

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, May 10, 2010

7:00 p.m. Call to Order

Present: Chairman Copp, and Councilors Perfetti, Turner, Storey-King, Stiles and Moriarty.
Councilor Porter arrived at 7:20 p.m.

I. APPROVAL OF MINUTES

April 26, 2010

Motion by Councilor Moriarty, seconded by Councilor Stiles, to table the minutes to the next meeting.

VOTE: UNANIMOUS PASSAGE 6-0

II. MANAGER'S REPORT

- Base for veteran's monument will be set week of May 24th. Public Services Department has completed the improvements to the site in preparation of the monument placement. Town encourages veterans interested in participating in Memorial Day Parade to contact Fire Chief Dan Small. Golf carts will be available for use by veterans. Participants are asked to arrive at Mabel Wilson School by 9:30 am on May 31st.
- Doane property RFP to be sent out next week. A vernal pool survey of the site was recently completed and showed the site to be "well below" our expectations. We hope to receive several responses to our Doane RFP. The large property is zoned for mixed-use and we're very hopeful it will move forward for development.
- Noted a correction to the motion regarding 10-059 – please strike the words "personal property". The Assessor has informed him that the trailer is taxed as real property.

III. PUBLIC DISCUSSION

Peter Rubens, 247 Blanchard Road, spoke on behalf of the Efficiency Maine Trust Fund to inform the council that the state has established the \$100 million dollar fund. The legislation was recently enacted and signed by the governor. Funding is provided through municipal bonds which are then made available to our residents through a loan procedure. The municipality may place a lien against the property of a resident borrower and allow that homeowner to pay back the loan through their property taxes. Chairman Copp asked that the Cool Cities committee review this item. The Town Manager suggested that a Cumberland resident and prior Cool Cities Committee member, Alex Brown, actually presented this idea to the state. However, the concept announced this evening is somewhat different than the concept proposed by the town. Unfortunately, the state has asked the town not to send in any reimbursement requests because they have not yet prepared a reimbursement form. This caused us to question if the state is out of money. It has also "put our projects on hold" while we await further updates. We have been told it will be 120-150 days before reimbursements are provided. "It's a little bit frustrating. That's unfair to these smaller businesses as well." Mr. Rubens was not aware of this information, but added a lien is placed against the property rather than the owner and carries with the property upon any sale. Councilor Moriarty asked if there are deadlines for funding application. The legislation "just passed" and he is not yet familiar with the deadlines imposed under the legislation. He reiterated that the council must approve and apply for funding with the state.

Mr. David Swan, Cumberland Taxpayers Association, repeated the association's request to scrutinize department head staffing levels. In particular, he reiterated their call to review police, library and "especially fire department" staffing levels. He expressed shock by the number of uninformed residents in the community, adding that a lack of time and energy produces "a very short window of time for involvement." He believes the council and school board should be asking the tough questions regarding service levels. The "association is worried about the future of our town." He encouraged residents at home to "speak up" and contact their representatives. Councilor Moriarty commented that a council vote "becomes irrelevant" once the matter goes

to referendum. The residents “have the say. The voters decided the issue.” Mr. Swan requested the councilors “represent the town a little more fairly.” Councilor Moriarty suggested Mr. Swan was “applying an after the fact analysis.” Mr. Swan believes informal polls are necessary. Councilor Moriarty responded, “It gets expensive. You can’t know ahead of time what the electorate breakdown is going to be.” Mr. Swan concluded “I don’t mean to imply I’m finding fault with the job you’re doing...I just think there needs to be a better way. There’s a way to save money in this town...you just need to push people a little more.” Councilor Porter arrived at this point in the evening.

IV. LEGISLATION AND POLICY

10 – 056 To hold a Public Hearing to consider and act on a Mass Gathering Permit to hold a Girls Youth Lacrosse Round Robin at Twin Brook on Saturday, June 5, 2010, from 8:00 a.m. to 5:00 p.m.

Town Manager Shane recommended a waiver of the Mass Gathering and Twin Brook Use fees, and recommended this group be charged only the fire/ems service fee because this event will come “very close to the threshold” of 500 attendees. The Police Chief has determined police coverage is unnecessary. “A year ago this would not have even reached the threshold of a mass gathering” added the Town Manager. This event is a fifth and sixth grade girls’ lacrosse round robin, and began as a Recreation sponsored sport. If this event were to expand in size, it “will be in the same situation as the boys are.” The Manager estimated this event is likely a couple years away from that happening. Last weekend’s boys’ youth lacrosse event was well run and went off without a problem.

Ms. Beth Perry and Karen Hurland represented the girls’ lacrosse organization. Ms. Perry clarified that there will be over 1,000 attending “over the course of the day, but we will split the day as much as we can.” Councilor Stiles indicated he would like to assist the group, but “we still need some kind of token payment.” Councilor Perfetti indicated he “is not comfortable negotiating from the dais and asked “Have we waived fees before? “Many, many times” responded the Manager. Councilor Moriarty asked the group for the specific waiver being requested. Councilor Storey-King indicated she is “not comfortable” with the exclusion of a paint charge. “I don’t think it should cost the town money to run it.” There was discussion among some councilors regarding their earlier decision to lower the attendance threshold from 1,000 to 500. Councilor Moriarty referred to the minutes of the meeting at which the council lowered the number to 500. The minutes indicated the Manager explained “just as much” time was used by town staff when reviewing events of this size. Approval by the council also “makes the applicants and public aware” of a scheduled event. Councilor Turner suggested a deferral of the fee would be appropriate in this case. Councilor Perfetti questioned whether the group had approached the participating teams regarding covering these fees. Ms. Perry indicated the group sent an email to all participants. “Some towns have indicated they would not be able to attend if the fees are increased.” Another tournament is scheduled for the week following the Cumberland event. “Fundraising is a difficult thing from my perspective. We put all our efforts into just running this program. That would be something we would do next year. After the fact now, would be a challenge...an extra burden” for our volunteers. Councilor Moriarty replied, “I’d be inclined to split the difference with you and give you time to pay.” Ms. Hurland added they are “trying to keep this wonderful event in Cumberland. Our fear is these kinds of fees will preclude us from having it in Cumberland in the future.” She stated that other communities waive these fees to assist these organizations. Chairman Copp clarified that the Town Manager has recommended a \$400 fee. Councilor Porter stated, “I want to find a way to make it work for them this time around. Having these events is great but it shouldn’t be at a cost to the community. That being said, I do want to find a way through this.” Councilor Porter suggested a fee to cover ems/fire and police services. In other words, we do not waive the Mass Gathering Permit fee, and we charge “some type of usage fee. It doesn’t matter which one, we should come to a dollar amount that’s acceptable.” Ms. Hurland replied “We would like to continue holding it at no expense to the town.” Councilor Storey-King shared her belief that ems services are critical for these athletes. Ms. Hurland indicated they have never provided ems

services at any time over the last eight years. Instead, they have a volunteer who is a certified trainer and CPR certified. However, the fire/ems coverage is “one that we thought was reasonable to have.” The Town Manager suggested the town at least require an EMT be present at a cost of \$150 for the day. Councilor Storey-King asked again about the paint charge and trash disposal fee. Recreation Director Bill Landis noted that we have dissolved the paint fee because there’s a field use fee built in the Twin Brook Use Policy. The dumpster will not require an additional dump, as it did not after the boys’ lacrosse tournament. “There’s very little trash.” Councilor Perfetti asked for a maximum the group felt they could pay. Once established, the council can assign that figure. The group would like the \$500 fee and police fee waived, as well as a reduction in the Mass Gathering Permit fee. Ms. Perry noted that the group pays \$1,150 in equipment and referee fees and collected \$1,650 in revenues, if they do not charge the Cumberland teams who participate. Recreation Director Landis suggested the council impose a \$500 fee broken down as follows: \$150 for EMS services; \$250 Mass Gathering fee; and a \$100 field use fee.

Motion made by Councilor Storey-King, seconded by Councilor Stiles, to charge the Cumberland Girls’ Youth Lacrosse a total of \$500 in the combination recommended to cover ems coverage, Mass Gathering Permit fees and Field Use fees for the round robin to be held on June 5, 2010 at Twin Brook from 8:00 am to 5:00 pm. Councilor Moriarty asked whether the payment will be delayed or paid in advance. Councilor Storey-King responded that she saw no need for a delayed payment.

VOTE: PASSAGE 6-1 (Chairman Copp opposed)

10 – 057 To hold a Public Hearing to authorize the Town Manager to request from MDOT a reduction of the speed limit on Blackstrap Road (from 40 to 35 mph) and Route 100 (from 50 to 40 mph).

The Manager explained this item has been discussed during the two previous council meetings. He has advised MDOT that the town would a public hearing this evening. The Cumberland section of Blackstrap Road is denser in population. The town does not have the ability on its own to reduce speed limits.

Mr. Jim Lynch, Blackstrap Road, spoke in favor of the speed reduction and stated that there is a deer crossing by his home. He has personally contacted MDOT regarding the speed difference in Cumberland versus Falmouth, asking “why a mile and a half” away in Cumberland the speed limit is increased. He was not able to receive a good explanation. Mr. Lynch indicated he was willing to gather signatures for a petition to reduce the speed limit if necessary. “The road is a mess.” The area near his home is probably the most dangerous section of the road. “I’m surprised there aren’t more accidents on that road.” Councilor Stiles affirmed, “This is a safety issue.” Councilor Storey-King asked if these roads are properly posted. The Manager responded that this road is a state road that is improperly posted now. The state has no record of any speed limit on Blackstrap Road, so we are asking for a reduction to 35 mph because of the geometry of the road. The state suggested, “It really was an oversight. We’ve never inventoried this section of the road.”

Motion by Councilor Porter, seconded by Councilor Perfetti, to direct the Town Manager to request from MDOT a speed reduction on Blackstrap Road from 40 to 35 mph and on Route 100 from 50 to 40 mph. A friendly amendment was offered by Councilor Moriarty to clarify that the speed limit change to Route 100 covers only the northern end of Route 100.

VOTE: UNANIMOUS PASSAGE &-0

10 – 058 To hold a Public Hearing to consider and act on a request from MDOT to issue a construction over-limit permit for state contractor transporting construction equipment exceeding legal weight limits in connection with the Rideout Bridge/Winn Road Culvert project and to require a project construction over-limit bond.

The Manager explained the area in question is located just below Winn Road. MDOT is requesting a waiver of heavy load limits. He recommends the council sign the agreement and require a \$40,000 per mile bond from the contractor. He also recommends restricting traffic across Range and Cross Roads. The state has indicated to the Manager that they see no need to go over town roads. Councilor Porter questioned the number of truckloads. Less than ten – and includes concrete trucks and a few gravel trucks. “It’s a pretty small project” encompassing approximately four weeks. The road will not be shut down during construction. The trucks will likely travel across Winn Road, Route Nine and Route 100 – all state roads. The project will likely begin after school’s end. Councilor Porter questioned whether permission for dredging has been sought. It has not. “It will materially look the same way it does today.” They will work with IF&W when lining the culvert. Their area of work is within fifteen feet of each end of the culvert.

Motion by Councilor Storey-King, seconded by Councilor Turner, to enter into an agreement pursuant to M.R.S.A. 29-A, §2382, to issue a construction over-limit permit for transporting construction equipment exceeding legal weight limits on municipal ways, excepting Range and Cross Roads. Further, pursuant to M.R.S.A. 29-A, §2388, I move to require a \$40,000 per-mile general construction over-limit bond to guarantee suitable repair or payment of damages to municipal ways and bridges.
VOTE: UNANIMOUS PASSAGE 7-0

10 – 059 To hold a Public Hearing to consider and act on a personal property tax abatement for property identified as R07-008-0T8-0T8 and located at the Cumberland Fairgrounds in exchange for proper removal and disposal of the abandoned/unoccupied mobile home.

The Town Manager explained this item relates to a mobile home which has been in place at the fairgrounds’ mobile home park for years and recently abandoned. We are asking the fairgrounds to dispose of the mobile home that has been moved off the trailer pad and the fairgrounds has agreed to remove and dispose of the trailer in lieu of tax payment.

Councilor Porter asked why the delinquency covers seven years. The property was foreclosed upon several years ago and liens continue to be filed until transfer or sale of property. The property on which the trailer sat is owned by the fairground and an individual owned the trailer. The tax bills were sent to the individual and the fairgrounds was unaware the taxes were delinquent until such time the trailer was abandoned. The Manager has notified the fairground owners that in the future delinquency notices will be sent to the fairgrounds as well. “This is difficult for them to know that it’s even going on.” Councilor Turner questioned tax assessment law regarding mobile homes. The Town Manager stated he received a copy of state law from the Tax Assessor which states that personal property should not be assessed against trailers. Sections of fairgrounds are tax exempt, but the mobile home park is not. A removal of a trailer has to be approved by the municipality and this is how the delinquency was found. Councilor Porter felt the Manager’s recommendation is a good compromise for both the town and fairgrounds, even though the individual owner “gets off scott free.” Councilor Moriarty concurred, adding “Ordinarily we wouldn’t do this sort of thing. I don’t think we want to take on the legal expense....It’s a good resolution, but it shouldn’t happen again.” Councilor Stiles indicated he would abstain from the vote because he is a member of the Farmers’ Club.

