

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, June 14, 2010

7:00 p.m. Call to Order

Present: Chairman Copp, Councilors Turner, Perfetti, Storey-King, Stiles and Moriarty.

Excused: Councilor Porter

I. APPROVAL OF MINUTES

May 24, 2010

Motion by Councilor Stiles, seconded by Councilor Storey-King, to approve the minutes as presented with minor housekeeping amendments.

VOTE: UNANIMOUS PASSAGE 6-0

II. MANAGER'S REPORT

Project Update:

▪ Route 88

The Foreside Road construction crew has been working for a week now. Over 70 test pits were dug along Foreside Road and eight conflicts found, many due to erroneous records. We are looking at a redesign for those areas. The Manager visited the Sea Cove area today after DEP identified some very sensitive erosion areas. The town is working with homeowners to come up with a solution to prevent further erosion. The town will mark the tree cutting boundaries along Foreside and the side streets. Pink ribbons will signify trees marked for removal. The major work "will begin in earnest in two weeks." We will be closing Town Landing Road starting June 28th and work will continue toward Wildwood and Sea Cove Roads. Residents should see the crew on Route 88 in the beginning of August. The town has also issued requests for construction easements, and to date only six homeowners have responded.

▪ Range Road

Range Road is currently closed to through traffic. Blasting will be completed this week. The grinding work has been completed. Contractor is still working on drainage and water lines in the area of Santiago Way.

• Memorial Day Parade overview

The Town Manager deferred to Councilor Moriarty who shared the speech he gave at the Memorial Day celebration. Councilor Moriarty thanked the Veterans Monument Committee for their efforts over the last year "to make this monument a reality." To date, over 200 individuals have donated to this monument.

III. PUBLIC DISCUSSION

None.

IV. LEGISLATION AND POLICY

10 – 070 To swear in newly elected Councilors.

Town Clerk Nadeen Daniels performed the swearing in of Councilors-elect Moriarty and Perfetti.

10 – 071 Election of Council Chair and Vice-Chair.

Motion by Councilor Moriarty, seconded by Councilor Perfetti, to elect Councilor Storey-King Council Chairman for the upcoming year (fiscal year 2011).

VOTE: UNANIMOUS PASSAGE 6-0

Motion by Councilor Turner, seconded by Councilor Copp, to elect Councilor Perfetti Vice-Chairman for fiscal year 2011.

VOTE: UNANIMOUS PASSAGE 6-0

Councilor Stiles publicly commended Councilor Copp for a job well-done as Council Chairman. “I really enjoyed it. And I learned a lot.”

10 – 072 To hold a Public Hearing to consider and act on a Mass Gathering permit for the Cumberland Soccer Club Labor Day “Just For Fun” Soccer Tournament to be held at Twin Brook Recreation Facility on September 4 & 5, 2010 from 7:00 a.m. to 7:00 p.m.

Town Manager Shane introduced Mike Kennedy and Susan Clifford as representatives for the Soccer Tournament. Ms. Clifford explained she attended a meeting this morning with town staff to review the Mass Gathering Permit request. She provided an overview of the tournament event and explained that the tournament has seen a loss of nearly twenty teams over the last two years. The parking plan put in place several years ago was successful in addressing the parking and traffic of prior years’ higher volumes, so she is confident the plan will serve them well this year.

No public comments received. Manager Shane described the parking plan as “a model” for effective parking and traffic control. He commended the tournament volunteers for their hard work. “They really have it down to a science.” Chairman Storey-King noted the request from Lieutenant Calder regarding speed limit adherence. Ms. Clifford indicated the Lieutenant’s comments are noted on the tournament application.

Motion by Councilor Stiles, seconded by Councilor Turner, to approve a Mass Gathering Permit for the Cumberland Soccer Club Labor Day “Just For Fun” Soccer Tournament to be held at Twin Brook Recreation Facility on September 4 & 5, 2010 from 7:00 a.m. to 7:00 p.m.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 073 To hold a Public Hearing to consider and act on a Wharfing Out Permit for 21 Sturdivant Road as recommended by the Coastal Waters Commission.

Town Manager Shane explained the Shoreland Zoning Ordinance was amended in 2009 to allow Wharfing Out Permit applications to be reviewed by the Coastal Water Commission. The commission then forwards a recommendation to the town council. Commissioner Louis Incze explained the wharfing out permit application was received by the commission in early May 2010. The commission held a site walk on May 11, 2010, followed by a public hearing. After deliberation, the commission voted unanimously to recommend approval of the permit. Two members of the Wildwood Association attended the public hearing and spoke “quite strongly in opposition.” The commission did consider the association members’ concern regarding the visual impact of the elevated structure year round. South of the Wildwood beach front is another ½ mile of cove, relatively unbuilt. The proposed pier “sort of bisects” this view and the association members were concerned by this. The pier height accommodates storm surge and will extend out 100 feet. The pier complies with all regulations. The

pier will be shared by two adjacent properties through a legal deed. The licensing of this pier means the total float footprint will be cut in half. The Maine DEP “judges this to be of great benefit.” This pier also conforms to the DEP’s promotion of adjacent construction of docks in order to reduce the total number of docks that line the waterfront. The Town Manager stated a point was raised regarding the town ordinance requirement that docks and piers should be consistent with surrounding uses. “It was never our intention to say that if no pier existed none should ever be built.” The ordinance language is meant to require that the piers and wharves “be consistent with local standards” rather than “an expression of yourself.” The commission believes this project meets those standards.

Jock McDonald, Wildwood Boulevard resident and member of the Coastal Waters Commission, spoke as a resident of Wildwood. “I think this project is consistent with the Maine coast.” It certainly is in keeping with the area. The Payson Pier is not readily visible from this point.

Referring to the aerial map provided to the councilors, Councilor Stiles questioned whether any existing floats are being removed. The applicant’s Engineer Barney Baker stated there are currently 120’ of piers which are removed each year and which sit on the intertidal beach during removal. The floats are being taken out and replaced by the pier, which ultimately reduces the intertidal impact. Councilor Turner, liaison to the Coastal Waters Commission, added that part of the commission’s consideration had to do with the impact of the floats at low tide. Pier pilings have a lot less impact on the sea life than floats that “periodically sit on the beach.” The Town Manager stated he was informed by Police Lieutenant Calder that the Pierce family has offered the use of the pier “for public safety purposes” for emergency occasions. “We certainly appreciate the ability to access it for public safety purposes.” Mr. Incze revisited the comment regarding the reduced footprint of the floats. The new floats will comprise half the area of the existing floats. “The actual reduction is even more than 50 percent.” Technically, though, he clarified, the Pierce’s are entitled to the existing and proposed floats. Councilor Moriarty then asked whether the new floats will come out seasonally. Yes, “That’s part of our ordinance” replied the Manager. Councilor Perfetti asked about the revegetation plan and whether it must be reviewed by the Town Manager. The Town Manager responded affirmatively and confirmed the off-season storage of the floats will be “nowhere along the beach.” The town will monitor the area to ensure this is the case. Councilor Copp asked for assurance that all float owners follow this guideline and the Town Manager explained this off-site storage applies only to new applications. The town will request however that other floats be hauled offsite. .

Motion by Councilor Turner, seconded by Councilor Perfetti, to approve a Wharfing Out Permit for 21 Sturdivant Road with the following conditions, as recommended by the Coastal Waters Commission:

1. A re-vegetation plan with netting and vegetation species be submitted to the Town Manager for the entire project area for review and approval;
2. The buffer at the top of the slope, to be clarified as the area between the maintained lawn area, and the top of the bank, be maintained in its existing state;
3. That an early start date for construction will be no sooner than Monday, July 12, 2010;
4. All federal & state conditions be met as part of this application, with specific reference to the Army Corp. and the DEP NRPA approval;
4. A building permit be obtained from the Town of Cumberland prior to the start of any construction; and
6. All floats must be removed and stored offsite, and the Code Enforcement Officer be notified during the first two seasons.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 074 To hold a Public Hearing to consider and act on amendments to section 204.14.3.3 Industrial Zone (I) of the Cumberland Zoning Ordinance re: side setback buffering, as recommended by the Planning Board.

No public comments. The Town Manager explained this amendment changes the side setback requirements to add a vegetative buffer and came about as a result of the expanded uses in the West Cumberland Industrial Zone. If you abut a residential neighborhood, you need to put in a vegetative buffer. The Planning Board modified this language for “practicality” reasons related to concerns with a requirement to vegetate areas where significant slopes exist between abutting properties. “I believe this compromise will work.” The landowners in the area were notified of this hearing and no negative comments or feedback were received.

Councilor Copp stated he has spoken with the gravel pit owners who asked about fencing around the gravel pits. The Manager replied “That is not the intent at all.” There are some properties that vary in slope contours by 75 feet. “It serves no purpose” to require landscaping with trees. This provides a practical solution in those instances.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to amend Section 204.14.3.3, Industrial Zone (I), of the Cumberland Zoning Ordinance re: side setback buffering, as recommended by the Planning Board.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 075 To hold a Public Hearing to consider and act on a Mass Gathering Permit and Victualer’s Licenses for the United Maine Craftsmen’s 41st Annual Cumberland Arts & Crafts Show, August 12, 13, & 14, 2010 at the Cumberland Fair Grounds.

The Manager noted that the applicants have submitted an additional \$250 check because this event is a Major Mass Gathering. All items are in order and he recommends approval.

Motion by Councilor Copp, seconded by Councilor Stiles, to approve a Mass Gathering Permit and Victualer’s Licenses for the United Maine Craftsmen’s 41st Annual Cumberland Arts & Crafts Show, August 12, 13, & 14, 2010 at the Cumberland Fair Grounds.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 076 To hold a Public Hearing to award a three-year solid waste/recycling contract.

The Town Manager recommended approval. Pine Tree Waste, a/k/a Casella, was the low bidder “in a very, very close bid.” No public comments.

Councilor Copp announced he would abstain from voting because he tows for Pine Tree Waste. Councilor Stiles asked if the bid award would change based on the removal or reduction of the two bulky waste events. The Manager responded that the BBI bidder “had a qualifier,” adding the town still pays for the tipping fee for the bulky waste pick-up service. If we did reduce the number from two to one, he feels the town would add half again as much in personnel costs because of stockpiling by homeowners.

Motion by Councilor Perfetti, seconded by Councilor Moriarty, to award a three-year solid waste/recycling contract to Pine Tree Waste.

VOTE: PASSAGE 5-0-1 (Councilor Copp abstained)

10 – 077 To consider and act on Commercial Hauler’s License renewals for FY’11.

No public comment.

Motion by Councilor Stiles, seconded by Councilor Copp, to approve an FY’11 Commercial Hauler’s License renewal for:

- Reynolds & Sons Disposal Service
- Waste Management of Maine
- BBI Waste Industries
- Troiano Waste Service
- Pine Tree Waste

VOTE: UNANIMOUS PASSAGE 6-0

10 – 078 To set a Public Hearing date (June 28th) to consider and act on annual Victualer’s Licenses for the period of July 1, 2010 – June 30, 2011.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to set a Public Hearing date of June 28th to consider and act on the FY’11 Victualer’s Licenses.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 079 To set a Public Hearing date (June 28th) to receive a year-end report from the Finance Committee and to authorize the Town Manager to transfer inter-departmental operating funds.

No public comment. The council Finance Committee will meet on at 7:30 am, Monday, June 21st to review the year end report and fund transfer request. The meeting is open to the public.

Motion by Councilor Stiles, seconded by Councilor Copp, to set a Public Hearing date of June 28th to receive a year-end report from the Finance Committee and to authorize the Town Manager to transfer inter-departmental operating funds.

VOTE:

10 – 080 To set a Public Hearing date (June 28th) to consider and act on amendments to Section 402.A (Domesticated Chickens) of the Cumberland Zoning Ordinance, as recommended by the Planning Board.

No public comments received. Councilor Stiles referenced an email received from Stacey Collins supporting the chicken ordinance and concerns with keeping chickens in attached structures. He suggested the council move forward with the ordinance as written.

Councilor Turner offered a solution to the raised concern. He suggested changing Section 402.A.2 from “At no time shall chickens be **kept** in a residence including attached structures” to “At no time shall chickens be **housed** in a residence including attached structures.” Chairman Storey-King responded “That’s a simple change we can make tonight” and asked that it be reflected in the minutes.

Motion by Councilor Stiles, seconded by Councilor Turner, to set a Public Hearing date (June 28th) to consider and act on amendments to Section 402.A (Domesticated Chickens) of the Cumberland Zoning Ordinance, as recommended by the Planning Board.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 081 To set a Public Hearing date (June 28th) to consider and act on amendments to Section 402.6 (Deer Feeding and Baiting) of the Cumberland Zoning Ordinance, as recommended by the Planning Board.

No public comments. The Manager stated this amendment has been reviewed and endorsed by the Planning Board. There was “solid support” for this ordinance.

Motion by Councilor Moriarty, seconded by Councilor Copp, to set a Public Hearing date (June 28th) to consider and act on amendments to Section 402.6 (Deer Feeding and Baiting) of the Cumberland Zoning Ordinance, as recommended by the Planning Board.

VOTE: PASSAGE 5-1 (Councilor Perfetti opposed)

10 – 082 To set a Public Hearing date (June 28th) to consider and act on amendments to permitted and special exception uses in all zoning districts in the Cumberland Zoning Ordinance, as recommended by the Planning Board.

No public comments. The Manager believes this amendment “streamlines our ordinance process. It’s a great thing for the ordinance and the town of Cumberland.” Councilor Turner remarked “Very, very few, if any ever, are used as a reason to turn the applicant down. It’s unusual if one of those standards are affirmatively going to be violated.” This “cleans things up and makes it much easier on the board of appeals.”

Motion by Councilor Copp, seconded by Councilor Moriarty, to set a Public Hearing date (June 28th) to consider and act on amendments to permitted and special exception uses in all zoning districts in the Cumberland Zoning Ordinance, as recommended by the Planning Board.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 083 FY’11 Council committee assignments/re-assignments.

The Manager indicated a council liaison is still needed for the Greater Portland Council of Government and Councilor Porter has been added as a liaison for the Val Halla Board of Trustees. Councilor Turner volunteered to serve as the GPCOG liaison.

Motion by Councilor Stiles, seconded by Councilor Copp, to accept the council appointments as presented and discussed.

VOTE: UNANIMOUS PASSAGE 6-0

2010-2011 Town Council Assignments

Board of Appeals	Councilor Turner
Nominating Committee	Councilors Porter, Moriarty and Turner
Circuit Breaker Committee	Councilors Stiles, Copp and Storey-King
Coastal Waters Commission	Councilor Turner
Conservation Commission	Councilor Moriarty
Cool Cities Committee	Councilors Porter and Copp
Cumberland/No. Yarmouth Joint Committee	Councilors Stiles and Turner
ECOMaine	Susan McGinty
ECOMaine alternate	Town Manager Shane
Falmouth/Cumberland Chamber	Councilor Turner/Alyssa Daniels
Finance Committee	Councilors Stiles, Porter and Perfetti

Greater Portland Council of Government
Housing Authority
Ordinance Committee
Planning Board
Prince Memorial Library Advisory Board
Recreation/Community Education Advrsry Bd
Rines Forest Committee
Shellfish Conservation Commission
TIF Committee
Twin Brook Advisory Committee
Val Halla Board of Trustees
Veterans' Monument Committee
Village Center Committee

Councilor Turner
Councilors Stiles and Perfetti
Councilors Moriarty, Perfetti and Turner
Councilor Moriarty
Councilor Moriarty
Councilors Perfetti and Storey-King
Councilors Moriarty and Porter
Councilor Turner
Councilors Turner, Stiles and Porter
Councilors Moriarty and Porter
Councilors Stiles and Porter
Councilor Moriarty
Councilors Moriarty, Porter and Perfetti

V. NEW BUSINESS

Councilor Turner – on his way to this meeting this evening he encountered 16 bicyclists on Tuttle Road; most of them moved toward the bike lane and tended toward single file; however, those leading the pack did not make an attempt to move; it could have been a problem for unaware drivers and it's just needless; it could cause a serious problem and put their lives in jeopardy.

Councilor Copp – received a post card re: a 6:30 pm meeting in the West Cumberland Community Hall, Thursday evening to discuss purchasing new playground equipment for the West Cumberland Recreation field; this will be a great thing to add to West Cumberland; he plans to attend; would also like to see the facility updated. Chairman Storey-King added there will be some discussion re: fundraising for this equipment.

Councilor Perfetti – thanked everyone who participated in the election; he is looking forward to serving another 3 years.

Chairman Storey-King – last Wednesday she had the pleasure of attending the unveiling celebration of the Maine Heritage Project for Cumberland/North Yarmouth; many historical documents have been placed on the internet; it is imperative to get a link to the site from the town's website; this was one of eight projects that received funding from the Maine Historical Society; congratulations to the Greely High School Class of 2010; a spectacular graduation; especially thanked all town emergency personnel who made a great parade even without water; it was a nice send off to our graduates.

Councilor Stiles – building permits for May 2010 surpassed 2008 and 2009; thanked Mr. Grover for his work on Range Road for bringing the trucks down the road at a nominal speed; we need more donations for the monument; you can make the donations to the Town of Cumberland; they are tax deductible;

Councilor Moriarty – asked about the Memorial Day event and sales of pins; Harland Storey, Bob Storey and others helped to sell the pins. Manager responded that we have raised over \$700 from the pin sales toward the monument; we are at \$22,000 in total donations; it would be great to see a second wind to provide for a second monument for next Memorial Day.

Manager Shane – he has asked Librarian Thomas Bennett to tape his Maine Historical presentation here at town hall and run it as a PSA on Channel 2; Election Day was a ‘huge event’; over 50% voter turnout; it showed us that we are physically stretched for elections of this size; many activities are going on in one small space; he recommended a workshop to discuss the challenges and possible alternatives for the future; 200 absentees the day before election. Councilor Moriarty asked how it compared to 2008 General election where we had an 80% turnout and the Manager explained that Over 50% of the voters at the June 2010 election had voted by absentee ballot by 6:15 pm on Election Day.

VI. ADJOURNMENT

Motion by Councilor Perfetti, seconded by Councilor Turner, to adjourn.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 8:22 p.m.

Respectfully submitted,

Nadeen M. Daniels, CMC
Cumberland Town Clerk