

# MINUTES

Cumberland Town Council Meeting  
Town Council Chambers

**MONDAY, July 10, 2017**

6:00 P.M. Ordinance Committee Meeting

6:30 P.M. Senior Property Tax Assistance Committee Meeting

## 7:00 P.M. Call to Order

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

### I. APPROVAL OF MINUTES

Motion by Councilor Bingham, seconded by Councilor Gruber, to accept the June 19, 2017 meeting minutes as presented.

VOTE: 6-0-1 (Storey-King abstained)      MOTION PASSES

### II. MANAGER'S REPORT

None

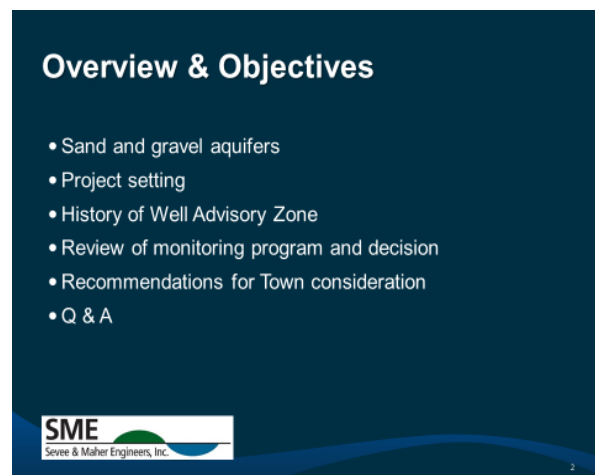
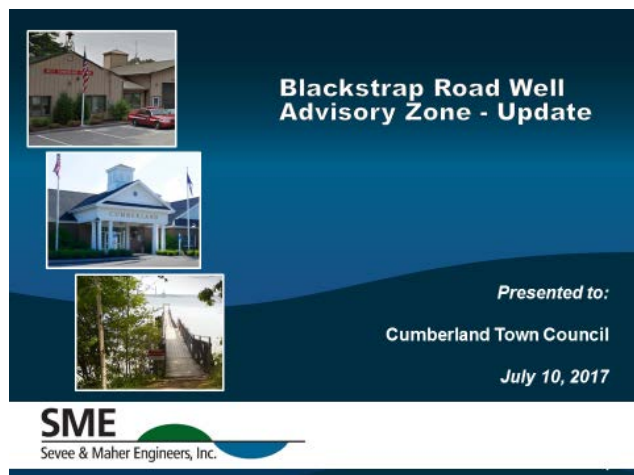
### III. PUBLIC DISCUSSION

None

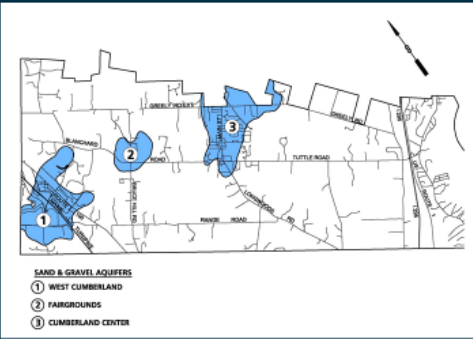
### IV. LEGISLATION AND POLICY

**17 – 094 To hear a report from Lisa Jacob of Sevee & Maher Engineers re: West Cumberland aquifer and DEP well testing (1990's to 2014).**

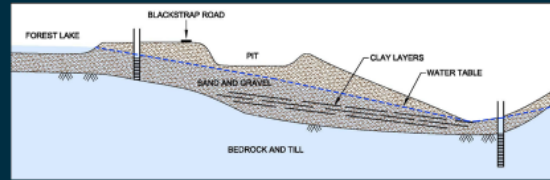
Geologist, Lisa Jacob of Sevee & Maher Engineers presented the following:



