

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, July 24, 2017**

**5:30 P.M. Ordinance Committee Meeting**

**6:30 P.M. Town Council Photos**

## **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 Gruber, seconded by Councilor Stiles, to accept the July 10, 2017 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

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

Town Manager Shane gave an update on the Middle and Tuttle Road construction. The biggest issue on the Tuttle Road waterline replacement project is the ledge that they ran into near the Methodist Church. The contractor is doing the best he can to blast the ledge enough to make a trench and we should be back on schedule next week. Please be patient with traffic delays which could take as long as 5 to 10 minutes at times.

The next section of Middle Road is ready for pavement and is scheduled to be paved this Friday. The project is on schedule and is going very well. Middle Road residents will be receiving a letter from the Town in the next few days regarding the need for a pressure reducing valve for those residents that are presently serviced by Portland Water District. They will need to contact Town Hall to make an appointment for D.J. Small Plumbing to come to their home to install the valve, at no cost. This is necessary because the new waterline will have almost double the water pressure that the present waterline has. We want to get them installed ahead of the new waterline switch over to be sure any problems can be taken care of beforehand.

### **III. PUBLIC DISCUSSION**

None

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

**17 – 099 To hold a Public Hearing to consider and act on acceptance of Greely Woods and other easements.**

This item was TABLED.

**17 – 100 To hold a Public Hearing to consider and act on amendments to Chapter 48 (Coastal Waters), Section 6 (Abandonment of watercraft) of the Cumberland Code, as recommended by the Coastal Waters Commission, and discussion re: Dinghies and enacting a Council Policy until proper notice and Public Hearing is scheduled for August 14<sup>th</sup>.**

Vice-Chairman of the Coastal Waters Commission, Mike Schwindt explained that the purpose of this it to allow the Commission to be more proactive since the mooring field has been opened up. If someone has a mooring, they can bring a boat with a problem into our waters, but if not, they will not be allowed to (unless it is an emergency situation). If any watercraft is polluting, hazardous to navigation, or in danger of sinking, the

Harbormaster can authorize a private contractor to mitigate the damage to or from the watercraft at the owner's expense. The owner will be required to pay all reasonable costs associated with mitigating loss or damages from a derelict, abandoned or sinking watercraft. Failure to make full and timely payment will result in the immediate loss of all mooring privileges and continued loss for two years after the debt is paid in full.

Chairman Edes opened the Public Hearing.

Public discussion: none

Chairman Edes closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Gruber, to amend Chapter 48 (Coastal Waters), Section 6 (Abandonment of watercraft) of the Cumberland Code, as recommended by the Coastal Waters Commission

VOTE: 7-0 UNANIMOUS

**17 – 101 To hear a report from the Tax Assessor and to hold a Public Hearing to consider and act on setting the FY2018 tax rate.**

Tax Assessor, John Brushwein said that the 2017-18 commitment is complete with tax bills scheduled to be mailed the second week in August. It is his recommendation that the tax rate be set at \$18.80 per \$1,000.00 of assessed value, which represents a 3.01% increase above the 2016-17 rate of \$18.25.

The State Legislature voted to include the Homestead Exemption increase from \$15,000.00 to \$20,000.00. However, they also voted to maintain the 50% municipal reimbursement for 2017. Originally, the reimbursement was slated to be at 62.5% when the exemption increased to \$20,000.00. As a result, Cumberland has an additional \$8,820,000.00 in exempt property for 2017. The reimbursement will increase to 62.5% in 2018. The additional \$5,000.00 exemption results in a net increase for homestead owners as follows:

ASSESSED VALUE	TAX INCREASE	% INCREASE
\$200,000	\$ 16.00	.44%
\$350,000	\$ 98.50	1.54%
\$500,000	\$181.00	1.98%
\$650,000	\$263.50	2.22%

The LD1 Municipal Tax Levy Limit calculation resulted in Cumberland's property tax levy being under the property tax levy limit by \$614,929.00, therefore, no vote is needed to exceed the limit.

Chairman Edes opened the Public Hearing.

Public discussion: Sam York of Fox Run Road asked if the Town has any recourse (other than the Town vote) for the fact that the School Budget keeps going up faster than inflation each year.

Chairman Edes said that these things are typically decided by 1 or 2 percent of the voters. People have to get out and vote on School issues.

Chairman Stiles said that the Town has no input on the School budget.

Chairman Edes closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Turner, to set the municipal tax rate for FY2018 at \$18.80.

VOTE: 7-0 UNANIMOUS

**17 – 102 To amend the Council action of May 22, 2017 re: adoption of the FY2018 Budget (no change to tax rate).**

Town Manager Shane explained that when the Finance Committee met at the end of the fiscal year, we had one of the largest overages in the municipal budget that we have seen in a long time. Most of it was due to accrual payouts because of employee retirements and resignations, and health insurance plan changes (from single to family plan, for example). Staff has been working on a way to come up with a better way to deal with these fluctuations in the year to year budget. He is proposing to increase the excise tax revenues and add a reserve account line item to the general budget for accrual payouts. There will be no impact on this year's budget. The action this evening is to amend the revenues and expenses that were voted upon at the May 22, 2017 meeting.

Motion by Councilor Stiles, seconded by Councilor Gruber, to rescind the motion of May 22, 2017 to set the Municipal FY2018 General Fund Expenditure budget at \$10,590,575.00 (includes County Tax) and the General Fund Non-Property Tax Revenues Budget of \$4,687,399.00 to offset the impact of property taxes, as recommended by the Finance Committee.

VOTE: 7-0 UNANIMOUS

Motion by Councilor Stiles, seconded by Councilor Bingham, to set the Municipal FY 2018 General Fund Expenditure Budget at \$10,690,575 (includes County Tax) and the General Fund Non-Property Tax Revenues Budget of \$4,787,399.

VOTE: 7-0 UNANIMOUS

**17 – 103 To hold a Public Hearing to set rates at which interest will be paid for delinquent taxes and to authorizing applying tax payments to the oldest unpaid taxes.**

Town Manager Shane explained that this is the annual setting of the interest rate to be charged for delinquent taxes. Maine Municipal Association recommends 7%.

Chairman Edes opened the Public Hearing.

Public discussion: none

Chairman Edes closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to set an interest rate of 7% for delinquent real and personal property taxes for FY2018. Be it further Ordered, that all payments for delinquent real and personal property taxes be applied to the oldest, unpaid taxes.

VOTE: 7-0 UNANIMOUS

**17 – 104 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Labor Day “Just for Fun” Soccer Tournament to be held on September 2<sup>nd</sup> and 3<sup>rd</sup> from 7:00 a.m. to 7:00 p.m. at Twin Brook Recreation Facility.**

Chairman Edes opened the Public Hearing.

Public discussion: none

Chairman Edes closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Turner, to approve the Mass Gathering Permit for the Labor Day “Just for Fun” Soccer Tournament to be held on September 2<sup>nd</sup> and 3<sup>rd</sup> from 7:00 a.m. to 7:00 p.m. at Twin Brook Recreation Facility.

VOTE: 7-0 UNANIMOUS

**17 – 105 To hold a Public Hearing to consider and act on amendments to Chapter 315 (Zoning) Article I, Section 4 (Word Usage and Definitions); Article III, Section 28.4 (Senior Housing Community Overlay District (new)); and Article VI, Section 60.1 (Senior Housing Communities (new)) of the Cumberland Code to establish a Senior Housing Community Overlay District and to adopt definitions and regulations related thereto, as recommended by the Planning Board and Ordinance Committee.**

Town Manager Shane explained that this will take an area in the center of Town and create a Senior Housing Overlay District, which will allow for smaller house lots and the ability to offer different types of housing for seniors (market rate and/or affordable). Our hope is that our seniors will be able to stay in Cumberland if they want to downsize. We currently have over 150 people on the waiting list for our Hawthorne Court senior housing facility. There is definitely a need in our community.

Chairman Edes opened the Public Hearing.

Public discussion: Sam York of Fox Run Road asked if this would impact any other activities that might be designated for this zoning area.

Town Manager Shane explained that anything allowed in the current zone would still be permitted.

Chairman Edes closed the Public Hearing.

Motion by Councilor Turner, seconded by Councilor Gruber, to amend to Chapter 315 (Zoning) Article I, Section 4 (Word Usage and Definitions); Article III, Section 28.4 (Senior Housing Community Overlay District (new)); and Article VI, Section 60.1 (Senior Housing Communities (new)) of the Cumberland Code to establish a Senior Housing Community Overlay District and to adopt definitions and regulations related thereto, as recommended by the Planning Board and Ordinance Committee.

VOTE: 7-0 UNANIMOUS

**17 – 106 To hold a Public Hearing to consider and act on updating the Official Zoning Map of the Town of Cumberland to add a Senior Housing Community Overlay District.**

Town Manager Shane explained that this is the final piece procedurally for the Senior Housing Overlay District.

Chairman Edes opened the Public Hearing.

Public discussion: none

Chairman Edes closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Stiles, to update the Official Zoning Map of the Town of Cumberland to add a Senior Housing Community Overlay District.

VOTE: 7-0 UNANIMOUS

**17 – 107 To consider and act on authorizing the Town Manager to advertise for bidders to purchase the former Whitman House with a minimum bid of \$25,000.**

Chairman Edes explained that this is the house that used to be next to the Fire Station that was moved when construction for the new fire station began.

Motion by Councilor Copp, seconded by Councilor Turner, to authorize the Town Manager to advertise for bidders to purchase the former Whitman House with a minimum bid of \$25,000.

VOTE: 6-1 (Stiles opposed) MOTION PASSES

**17 – 108 To set a Public Hearing date of August 14<sup>th</sup> to consider and act on setting sewer user fees for FY2018.**

Motion by Councilor Bingham, seconded by Councilor Turner, to set a Public Hearing date of August 14<sup>th</sup> to consider and act on setting sewer user fees for FY2018.

VOTE: 7-0 UNANIMOUS

**17 – 109 To set a Public Hearing date of August 14<sup>th</sup> to consider and act on amendments to Chapter 48 (Coastal Waters), Section 2 (Definitions) to add Dinghy, Section 5 (Dockage Time (new)), Section 6 (Dinghies (new)), and renumbering of remainder of Chapter 48, as recommended by the Coastal Waters Commission.**

Mike Schwindt, Vice-Chairman of the Coastal Waters Commission said that the Commission has not met to review these amendments yet. Their next meeting is scheduled for September.

Motion by Councilor Bingham, seconded by Councilor Gruber, to adopt the proposed amendments to Chapter 48 (Coastal Waters), Section 2 (Definitions) to add Dinghy, Section 5 (Dockage Time (new)), Section 6 (Dinghies (new)), and renumbering of remainder of Chapter 48, as a temporary policy until formal adoption is complete.

VOTE: 7-0 UNANIMOUS

Motion by Councilor Storey-King, seconded by Councilor Bingham, to table the ordinance amendments until the Coastal Waters Commission can review it at their September meeting.

VOTE: 7-0 UNANIMOUS

**V. NEW BUSINESS**

**Councilor Bingham** – It looks like the Forecaster is going to be sold to Maine Today Media, the owners of the Portland Press Herald. He called and left a message for Mo Mehlsak at the Forecaster and said that as a member of the Cumberland Town Council, it is very important that they try to continue the high level of local coverage and local sports coverage.

**Councilor Gruber** – He thanked everyone for supporting the Senior Housing Overlay item. This will allow for affordable housing for our senior residents.

**Councilor Storey-King** – The Ordinance Committee met earlier this evening to review Impact Fees, Accessory Dwelling Unit and Animal Ordinances. There will be a workshop with the Planning Board on August 15<sup>th</sup> on these ordinance changes.

**Councilor Copp** – He asked the Town Manager for an update to the complaint in West Cumberland regarding the gravel pit noise.

Town Manager Shane replied that he reached out to the land owner and was told that they would comply with the informal request that we have on most site-work developments that the work hours be limited to Monday – Friday from 7:00 a.m. to 7:00 p.m. and 8:00 a.m. to 6:00 p.m. on weekends. We do not have a noise ordinance and have been advised by the Town Attorney that they are very difficult to defend. The difficulty in West Cumberland is that is where the Industrial Zone is located.

**Chairman Edes** – None

**Councilor Stiles** – He is getting to the home stretch to collect donations for the 4-H auction at the Cumberland Fair that will benefit the Food Pantry. He needs to raise an additional \$6,000. Donations can be made at Town Hall or on the Town website.

**Councilor Turner** – None

**Town Manager Shane** – None

- VI. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.  
Motion by Councilor Gruber, seconded by Councilor Bingham, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.  
VOTE: 7-0 UNANIMOUS  
TIME: 8:08 P.M.

Reconvene to regular session at 8:50 P.M.

- VII. ADJOURNMENT**  
Motion by Councilor Bingham, seconded by Councilor Stiles, to adjourn.  
VOTE: 7-0 UNANIMOUS  
TIME: 8:50 P.M.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary