town Manager to enter into an agreement for forest harvesting on the Twin Brook property.

Chairman Turner explained that the Council met in workshop earlier on this item and he would allow some public comment.

Town Manager Shane explained that Jeff Storey, the operator of Spring Brook Farm approached him in regard to a forest management plan that would allow harvesting activities to occur at Twin Brook. He brought the Council a plan to cut small portions of the forest at Twin Brook, cleaning up as they go, and giving the Town some flexibility to close sections for harvesting during the winter months. The Twin Brook Advisory Committee has seen the plan and there are some members of the committee present this evening. Twin Brook is an active recreation area and Jeff has proposed a good plan that will work well for the Town.

Jeff Storey said that he is not a professional logger, but he is a professional farmer. He is very confident that he can do this harvest very gently. It's all about the community for him and the ability to have some winter work for his farm (which abuts Twin Brook).

Councilor Copp said that he has confidence in Jeff that he will do a good job.

Councilor Bingham said that a professional forester had developed a plan. It's not simply a case of Jeff going in and knocking down trees. This is another example of the Town trying to keep our local agriculture people sustained, which is in line with the Comprehensive Plan.

John Leavitt, a resident and member of the Twin Brook Advisory Committee said that he has had the opportunity to voice concerns to the Town Manager and Mr. Storey. He advised Mr. Storey to contact Paul Larrivee as the Town had entered into an arrangement with Sappi Fine Paper to oversee the harvest in Twin Brook. He finds it odd that he stood before the Council in August of 2014 with a forest management plan prepared for us by Mr. Larrivee. What has changes since then? He thought that arrangement was still in effect. What happened? The Twin Brook Committee has not seen the current plan. The preparation of the Sappi plan cost the Town nothing. Mr. Storey's plan could potentially cost the Town 3-5 thousand dollars. His other concern is Mr. Storey's lack of experience. Does he have any training? Does he have insurance for logging? Expertise on construction equipment does not equate to good, efficient, successful logging. Because of all these issues, Mr. Leavitt said that he opposes this plan and we should uphold the plan with Mr. Larrivee and Sappi.

Chairman Turner pointed out that any recommendation to the Town Council from any committee are just that, a recommendation. The Council is not bound by those recommendations and opinions can change over time. He feels that there is value to having a local person with "skin in the game" do any work in Town.

Jeff Storey responded that the Town has only invested \$1,400 for half the cost of the management plan. He has 2, one million dollar insurance policies on any work that he does.

Motion by Councilor Gruber, seconded by Councilor Bingham, to authorize the Town Manager to enter into an agreement for forest harvesting on the Twin Brook property.

VOTE: 5-0 UNANIMOUS

16 – 088 To consider and act on authorizing the Town Manager to work with the Cumberland/North Yarmouth Joint Standing Committee to replace existing bridges at Knight's Pond Preserve, and to set a Public Hearing date of July 25th to authorize the permit for construction as recommended by the Coastal Waters Commission (as required by ordinance). TABLE

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

VOTE: 5-0 UNANIMOUS

16 – 089 To consider and act on amending the facility uses at Broad Cove Reserve to include a drop off area, as recommended by the Ocean Access Committee.

Joshua Ottow of the Ocean Access Committee presented the following in regard to the drop off area. The Committee voted (5-4) to allow access beyond the gate for dropping off. Those who voted in favor felt that not allowing drop off was shutting the door to significant groups within our Town from accessing the ocean portion of Broad Cove Reserve.



BROAD COVE RESERVE -- Drop-Off Area Rules

1. The drop-off area consists of the loop of narrow gravel road at the bottom of the hill next to the bath house. The two handicap spots are not part of the drop-off area.
2. The drop-off area is only accessible from Memorial Day to Labor Day and only during the hours that an attendant is on site.
3. No more than three vehicles may be in the drop-off area at any time.
4. The speed limit in the drop-off area and on the roadway to it below the gate is 5 mph.
5. Cars must come to a complete stop and must turn their engine off while unloading. No engine idling.

BROAD COVE RESERVE -- Drop-Off Area Rules

6. The only vehicles that are permitted into the drop-off area are passenger cars and light trucks/vans. Buses, coaches, trailers, and heavy trucks are prohibited.
7. The drop-off area is for a very brief drop off or pick-up of passengers and gear only. Any vehicles stopped in the drop off area must be attended at all times. "Attended" is defined as someone at the vehicle's side who can move it. Blinking hazard lights does not constitute "attended."
8. Patrons may temporarily leave gear next to the drop off area, but only while they are parking and/or retrieving their vehicle from the upper parking area.
9. Exiting vehicles have the right-of-way. Before any vehicle enters the drop-off area, it must ensure that exiting vehicles have cleared the exit road.
10. If any vehicle is left unattended, the attendant will notify the Cumberland Police for citation and/or towing.

BROAD COVE RESERVE -- Drop-Off Area Rules



New Channel Markers at Broad Cove



Motion by Councilor Bingham, seconded by Councilor Gruber, to amend the facility uses at Broad Cove Reserve to include a drop off area, as recommended by the Ocean Access Committee.

VOTE: 5-0 UNANIMOUS

16 – 090 To hold a Public Hearing to consider and act on annual temporary Victualer's Licenses for Non-Profit Organizations for the period of July 1st, 2016 – June 30th, 2017.

Chairman Turner opened the Public Hearing.

Public discussion: none

Chairman Turner closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Gruber, to approve the annual temporary Victualer's Licenses for Non-Profit Organizations for the period of July 1st, 2016 – June 30th, 2017.

VOTE: 5-0 UNANIMOUS

V. NEW BUSINESS

Councilor Gruber – He thanked Peter Bingham for being the Council Chairman for the past year. He did a great job.

Congratulations to Eliza Porter on being appointed Deputy Town Clerk and Communications Director. She will be a great asset to the Town.

Councilor Bingham – There was an article in the newspaper recently about a Greely High School student who was having a lot of difficulty in school. He got into the Westbrook Regional Vocational School where he got training on heavy equipment and ended up making the honor roll. This story sends a message to young people that college is not the only direction to go in. There is a lot of demand in other areas such as equipment operations, manufacturing, building trade, etc. It was a very good article.

There was also an article regarding how hard it is to find School Superintendents and how a lot of administrator's in Portland have left. Bob Hasson used to "home grow" administrators who have since become superintendents in other districts. The Town Manager is also good at teaching and mentoring Town employees to allow them to grow within the organization.

Chairman Turner – He reported to the Town Manager that some kayaks were chained together with a phone number on them on the beach at Broad Cove Reserve.

He recently had a reaction to the brown tail moths. Anyone who opted out of the spraying program would likely change their mind if they experienced what he did.

Councilor Stiles – he heard a rumor that there were black bear sightings in West Cumberland. Everyone should take notice of this.

He attended a Housing Authority meeting earlier this evening. The housing budget was finalized and there will be a 2% increase in rents.

He continues his efforts to raise money for the 4-H auction that will benefit the food pantry. Councilor Copp continues to donate \$20 at every Council meeting. Thanks you, Ron.

Councilor Copp – Kathy Lynch of West Cumberland passed away over the weekend. Condolences to her family.

Town Manager Shane – There was a workshop earlier this evening with an Eagle Scout, Cameron Plourde who will be doing a project in Greely Woods. He will be building a bridge and marking trails.

VI. ADJOURNMENT

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

VOTE: 5-0 UNANIMOUS

TIME: 8:40 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary