MINUTES

Cumberland Town Council Meeting Town Council Chambers MONDAY, July 26, 2021 6:30 P.M. Council Photos

7:00 P.M. Call to Order

Present: Councilors Copp, Edes, Foster, Gruber, Segrist, Storey-King and Vail

I. <u>APPROVAL OF MINUTES</u>

Motion by Councilor Copp, seconded by Councilor Storey-King, to accept the July 12, 2021 meeting minutes as presented. VOTE: 6-0-1 (Gruber abstained) MOTION PASSES

II. MANAGER'S REPORT

Tickets have been available and purchased online for a monster truck show to be held at the Cumberland fairgrounds from August 27th through 29th. This event will likely not happen, since an event like this requires that a 60-day mass gathering permit application be submitted and approved by the Town Council, which has not happened to date. We do not want to put the neighbors through an event like this, and we don't have enough public safety personnel required to staff it.

The application process for our Senior Tax Rebate Program will begin on Monday. Seniors are welcome to drop into Town Hall from 9 to 11 a.m. on Monday and Tuesday, and Wednesday afternoon from 1 to 4 p.m. for assistance from staff in filling out the application. You must be at least 70 years old, lived in Town for at least 10 years, and meet the income requirement to be eligible for a rebate.

Construction on the railroad crossings will begin later this week starting on Greely Road, then Tuttle Road and wrapping up on Route 9.

Town Manager Shane introduced State Representative Steve Moriarty and Senator Cathy Breen to give a legislative update.

Representative Moriarty reported that the first legislative session has wrapped up and he will talk about 5 or 6 bills of municipal interest.

- LD32 Remote Participation Bill. The Judiciary Committee took this on and decided to build a framework to allow all the cities and towns in the state to complete it and work to meet their own needs and the needs of their residents. The good news is that there is no mandate upon a governing body to conduct its meetings remotely. Instead, the bill says that each public body will make that determination on its own. If the governing body does choose to meet remotely, a written policy must be adopted to determine how remote meetings will be handled. The policy must contain conditions by which members of the public can participate in the meeting.
- With the current housing crisis and lack of affordable housing, a bill was presented this session to expand the availability of Accessory Dwelling Units (ADU's) on a statewide basis. The bill was passed by both houses of the legislature but was not signed by the Governor. It has been carried over to the second session. The Town's setback requirements and minimum lot size would still apply, and it would not impact shoreland zoning. The bill would provide that if an ADU was constructed on a parcel, one of the two buildings would have to be occupied by the owner.

- LD1541 A new law was passed involving recycling that is called Extended Producer Responsibility. This law will target one particular part of the recycling stream, which accounts for approximately 50% of the total by weight, and that is packaging material (cardboard, glass, paper, plastic, etc.). The goal is to shift at least part of the cost away from the customer and put it on the merchant, the producer, or the manufacturer. The goal is to get the amount of packaging materials cut back and get the merchants or manufacturers to pay part of the cost of disposal. The DEP would contract with a packaging stewardship company, and the producer of the product would pay into a fund managed by the stewardship company. The towns would then receive payments from the fund and would have full discretion as to how to spend the money.
- A bill that he sponsored and became law will extend the time period for pre-election day processing of absentee ballots from 4 days to 7 days. This will take some of the burden off the Town and City Clerks by giving them more time to process absentee ballots prior to election night.
- A bill was passed to provide online voter registration. This bill will not take effect until November 1, 2023, to all allow the Secretary of State time to develop detailed rules in order to implement this.
- A bill that was carried over to the second session will establish semi-open primaries, which would allow people who are not enrolled in a party, or registered as independent, to participate in a party primary election. This only pertains to primaries, not the general election.

Senator Breen presented the following:



- Increased the maximum award amount of the Maine State Grant Program from
- Directed \$40 million to Career and Technical Education centers

- The ARPA budget includes \$50 million to improve state parks

Infrastructure and Transportation

- We passed a \$100 million Transportation Bond, which will draw down \$253 million in matchingfunds
- The ARPA budget includes:
- \$150 million for the Maine Connectivity Authority to expand affordable broadband The biennial budget includes:
- a new fund as part of the cascade that uses the unappropriated surplus to fund transportation projects
- ▶ \$45 million for the School Revolving RenovationFund
- \$50 million for construction and repair of state facilities
- \$2 million for the repair of dams

Help for Vulnerable Mainers, cont.

The ARPA budget:

- Provides \$1 million to reduce disparities in health outcomes for minority groups
- ▶ Allocates \$500,000 for a pilot program to provide respitecare support for parents caring for adult children
- Allocates \$5 million to create the Family Caregiver pilotprogram

Help for Vulnerable Mainers (Most of these initiatives draw down a federal match)

- Provides \$26.7 million for nursing facilities, to be matched by \$ 90 million in federal func
- Provides all direct care workers with wages 125% of the minimum wage
- Provides MaineCare access to preventive and routine dental care for adults
- immiaration statu
- Includes multiple Substance Use Disorder initiatives, including expansion of treatment beds, overdose prevention and help for parents with Substance Use Disorder

Economic and Workforce Development

- \$20 million in grants and loans to businesses and organizationshat were not eligible for previousrelief
- \$50 million for Maine's heritage industries: agriculture infrastructurend food processing, forest products and manufacturing, and seafood facilities and processing

- \$20 million to the Department of Economic and Community Development to expand Jobs for Maine Graduates (JMG), Focus Maine and others

Changes in Tax Policy

In the biennial budget, we:

- Did not change the income tax
- Approved \$300 checks to all Mainers who worked during the pandemic with an Adjusted Gross Income under \$75,000 (\$150,000 for joint filers)
- Created the Elderly Tax Deferral Program
- Permanently expanded the Property Tax Fairness Credit to provide property tax relief to 16,000 additional Mainers
- Raised the amount of the Earned Income Tax Credit from 12% to 20% of the federal limit
- Increased municipal revenue sharing from 3.75% to 4.5% in fiscal year 2022, then 5% in fiscal year 2023
- Exempted the sale of menstrual products from sales tax

11

Housing

 Authorization for the Maine State Housing Authority to refinance Part E housing bonds, providing \$32 million \$1.5 million for housing navigators in the Maine State

\$10 million for homelessness support efforts

Housing Authority

partnership with the Maine State Housing Authority and the Department of Economic and Community

Other Initiatives

In the first session of the 130th Legislature, we

- highest amount ever
- Implemented the recommendations of the Sixth
- Permanent Commission on the Status of Racial, Indigenous and Maine Tribal Populations

Thank you for listening.

Please let me know if you have any questions!

III. PUBLIC DISCUSSION

Ann Maksymowicz of Tuttle Road presented a check to the Food Pantry in the amount of \$3,750.00. This money was raised by the community and the same amount will be donated to the Prince Memorial Library, Maine Boys to Men, and to the school district.

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IV. LEGISLATION AND POLICY

21 – 076 To hear a report from the Tax Assessor and to hold a Public Hearing to consider and act on setting the FY2022 tax rate.

Tax Assessor, John Brushwein explained that the 2021-22 commitment is complete and tax bills are scheduled to be mailed the 1st week of August. His recommendation is that the tax rate be set at \$20.55 per \$1,000.00 of assessed value, which represents a .98% (20 cent) increase above the 2020-2021 rate of \$20.35.

The overall assessed valuation of the Town increased by approximately \$28,804,350 as a result of new construction, land divisions, and additional personal property. The total taxable valuation of the Town is currently \$1,441,027,350. The homestead exemption is adjusted by the certified ratio which for FY22 is 95% which brings the exemption down to \$23,750.00.

LD1 (2005) requires municipalities to calculate a property tax levy limit annually. If the municipality exceeds the limit, a vote must be taken by the local governing body to exceed the limit. The limit is based on local property growth and statewide average personal income growth. The State Office of Policy and Management calculates the personal income growth based on a 10-year average. This year's LD1 calculation resulted in a Municipal Property Tax Levy limit of \$6,228,485.00. The FY 2021 Municipal Property Tax Levy is \$5,621,902.00 which is \$606,583.00 under the limit, therefore, no vote is needed to exceed the limit.

Chairman Vail opened the Public Hearing. No public comment. Chairman Vail closed the Public Hearing.

Motion by Councilor Foster, seconded by Councilor Gruber, to set the municipal tax rate for FY2022 at \$20.55.

VOTE: 7-0 UNANIMOUS

21 – 077 To hold a Public Hearing to set rates at which interest will be paid for delinquent taxes and to authorize applying tax payments to the oldest unpaid taxes.

Town Manager Shane explained that Maine Municipal Association makes a recommendation annually on the interest rate for delinquent taxes. This year they are recommending between 4 and 8%. Staff is recommending 4%.

Chairman Vail opened the Public Hearing. No public comment. Chairman Vail closed the Public Hearing.

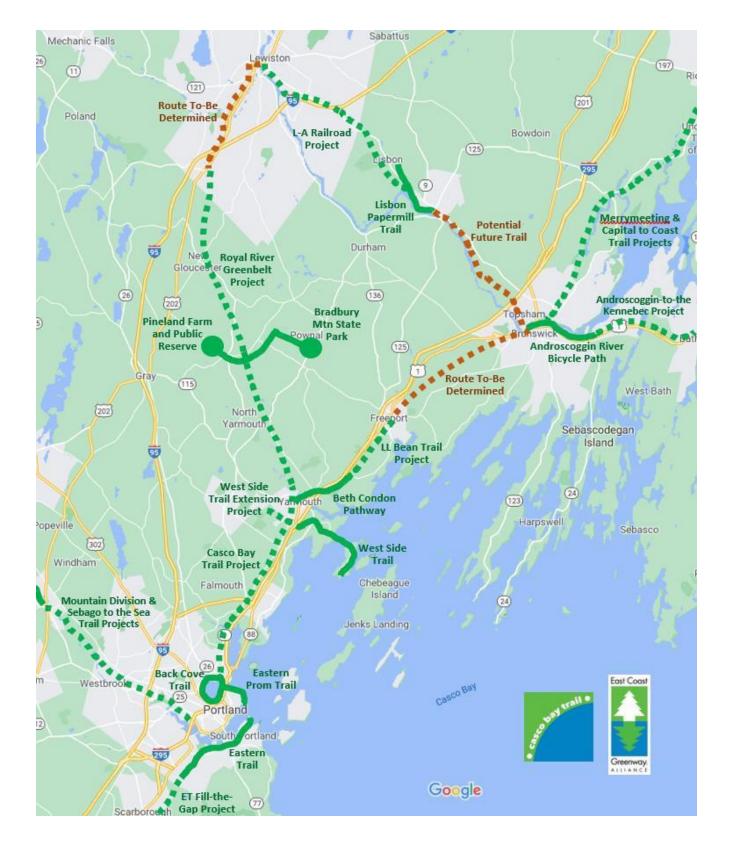
Motion by Councilor Copp, seconded by Councilor Gruber, to set an interest rate of 4% for delinquent real and personal taxes for FY2022.

Be it further ordered that all payments for delinquent real and personal property taxes be applies to the oldest, unpaid taxes.

VOTE: 7-0 UNANIMOUS

21 – 078 To hear a presentation re: a rail and trail system along the former Canadian/Atlantic rail line. Dick Woodbury, board member of the East Coast Greenway, the Maine Trails Coalition, and the Casco Bay Trail Alliance, explained that each of these groups are thinking about and working on an inter-connected bike and walking trail network described below:

- The Casco Bay Trail system would connect 13 municipalities between Portland, Lewiston- Auburn, and Brunswick. Additional projects extend this multi-use trail network west to Fryeburg, north to Augusta, east to Bath, and south to Kittery. See Map 1.
- The network would be anchored by a multi-use trail on the St. Lawrence and Atlantic rail corridor between Portland and Auburn, passing through Cumberland. This corridor is state- owned and unused by trains.
- The SLA corridor south from Cumberland would be a resource for bicycle commuting into Portland, as well as for other recreational use. The SLA corridor north from Cumberland would connect many conservation lands in the Royal River watershed, as well trail systems through Pineland Farm and Bradbury Mountain State Park.
- There is a second, still-active rail corridor between Portland and Lewiston-Auburn that could be used to extend future Amtrak, commuter train, and/or freight service from Boston, through Portland to Brunswick, Lewiston-Auburn, Waterville, and Bangor. See Map 3.
- The legislature just enacted LD 1133, which creates a *Rail Corridor Advisory Council* process. This process is explicitly designed to evaluate alternative uses of corridors like the St. Lawrence and Atlantic. MaineDOT has already committed to using the process to evaluate prospective rail-trails between Brunswick and Augusta (the Merrymeeting Trail) and between Portland and Fryeburg (the Mountain Division Trail).
- The trigger for MaineDOT to initiate a *Rail Corridor Advisory Council* is having the municipalities along the corridor request it. We would like to get the St. Lawrence and Atlantic corridor on MaineDOT's evaluation agenda at the same time or shortly after their evaluations of these other corridors.
- There is an unused freight easement on the St. Lawrence and Atlantic corridor that expires at the end of October. MaineDOT has indicated that municipal interests along the corridor (i.e., whether a freight easement is important to the communities, or whether an alternative use might be explored instead) are a key input to their evaluation of whether to renew the easement.
- Our hope is that Cumberland might join with other communities along the St. Lawrence and Atlantic corridor in adopting resolutions requesting a *Rail Corridor Advisory Council* process to consider alternative future uses of the corridor, specifically as a rail-trail.



21 – 079 To hold a Public Hearing to consider and act on a moratorium ordinance re: Medical Marijuana Caregiver Uses.

Chairman Vail explained that there have been a lot of changes recently from the State in how Towns are able to allow marijuana operations to exist. We currently have the use concentrated in one particular part of our Town. There is a lot of concern on how we legislate it, and this moratorium will buy us some time to enact our own ordinance that is fitting for our community.

Chairman Vail opened the Public Hearing.

Rick Doane of 4 Catalpa Lane said that he lives in proximity to an individual who grows marijuana plants outside, and the smell is a tremendous nuisance from August to October. As the Town Council works through the ordinance, he requested that outdoor grows are looked at specifically and regulations are placed on it.

Steve Moriarty said that there was a bill before the legislature this session that was carried over to the second session (January), that would double the number of mature plants from 30 to 60 and double the number of immature plants from 60 to 120. If the Town does pass a moratorium, it will dovetail nicely timewise with the fact that this bill has been carried over.

Chairman Vail closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to adopt a moratorium ordinance regarding medical marijuana caregiver uses, effective immediately, for a period not to exceed 180 days (starting July 12, 2021).

WHEREAS, the Town Council of the Town of Cumberland (the "Town") makes the following findings:

- (1) The Maine Medical Use of Marijuana Act (the "Act"), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorizes registered caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and
- (2) On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and
- (3) The Town has previously enacted a Registered Caregiver Overlay District as part of its Zoning Ordinance; and
- (4) Because the Registered Caregiver Overlay District only applies to commercial zoning districts, it has not resolved legitimate and substantial questions about the impact of medical marijuana uses on the Town in other zoning districts, including questions as to compatibility with existing land uses and developments in the Town; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (5) As a result of the foregoing issues, the location and operation of medical marijuana uses within the Town have potentially serious implications for the health, safety and welfare of the Town and its residents; and
- (6) The Town currently faces the possibility of an overconcentration of medical marijuana uses, both in the Registered Caregiver Overlay District and in other districts; and

- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of medical marijuana uses in the Town; and
- (8) In the judgment of the Town Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, and Article II, § 11 of the Cumberland Town Charter, the Town of Cumberland hereby ordains:

Section 1. Moratorium. The Town does hereby declare a moratorium on the location, operation, permitting, approval, or licensing of any and all medical marijuana uses within the Town. No person or organization shall develop or operate a new medical marijuana use that was not in lawful existence on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer

existence on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana use.

Section 2. Definitions. For purposes of this ordinance, the term "medical marijuana uses" means a registered caregiver as defined in 22 M.R.S. § 2422(11), and includes a caregiver cultivation facility, a caregiver processing facility or any other associated use.

Section 3. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance shall govern any proposed medical marijuana use for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Town, whether or not a pending proceeding, prior to the enactment of this Ordinance, but it shall not apply to any medical marijuana use that has received site plan approval from the Town prior to July 12, 2021.

Section 4. Conflicts/Savings Clause. Any provisions of the Town's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any medical marijuana use is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Town shall be entitled to all rights and remedies available to it pursuant to 30-A M.R.S.

§ 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 6. Effective Date. Pursuant to Article II, § 11(c) of the Cumberland Town Charter, this Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 180 days after July 12, 2021, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Town, whichever shall first occur.

Section 7. Severability. Should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a decision shall not invalidate any other section or provision.

VOTE: 7-0 UNANIMOUS

21 – 080 To hold a Public Hearing to consider and act on amendments to Chapter 250 (Subdivision of Land), Section 250-6.D.7 (Conservation Subdivision Standards); and to Section 250-8.D and E (Prohibited uses of common open space); and to Section 250-9 (Ownership, management, legal protection and maintenance of common open space in a conservation subdivision) A(1) and B(1)(b) and 250-13 (General subdivision procedures) B.1 and 250-14 (Procedure for subdivisions in the RR1 or RR2 Districts) A and D, as recommended by the Planning Board.

Town Manager Shane said that the Planning Board took a lot of testimony on this item and recommends that the Town Council does not adopt these amendments, but rather appoint a subcommittee of the Lands & Conservation Commission and the Planning Board to work through some of the issues that the Planning Board has with this. Some of them felt that it was too early to make changes to the Conservation Subdivision Ordinance, some were unclear of their authority with the ordinance, and some wanted to have more discussion. The Lands & Conservation Commission has requested that the Town Council consider the acceptance of open space in the Town's name, and we will get the easement for managing that open space.

Chairman Vail opened the Public Hearing. No public comment. Chairman Vail closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Copp, to table. VOTE: 7-0 UNANIMOUS

21 – 081 To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review) Section 229-6 A (Major Staff Review) and Appendix C (Submission Requirements) to change the number of copies of an application packet to 2 full size paper plan sets and an electronic application packet, as recommended by the Planning Board.

Chairman Vail explained that this is simply a housekeeping item.

Chairman Vail opened the Public Hearing. No public comment. Chairman Vail closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Gruber, to amend Chapter 229 (Site Plan Review) Section 229-6 A (Major Staff Review) and Appendix C (Submission Requirements) to change the number of copies of an application packet to 2 full size paper plan sets and an electronic application packet, as recommended by the Planning Board.

VOTE: 7-0 UNANIMOUS

21 – 082 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club's "Just for Fun Tournament" to be held on September 4th and 5th, 2021 at Twin Brook Recreation Facility.

Chairman Vail explained that this application has been vetted by the Police and Fire Departments and staff is recommending approval.

Chairman Vail opened the Public Hearing. No public comment. Chairman Vail closed the Public Hearing. Motion by Councilor Edes, seconded by Councilor Gruber, to approve the Mass Gathering Permit for the Cumberland Soccer Club's "Just for Fun Tournament" to be held on September 4th and 5th, 2021 at Twin Brook Recreation Facility.

VOTE: 7-0 UNANIMOUS

21 – 083 To consider and act on endorsing the Maine Municipal Association Workers' Compensation Safety Incentive Program.

Town Manager Shane explained that Maine Municipal is our Workers Compensation carrier and they have asked for a Council Resolution to endorse the use of their safe practices and programs.

Chairman Vail asked for any public comment. No public comment.

Motion by Councilor Segrist, seconded by Councilor Gruber, to endorse the Maine Municipal Association Workers' Compensation Safety Incentive Program. VOTE: 7-0 UNANIMOUS

V. <u>NEW BUSINESS</u>

Councilor Segrist – His parents are in Town this week visiting from Nebraska. He credits his desire to want to get involved in public service from his parents.

Councilor Storey-King – She sent her sincere and deepest condolences to the Soule family on the loss of one of their patriarchs, Paul Soule. His daughter is a teacher at the high school, and they have been great citizens of our community for many years.

Councilor Gruber – The food pantry served 55 families last week. This number is down a bit, which is a good thing.

The Town Councilor's have been taking turns being at the Farmer's Market every Saturday to chat with residents. He thanked Councilor Foster for this great idea. It is very well received by the public and he is enjoying it.

He has been swimming at the high school through the Recreation program. They do a terrific job.

Chairman Vail – We received a thank you note from the Calder family. Thank you to Town staff for sending flowers to Diane Calder's funeral service.

The things that get done in this Town are largely due to someone just doing what needs to get done. He thinks that the Food Pantry is one of the most important things that get done in our Town.

He has noticed a lot of gardening in the community lately. The pandemic has sparked a lot of interest in agriculture.

He would like to hold another Council workshop to review the Council goals again, get some more input and make committee assignments.

Councilor Foster – The Mental Health Committee held its July event recently. It was hosted by Walnut Hill Wellness and Trust Your Gut. The weather cooperated and they did a wonderful job with events to keep the kids busy during the adult session. It was our best attended event so far. We are taking the month of August off in consideration of people being away on vacation and getting the kids ready to go back to school. Our September event will be with Casco Bay C.A.N. and will be held at the end of the month. The big event will be in early October when we will partner with the Yellow Tulip Project to hold a planting celebration in preparation for the May blooming day (day of hope). You may have noticed the Smash the Stigma signs around Town. These are in reference to the Yellow Tulip Project and smashing the stigma around talking about mental illness and having it be part of the same conversations that we have about headaches or broken bones. It's all part of being human.

Councilor Edes – He proposed to the Chairman and other Councilors that we create a committee to gather information regarding our options on serious tax relief for our senior residents and report back to the Council before the end of the year with information and proposals for the Council to consider. He feels that it is important to help our seniors stay in their homes and developing a program will be something that the Town Council will be very proud of. He asked the Council to allow him and Councilor Segrist to start the process of gathering information.

Councilor Gruber said he would also like to be involved.

Chairman Vail said as Chairman, he hereby charges them to go forth and gather the information.

Councilor Copp – He gave his donation to the Food Pantry 4-H fund and reminded everyone to give to this worthy cause. The 4-H auction at the Cumberland Fair is coming right up.

Last Thursday, the Maine State Police Crime Lab was parked at his shop because he towed in a vehicle that was involved in a serious crime and a high-speed chase on the Maine Turnpike. It was mind boggling what they found in the vehicle. The State Police and our local police do a great job.

VI. <u>EXECUTIVE SESSION</u> pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property. VOTE: 7-0 UNANIMOUS TIME: 9:19 A.M.

Reconvene to regular session at 9:58 P.M.

VII. <u>ADJOURNMENT</u>

Motion by Councilor Foster, seconded by Councilor Edes, to adjourn.VOTE: 7-0UNANIMOUSTIME: 9:58 P.M.

Respectfully submitted by,

Brenda L. Moore Council Secretary