

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, September 10, 2012

7:00 p.m. Call to Order

Present: Chairman Moriarty, Councilors Storey-King, Copp, Gruber, & Stiles.

Excused: Councilors Turner & Perfetti

I. APPROVAL OF MINUTES

Motion by Councilor Stiles, seconded by Councilor Gruber, to approve the August 27, 2012 minutes as presented.

VOTE: 5-0

UNANIMOUS PASSAGE

II. MANAGER'S REPORT

Town Manager Shane explained that an item will be added to the agenda this evening to elect a voting delegate from Cumberland to the Maine Municipal Association Annual Business Meeting to be held in Augusta in October. He is recommending that Councilor Turner (with the Town Manager as alternate) be appointed since he is already on the MMA Legislative Committee.

Amendments to the Solid Waste Ordinance is supposed to be on the September 24th agenda, but it will have to be tabled to November to allow the Ordinance Committee time to review it.

Staff met with Unitil and Maine Natural Gas last week regarding expansion of natural gas to Cumberland, Falmouth & Yarmouth. The meetings were very productive. Both companies have interest in pursuing the project. Town Staff is in the process of preparing RFP's (request for proposal) that will be sent to Unitil, Maine Natural Gas, and Summit, requesting additional information.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

12 – 154 To hold a Public Hearing to consider and act on authorizing the Code Enforcement Officer to enter into a Consent Agreement with property owners located at 20 Labrador Lane.

Town Manager Shane explained that this situation is typical of family land that has been split many times over the years. Now that a parcel has been sold outside of the family, the boundaries have to be defined. The Manager, the Code Enforcement Officer, and Town Attorney have been working on this matter and the Manager is comfortable with the agreement. Only the Town Council can authorize a consent agreement and this particular agreement will help many abutters into the future. Labrador Lane will now have a map and physical boundaries to describe the roadway, and a 40 foot right of way. Per past practice, Staff is recommending a fee of \$500 to cover attorney's fees and review by the Code Enforcement Officer.

Councilor Gruber asked how the Town can prevent this happening on other parcels in future.

Town Manager Shane explained that in the late 1990's a private road standard was developed for this reason. These same issues were happening on a regular basis back then. The Town has a private road standard, which is a much tighter standard, requiring the road to be built on a recorded plan, with defined setbacks, and cross section of road depicted on the plan. Labrador Lane was built prior to those standards.

Chairman Moriarty opened the Public Hearing.
Public discussion: None
Chairman Moriarty closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Copp, to authorize the Code Enforcement Officer to enter into a Consent Agreement with property owners located at 20 Labrador Lane.
VOTE: 5-0 UNANIMOUS PASSAGE

12 – 155 To hold a Public Hearing to consider and act on the adoption of the proposed Code Adoption Ordinance.

Chairman Moriarty explained that the next two agenda items are linked together. The Town Charter provides that all the Town ordinances shall be compiled into a single volume to be known as the Cumberland Code, and that code shall be updated every 10 years. The charter requires that the Town Council adopt an ordinance before the Cumberland Code itself can be adopted.

Town Manager Shane added that the process began approximately 8 years ago by the compilation of all town ordinances, retyping them in some cases, reviewing, and submitting to General Code for their review and recommended corrections. Town Clerk, Tammy O'Donnell led the process. Alyssa Tibbetts did a lot of the research along with Anne Brushwein and Debbie Flanigan.

Chairman Moriarty opened the Public Hearing.
Public discussion: None
Chairman Moriarty closed the Public Hearing.

Motion by Councilor Copp, seconded by Councilor Storey-King to adopt the proposed Code Adoption Ordinance.
VOTE: 5-0 UNANIMOUS PASSAGE

12 – 156 To hold a Public Hearing to consider and act on the adoption of the Code of the Town of Cumberland.

Chairman Moriarty opened the Public Hearing.
Public discussion: None
Chairman Moriarty closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Gruber, to adopt the Code of the Town of Cumberland.
VOTE: 5-0 UNANIMOUS PASSAGE

12 – 157 To consider and act on a permit request by the Greely Football Boosters Club to hold a bonfire at Twin Brook Recreation Facility on October 18, 2012. (Tabled on 08-13-12)

Town Manager Shane said that Staff is recommending approval. The booster club has always been great to work with. They have met with the Fire Department, and this is always a successful community event for the entire community to enjoy.

Councilor Storey-King reminded the public that the event is a week earlier this year. Historically, it has been closer to Halloween. As liaison to the Twin Brook Committee, she voiced concern about the wet

Town Manager Shane responded that the booster club has been reminded that clean-up is required within 48 hours after the event or they forfeit their \$500 deposit. Last year, the Town kept the deposit to cover repair to the damaged areas that Councilor Storey-King referred to.

Town Manager Shane said that it is marked off and Fire Department personnel are present with fire equipment. Mr. Shane said that thankfully, there has never been an incident.

