

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, July 23, 2012

5:30 p.m. Workshop re: CZA housing projects on Route 100/FY'13 goal setting

7:00 p.m. Call to Order

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

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Stiles, to accept the July 9, 2012 minutes.

VOTE: 7-0

UNANIMOUS PASSAGE

II. MANAGER'S REPORT

A concerned resident called to report suspect electrical wires at the Christmas tree on the corner of Main Street and Tuttle Road. Upon inspection, it was determined that the wiring does need to be replaced. We were lucky that the tree did not burn. An electrician has been contacted to repair the problem and replace the wires.

The paving on Tuttle Road will begin in approximately 2 weeks.

There was a lot of positive feedback from the joint Council meeting with Falmouth and Yarmouth regarding the gas main project.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

12 – 121 To hear a report from the Tax Assessor re: MapGeo interactive mapping program.

Tax Assessor, William Healey demonstrated a new program on the Town website that allows anyone to search properties, locate tax records, view zoning, see the aerial view of a property, get information on abutting properties, print maps and labels. Mr. Healey said that this is a great tool for Town employees, residents, and the public.

12 – 122 To hold a Public Hearing to consider and act on setting the FY'13 tax rate as recommended by the Tax Assessor.

Tax Assessor, William Healey, explained that the recommendation for the FY'13 tax year is \$16.55 per thousand. Mr. Healey said that valuation picked up significantly this year, mainly because of the CMP substations. There was also a lot of new construction, which is encouraging.

Public discussion: None

Motion by Councilor Copp, seconded by Councilor Turner, to set the municipal tax rate for FY'13 at \$16.55.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 123 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.

Chairman Moriarty explained that this is done annually and the Town generally follows the guidelines of Maine Municipal Association when setting the interest rate.

Public discussion: None

Motion by Councilor Stiles, seconded by Councilor Gruber, to set an interest rate of 7% for delinquent real and personal property taxes for FY'13.

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

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 124 To hold a Public Hearing to consider and act on increasing the sewer user fee to 3.2% for FY'13.

Town Manager Shane explained that there was no increase in sewer user fees last year. This year the Town is anticipating work that needs to be done to the Falmouth pump station (which Cumberland owns 30%). That station receives the wastewater from Cumberland. The repair/construction cost will be in the millions of dollars, so in anticipation of those future bond increases, he is recommending a 3.2% increase in the sewer user fees.

Public discussion: None

Motion by Councilor Stiles, seconded by Councilor Turner, to increase sewer user fees 3.2% for FY'13 as recommended by the Town Manager.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 125 To consider and act on the reappointment of William Healey as Cumberland Tax Assessor for a three-year term.

Chairman Moriarty explained that per the Town Charter, the Tax Assessor is appointed by the Town Council every three years.

Town Manager Shane added that he strongly supports the reappointment of Mr. Healey. He is an outstanding Assessor who is respected by his peers and the community.

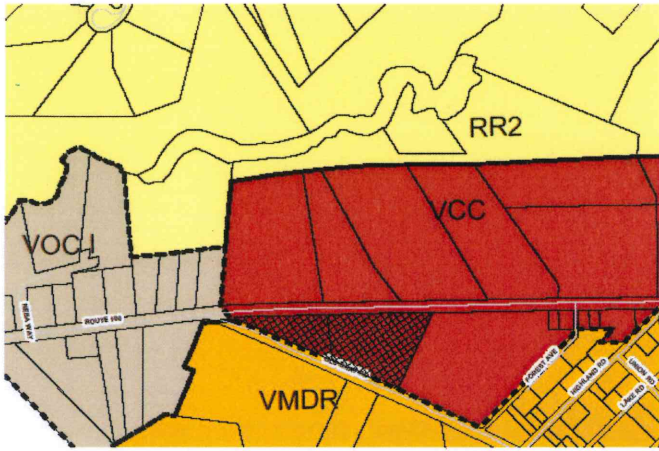
Motion by Councilor Stiles, seconded by Councilor Storey-King, to reappoint William Healey as Cumberland Tax Assessor for the period of August 1, 2012 – July 31, 2015.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 126 To hold a Public Hearing to consider and act on draft zoning amendments to the Official Cumberland Zoning Map to change Tax Assessor Map U21, Lots 1 and 2, from the Village Center Commercial District (VCC) to the Village Office Commercial I (VOCI) district, as recommended by the Planning Board.

Economic Development Director, Alyssa Tibbetts, explained that this is the conclusion to several months of discussion on these particular parcels and the zone change request to the Town. The request is for two lots in the VCC zone to be moved to the VOCI zone allowing for multiplex use, which is not currently permitted in the VCC zone (see map below).



This item is to amend the map and the next item is to amend the text.

Public discussion: None

Motion by Councilor Storey-King, seconded by Councilor Copp, to amend the Official Cumberland Zoning Map to change Tax Assessor Map U21, Lots 1 and 2, from the Village Center Commercial District (VCC) to the Village Office Commercial I (VOCI) district, as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 127 To hold a Public Hearing to consider and act on draft amendments to Section 204.10.3.2, minimum lot area for multiplex development -Village Office Commercial I (VOCI) of the Cumberland Zoning Ordinance, as recommended by the Planning Board.

Ms. Tibbetts explained that this amendment will change the minimum lot area for multiplex developments in the VOC1 zone to 8,000 square feet per bedroom. This change is consistent with State Plumbing Code.

Public discussion: None

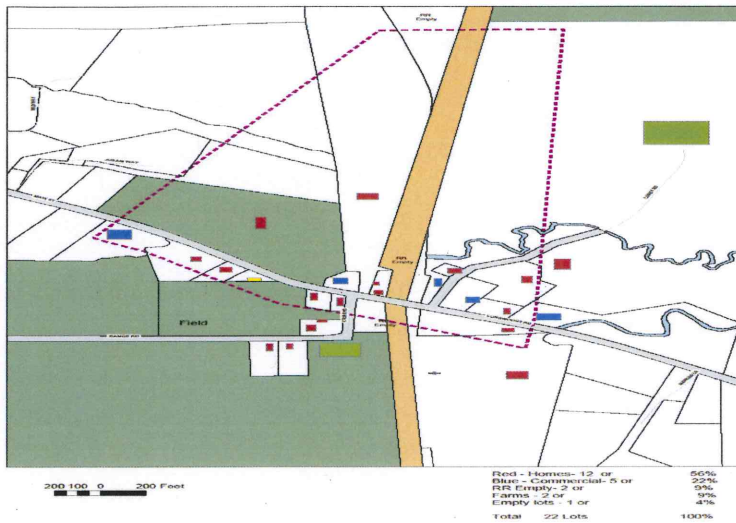
Motion by Councilor Copp, seconded by Councilor Storey-King, to amend the Village Office Commercial I (VOC1) district of the Cumberland Zoning Ordinance, to add Section 204.10.3.2 *“In the case of multiplex developments the minimum lot area shall be 8,000 square feet per bedroom”*, as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 128 To hold a Public Hearing to consider and act on draft amendments to Section 204.6, Highway Commercial (HC) of the Cumberland Zoning Ordinance to allow up to 2 uses per lot, add single family detached dwellings, duplex dwellings, multiplex dwellings, and motor vehicle service/repair as a permitted uses, as recommended by the Planning Board.

Ms. Tibbetts explained that there are two zone change requests from property owners in this zone. Norene Ward, who owns several parcels in the HC zone, has asked to add all residential uses to the zone (single family, multiplex and duplex). The map below shows the residential (red boxes) and commercial (blue boxes). There are clearly more red than blue boxes, which indicates that there are more residential homes than businesses, but the zone currently does not allow new residential.



The second request came from a tenant of Mrs. Ward who operates a business on Corey Road. He currently has a motor vehicle sales establishment and would like to be able to do motor vehicle repairs.

Public discussion: None

Motion by Councilor Turner, seconded by Councilor Gruber, to amend Section 204.6, Highway Commercial (HC) of the Cumberland Zoning Ordinance to allow up to 2 uses per lot, add single family detached dwellings, duplex dwellings, multiplex dwellings, and motor vehicle service/repair as a permitted uses, as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 129 To hold a Public Hearing to consider and act on draft amendments to Section 104.75 (definitions) and 204.14.2.2 (Industrial Zone) of the Cumberland Zoning Ordinance, to eliminate junkyards as a special exception use, as recommended by the Planning Board.

Chairman Moriarty explained that this will remove junkyards as a permitted use throughout the entire Town.

Councilor Perfetti pointed out that there is a pending application for a junkyard that is currently going through the process. It is important to point this out now in case that application gets approved. This could cause some confusion if the Council votes to eliminate the use. Action this evening will not impact any pending junkyard applications.

Public discussion: None

Motion by Councilor Stiles, seconded by Councilor Gruber, to amend Section 104.75 (definitions) and 204.14.2.2 (Industrial Zone) of the Cumberland Zoning Ordinance, to eliminate junkyards as a special exception use, as recommended by the Planning Board.

VOTE: 6-0-1 (Copp abstained)

MOTION PASSES

12 – 130 To hold a Public Hearing to consider and act on amendments to Section 104.103.1 (definitions) Net Residential Acreage of the Cumberland Zoning Ordinance and Section 3K (definitions) Net Residential Acreage of the Cumberland Subdivision Ordinance, as recommended by the Planning Board.

Chairman Moriarty explained that currently, when Net Residential Acreage is calculated it is a flat 15% deducted to account for roads, etc. The proposed change is to eliminate the fixed percentage and use the actual figure for roads, parking areas, etc.

Public discussion: None

Motion by Councilor Perfetti, seconded by Councilor Stiles, to amend Section 104.103.1 (definitions) Net Residential Acreage of the Cumberland Zoning Ordinance and Section 3K (definitions) Net Residential Acreage of the Cumberland Subdivision Ordinance as follows: ~~15%~~ Area for roads and parking as shown on the proposed plan, as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 131 To hold a Public Hearing to consider and act on amendments to the Recreational Facilities & Open Space Impact Fee Ordinance, as recommended by the Planning Board.

Chairman Moriarty explained the Planning Board met on June 19th and voted to recommend the following amendments to the Impact Fee Ordinance:

- If a building is destroyed by natural disaster or fire and is rebuilt, there would be no impact fee for the new structure.
- If a building is intentionally demolished and replaced by a new structure, an impact fee would be charged, but the first 1,000 feet would be exempt.
- If a building is moved from one location to another, there would be no impact fee to move the building and set it elsewhere. There would be an impact fee if a new structure were built on the lot that the structure that was moved from (with the 1,000 foot exemption).

Public discussion: Brad Hilton of Blanchard Road presented the following PowerPoint presentation:

**CUMBERLAND's
GROWTH CONTROL
IMPACT FEES**

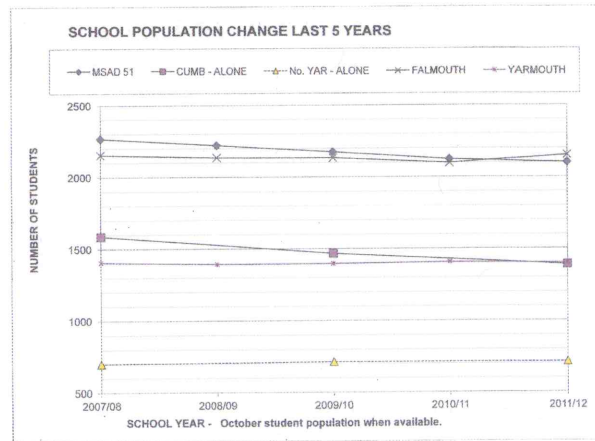
**Municipal impact fee revenues,
in this poor economy, are
negatively impacting the TOTAL
town revenues. ANY
CHANGES SHOULD CORRECT
THIS BIGGER PROBLEM**

By Brad Hilton 7/23/2012

BUILDING PERMIT COSTS --- 2500 SQ FT					
TOWN.	CUMB.	N. YAR.	YAR.	FAL.	
BLDG PERMIT	\$ 625	\$ 1,375	\$ 625	\$ 625	
ELEC PERMIT	\$ 150	\$ 200	\$ 150	\$ 100	
PLUMB PERMIT	\$ 350	\$ 350	\$ 350	\$ 390	
SITE REVIEW	\$ 250	\$ 100	\$ 100	\$ 250	
TOTAL of above	\$ 1,375	\$ 2,025	\$ 1,225	\$ 1,365	
IMPACT GROWTH FEE / PERMIT	\$ 2,100	\$ -	\$ -	\$ 100	
GRAND TOTAL	\$ 3,475	\$ 2,025	\$ 1,225	\$ 1,465	

BUILDING PERMIT COSTS --- 3500 SQ FT

TOWN	CUMR.	N. YAR.	YAR.	FAL.
BLDG PERMIT	\$ 875	\$ 2,450	\$ 875	\$ 875
ELEC PERMIT	\$ 200	\$ 280	\$ 200	\$ 130
PLUMB PERMIT	\$ 350	\$ 350	\$ 350	\$ 390
SITE REVIEW	\$ 250	\$ 100	\$ 100	\$ 250
TOTAL of above	\$ 1,675	\$ 3,180	\$ 1,525	\$ 1,645
IMPACT GROWTH FEE / PERMIT	\$ 3,500	\$ -	\$ -	\$ 100
GRAND TOTAL	\$ 5,175	\$ 3,180	\$ 1,525	\$ 1,745



NET IMPACT OF CUMBERLAND'S GROWTH CONTROL IMPACT FEE

YEAR	2007/08	2008/09	2009/10	2010/11	2011/12	
IMPACT FEE REVENUE RECEIVED	\$ 74,679	\$ 38,986	\$ 40,398	\$ 36,307	\$ 74,987	\$ 265,357
FEE NOW BASED ON 50 PERMITS PER YEAR						
						RECEIVED OVER 5 YRS FOR MUNICIPAL BUDGET
ESTIMATED REVENUE LOST						
PRESENTLY LOSING 50 STUDENTS / YEAR						
IMPACT A 4 STUDENTS PER YEAR x \$7500	\$ 30,000	\$ 60,000	\$ 90,000	\$ 120,000	\$ 150,000	\$ 450,000
IMPACT B \$ 1,400,000 HOUSE EVAL x .015 MILL RATE TAX	\$ 21,000	\$ 42,000	\$ 63,000	\$ 84,000	\$ 105,000	\$ 315,000
5 UNITS AT \$280,000; or 4 UNITS AT \$350,000; or 3 UNITS AT \$467,000						\$ 765,000
						LOST OVER 5 YRS FOR TOTAL TOWN BUDGET
CONCLUSION	IMPACT FEES ARE COSTING TOWN \$100,000 / YR					

Chairman Moriarty asked Mr. Hilton if he had issue with the proposed amendments or impact fees generally.

Mr. Hilton responded that he has issue with impact fees generally, and urged the Council to look at the real costs of impact fees.

Councilor Turner said that Mr. Hilton has gone to a lot of trouble to prepare his presentation. While he feels that some of Mr. Hilton's presumptions are questionable, he said that his presentation was impressive.

Councilor Gruber agreed with Councilor Turner and said that he could give presumptions on the other side of the issue as well. He thanked Mr. Hilton for all his effort.

Councilor Perfetti said that growth was restricted in this town for 20 years and we are just beginning to move in the other direction. While Mr. Hilton might see a clear vision of what should be, Councilor Perfetti said that he thinks there are still conservative forces that continue to be concerned about the impacts of growth regardless of studies that prove the contrary. While he realizes that impact fees are an additional tax to the residents of Cumberland, he feels that this is a step in the right direction. He encouraged Mr. Hilton to keep at his efforts.

Councilor Copp said that Mr. Hilton did a good job on his presentation. Impact Fees are out of pocket expenses before a building permit is even obtained, and it hits home with him. He commended Mr. Hilton on his work on this.

Motion by Councilor Copp, seconded by Councilor Stiles, to amend the Recreational Facilities & Open Space Impact Fee Ordinance, as recommended by the Planning Board.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 132 To set a Public Hearing date (August 13th) to consider and act on amendments to the Cumberland Solid Waste & Recycling Ordinance.

Motion by Councilor Stiles, seconded by Councilor Turner, to set a Public Hearing date of August 13th to consider and act on amendments to the Cumberland Solid Waste & Recycling Ordinance.

VOTE: 7-0

UNANIMOUS PASSAGE

12 – 133 To set a Public Hearing date (August 13th) to consider and act sun-setting the Cumberland Public Swimming Pool Ordinance.

Motion by Councilor Gruber, seconded by Councilor Storey-King, to set a Public Hearing date of August 13th to consider and act sun-setting the Cumberland Public Swimming Pool Ordinance.

VOTE: 7-0

UNANIMOUS PASSAGE

V. NEW BUSINESS

Councilor Turner – None

Councilor Copp – None

Councilor Storey-King – None

Councilor Perfetti – None

Chairman Moriarty – A vehicle struck a deer in front of his house on Sunday afternoon and the Police responded very quickly. He and the driver involved were both pleased with that.

Councilor Stiles – None

Councilor Gruber – None

Town Manager Shane – He wanted Mr. Hilton to know that his presentation was well done. A lot of the information in it echoes the Charles Lawton Report (state economist). A lot of the numbers in Mr. Hilton's presentation are easy to defend, but the fact remains that it is difficult to speculate how many homes would have or did not get built. He thanked Mr. Hilton for his presentation.

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

Motion by Councilor Storey-King, seconded by Councilor Copp, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property acquisition.

VOTE: 7-0

UNANIMOUS PASSAGE

TIME: 8:07 p.m.

Motion by Councilor Copp, seconded by Councilor Gruber, to return from Executive Session.

VOTE: 7-0

UNANIMOUS PASSAGE

TIME: 8:37 p.m.

VII. ADJOURNMENT

Motion by Councilor Stiles, seconded by Councilor Perfetti, to adjourn,

VOTE: 7-0

UNANIMOUS PASSAGE

TIME: 8:38 p.m.

Workshop after adjournment re: Ordinance changes and project updates for upcoming year.

Respectfully submitted by:

Brenda L. Moore

Council Secretary