



**IV. LEGISLATION AND POLICY**

**11 – 095 To hold a Public Hearing 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 said that staff is recommending approval.

Public discussion: None

Motion by Councilor Stiles, seconded by Councilor Copp, to approve the Mass Gathering Permit and Victualer’s Licenses for the United Maine Craftsmen’s 42<sup>nd</sup> Annual Cumberland Arts and Crafts Show, to be held August 11<sup>th</sup> – 14<sup>th</sup>, 2011 at the Cumberland Fair Grounds.

VOTE: 7-0 UNANIMOUS PASSAGE

**11 – 096 To hold a Public Hearing to consider and act on annual Victualer’s Licenses for the period of July 1<sup>st</sup>, 2011 – June 30<sup>th</sup>, 2012.**

Public discussion: None

Motion by Councilor Perfetti, seconded by Councilor Turner, to approve the annual Victualer’s Licenses for the period of July 1<sup>st</sup>, 2011 – June 30<sup>th</sup>, 2012.

VOTE: 7-0 UNANIMOUS PASSAGE

**11 – 097 To hold a Public Hearing to consider and act on a 3-month moratorium on Associated Retail and Retail uses in the Office Commercial South (OCS) Zone.**

Town Manager Shane explained that Councilor Moriarty brought this item to the attention of the Council at the last meeting. In July of 2010, many items that had previously been special exceptions in every zone were changed to permitted uses, unless they did not require some type of review (i.e. home occupation). In this group of amendments, retail stores and associated retail were inadvertently added as permitted uses because they were included in David Chase’s contract zone along the southern portion of Route One. The purpose of this 90 day moratorium is to look at the types of retail uses that would be a good fit in that area. We have a very limited amount of acreage in the OC South district and would like to carefully examine the type of retail permitted, consistent with Main Street and Route 100.

Public discussion: None

Motion by Councilor Perfetti, seconded by Councilor Moriarty, that the Town Council of the Town of Cumberland hereby ordains that this Moratorium Ordinance Regarding Retail Uses in the Office Commercial South Zoning District (OC-S District) be, and hereby is, enacted as follows:

WHEREAS, the Town of Cumberland enacted the OC-S District for the purpose of allowing a limited range of employment-intensive commercial uses with low intensity land use impacts, measured in terms of traffic generation, environmental effects, building scale and site layout; and

WHEREAS, the OC-S District currently allows a variety of uses, including business and professional offices, research facilities, residential care facilities, light manufacturing, hotels and motels, and day care centers, in addition to retail stores and associated retail; and

WHEREAS, the development and impact of retail stores and associated retail uses under the current regulations has proved to be incompatible with the purpose of the OC-S District, as well as incompatible with some of the other allowed uses; and

WHEREAS, this development pressure was unanticipated and has not been adequately provided for in the Town's current zoning or other land use ordinances; and

WHEREAS, there is a strong likelihood that the Town will continue to be subjected to this development pressure due to the lack of adequate regulations or restrictions on the location and effects of these uses in the OC-S District; and

WHEREAS, amendments to the zoning and other land use ordinances require public hearings by the Planning Board and a vote by the Town Council; and

WHEREAS, in the judgment of the Town, these facts continue to create an emergency within the meaning of 30-A M.R.S.A. § 4356(1)(B) and require enactment of the Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town of Cumberland hereby ordains that the Moratorium Ordinance be, and hereby is, adopted for 90 days from the date of adoption of this Ordinance, unless earlier repealed by action of the Town Council.

BE IT FURTHER ORDAINED, that the Planning Board, Board of Adjustment and Appeals, all Town agencies and all Town employees shall neither accept nor approve applications, plans, permits, licenses, and/or fees for any retail stores or associated retail uses governed by this Moratorium Ordinance for said period of time;

BE IT FURTHER ORDAINED, that those provisions of the Town's Zoning Ordinance and any other regulations that are inconsistent or conflicting with the provisions of this Moratorium Ordinance, are hereby repealed to the extent that they are applicable for the duration of the Moratorium Ordinance hereby ordained, but not otherwise; and

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid.

VOTE: 6-1 (Porter opposed)

MOTION PASSES

**11 – 098 To set a date of June 20<sup>th</sup> to award the Tax Anticipation Note borrowing for FY'12 for \$3 million dollars.**

Town Manager Shane explained that Finance Director, Alex Kimball will have the bids ready for the June 20<sup>th</sup> meeting and will be present to answer any questions.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to set a date of June 20<sup>th</sup> to award the Tax Anticipation Note borrowing for FY'12 for \$3 million dollars.

VOTE: 7-0

UNANIMOUS PASSAGE

**11 – 099 To set a Public Hearing date (June 20<sup>th</sup>) to authorize the Code Enforcement Officer to enter into a Consent Decree with property owners located at 18 Frye Drive.**

Town Manager Shane explained that when the owners listed their property to sell, they had a mortgage survey done and discovered that their garage was approximately 25 feet closer to the property line than is allowed by ordinance. The current owners did not build the garage, they purchased the home with the garage and it was not discovered during their purchase and closing process. They are hoping to close on the sale of this property shortly after June 20<sup>th</sup>.

Motion by Councilor Perfetti, seconded by Councilor Copp, to set a Public Hearing date of June 20<sup>th</sup> to authorize the Code Enforcement Officer to enter into a Consent Decree with property owners located at 18 Frye Drive.

VOTE: 7-0

UNANIMOUS PASSAGE

**V. NEW BUSINESS**

**Councilor Turner** – referenced a letter from the Department Environmental Protection to Mr. Paynter who owns property that abuts Knights Pond. Mr. Paynter has testified many times in Augusta regarding the resource protection criteria that requires 250 foot setbacks for construction. The DEP is now allowing municipalities to enforce resource protection instead of the state. This means that the Town has the ability to either designate resource protection as is (250' setback) or change it back to Shoreland zoning, with a 75' minimum setback. This is a decision that the Council has to make and it appears that Mr. Paynter's may be the only property affected.

Councilor Turner said that he has the utmost respect for Councilor Porter because of his knack for mixing common sense with a certain level of charisma. Councilor Porter is leaving with Councilor Turner's respect and affection.

**Councilor Copp** – approximately 4 weeks ago, his son wrote a letter to the Council regarding impact fees on the new construction of homes. His son is in the process of building a new home on a piece of land that has been in their family for over 50 years, and it is going to cost him \$2,610.00 to get a building permit. When impact fees were put in place they made sense, but now they are discouraging. Impact fees should be revisited by the Council and perhaps restructured.

Councilor Copp said that he also has the utmost respect for Councilor Porter. He has always had one thing in mind when he sits at the dais, and that is the Town of Cumberland. One of the best things he has done for the Town is being on the committee that chose our Town Manager. He is a good friend and he wished him well.

**Councilor Porter** – he feels that we need to stand by our Veterans and complete the monument with Town funds.

There is a group going door to door selling firewood. He requested that the Manager have the police department look into this.

During his time on the Town Council, he is mostly proud of two things: the hiring Town Manager Shane, and the broadcasting of Town Council meetings on channel 2. He has always believed that it is important for the citizens to know that the Council does not conduct their business in private.

He said that he is blessed and has enjoyed his 12 years on the Council, and is very fortunate to have a supportive wife and children who have allowed him to spend a lot of time away from home. He is thankful to

the residents of Cumberland for the trust that they have shown in him. He appreciates his time on the Council and thanked everyone for the kind words.

**Councilor Perfetti** - he thanked Councilor and Mary Porter for their friendship to him and his family. This means more to him than he can express in words. He said that he has enjoyed his time on the Council with Councilor Porter and thanked him for his guidance, encouragement, and for challenging him.

**Chairman Storey-King** – she said that she has always appreciated Councilor Porter’s sense of humor. It has helped everyone through some difficult times. He has always been a gentleman, and he is passionate and thoughtful. She discovered that they have a lot more in common than she had anticipated.

**Councilor Stiles** – it has been a pleasure serving with Councilor Porter and hopes that he will continue to be a resource.

**Councilor Moriarty** – it has been an enormous pleasure serving with Councilor Porter and he has tremendous respect for his idealism, his dedication to the Town, his fortitude and conviction. He and everyone on the Council will miss him.

**Town Manager Shane** – absentee voting is taking place at Town Hall on Saturday from 9:00 a.m. to noon and at the West Cumberland Community Hall on Sunday from 10:00 a.m. to 1:00 p.m.

He was very impressed with the Town Council candidates during Meet the Candidates Night last week. All three candidates are about the community and he feels that theme will continue with whoever is elected.

## **VI. ADJOURNMENT**

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

VOTE: 7-0

TIME: 7:56 p.m.

Respectfully submitted by,

Brenda L. Moore  
Council Secretary