VOTE: 5-0

UNANIMOUS PASSAGE

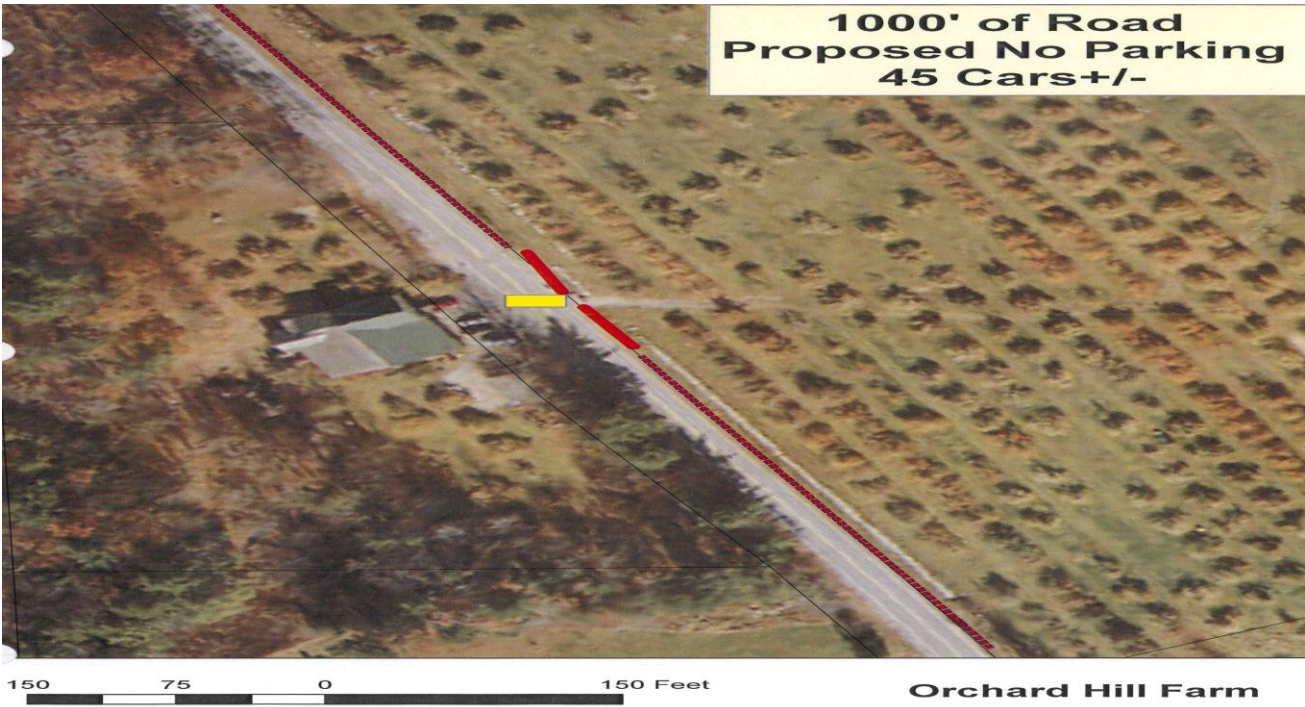
Town Manager Shane explained that there are three proposed no parking areas as recommended by the Chief of Police. The pictures below illustrate the three areas:



to park along Route 100 and Range Road, making it difficult to turn onto Range Road and increasing the potential for accidents significantly.



The area in the photo above is Terrison’s Orchard on Whitney Road. There is ample parking along the front of the store and across the street. The no parking area is illustrated in red on the photo.



The proposed no parking area on Orchard Road is in the area of Orchard Hill Farm and is approximately 1,000 feet of roadway along the orchard. The Pierce's have done a phenomenal job in bringing this orchard back, which has become a popular fall destination. Mr. Pierce has volunteered to work with the Town in rehabbing the entire shoulder. The Town will provide gravel and piping and Mr. Pierce will provide the equipment and labor. After the shoulder/ditch area is built up, it will provide off road parking making it much safer for parking.

Bob Pierce of Orchard Hill Farm said that he is happy with the compromise that the Manager described and he is hopeful that the Council will agree to it.

Councilor Gruber thanked Mr. Pierce for taking some initiative and being willing to work with the Town. He feels that it is a good compromise and wanted to be sure that it would not have a negative impact on Mr. Pierce's business.

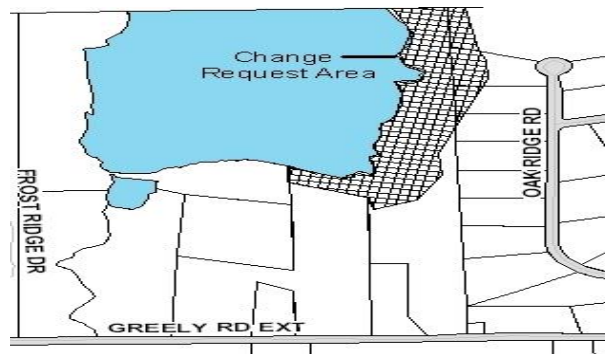
Mr. Pierce said that the safety of his patrons is the most important issue.

Motion by Councilor Gruber, seconded by Councilor Copp, to set a Public Hearing date of September 24th to consider and act on amendments to the Cumberland Traffic Ordinance to adopt no parking areas on Range Road, Orchard Road, and Whitney Road.

VOTE: 5-0

UNANIMOUS PASSAGE

12 – 159 To refer to the Planning Board for a Public Hearing and recommendation, a citizen request to change the zone around the east side of Knight's Pond from Resource Protection (RP) to Limited Residential (LR).



Chairman Moriarty explained that any land owner, or his/her agent, may request a zone change. In this case, the request is to reduce the current setback of 250 feet (which was imposed by the State several years ago), to the former setback of 100 feet. When the landowner purchased the property, the setback was 75 feet. At the current 250 foot setback, some potential property value has been lost. The action this evening is to forward it to the Planning Board as the first step in the process of the zone change request.

Tina O'Connell of Greely Road Extension asked why the Town would consider going against the State ruling and convert it back to 100 feet.

Chairman Moriarty explained that the State changed its mandate and no longer requires the 250 foot setback. That setback can stay in place, or a municipality has the option to convert back to the 100 foot setback (which is where it was when the landowner bought the land).

Ms. O'Connell asked if the resource protection area is only on the east side of Knight's Pond.

Chairman Moriarty responded that the 250 foot resource protection zone extends all the way around the pond, but this zone change request pertains only to this owner's property.

Ms. O'Connell asked what would prevent the other property owners around the pond to request a zone change. Then Knight's Pond becomes just another pond in Maine that has development around it. Why not leave it alone to prevent this from happening.

Councilor Gruber said that the Lands & Conservation Commission met last week on this issue and they struggled very hard with this request. They weighed the landowner's issue versus the Commission's charter. Ultimately, the charter won.

Motion by Councilor Stiles, seconded by Councilor Copp, to refer to the Planning Board for a Public Hearing and recommendation, a citizen request to change the zone around the east side of Knight's Pond from Resource Protection (RP) to Limited Residential (LR).

VOTE: 5-0

UNANIMOUS PASSAGE

12 – 160 To designate an official voting delegate and alternate for Cumberland to the Maine Municipal Association Annual Business Meeting to be held on Wednesday, October 3, 2012 at the Augusta Civic Center.

Motion by Councilor Stiles, seconded by Councilor Gruber, to designate George Turner as the official Voting Delegate and William Shane as the alternate Voting Delegate for Cumberland, to the Maine Municipal Association Annual Business Meeting, scheduled for Wednesday, October 3, 2012.

VOTE: 5-0

UNANIMOUS PASSAGE

V. NEW BUSINESS

Councilor Copp – None

Councilor Storey-King – Prince Memorial Library's Children's Librarian, Jan Hamilton, retired this week. She wished her well and thanked her for her years of service.

She reminded residents that Regional Transportation Program (RTP) provides rides to people who are unable to drive. The Town supports RPT financially, but it is a drop in the bucket for what they need. They really need volunteer drivers. Details for volunteering can be found on their website, rtprides.org

Chairman Moriarty – He was attending the Congregational Church yesterday and an announcement was made about the new food bank that is going to be located at Town Hall. His impression of the announcement is that it was generally well received.

Congratulations to Councilor Gruber and Town Manager Shane for their hard work.

Councilor Stiles – Speaking of the new food bank, on Wednesday afternoon of the Cumberland Fair, there will be an auction of beef, pigs, and sheep, which are all processed to be freezer ready. He encouraged the community members to consider purchasing one and donating the meat to the food bank. It is tax deduction and a great way to help those community members in need.

Councilor Gruber – The target date for the opening of the food bank is Friday, November 2nd. It will be open every Friday, but the exact hours have not been determined yet. There are a total of 9 churches, including churches from neighboring towns, who are involved in sponsorship of the food bank. Thank you to Town Manager Shane and volunteers from White Pines Church for constructing the wall in the garage bay of Town Hall, where the new food bank will be housed. There will be other groups coming in to help build shelving, etc. Thank you to everyone who has gotten involved so far. This is truly a terrific community project.

Town Manager Shane – There will be no Executive Session this evening, as the information pertaining to it was not received today as planned.

A resident has submitted speed limit reduction request to the Town, but unfortunately, the Town has no authority to set speed limits. Only the Maine Department of Transportation can do that.

Thank you to North Yarmouth Selectman, Mark Girard for helping in the food bank construction project. Students from Greely High School will be helping in the near future as part of their community service requirement.

VI. ADJOURNMENT

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

VOTE: 5-0

TIME: 8:07 p.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary