

MINUTES
Cumberland Town Council Meeting
Town Council Chambers
MONDAY, April 26, 2010

6:00 p.m. – Meeting opened by Chairman Copp.

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

Excused: Councilor Perfetti.

Motion by Councilor Stiles, seconded by Councilor Moriarty, to recess to Executive Session pursuant to 1 M.R.S.A. 405(6)(C) re: real property acquisition, and pursuant to Title 36 M.R.S.A. 841 re: poverty abatement application.

VOTE: UNANIMOUS PASSAGE 6-0

7:00 p.m. – Call To Order to return to regular session.

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

Excused: Councilor Perfetti.

I. APPROVAL OF MINUTES

April 12, 2010

Motion by Councilor Porter, seconded by Councilor Stiles, to accept the minutes as amended by striking out blank motion wording under item one.

VOTE: UNANIMOUS PASSAGE 6-0

II. MANAGER'S REPORT

- Questions were posed at last meeting regarding MDOT taking of property on Winn Road with relation to culvert replacement.
- MDOT requested an overweight approval today for contractor performing culvert replacement at the Rideout Bridge. Manager requested the council set a May 11, 2010 public hearing date. In the past, the town has agreed to lift the limits and requested a construction bond.

III. PUBLIC DISCUSSION

None.

IV. LEGISLATION AND POLICY

10 – 045 To hear a report from the Cool Cities Committee re: street light project and grants.

Finance Director Alex Kimball reported on the recent work of the Cool Cities Committee. Committee member Adam Pitcher began a light inventory project by cataloguing and mapping street lights in town. Adam found “some discrepancies” between CMP’s list and the actual lights located in town. “The town of Cumberland doesn’t have a ton of street lights.” The general policy in town is to place the street lights along “walkways, intersections, curves and hills.” Mr. Kimball showed a map of street lights throughout the town. “While Main Street does have a lot of street lights, they’re not overly intense.” The committee will create and recommend a comprehensive streetlight ordinance and will “push hard for the use of some new technology. Some lights make sense, others do not.” The committee is also reviewing LED streetlights. Committee chairman Paul Weiss offered praise for the “tremendous amount of work” accomplished by Mr. Pitcher. “We’re really excited” about the new technologies and “We’re hoping to have the first LED streetlight in Maine.” A policy review will

consider criteria including energy use, safety, policies regarding existing bulbs, light pollution, and a review of building and parking lighting.

Councilor Moriarty questioned whether lights exist “for no apparent reason” or due to policy or ordinance. “All of the above” responded Mr. Weiss. The reasoning has not been consistent. CMP encouraged towns years ago to put in these lights. However, the large electrical bills resulting from the current bulbs have caused us “to really think more wisely.” Councilor Moriarty asked who holds authority to dismantle a street light. Only a “few dozen” are in place for safety reasons. “Most of the others...are in the optional category. It’s an irregular policy.” The Town Manager stated CMP replaced all the incandescent bulbs in the late eighties. “No one thought at that time that we could eliminate bulbs. By policy, hills, valleys and intersections of public streets are always lit. There is no penalty for the town removing these bulbs.” The Manager suggested the town notify neighbors and a public hearing held before poles are removed. Councilor Porter asked whether the lights in front of Town Hall are being considered for removal. Mr. Weiss responded, “That’s the next area we definitely want to investigate” and catalogue.

Finance Director Alex Kimball shared news that the town recently received a \$75,000 grant to replace portions of the Town Hall HVAC system and install solar hot water tanks at Town Hall and each of the two fire stations. A solar collector was installed on the roof of Town Hall in March and the tubes carry anti-freeze to and from the hot water tank on the first floor of the building. The coils heat the water in the solar tank and then deliver the water to the traditional hot water tank. “On a sunny day, no traditional fuel is needed at all; on a cloudy day, it will get the water partway there. We’re saving a lot of energy...and it’s working great already. My best guess is that because we’re only paying ten cents on the dollar because of the grant, within a year we will have paid back the cost. For many households paying full price, the (payback) figure is 5 to 7 years.” Chairman Copp shared his appreciation for the committee’s “fantastic” work. No council action required.

10 – 046 To hear a report from the Rines Forest Committee and hold a Public Hearing to consider and act on the acceptance of a Forest Management Plan for the Rines Forest.

The Town Manager introduced co-chairs Bob Waterhouse and Henry Milburn. The town council approved a Forest Management Plan last year and various committee policies have been approved. Mr. Waterhouse presented “what we hope is the final report.” Committee members Bob Heyner, Henry Milburn and Dick Sweetser were also in attendance. The committee has been working on this plan for six years, explained Mr. Waterhouse, and the committee hopes to see the forest become more used over the coming years. Mr. Waterhouse shared the Rines Forest mission statement which includes the statement that “the forest shall remain forever in its undeveloped forested state.” The harvest plan was to start this year but did not “because the conditions were not appropriate. It’s unfortunate because there is a big invasive species in the forest in the form of buckthorn. We were anxious to get to that this year” but the conditions did not allow it. However, “That certainly is a major approach for next year.” The committee will continue site visits and scale back to spring and fall meetings, with a frequent review of the plan and policies. No public comments received.

Councilor Porter also noted the presence of Mr. Sweetser and Heyner and commended the entire committee for their work. Councilor Porter has served as a council liaison since the Rines Forest Committee’s beginning. “It’s been a wonderful experience.”

Motion by Councilor Porter, seconded by Councilor Moriarty, to accept the Forest Management Plan for the Rines Forest as presented.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 047 To hear a presentation from Library Director, Thomas Bennett re: the history of Main Street.

Prince Memorial Library Director Thomas Bennett provided a historical slide presentation of Main Street, explaining his presentation is an outgrowth of the Maine Community Heritage project. The project will culminate in a community celebration at Skyline Farm, North Yarmouth, on June 9, 2010. A web page will be unveiled and contain a narrative with a lot of images and a number of exhibits. An 1871 map of Cumberland showed “there are really four centers.” The original settlement of the town took place in the Foreside. When the land was cleared, “You had the settlement of Cumberland Center” in 1791. Cumberland Center housed many vital buildings including the Greely Institute, Congregational Church, shoe shops, and blacksmith and agricultural operations. The Cumberland Fair was held behind the Greely Institute building until 1874. Apple orchards were eventually planted on the land and the fairground was moved in 1874 to the site on which it exists today. Librarian Bennett presented several slides of the original buildings along Main Street and Tuttle Road, noting those which remain today. No public comments received. No council action required.

10 – 048 To hold a Public Hearing to consider and act on a Mass Gathering Permit for a Boys Youth Lacrosse Jamboree to be held at Twin Brook on May 8, 2010 from 8:00 a.m. to 6:00 p.m.

Town Manager Shane explained this application is the first application reviewed under the Mass Gathering Ordinance’s lowered attendance threshold of 500 persons. Both the Mass Gathering Ordinance and the Twin Brooks Use Policy require a fee and submission of a parking plan. The Mass Gathering Ordinance also speaks to standards for police, fire and rescue coverage; sanitary disposal; and insurance coverage. The Manager explained the Boys Youth Lacrosse applicants are requesting a waiver of fees and deferred to Mr. Michael Mullin to address this request.

Mr. Mullin thanked town staff for assistance during the application process. His group was a recreation-sponsored sport at one time, but has “become independent of the Recreation Department.” The jamboree was established years ago as a multi-town opportunity to share resources. South Portland and Cape Elizabeth hold a similar event and as the sport has grown “a number of teams have asked to become participants in these types of tournaments.” While the lacrosse group was aware of the reduction in attendance requirements from 1,000 to 500, “We were not certain what all of that meant.” However, the group did increase their participation fee “about ten dollars per team.” Nevertheless, he has determined through the application process that the “costs were much greater than I had anticipated,” stating that if all fees were paid by the organization “We’d end up with a pretty significant deficit. We would be unable, frankly, to carry forward as an independent group.” The lacrosse organization provides scholarships to players who are unable to afford to participate and at the same time grows the sport in the community. Our players “really like this format because it’s a non-competitive nature. It creates a wonderful environment” for the youth. Mr. Mullin requested a waiver of the Mass Gathering fees and added “We would certainly accommodate for (them) in the coming years” by increasing team fees to offset these costs. “For this year, I would find it very difficult to go back to 36 teams and ask for more money to be able to pay these fees.” The organization is in a position this year, however, to be able to cover police and fire/ems charges. “That in and of itself...would bring us to about even.”

No public comments received. Councilor Porter asked about concession revenues. Mr. Mullin responded that the high school boosters club will handle the concession stand. Councilor Porter stated he was unsure how to exempt this organization “and at the same time charge the soccer club” and suggested there are ways to address any deficits. “The process needs to be straight across the

board. The unfortunate piece is there was confusion – it didn't get out there the way it probably should have. I just think we need to be consistent about this. There are costs for operating" the event.

"Basically, Twin Brook will be shut down for that entire day. We should find a way to make this work so there isn't a deficit." Councilor Moriarty noted that given the impending date of this event, the council must make a decision this evening and sought further clarification of the waiver request. Mr. Mullin explained that he is seeking a waiver of both the \$250 Mass Gathering Permit fee and the \$500 Twin Brook Use fee. Councilor Moriarty referred to Councilor Porter's comments regarding food concessions, asking whether an opportunity exists for additional revenue if the organization were to run the concession stand. Mr. Mullin stated the \$750 raised last year through concessions could cover the waived fees. The Town Manager clarified that the organization is also being charged an additional \$220 to cover the cost of field paint, adding, "The fees need to be fair across the board" for consistency with future events. Chairman Copp made clear this is "A one time waiver." Councilor Turner reiterated the concern of consistency. "I'm loathe to waive the \$500," recommending the council postpone the fees until after the event in order to provide an opportunity for the organization to hold a fundraiser to cover the fees.

Ms. Karen Hurland explained she was present to represent the girls youth lacrosse permit request. She does not believe the suggestion to take over the concession sales is a solution because the high school boosters group has already done a lot of work to prepare for these revenues. "I don't really see that as a viable out this go around." Councilor Storey-King added her concern regarding trash disposal. "There's a reason we charge the \$500 fee." Councilor Porter questioned whether Ms. Hurland also intends to request a waiver of fees, to which she replied, "We're in the same situation as they are." Councilor Porter suggested that an increase of \$20 per participant would put the group in the black. Recreation Director Bill Landis asked the council for clarification regarding how the 500 attendance number is defined. Is it determined by the number of attendees "at one time" or "over the course of the event?" He suggested this clarification will determine whether the girls' lacrosse event will meet the ordinance's attendance requirement. If these two events were still sponsored by the Recreation Department, he added, they would be included in the yearly "blanket permit" rather than separately reviewed, as they are this evening. Further, the soccer club has not required separate review in the past, but will "if we follow this process." Chairman Copp offered his support of Councilor Turner's recommendation to provide time for fundraising and the Town Manager suggested deferring fees for six months to provide time for fundraising efforts. Councilor Storey-King questioned whether the group has considered a spectator charge. Mr. Mullin replied, "I can certainly investigate alternatives. I appreciate you working with me. I would do whatever I needed to do to get that done." Chairman Copp recommended the girls and boys consider a joint fundraiser. Councilor Moriarty added, "Saying no is not an option" this evening, and added his support of Councilor Turner's recommendation.

Motion by Councilor Moriarty, seconded by Councilor Turner, to approve a Mass Gathering Permit with the list of conditions as prescribed by the Town Clerk in a memorandum dated April 22, 2010 for a Boys Youth Lacrosse Jamboree to be held at Twin Brook on May 8, 2010 from 8:00 am to 6:00 pm, provided that the permit fee and the field usage fee payment is deferred no later than six months..

Motion by Councilor Stiles, seconded by Councilor Storey-King, to amend the motion to waive the \$220 field paint fee. (\$500 Mass Gathering fee and \$250 Twin Brook Use fee, minus a \$220 field paint fee = a \$530 fee total)

VOTE: UNANIMOUS PASSAGE AS AMENDED 6-0

10 – 049 To hold a Public Hearing to consider and act on a Mass Gathering Permit for a Girls Youth Lacrosse Round Robin to be held at Twin Brook on June 5, 2010 from 8:00 a.m. to 5:00 p.m. ITEM TABLED

Ms. Hurland noted that the girls' lacrosse participants will be significantly less than the boys' teams, but "We have a total of more than 500 over the course of the day." However, she noted, they could change the team numbers to keep attendance under 500 "at any one time." Councilor Moriarty responded that he has always believed that "with a permit it was the total number of people all told, not at one given moment." Councilor Porter agreed. Ms. Hurland asked the council to anticipate her request for a waiver of fees at the next council meeting. The Town Manager expressed his concern with the fees for this particular event, because "Those costs are going to be significantly more because there's half the amount of teams."

Motion by Councilor Stiles, seconded by Councilor Storey-King, to table this item to May 10, 2010.
VOTE: UNANIMOUS PASSAGE 6-0

10 – 050 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Penobscot Valley Dog Show to be held at the Cumberland Fairgrounds from June 24 – June 27, 2010.

Motion by Councilor Stiles, seconded by Councilor Turner, to approve a Mass Gathering Permit for the Penobscot Valley Dog Show to be held at the Cumberland Fairgrounds from June 24 – June 27, 2010.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 051 To hold a Public Hearing to consider and act on sending a recommendation to the Planning Board re: the addition of Section 402A Domesticated Chickens (to allow no more than six chickens in a penned area on properties less than 2 acres) to the Cumberland Zoning Ordinance.

The Manager explained the town received a citizen request regarding housing chickens on lots smaller than two acres in size. Cumberland Animal Control Officer Charles Burnie reviewed the Brunswick chicken ordinance and proposes its adoption by Cumberland. The Manager recommends amending the zoning ordinance dealing with this item and the next, and added that both ordinances will be included in the town ordinance codification project currently underway.

Ms. Julie Blodgett indicated she spoke to officials in South Portland who stated they received 25 applications and no complaints. Brunswick received 5 applications and no complaints. She does not believe this ordinance will "become unmanageable." Councilor Moriarty stated the council last November reduced the lot size from three to two and this proposal is to "do away with it altogether." The three acre requirement has been in place for 20 plus years. "If it took off...we could have a major enforcement problem. I don't necessarily want to hold it up. I do have some reservations about changing what has been a decade's long policy of having a fairly large size lot." Ms. Blodgett responded that a yearly application process should easily address these concerns. "It would be easy enough to say we're revoking that from you and you can't get it again" if there are issues. Councilor Stiles stated his family had chickens during his time as a youth in Portland. It was during the war and they dealt with no odor issues or concerns. Councilor Porter supports the amendment and, in fact, "encourages it. These are not free range chickens." He, however, does not believe the odor, noise and lighting standards are not enforceable. This ordinance allows people the option to keep chickens and "we can clamp down" if a problem occurs. Councilor Turner agreed "completely. The law of unintended consequences is very likely to rear its ugly head with some" of these provisions that are "really not enforceable. Let's remember that chickens eat ticks." The Town Manager explained a 65 decibel limit is in place now. There are no roosters allowed with this ordinance. The Manager asked if

the council would like items a and b of Section V, *Odor, Noise and Lighting* to be removed? The general consensus of the council was to leave item “a” and remove item “b.”

Motion by Councilor Stiles, seconded by Councilor Moriarty, to forward to the Planning Board for review and recommendation, the addition of Section 402A (Domesticated Chickens) to the Cumberland Zoning Ordinance, allowing no more than six chickens in a penned area on properties less than two acres and delete item b (“perceptible noise from chickens shall not be a disturbance to abutters”).

VOTE: UNANIMOUS PASSAGE 6-0

10 – 052 To hold a Public Hearing to consider and act on sending a recommendation to the Planning Board re: the addition of Section 402.6 (prohibiting the feeding of deer) to the Cumberland Zoning Ordinance.

The Town Manager explained this amendment is also the result of a citizen request from Ms. Lynda Emery after her husband’s affliction with Lyme disease. This ordinance is modeled after the town of Wells ordinance. The Manager stated if the ordinance is adopted the town will begin an education process and ask for voluntary compliance. The Manager anticipates the item will return to the council in June.

Lynda Emery, Crystal Lane, explained that her husband contracted Lyme disease two years ago. Unfortunately, his symptoms got progressively worse before he was properly diagnosed and it took several months after treatment before he began to improve. She welcomed the opportunity to place educational signs throughout the town.

Councilor Porter commented, “This is just something that people shouldn’t be doing. Hopefully, we won’t have more” residents contracting Lyme disease. Councilor Storey-King noted that reports indicate there may be a 30% increase in Lyme disease this year due to the mild winter. Councilor Stiles stated he will support the request to move it forward but is leery of the enforceability of this ordinance and would prefer a focus on education against feeding deer. He asked “When I put out grain, am I feeding cattle or am I enticing deer?” Councilor Moriarty supported moving this forward acknowledging the issues of enforceability. The presence of an ordinance can have a deterrent effect “which can only be good” and the education can “dovetail well with an ordinance, but I don’t think it’s going to do the trick alone.” Councilor Turner believes there is “a genuine deterrent value to having an ordinance.”

Motion by Councilor Porter, seconded by Councilor Storey-King, to forward to the Planning Board for review and recommendation, the addition of Section 402.6 of the Cumberland Zoning Ordinance, prohibiting the feeding of deer.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 053 To hear a report from the Finance Committee Chair re: FY’10 3rd quarter financials.

Councilor Stiles deferred to Finance Director Alex Kimball. Mr. Kimball explained expenses are running slightly better than last year and even better than the last few years. Legal fees and public safety costs are slightly over last year. Revenues are also “a little better than last year.” The good news is that excise tax “has rebounded” and building permits have increased. “Our big problem is state revenue sharing.” The overall budget is projected to fall short by .5%. No council action required.

10 – 054 To set a Public Hearing date (May 10th) to authorize the Town Manager to request from MDOT a reduction of the speed limit on Blackstrap Road from 40 to 35 mph and on Route 100 from 50 to 45 mph.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to set a public hearing date of May 10th to authorize the Town Manager to request from MDOT a reduction of the speed limit on Blackstrap Road from 40 to 35 mph and on Route 100 from 50-45 mph.

VOTE: UNANIMOUS PASSAGE 6-0

10 – 055 To consider and act on a poverty abatement request for property identified as Map R05/Lot 13A.

The Town Manager explained this abatement request was discussed in Executive Session earlier this evening and requires a public vote by the council. The lien has not ripened or reached foreclosure at this time.

Motion by Council Porter, seconded by Councilor Moriarty, to deny a poverty abatement request in the amount of \$4,618.17 for property identified as Map R05/Lot 13A.

VOTE: UNANIMOUS PASSAGE 6-0

V. NEW BUSINESS

Councilor Turner – thought regarding email communications – nobody in this town should ever be concerned that an email or phone call is taken seriously – we all do; we represent over 7,000 citizens and while some are vocal, many are not; he believes that when a councilor votes the voters want him/her to use their best judgment to serve the best way they can.

Councilor Porter – he cannot attend the 4/29 retirement luncheon for Winnie Durrah; most people familiar with the Recreation Department know Winnie – he wished her good luck; the groundbreaking ceremony for the credit union is next week; the credit union will create seven new jobs; Val Halla is open and things are going well; Sparrows Nest is open and he encouraged residents to visit the golf course and grill.

Councilor Storey-King – she had dinner at the Viking Grill Friday night and it was full of families who were not strictly golfers; quite a value going on there.

Chairman Copp – he received a citizen request for playground equipment in West Cumberland; do the contractors working in West Cumberland have a time to start and end – Manager replied that we usually require 7:00 am to somewhere between 7:00 and 9:00 pm - we do not have a noise ordinance; shared information he received from the police department regarding a sex offender residing in West Cumberland; contact 829-6391 with any questions or access the Maine Sex Offender Registry.

Councilor Stiles – at the last Val Halla Board meeting it was noted that the cart paths are being used for walking, jogging and running at the same time golf is being played; it is dangerous to utilize the course when golf is in play; please also keep dogs off the course and please pick up after your dog; picking up after your dog also applies to roadways; asked how Veterans Monument donations are coming.

Councilor Moriarty – asked if there is a time of day that walkers and joggers should not be on the course - Councilor Stiles responded from daylight to darkness during the golf season; the Veterans Monument Committee has raised more than enough money to pay for the center stone and it will be dedicated on Memorial Day.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to hold a public hearing on May 10 to lift the weight restrictions on town roads per the request from MDOT.

VOTE: UNANIMOUS PASSAGE 6-0

VI. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(A) re: Town Manager evaluation.

Motion by Councilor Storey-King, seconded by Councilor Turner, to recess to Executive Session pursuant to 1 M.R.S.A. 405(6)(A) re: Town Manager evaluation.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 9:43 pm

Motion by Councilor Turner, seconded by Councilor Moriarty, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 10:35 pm

VII. ADJOURNMENT

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

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 10:35 pm

Respectfully submitted,

Nadeen Daniels, CMC
Cumberland Town Clerk