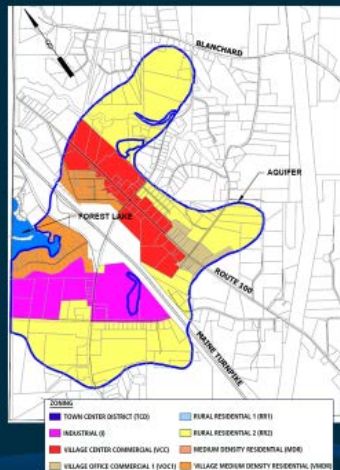
## Sand & Gravel Aquifers



## West Cumberland Aquifer Profile



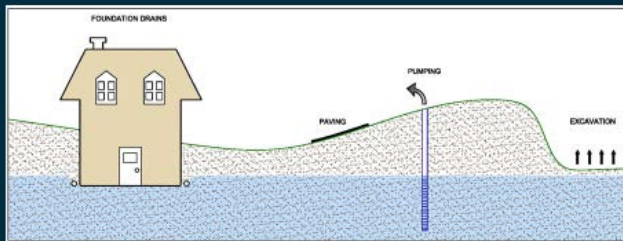
## Zoned Uses



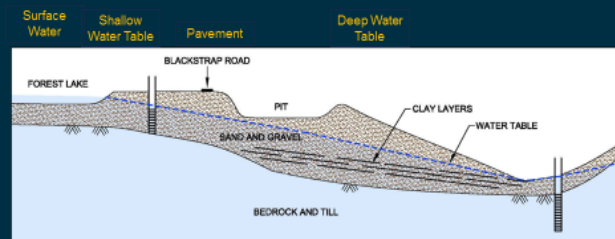
## Uses and Affects to Aquifer

- Loss of water
  - Potable use
  - Not used for public water supply
  - Individual water supply wells pump from S&G aquifer
  - Limits to recharge – pavement, etc.
- New water supply wells
- Factors affecting water quality

## Loss of Water from Aquifer



## Recharge to Aquifer

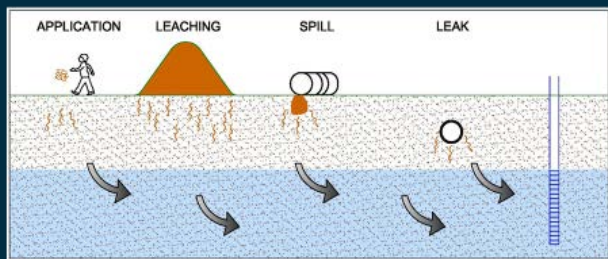


# Potential Contamination Sources

The diagram illustrates four potential contamination sources in a cross-section of the ground. The ground is divided into a light-colored upper layer and a blue lower layer. Arrows indicate the movement of contaminants from the upper layer into the lower layer.

- APPLICATION:** A person is shown applying a substance (represented by a yellow box) to the ground surface. Arrows point down from the application area into the ground.
- LEACHING:** A large brown mound is shown on the ground surface. Arrows point down from the mound into the ground.
- SPILL:** A small orange spill is shown on the ground surface next to a white cylindrical object. An arrow points down from the spill area into the ground.
- LEAK:** A small orange leak is shown on the ground surface next to a white cylindrical object. An arrow points down from the leak area into the ground.

At the bottom left, the logo for SME (Sevee & Maher Engineers, Inc.) is displayed. At the bottom right, the number 9 is visible.



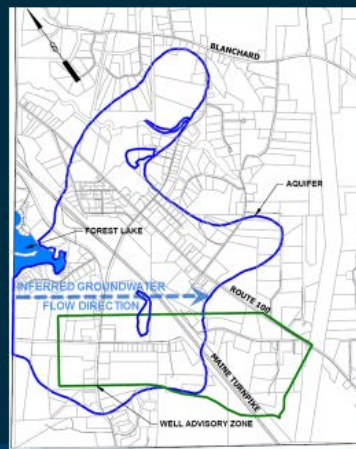
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# West Cumberland Aquifer

The map displays the West Cumberland Aquifer area. A blue outline delineates the aquifer's extent, which includes Forest Lake. A blue arrow indicates the 'INFERRED GROUNDWATER FLOW DIRECTION' from west to east. A green rectangular boundary marks the 'WELL ADVISORY ZONE' located south of the aquifer. Major roads shown include Blanchard and Route 100. A north arrow is located in the upper left corner.

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# Blackstrap Road Well Advisory Zone

- West Cumberland
- Within sand and gravel aquifer
- Centered on Goose Pond Road / Upper Methodist Road
- Land uses
  - Residential
  - Industrial/Commercial

The map illustrates the Blackstrap Road Well Advisory Zone. A blue line indicates the inferred groundwater flow direction, originating from Forest Lake and moving towards the advisory zone. The advisory zone is outlined in green and is bounded by Route 100 to the east and Maher Elementary to the south. Other features shown include Goose Pond Road, Upper Methodist Road, and the Blanchard area. A north arrow is present in the top left corner.


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# Well Advisory Zone History

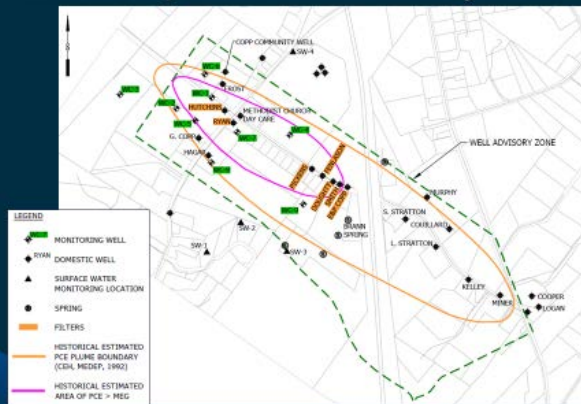
- 1983 – Maine Department of Environmental Protection (MEDEP) received complaint of poor-tasting drinking water
- Responded by testing neighboring water supply wells
- Tested for volatile organic compounds
- Identified presence of tetrachloroethene (PCE) – common industrial and commercial chemical
- MEDEP installed additional monitoring wells, established water quality monitoring program
- Investigations to assess source of PCE contamination – no specific release identified
- Established Well Advisory Zone in 1992



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[illegible]

# Blackstrap Road Water Quality Monitoring

- MEDEP sampled residential water supply and monitoring wells through 2014
  - Coverage and frequency varied
  - Sampling frequency was reduced in response to low or no detected concentrations of PCE
  - Response from homeowners varied
- Confirmed PCE as contaminant of concern
- Compared PCE concentrations with state-defined guidelines: Maximum Exposure Guidelines (MEGs)
- Action level = half MEG



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## Water Quality Monitoring & Treatment

- Carbon filtration offered where PCE concentrations were detected above the action level
  - Six homes
  - Filters installed in 1980s
- Sampling continued according to observed concentrations
- Steadily declining concentrations observed in residential and monitoring wells
  - Sampling frequency reduced in 1997
  - Filters removed from three of six homes



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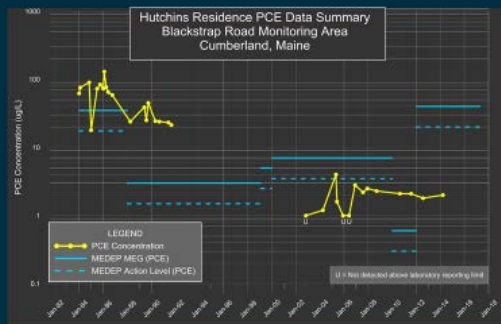
## No Further Action

- 2014 – MEDEP final round of water quality monitoring of water supply wells
- Based on continued reduction of PCE concentrations, discontinued water quality monitoring and treatment program
- Recent (post-2000) data: PCE not detected above laboratory reporting limits in most homes and monitoring wells
- MEDEP issued "No Further Action" letter summarizing findings and decision



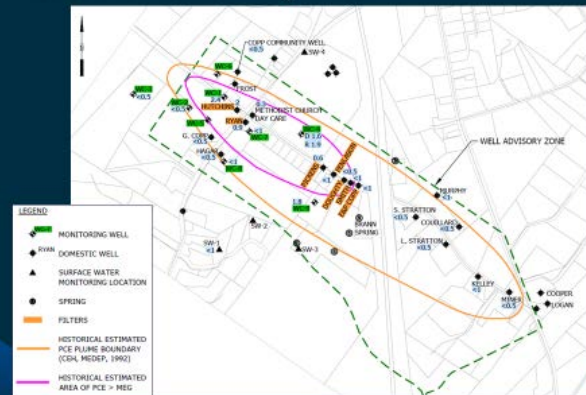
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## PCE Concentrations Over Time



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## Recent Monitoring Data



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## Recent Conditions

- Most recent data:
  - No parameters tested above or near MEGs
  - Where detected, PCE well below MEG
- "No Further Action" status represents dramatic improvement
  - Based on locations monitored
  - Current water usage
- MEDEP monitoring and decision does not provide guidance for development



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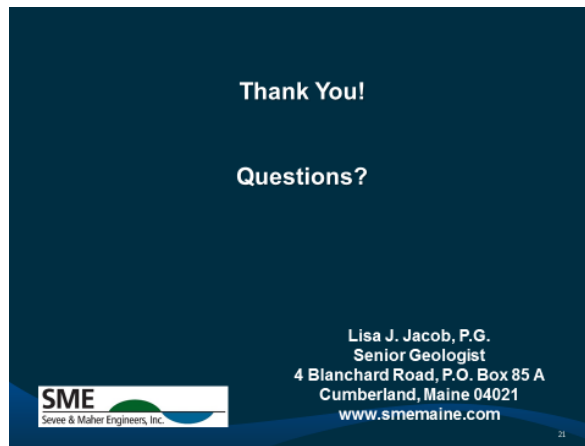
## Steps to Consider

- Maintain Well Advisory Zone
- Request new water supply wells in zone be tested for VOCs
- Baseline VOC testing as part of Planning Board review process
  - Ordinance update
- Periodic water quality sampling
  - Provide on-going understanding of water quality conditions
  - Limited number of monitoring and water supply wells
- More in-depth study



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**17 – 095 To hear a report from the Town Manager re: Gravel Pits and Extraction of Gravel (Q&A after with Town Attorney present).**

Town Manager Shane explained that 6 years ago, we had our first citizen initiated referendum related to gravel extraction. The petitioner was successful in banning all gravel extraction operations within the RR 1 and RR2 Districts. It is still permitted in the Industrial Zone, where active gravel extracting areas are located. After that, there was a homeowner who developed a very large piece of property, who appeared to be circumventing the Town Ordinances under the guise of a building permit. The Town Attorney at the time advised that single family homes were exempt, as long as the person was excavating gravel (or any material) related to the construction of the home. In constructing the road (driveway) for this development, over a quarter million yards of material could potentially be extracted under a building permit. Since this particular development began, we have instituted laws for soil and erosion control, but not until 4 years after. The frustration is that the Town is abiding by the ordinance and not allowing any new gravel extraction applications, but under our current ordinances, a building permit allows for the development of somebody's driveway. How we close this loophole has been a struggle. Until we want to change the ordinance in such a way that might solve one problem but could create 3 more, it's going to be very difficult.

Tammy Marston of Mystical Way asked how many years someone is allowed to build before they have to take occupancy.

Town Manager Shane said that there is no time limit as long as they show some progress in construction.

Ms. Marston said that this could be a "make believe" residence just to get a road constructed under a residential building permit.

Terry Maloney-Kelly of Maloney's Ridge Way said that she would like to see the gravel extraction ordinance "taken off the books". It is not worth the paper it is written on and it is a misconception to the new people moving into the neighborhood. They are all very disappointed in her neighborhood that this is going on and it's very unfortunate that they got stuck with the bad neighbor.

Robert Maloney of Maloney's Ridge Way said that he has lived in this Town since 1953 and it has been a constant battle with neighboring gravel pits. The past 10 to 15 years he had hoped that the Town was changing with the nice homes being built in West Cumberland. Every day there is banging of equipment, on and on and on, and he is very disappointed that the Town cannot shut down an operation and take care of a residential zone.

Janine Gorham of 25 Forest Lane said that the noise from the pit on Blackstrap Road, in addition to this property, takes away from the enjoyment of one's home. This is a real issue for the residents of West Cumberland.

**17 – 096 To hear a report from the Town Attorney re: the disposition of paper streets, which will require action by September 2017.**

Town Attorney, Alyssa Tibbetts explained that there is a looming statutory deadline of September 29, 2017, for whatever action the Council decides to take in regard to the disposition of paper streets. There are three options:

- 1) To take no action. If this option is chosen, all the 26 paper streets will be deemed vacated and the property will go to the abutting property owners to the center-line of the road.
- 2) Adopt a blanket extension of the Town's rights in all paper streets that were retained in 1997. The Town would then decide whether to accept or vacate the paper streets during the next 20 year period.
- 3) Targeted approach. Create a list of those to formally accept (if any) and a no action list of those that should be vacated.

Councilor Bingham asked the Manager if we have had any issues come up with paper streets over the past 20 years.

Town Manager Shane said that the only issues have been with encroachment of driveways and structures being built within the set back of the paper street. He recommended taking the targeted approach and dealing with a few each year, perhaps have some neighborhood meetings so that people understand the paper street issue. The only one that needs some priority is Cross Road and Route 9. There is a section of Route 9 that was vacated near Cross Road where a section is still the old Range Way that has never been dealt with. Perhaps this one can be acted upon at one of the August Council meetings.

Denny Gallaudet of 67 Range Road said he owns property on both sides of Turkey Lane from the snowmobile bridge to Range Road and is trying to understand exactly what the Town's plans were in regard to this land.

Town Manager Shane said that Turkey Lane was not listed on the 1997 order, but we want to be careful to examine if there are any other implications to be considered. Is it a formal vacation or discontinuance and does that require Town Council action? Or by default did it disappear back in 1997? The Town Attorney will do the research to determine ownership and title to this property.

Motion by Councilor Bingham, seconded by Councilor Stiles, to set a Public Hearing date of September 11<sup>th</sup> to consider and act on extending the paper street deadline.

VOTE: 7-0 UNANIMOUS

**17 – 097 To consider and act on amending Chapter 261 (Taxation) of the Cumberland Code, as recommended by the Senior Property Tax Assistance Committee.**

Town Manager Shane said this is very exciting for any resident who is 70 years of age or older and has lived in the community for over 10 years. The Senior Property Tax Assistance Committee has recommended that we move forward with the new ordinance that is based on income and the amount of the increase on one's property taxes that year. For example, if your taxes go up \$300, you would receive \$300 plus whatever other

amount you are entitled to based on your income. This program is a way to help our seniors stay in our community

Councilor Storey-King said that as a member of the Senior Property Tax Assistance Committee since it started, she appreciates the work that the Town Manager and Town Attorney put into this. The State laws and regulations change continuously, this issue has been hard to handle, since it is like a moving target.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to amend Chapter 261 (Taxation) of the Cumberland Code, as recommended by the Senior Property Tax Assistance Committee.

VOTE: 7-0 UNANIMOUS

**17 – 098 To consider and authorizing the Code Enforcement Officer to execute a Consent Agreement with the owners of 70 Crossing Brook Road.**

Town Manager Shane explained that this issue goes back decades. The overhang of the eaves on the house is within the setback. This was discovered during the mortgage process when the house was sold and is no fault of the current owner. Back in 1998 common practice by the Code Enforcement Officer was to issue a “no action letter” in these cases, which title searches do not recognize. The consent agreement allows these issues to remain as is with no violation of Town ordinance. The Town Attorney has reviewed it and staff is recommending approval.

Motion by Councilor Bingham, seconded by Councilor Turner, to authorize the Code Enforcement Officer to execute a Consent Agreement with the owners of 70 Crossing Brook Road.

Councilor Copp said that since this is such a minor infraction and no fault of the current owner, he recommended waiving the \$500 fee.

Councilor Bingham amended the original motion to include waiving the \$500 fee, Councilor Stiles seconded.

VOTE: 7-0 UNANIMOUS

**V. NEW BUSINESS**

**Councilor Bingham** – Condolences to the Frye family on the passing of Albie Frye. Those who are new to our community do not realize that there were people in the 40’s, 50’s and 60’s who laid a lot of the groundwork that made Cumberland what it is today. We should celebrate those people and their families. Albie was one of them.

His son Peter and Jen Wilson are getting married on Saturday with a celebration afterward at Val Halla.

**Councilor Gruber** – The approval of the property tax relief program for seniors is very exciting for our community.

The Ocean Access Committee and the Aging in Place Committee will meet on Wednesday of this week.

**Councilor Storey-King** – She thanked the Council for their support and the flowers that were sent to her during a recent stay in the hospital.

Her son got married recently in “Storey Land” in her dad’s barn. It was a fabulous day.

Her cousin Kate also got married in a barn wedding in Pownal. Congratulations to all of these young Greely grads who are getting married.

**Councilor Copp** – Condolences to the Frye family. Albie was a good man who lived in Cumberland for as long as he could remember and raised his family here.

**Chairman Edes** – Construction is going very well in Town and traffic seems to be running smoothly.

He donated the additional money that he will earn annually for being Council Chairman to the 4-H/Food Pantry fund. He presented Councilor Stiles a check for \$400 from himself and his wife, Jennifer.

**Councilor Stiles** – He continues his effort to collect donations for the 4-H auction to benefit the Food Pantry. He urged everyone to donate just \$10 to this great cause.

**Councilor Turner** – People who let their dogs run loose under voice control should really make sure that they are under voice control. There have been a few problems on the conservation trail at the Broad Cove Reserve.

He asked the Manager if anyone is aware that someone had a fire at the beach on the Broad Cove Reserve property.

Town Manager Shane said yes. Alcohol was involved as well as a fire. They also moved picnic tables down to the beach which negatively impacted some of the sensitive grass areas. When the gate is installed, that will hopefully prevent this type of activity. The police did find a couple of the individuals responsible.

**Town Manager Shane** – The Planning Board will be considering the Senior Housing Overlay on July 18<sup>th</sup>.

- VI. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.  
Motion by Councilor Bingham, seconded by Councilor Storey-King, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.  
VOTE: 7-0 UNANIMOUS  
TIME: 9:29 P.M.

Reconvene to regular session at 9:45 P.M.

- VII. ADJOURNMENT**  
Motion by Councilor Bingham, seconded by Councilor Copp, to adjourn.  
VOTE: 7-0 UNANIMOUS  
TIME: 9:45 P.M.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary