

**MINUTES**  
Cumberland Town Council Meeting  
Town Council Chambers  
**MONDAY, May 23, 2011**

**7:00 p.m. Call to Order**

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

**I. APPROVAL OF MINUTES**

May 9, 2011

Motion by Councilor Moriarty, seconded by Councilor Stiles, to accept the minutes as presented.

VOTE: 7-0                                      UNANIMOUS PASSAGE

**II. MANAGER'S REPORT**

- Update on North Yarmouth Parks, Library, and Recreation Services:  
The assessment for next year's services was sent to the North Yarmouth Town Administrator and unfortunately, there is a difference between what is in their Town Warrant and the assessment letter of \$19,700. Some of the shortage is a result of the census shift that showed a 2% increase in the population of North Yarmouth. This does not include only Recreation and Library Services, but also Animal Control, sidewalk plowing and Channel 2. We are hopeful that this issue is rectified over the next month.
- Memorial Day events this year include a 5K road race and Kids Fun Run, the annual parade, and the first annual tree planting at the Veterans Monument.

**III. PUBLIC DISCUSSION**

Chairman Storey-King said that she had the honor of attending the Fire Department Banquet last week and wanted to recognize the following award recipients of the department:

Nathan Schools, 5 years of service

Andrew Pollock & Jeff Storey, 10 years of service

K.C. Putnam, 20 years of service

Chief Dan Small, 25 years of service

Officer of the Year was awarded to Lt. Gerald Croce

Firefighter of the Year was awarded to Mike Devoid

A recognition award was given to Firefighter Kevin Foster for his work for the Toys for Tots Program.

Councilor Porter spoke as a member of the Cumberland/North Yarmouth Lions Club and referenced approximately 15 members of the Lions Club in attendance this evening to present the 2011 Citizens of the Year Award to Town Manager, Bill Shane. Councilor Porter said that this community has been blessed with all the good work that he has done for the Town.

**IV. LEGISLATION AND POLICY**

**11 – 084 To authorize the Town Manager to enter into a Credit Enhancement Agreement with Maine Standards, LLC.**

Economic Development Director, Alyssa Daniels explained that Maine Standards is a privately held Maine company established in 2000. The company develops and manufactures calibration verification products, which are used in clinical laboratories. Currently located in Windham, Maine Standards has been growing since 2000 and the owners are confident that it will continue to do so. They expect to double their current number of

employees (45) to almost 90 in the next 5 – 7 years by expanding into related markets. They are looking to build a headquarters consisting of over 30,000 square feet with room for expansion. They are working to secure a location within the Cumberland Foreside Village subdivision on Route One. The project is estimated to be worth over \$5 million. To support the development of this project, Maine Standards has requested that the Council consider authorizing the Town Manager entering into a Credit Enhancement Agreement.

Motion by Councilor Porter, seconded by Councilor Stiles, to authorize the Town Manager to enter into a Credit Enhancement Agreement with Maine Standards, LLC. for a tax reimbursement for the duration of 20 years, not to exceed \$500,000.

VOTE: 7-0

UNANIMOUS PASSAGE

# **11 – 085 To hear a report from the Finance Committee Chair and consider and act on the adoption of a new Fund Balance Policy.**

Councilor Perfetti explained that a government account agency requires that the Town create a positive savings account. The goal of the polity is to build a fund balance to \$3 million, which lessens the need to borrow and allows the Town to pay for operations out of our own account.

Finance Director Alex Kimball reviewed the following:

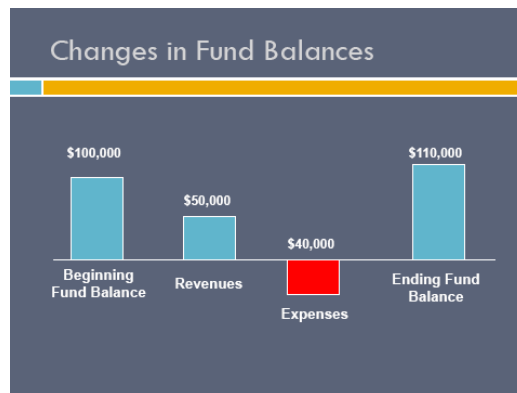
## Fund Accounting, GASB 54 & Fund Balance Policy

## Fund Accounting Basics

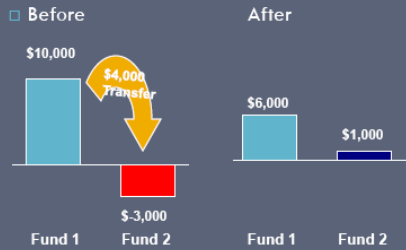
- Governments use multiple funds for accounting
- The primary fund is the General Fund, which also serves as “banker” for the other funds
- Enterprise Funds act like separate businesses
- No limit to the number of funds allowed
- Yearly budgets expire, but Fund Balance carries from year to year

## Fund Balances

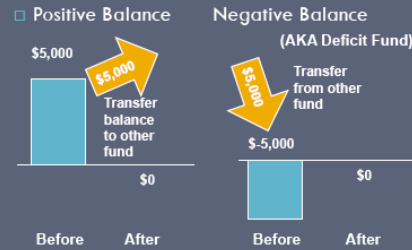
- Enterprise Fund balances are a combination of assets and P&L, and are basically useless
- The account known as “Due to/from” is actually the best fund balance indicator for these funds.
- Fund Balance can be positive or negative
- Fund balances can vary greatly during the year
- Only funds at zero balance can be closed



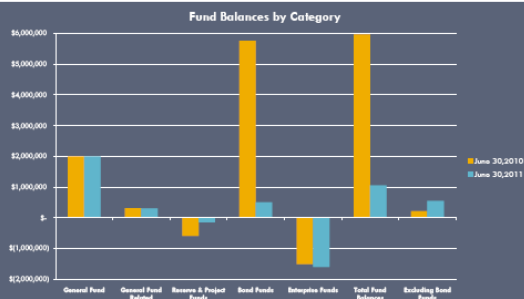
## Transferring from Fund to Fund



## Closing A Fund



## Fund Balances by Category



## GASB 54

- GASB 54 is the latest round of requirements from the Governmental Accounting Standards Board
- GASB 54 focuses on Fund Balances, both in their definitions, the appropriate amounts to maintain, and policies designed to meet and maintain those levels
- This set of rules needs to be in place before June 30, 2011

## GASB 54-Definitions of Fund Balances

- In the past, Fund Balances were either "Assigned" or "Unassigned". Now there are five categories
- Yes, five
- The new categories are designed to provide more accurate reporting, and to create a uniform set of standards for balances
- General Fund Balances are tracked slightly differently from all other funds
- Categories are listed from most to least restrictive

## Definitions continued

- **Non-Spendable-** Fund balance in the form of inventory or legally bound money. The Town has no funds subject to this limitation
- **Restricted-** The balance is subject to constraints imposed by creditors, grantors or regulations. A number of funds fall into this category, such as the bond, TIF and grant funds.

## Definitions continued

- **Committed-** Balances where the amounts have been designated for use by a specific council action, and these amounts can only be altered or used by a similar council action. This is the classification frequently given to emergency or "Rainy Day" funds. The Town of Cumberland has no such funds at present, but would like to add them in the future.

## Definitions continued

- **Assigned-** Amounts stated for an intended use as established by the council or delegated authority. Any balances in funds other than the General Fund would be classified as assigned, since the fund itself has an assigned purpose.
- **Unassigned-** This is the only truly undesignated balance and can only exist as a positive amount within the General Fund.

## Definitions, finally!

- The combined amounts in the committed, assigned and unassigned fund balances are what are now referred to as the “**unrestricted**” fund balance. The amount is called unrestricted because no entity other than the town itself has control over these amounts.

## Fund Balance Policy

- **GASB 54** requires municipalities to perform the following actions:
  - ▣ Assign fund balances according to the schedule above
  - ▣ Establish a policy regarding minimum fund balances for the General Fund
  - ▣ Establish a policies for replenishments of minimum balances and for the distribution of excess funds
  - ▣ Define the uses for all remaining Special Revenue Funds
  - ▣ Specify exactly how and when “Rainy Day” funds will be used

## Fund Balance Policy

- The Town of Cumberland will take these requirements one step further by adding:
  - ▣ Recommended Fund Balance levels for Town Building, Equipment Reserve and Road Paving funds
  - ▣ Creation of a “Committed” emergency reserve fund, to be used only by Council action.
  - ▣ Special rules regarding Enterprise Fund internal debts.

Motion by Councilor Perfetti, seconded by Councilor Turner, to adopt the Fund Balance Policy dated May 23, 2011.

VOTE: 7-0

UNANIMOUS PASSAGE

### **11 – 086 To hold a Public Hearing to consider and act on amendments to Section 430 (Water Extraction & Storage) and Section 104 (Definitions) of the Cumberland Zoning Ordinance, as recommended by the Planning Board, effective June 27, 2011.**

Councilor Moriarty explained that two issues have emerged as a result of the investigation into the situation with Elvin and Randy Copp’s property in West Cumberland which began last October. The first issue being a publicly initiated zoning change which will go to the voters on June 14<sup>th</sup> that if passed, will prohibit earth extraction in the two large rural residential districts of the Town. The second issue considered was the current ordinance that allows the bulk extraction of ground or spring water in five specific districts of the Town. The Ordinance Committee met several times and recommended to the Council that the extraction of ground and spring water be abolished in those districts, except for municipal or quasi-municipal purposes. Councilor Moriarty prepared three specific motions that would implement the recommendation of the Planning Board and the intent of the Council as they have articulated it over the past several months.

Public comment: None

Motion by Councilor Moriarty, seconded by Councilor Perfetti to amend Section 430 of the Cumberland Zoning Ordinance as recommended by the Planning Board to limit its application to the extraction and/or bulk storage of ground water or spring water only for municipal and quasi-municipal purposes.

VOTE: 7-0

UNANIMOUS PASSAGE

Motion by Councilor Moriarty, seconded by Councilor Copp, to amend the following sections of the Cumberland Zoning Ordinance:

204.1.1.1.23 (RR1), 204.1.2.1.14 (RR2), 204.2.1.17 (LDR), 204.3.1.16 (MDR), 204.4.1.15 (VMDR), such that in each instance the permitted use shall be defined as follows:

*Extraction and/or bulk storage of ground water or spring water for municipal and quasi-municipal purposes, subject to the provisions of Section 430.*

VOTE: 7-0

UNANIMOUS PASSAGE

Motion by Councilor Moriarty, seconded by Councilor Perfetti, to amend Section 104 of the Cumberland Zoning Ordinance to add the following sub-section and definition:

*104.121B Quasi-Municipal: a quasi-municipal operation or district as defined in Title 30A MRSA §2351.*

VOTE: 7-0

UNANIMOUS PASSAGE

**11 – 087 To hold a Public Hearing to consider and act on a Victualer’s License application for The Golf Learning Center, 147 Bruce Hill Road.**

Town Manager Shane said staff is recommending approval.

Public comment: None

Motion by Councilor Stiles, seconded by Councilor Turner, to approve the Victualer’s License application for The Golf Learning Center, 147 Bruce Hill Road.

VOTE: 7-0

UNANIMOUS PASSAGE

**11 – 088 To hold a Public Hearing to consider and act on a Class I Liquor License, with Malt, Spirituous, and Vinous, for the Cumberland House of Pizza for the period of May 2011 – May 2012.**

Town Manager Shane said that this expansion plan for the Cumberland House of Pizza is exciting news for their business. The restaurant will remain on one side and the other side will be a sports bar.

Public comment: None

Motion by Councilor Turner, seconded by Councilor Stiles, to approve the Class I Liquor License, with Malt, Spirituous, and Vinous, for the Cumberland House of Pizza for the period of May 2011 – May 2012.

VOTE: 7-0-1 (Copp abstained)

MOTION PASSES

**11 – 089 To set a Public Hearing date (June 20th) to consider and act on amendments to the Coastal Waters Ordinances as recommended by the Planning Board.**

Motion by Councilor Moriarty, seconded by Councilor Stiles, to set a Public Hearing date of June 20th to consider and act on amendments to the Coastal Waters Ordinances as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

**11 – 090 To set a Public Hearing date (June 20th) to consider and act on amendments to the Shoreland Zoning Ordinances as recommended by the Planning Board.**

Motion by Councilor Copp, seconded by Councilor Turner, to set a Public Hearing date of June 20th to consider and act on amendments to the Shoreland Zoning Ordinances as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

**11 – 091 To set a Public Hearing date (June 6th) to consider and act on a Mass Gathering Permit and Victualer’s Licenses for the United Maine Craftsmen’s 42<sup>nd</sup> Annual Cumberland Arts and Crafts Show, August 11<sup>th</sup> – 14<sup>th</sup>, 2011 at the Cumberland Fair Grounds.**

Town Manager Shane explained that event is always a huge success, paperwork is in order and staff is recommending approval.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to set a Public Hearing date of June 6th to consider and act on a Mass Gathering Permit and Victualer’s Licenses for the United Maine Craftsmen’s 42<sup>nd</sup> Annual Cumberland Arts and Crafts Show, August 11<sup>th</sup> – 14<sup>th</sup>, 2011 at the Cumberland Fair Grounds.

VOTE: 7-0 UNANIMOUS PASSAGE

**11 – 092 To set a Public Hearing date (June 20th) to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club Labor Day “Just For Fun” Soccer Tournament to be held at Twin Brook Recreational Facility on September 3<sup>rd</sup> & 4<sup>th</sup>, 20**

Motion by Councilor Moriarty, seconded by Councilor Perfetti, to set a Public Hearing date of June 20th to consider and act on a Mass Gathering Permit for the Cumberland Soccer Club Labor Day “Just For Fun” Soccer Tournament to be held at Twin Brook Recreational Facility and on the Greely campus on September 3<sup>rd</sup> & 4<sup>th</sup>, 2011.

VOTE: 7-0 UNANIMOUS PASSAGE

**11 – 093 To set a Public Hearing date (June 6<sup>th</sup>) to consider and act on annual Victualer’s Licenses for the period of July 1, 2011 – June 30, 2012.**

Motion by Councilor Stiles, seconded by Councilor Turner, to set a Public Hearing date of June 6<sup>th</sup> to consider and act on annual Victualer’s Licenses for the period of July 1, 2011 – June 30, 2012.

VOTE: 7-0 UNANIMOUS PASSAGE

**11 – 094 To consider and act on sending to the Planning Board for a Public Hearing and recommendation the repeal of the Contract Zone Agreement for Cumberland Foreside Village, LLC.**

Town Manager Shane explained that the applicant requested tabling this item indefinitely. There are some changes that the applicant would like to see, but it needs to be flushed out a bit more.

Motion by Councilor Turner, seconded by Councilor Copp, to table this item indefinitely.

VOTE: 7-0 UNANIMOUS PASSAGE

**V. NEW BUSINESS**

**Councilor Turner** – Has the weather moved the completion date for Route 88?

Town Manager Shane said that July 1<sup>st</sup> is still the target date for completion.

**Councilor Copp** – Congratulations to the Manager for the Citizens of the Year Award. He does a fantastic job and is very deserving to the award.

**Councilor Porter** – None

**Councilor Perfetti** – None

**Chairman Storey-King** – Reminder that the Town Council meetings in June have been moved to the 6<sup>th</sup> & 20<sup>th</sup> due to the election.

Meet the candidates night is on June 1<sup>st</sup> and the election in on June 14<sup>th</sup>.

**Councilor Stiles** – He has been noticing more green trash bags and less recycling around Town and urged residents to attempt to do a better job recycling.

Congratulated Town Manager Shane on receiving the Citizens of the Year Award. It is well deserved.

**Councilor Moriarty** – He recently discovered that retail and associated retail are listed as permitted uses in the Southern Office Commercial zone. This discovery prompted him to look at the zoning ordinance to verify this. He does not recollect the Council discussing retail uses in the Route One area. It appears that last June, the Council passed a large motion where a lot of special exceptions were moved into the permitted use category. Apparently, these two retail uses got caught up in that motion and got inserted as permitted uses only in the Southern Office Commercial Zone with no discussion. To allow retail in this zone should require some discussion. Councilor Moriarty suggested that action is taken this evening to send this to the Planning Board with a recommendation that these be withdrawn as permitted uses in the Southern OC zone to avoid unanticipated applications and to discuss the issue and use in the zone.

Councilor Porter said that his preference would be a moratorium to allow an in depth discussion. Considering what this could mean for the area the discussion is necessary, but he is not sure that rescinding the law and then adding it back at a later date is the correct method.

Councilor Moriarty agreed that a moratorium is a reasonable alternative.

**Motion by Councilor Moriarty, seconded by Councilor Perfetti, to set a Public Hearing date of June 6<sup>th</sup> to consider and act on a 6-month moratorium on Associated Retail and Retail uses in the Office Commercial South (OCS) Zone.**

**VOTE: 7-0**

**UNANIMOUS PASSAGE**

**Town Manager Shane** – Update on the Police Family Survivor Fundraiser from the last meeting. Police Chief Charron did contact the charity and did verify that it was legitimate. A resident who researched the organization contacted the Manager with the following information: *“Although you had the Police Chief check out the fund and found it is legitimate it has a rating of zero given by the Charity Navigator, according to an article written by David Offer in the Kennebec Journal November 16, 2010. Efficient charities with the same goal rate three or four stars. Also according to the same article, the person who founded the charity has been involved with charity scams for years. Although, as you stated, the fund is legitimate, I believe you should have warned the folks who had received a letter asking for funds not to contribute until they were satisfied their contribution would be used in a prudent manner. In this case it would not”.*

There was an issue recently at the fairgrounds where some debris had been stockpiled. The Manager contacted the Farmers Club and the problem was rectified within a very short period of time. The Farmers Club is always easy to work with as well as being responsible stewards of our environment.

Route 88: work will begin on King’s Highway and Tuttle Road within the next 2 weeks (weather permitting).

Range Road: final punch review with engineers occurred last week. Minor road repairs, loam and seed repairs, culvert installation, and final paving will take place by the third week of June. Notices will be sent to residents when the dates are finalized.

**VI. ADJOURNMENT**

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

VOTE: 7-0

TIME: 8:24 p.m.

Respectfully submitted by:

Brenda L. Moore  
Council Secretary