Motion by Councilor Perfetti, seconded by Councilor Storey-King, to authorize a personal property tax abatement in the amount of \$3,001.04 for property identified as R07-008-0T8-0T8 and located at the Cumberland Fairgrounds in exchange for proper removal and disposal of the unoccupied mobile home.

VOTE: UNANIMOUS PASSAGE 6-0-1 (Councilor Stiles abstained)

10 – 060 To set a Public Hearing date (May 24th) to consider and act on a recommendation by the Coastal Waters Commission for a Wharfing Out Permit for property located at 21 Sturdivant Road.

The Manager explained a wharfing out permit application has been received from the Pierce family and this application represents “our first joint application. We are very excited that this is our first joint application.”

Motion by Councilor Turner, seconded by Councilor Stiles, to set a Public Hearing date of May 24th to Consider and act on a recommendation by the Coastal Waters Commission for a Wharfing out Permit for property located at 21 Sturdivant Road.

VOTE: UNANIMOUS PASSAGE 7-0

10 – 061 To accept a donation of \$500 for the purchase of miscellaneous fire department equipment.

This donation is received from National Semiconductor and will be put into a fire fund and brought back to you for expenditure of those funds.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to accept a donation of \$500 for the purchase of miscellaneous fire department equipment.

VOTE: UNANIMOUS PASSAGE 7-0

10 – 062 To accept donations totaling \$1,350 for use in the construction of a Junior Golf Room at the lower level of the Val Halla clubhouse.

Val Halla Golf Course member Maurice Fisher managed a campaign for donations to pay for space in the lower level of the Val Halla golf course to provide space for the junior golf program. This space “was in pretty bad repair” but will be renovated as a space for the junior program. Councilor Porter thanked Mr. Fisher and Golf-Pro Brian Bickford. “This is a pretty good investment that Maurice has already been able to secure.” Councilor Stiles asked if there is a donation goal. The goal is \$5,000.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to accept donations totaling \$1,350 for use in the construction of a Junior Golf Room at the lower level of the Val Halla clubhouse.

VOTE: UNANIMOUS PASSAGE 7-0

10- 063 To countersign the Warrant and Notice of Election calling the June 8, 2010 MSAD 51 Budget Validation Referendum.

The council is required by state school election law to meet and countersign the MSAD 51 Budget Validation Referendum Warrant.

Motion by Councilor Perfetti, seconded by Councilor Moriarty, to receive and countersign the Warrant and Notice of Election calling the MSAD 51 Budget Validation Referendum of Tuesday, June 8, 2010.

VOTE: PASSAGE 6-1 (Councilor Stiles)

V. NEW BUSINESS

Councilor Turner – much respect for Mr. Swan and his genuine concern about costs in this town; however, he is wrong on two counts – council does question and scrutinize department budgets; we had loss of jobs and required higher medical benefit contributions; suggestion that 49% disagreed; a very small minority voted – there was a strong move before the vote which provided information that was blatantly wrong; if it had failed as a result of the misinformation it would have been unfortunate; democracy works but doesn't always work the way we want it to; the council deserves credit for its work during the budget process.

Councilor Perfetti – updated the council on Main Street Committee work; committee will not report on 4/01; they hosted the first neighborhood meeting and it was moderately attended; those in attendance though provided great input for consideration; a second neighborhood meeting will be held sometime in late May; plenty of opportunities for more input.

Councilor Porter – he also attended the meeting; approximately twelve people attended; wished more people would participate.

Councilor Storey-King – held a dinner/auction at Val Halla in honor of Hannah Storey who has cystic fibrosis on April 30; the idea is a senior graduation project; they raised over \$11,000 in support of cystic fibrosis; thanked everyone who participated; hand carried a check today from Peter Bingham for the Veterans Memorial project; many generous individual donors.

Chairman Copp – bulky waste is over; congratulated Town Manager's son Jordan Shane for graduation this past weekend from Clemson University.

Councilor Stiles – congratulations to Councilor Moriarty who ran in Mother's Day 5k race – came in again in top ten percent.

Councilor Moriarty – Main Street Committee will meet on the 20th to consider the input they received at the neighborhood meeting; encouraged more attendance at the next meeting; asked if there are any other comparable Mass Gathering Permit situations coming before the council in the near future; he is willing to review the issue at an ordinance committee meeting after six months experience.

Town Manager – we may want to look at a different fee structure or Mass Gathering ordinance change in the future; candidates night on June 2nd - all candidates will be participating; forum at 7 pm and will be televised.

V. ADJOURNMENT

Motion by Councilor Perfetti, seconded by Councilor Storey-King to adjourn.

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 8:34 pm