

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, July 11, 2022**

## 7:15 P.M. Call to Order

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

Excused: Councilor Segrist

### I. APPROVAL OF MINUTES

Motion by Councilor Copp, seconded by Councilor Storey-King, to accept the June 20, 2022 meeting minutes as presented.

VOTE: 6-0 UNANIMOUS

### II. MANAGER'S REPORT

The next Rail to Trail Corridor Council meeting is scheduled for Thursday, July 28th from 1:00 to 2:30 pm. Meeting materials from previous meetings are available here:

<https://www.maine.gov/mdot/ofps/ruac/parac/meetings/index.shtml>

MaineDOT and NNEPRA will host a live presentation on July 13<sup>th</sup> from 6:00 - 7:30 pm on Zoom regarding the economic evaluation study for commuter and passenger train service between Portland and the Lewiston/Auburn area. The goal of this evaluation is to further the proposed service with regard to alternatives evaluation, station planning, and economic impacts. As you may already know, one of the two alternatives follows a portion of the rail corridor under consideration by the Portland to Auburn Rail Use Advisory Council. The meeting link is available here:

<https://www.maine.gov/mdot/ofps/larailplan/meetings/>

Public Works will be building the trail in Rines Forest toward Godsoe Woods (near the Golf Learning Center and Blanchard Road).

Our small paving list for this summer will be combined with next year's list. Completed paved sections include Route 88, the Wildwood neighborhood, and the library.

The bid opening for the work on Ole Musket & Longmeadow Roads will take place on July 14<sup>th</sup>.

The new state senior tax rebate bills will be explained at our July 25<sup>th</sup> meeting by Councilor Mark Segrist. There are currently 3 options available, 2 from the State and 1 from the Town.

### III. PUBLIC DISCUSSION

*\*Audio was not working for the first 19 minutes of the meeting. Mr. Record and Councilor Fosters comments could not be heard clearly.*

Jason Record a Cumberland resident and member of the School Board said that he is concerned with Town Council's decision to extend the deadline for the School Board vacancy. He feels that this lacks transparency and causes distrust.

Chairman Foster explained that the original due date for applications was Thursday, July 7<sup>th</sup>. The decision was made to extend the deadline by two weeks to July 21<sup>st</sup>. When the Town Council met in workshop to

discuss the timeline, we knew it was risky to set the deadline for the week before and after July 4<sup>th</sup>, but we were marching toward a goal under the impression that if we could get that School Board member appointed before the end of July, they would be able to attend the School Board retreat and onboarding workshop in August. On the Tuesday after the July 4<sup>th</sup> holiday, we had zero applications. Over the next 36 to 48 hours, we did receive some applications. But on Tuesday afternoon, when we had no applications, I proposed to the Councilors that we would extend the deadline if we didn't have a sizeable pool of interested candidates by noon on Thursday due to deadlines for notifications to the public. As of noon on Thursday, we had 3 applications of interest. The applications have not been reviewed by anyone on the Town Council, and this has nothing to do with the folks who submitted applications. Considering we had over 15 applications for the Housing Task Force earlier this month, we were concerned the July 4<sup>th</sup> holiday had hindered applications. It really was a matter of fact that there is a lot on this School Board's agenda over the next year, and we wanted to make sure that by opening this up during one of the peak holiday and vacation 2 weeks in the State of Maine, that we weren't missing out on someone that would come back on that Thursday, or the following Monday, and realized that they had missed the application period. That's it. We went forward with the best intentions on this.

Councilor Edes said that he agrees with Mr. Record. He understands that there was no ill intent on behalf of the Town Council, but he is bothered by the fact that this is the second time in a month that this Council has told the public one thing and done another. He would like to go back to the original plan and only accept applications from those who applied before 4:00 p.m. on July 7<sup>th</sup>. He hopes that the other Councilors will consider this.

Chairman Foster said that she agrees that our word is important, but the ultimate responsibility of this Council is to find the best person to fill the seat on the School Board.

Councilor Filson said that when we're looking at optics, we have communicated that we've extended the deadline, so ping-ponging back and forth puts us in a difficult position. When talking about transparency, we have made the decision, and we can be thoughtful about how we improve the process for the future.

Councilor Vail said all the folks who put in their application by July 7<sup>th</sup> may not reach the bar that we have set. We don't know yet. If we don't find an applicant that meets our criteria, we may decide to readvertise again, or we may take a different approach, but we are going to fill the seat accordingly.

Councilor Storey-King added that we are looking for somebody who can step in and be ready to do a lot of work. It is going to be a challenging year ahead.

Chairman Foster said that she is of the opinion that we put it out there so we should stick with the extended deadline as it is.

Councilor Vail said that we should move on with the agenda. We can bring this up again under New Business.

Hannah Berry of Cumberland said that she appreciated the explanation from the Town Council. She is one of the applicants who applied before the deadline. She knows of two other qualified candidates who also applied before the deadline. They are educated and qualified applicants. The fact that they put the effort in to get their applications in on time says something.

Mike Doyle of Portsmouth, N.H. said that he takes an interest in what goes on in Falmouth and Cumberland. He will give an update on what is happening with Ann Maksymowicz and her activities. He

was arrested in a Cumberland County courtroom by Sergeant Lachance of the Cumberland Police Department, for another half-baked charge of harassing Ann Maksymowicz. He has never called her, and he has never spoken to her face-to-face. He sent an email to the School Board criticizing her and others on the School Board, and she considered that harassment. Judge Goranites (of Cumberland) ruled him guilty of harassment. He cited a couple of Maine cases that are very well thought out and well written decisions, but Judge Goranites ignored 6 very important Supreme Court decisions, which protect content-based comments. His only comment to Ann was after she stole his sign format and converted it to a campaign sign for herself. She actually testified in court that she took it from his website because his website wasn't copyrighted. For her to think that there is no copyright listed at the end of the website is ridiculous. It's there. All the charges against him are protected by free speech. He is getting good at this stuff and if you want to have the School Board and other people mess around with him, he can keep you in court until he falls over dead by the looks of it.

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

##### **22 – 082 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Downeast Street Rod Club's 50<sup>th</sup> Annual Rod Run to be held on August 19<sup>th</sup> and 20<sup>th</sup> at the Cumberland Fairgrounds.**

Chairman Foster opened the Public Hearing.

Joanne Fryer of 111 Bruce Hill Road said that she has a wedding on August 20<sup>th</sup> at her farm, which is a wedding venue. She wants to make sure that this is just a car show and will not be a noisy event with revving engines or drag racing. There have been many loud events at the fairgrounds lately, and she wants to be sure that her wedding event will not be ruined by loud noise.

Lyle Merrifield, president of the Cumberland Farmer's Club, said that there is a dance on Friday night (August 19<sup>th</sup>) with a band from 7 – 10 p.m. This is a national car show and the average age is 65 years old. It is not a drag race.

Councilor Copp said that this event used to be held at the fairgrounds 8 – 10 years ago, then they moved it to Hebron Pines. This is a wonderful event. It's a car show where cars will be on display. It is not a drag race. He is glad to see the show coming back to the Cumberland Fairgrounds.

Mike Doyle of Portsmouth, N.H. said that you can't build a house next to an airport and complain about the noise. Any complaint about noise at the fairgrounds is unfounded.

Greg Fryer of 111 Bruce Hill Road said that on that logic you can't live near a railroad and complain about railroad noise. You can't live near a gravel pit and complain about gravel pit noise. The reality is that standards change over time and common courtesy to the neighbors is always in order.

Chairman Foster closed the Public Hearing.

Motion by Councilor Vail, seconded by Councilor Copp, to approve the Mass Gathering Permit for the Downeast Street Rod Club's 50<sup>th</sup> Annual Rod Run to be held on August 19<sup>th</sup> and 20<sup>th</sup> at the Cumberland Fairgrounds.

VOTE: 6-0                      UNANIMOUS

**22 – 083 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland County Fair to be held from September 25<sup>th</sup> – October 2<sup>nd</sup> at the Cumberland Fairgrounds.**

Chairman Foster opened the Public Hearing.

No public comment.

Chairman Foster closed the Public Hearing.

Motion by Councilor Edes, seconded by Councilor Storey-King, to approve the Mass Gathering Permit for the Cumberland County Fair to be held from September 25<sup>th</sup> – October 2<sup>nd</sup> at the Cumberland Fairgrounds.

VOTE: 6-0 UNANIMOUS

**22 – 084 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club “Just for Fun” Tournament to be held on September 3<sup>rd</sup> and 4<sup>th</sup> at Twin Brook Recreation Facility and Greely Middle School.**

Chairman Foster opened the Public Hearing.

No public comment.

Chairman Foster closed the Public Hearing.

Motion by Councilor Vail, seconded by Councilor Filson, to approve the Mass Gathering Permit for the Cumberland Soccer Club “Just for Fun” Tournament to be held on September 3<sup>rd</sup> and 4<sup>th</sup> at Twin Brook Recreation Facility and Greely Middle School.

VOTE: 6-0 UNANIMOUS

**22 – 085 To hold a Public Hearing to consider and act on the approval of a temporary Victualer’s License for the Cumberland Soccer Club through June 30, 2023.**

Chairman Foster opened the Public Comment.

No public comment.

Chairman Foster closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Storey-King, to approve the temporary Victualer’s License for the Cumberland Soccer Club through June 30, 2023, upon receipt of insurance certificate.

VOTE: 6-0 UNANIMOUS

**22 – 086 To consider and act on the adoption of a resolution to participate in the Community Resilience Partnership, as recommended by the Lands & Conservation Commission.**

Denny Gallaudet, member of the Climate Action Subcommittee of the Lands & Conservation Commission, said that the state approved a large climate action plan several years ago. Part of that plan was a \$5,000,000 funding package to allow grants for communities who engage in climate action activities that align with the state’s plan. We have the next year to apply for up to \$150,000 in grant funding. We have a good list of shovel ready projects, and the Town Council has to approve the resolution.

Chairman Foster asked for any public comment.

No public comment.

Motion by Councilor Filson, seconded by Councilor Edes, to adopt the resolution to participate in the Community Resilience Partnership, as recommended by the Lands & Conservation Commission.

VOTE: 6-0 UNANIMOUS

**22 – 087 To authorize the Town Manager to execute a Recreational Trail Easement within Blanchard Oaks Subdivision.**

Chairman Foster explained that this land is in conservation, and it is part of a conservation easement. The homeowner's association rules didn't allow trails, so this provides clarity in the easement to form the trails on the property.

Chairman Foster asked for any public comment.

Hanna Berry asked where the trail will run from point A to point B.

Town Manager Shane said that is a good question. Without the preservation of trails, we lose future opportunities for connectivity. The developer in this situation has allowed us to stay no closer than 300' from the closest home, so we can place a trail anywhere beyond that. In the future, if there is an opportunity for connection to other properties, we can make that connection in a more convenient way.

Motion by Councilor Copp, seconded by Councilor Vail, to authorize the Town Manager to execute a Recreational Trail Easement within Blanchard Oaks Subdivision.

VOTE: 6-0 UNANIMOUS

**22 – 088 Town Council Committee Assignments.**

Chairman Foster asked for any public comment.

No public comment.

Motion by Councilor Filson, seconded by Councilor Copp, to approve the Town Council Committee Assignments as presented in the meeting materials.

VOTE: 6-0 UNANIMOUS

**22 – 089 To appoint members to the Housing Task Force.**

Councilor Copp explained that we had 16 applicants and we chose 10 to be on this new committee.

Chairman Foster asked for any public comment.

No public comment.

Motion by Councilor Copp, seconded by Councilor Edes, to appoint the following to the Housing Task force: James Broder, Brian Cashin, Rick Doane, Mary Lu Gallaudet, Betsey Harding, Mark Lapping, Katie Magoun, Eben Sweetser, Gail Witherill, and Justin Wood.

VOTE: 6-0 UNANIMOUS

**22 – 090 To appoint a member to the Cumberland Housing Authority, the Aging in Place Committee, and an alternate to the Greater Portland Council of Government.**

Chairman Foster asked for any public comment.

No public comment.

Motion by Councilor Copp, seconded by Councilor Filson, to appoint Stacie Daigle to the Cumberland Housing Authority, the Aging in Place Committee, and alternate to the Greater Portland Council of Government.

VOTE: 6-0 UNANIMOUS

**22 – 091 To authorize the Town Manager to accept payment for delinquent FY'19 taxes in the amount of \$600.00 on property identified as Map U19/Lot 18.**

Town Manager Shane explained that this is consistent with the Town Council's past approvals over the past few months to help property owners get their property out of lien. This is a payment on their FY2019 taxes, and we are hopeful that they have a good plan to get caught up. Staff is recommending acceptance of the back taxes.

Chairman Foster asked for any public comment.

No public comment.

Motion by Councilor Vail, seconded by Councilor Copp, to authorize the Town Manager to accept payment for delinquent FY'19 taxes in the amount of \$600.00 on property identified as Map U19/Lot 18.

VOTE: 6-0 UNANIMOUS

**V. NEW BUSINESS**

**Councilor Storey-King** – She was happy to see that Route 88 near the Yarmouth town line has been paved. That portion of road is in much better condition now.

The Ordinance Committee met last week. It was a very productive meeting, and they have a lot of work coming up and will also be looking at a Charter amendment to move the date that a newly elected Town Councilor will be sworn in.

Last Thursday, some of the Town Councilors went to Scarborough Fish and Game to attend a training session by the police department. It was spectacular. We learned about the different types of force that they use and went through some scenarios. She has huge appreciation for our police department for putting this training together for them. We live in a very safe community, but our officers are not always safe in their jobs.

**Councilor Filson** – Thank you to the Lands & Conservation Commission for the incredible job that they do on the trails at Knight's Pond. She has been spending a lot of time on those trails and John Jensenius is out there making sure that everything is safe. They do an incredible job, and we are so fortunate to have that space.

**Councilor Vail** – He echoed what Councilor Storey-King said about range day with the police department. He appreciates all the effort that went in to planning it for the Town Council.

Condolences to the Drew family on the passing of Victor Drew.

He would like to meet with the owners of the Drowne Road senior housing facility. The more he thinks about it, the more concerned he is with the residents there. He wants to know what the owner's next step is and how we as a community can be involved.

Chebeague and Cumberland Land Trust is looking for a new Executive Director.

**Chairman Foster** – We received a quote of \$5,000 for the analysis of the survey results, which should be done by the end of July. She would like to hold a workshop on August 8<sup>th</sup> at 6:00 p.m. to review the results, close the workshop at 7:00 p.m. to hold our regular Town Council meeting, then adjourn back to workshop to finish reviewing the survey results.



**Councilor Edes** – Thank you to the police department for the excellent training last week. We have a tremendous police department who we should all be proud of.

Over the next 3 years, we are going to see a huge transition on this Council, and there will be a lot of new faces up here. He feels that we need to get our written procedures in place to help the new Council members who will be coming on. He suggested forming a group over the next year and get the responsibilities and procedure of the Town Council written down.

He thanked Councilor Foster for participating in Tri for a Cure.

**Councilor Copp** – He made his donation to the 4-H fund that benefits the Food Pantry.

West Cumberland has its own Facebook page and there were comments on it about a grocery store plaza being built at the Route 100 & Skillin Road intersection. There is no truth to this.

Councilor Edes said regarding the School Board vacancy that was brought up during public discussion, he would like the Council to stick to the original plan. He does not think the deadline should have been extended. We have a responsibility to the people of Cumberland to stick to our word. He is asking that we only consider the applicants that have submitted their letters of interest by 4:00 p.m. on July 7<sup>th</sup>.

Councilor Storey-King said that she is on the Nominating Committee with Councilor's Copp and Segrist. No matter what the decision is on this, she feels that this discussion will bias her in moving forward when she does get a chance to look at the applications. She would like to say it won't bias her but knowing Councilor Edes concerns, and her representation for the entire Council when she sits on the Nominating Committee, that will be in her mindset.

Councilor Copp said that he tends to agree with Councilor Storey-King. He has no problem going either way on this.

Councilor Vail said he knows of one of the applicants and wants to make sure that confidentially going forward is kept. He has his own bias as to what that position would look like, and he will voice that when we do sit down to choose a candidate. We could find that none of the applicants have the criteria that we are looking for, reject all of them, and either look for a deeper pool or choose someone that we know.

Councilor Filson said at the time, we made a decision based on the information that was available to us at that moment. We did that on Tuesday. She feels that it is incumbent on us to look at all of those applications because what's important is that we put the right person, according to the criteria that we've already determined, into that seat. If that person happens to apply a little later because they missed the advertisement, because they were on their first post-Covid vacation, this could be a real loss. She feels that we should move on with our process. We don't want to flip-flop back and should honor the new deadline that we put forth, take all the applications seriously, so we can find the right person for the job.

Chairman Foster said that we will move forward with our process. The new deadline is July 21<sup>st</sup>. The Town Council will get the applications emailed to them by the 22<sup>nd</sup> and we will meet in workshop at 6:00 p.m. on July 25<sup>th</sup> to discuss. Interviews will be held on August 3<sup>rd</sup> at 6:00 p.m. and the appointment can be made at the August 8<sup>th</sup> Council meeting.

Kim Booth of 20 Meadow Lane said that he has lived in Cumberland for over 30 years. He was concerned about the openness and fairness of the recent School Board election. He received a letter from some schoolteachers prior to the last School Board election that claimed that they had looked at all 5 candidates, evaluated a certain metrics, and had chosen their preferred candidates. He knows that they didn't get to all the candidates. In fact, there was one candidate in particular that was not evaluated by the schoolteachers. It is misleading that they sent that letter, and he is concerned that our schoolteachers are electing the School Board that they are going to negotiate with. This is unethical.

Town Manager Shane said that when Mr. Booth contacted our Town Clerk, Tammy O'Donnell, Tammy reached out to the Secretary of State, and they referred her to the Maine Ethics Commission. While this is unusual, he does not believe that they find it was unethical. He explained that on election day, 3 candidates were endorsed in the letter, there were 5 candidates on the ballot, with instructions to choose 2. Some people chose the 3 that were endorsed, causing those ballots to be rejected.

Lynn Booth said that she is a retired teacher from a neighboring district and it was the first time since she has been a member of the MEA, that she has received a letter as a teacher or a retired teacher, suggesting how you should vote. There is nothing that can be done at this point because the election is over. They have been bounced between state and local officials when voicing their concern and she wonders where the funds come from when endorsing these candidates. She feels that School Board seats have become very political and that concerns her.

Scott Jordan asked the Town Manager what happens to rejected ballots.

Town Manager Shane said that they are returned to the Secretary of State.

Mr. Jordan asked how many ballots were null and void.

Town Manager Shane said that between 9 & 10 a.m. there were 25. He is not sure what the count was for the entire day.

Mr. Jordan said that this is a serious issue. He was short 182 votes the next morning compared to Governor LePage and Jennifer White. He had to bring this to the Town Clerk's attention the next morning because there was allegedly an issue with one of the voting machines.

Town Manager Shane said that we did accurately certify our election results with the state.

## **VI. ADJOURNMENT**

Motion by Councilor Edes, seconded by Councilor Copp, to adjourn.

VOTE: 6-0 UNANIMOUS

TIME: 9:14 P.M.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary