

# **MINUTES**

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, July 28, 2014**

## **6:00 P.M. Call to Order**

**Present:** Councilors Gruber, Stiles, Copp, Edes, Turner, Storey-King and Bingham

- I. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405(6)(C) re: real property and § 405(6)(E) consultation with the Town Attorney.

Motion by Councilor Storey-King, seconded by Councilor Stiles, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property and § 405(6)(E) consultation with the Town Attorney.

VOTE: 7-0 UNANIMOUS

TIME: 6:00 P.M.

## **Reconvene to regular session at 7:01 P.M.**

- II. APPROVAL OF MINUTES**

Motion by Councilor Bingham, seconded by Councilor Edes, to accept the July 14, 2014 minutes as presented.

VOTE: 7-0 UNANIMOUS

- III. MANAGER'S REPORT**

Town Manager Shane said that he would hold off his report until New Business.

- IV. PUBLIC DISCUSSION**

None

- V. LEGISLATION AND POLICY**

### **14 – 127 To hold a Public Hearing to consider and act on authorizing the Town Manager to enter into the Purchase and Sale Agreement proposed by 179 Foreside LLC relating to the acquisition of the real estate located at 179 Foreside Road in Cumberland.**

Chairman Gruber explained that Councilor Edes has a potential conflict of interest with this item and will not be participating in the first three items (Councilor Edes left the dais and sat in the audience).

Chairman Gruber asked the public to please be sure not to repeat someone else's comments. The Council wants to be respectful of everyone's time and give everyone a chance to speak.

The public hearing and public comments will apply to items 14-127, 128, and 129 (the Purchase & Sale Agreement, the bonding, and the referendum question).

Town Manager Shane presented the following overview:



Payson Property July 28, 2014  
Manager's 2<sup>nd</sup> Overview to the  
Town Council



### Future Events

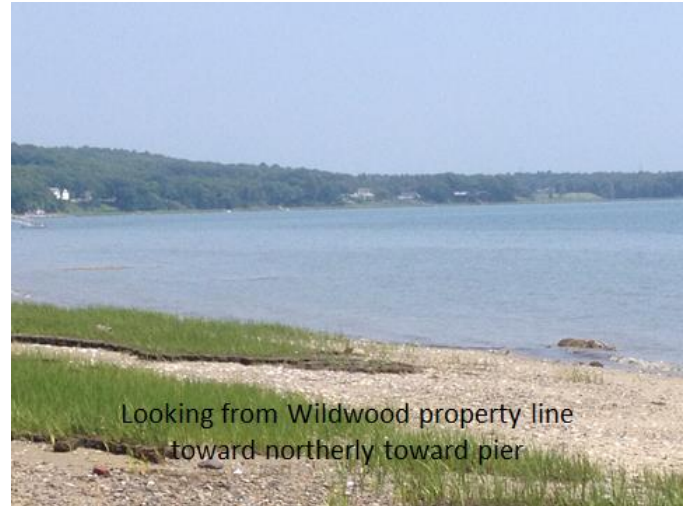
- **Tonight July 28, 2014** : P&S, Bond, and Referendum
- **July 29 – October 27<sup>th</sup>** begin discussions with the Chebeague & Cumberland Land Trust on Permissible Uses:
  - a. What Can or Can't Be done?
  - b. Road widening
  - c. Electric, Water & Sewer lines
  - d. Parking Areas
  - e. Trails & Paths
  - f. ADA Required Access

### Future Events

- **July 29 – September 24, 2014** develop maintenance, capital, bond and insurance costs for property
  - a. Annual Upkeep to Road & Fields
  - b. Pier Costs – Life Expectancy
  - c. Capital Costs for Uses – Annual Budgets
  - d. Insurance Costs for site
  - e. Bonding Costs – Est. @ \$240k/yr. x 20 yrs.
- **August 11, 2014** : Work with Town Council Appointments Committee to Advise for a Facility Use Committee for Property – Charge, Size, Cross Section of Community
- **After Labor Day 9/1**, Begin Work of Facility Committee
- **Sept. 22<sup>nd</sup> or 29<sup>th</sup>** Hold Public Informational Meeting prior to the beginning of Absentee voting (around October 6<sup>th</sup> )

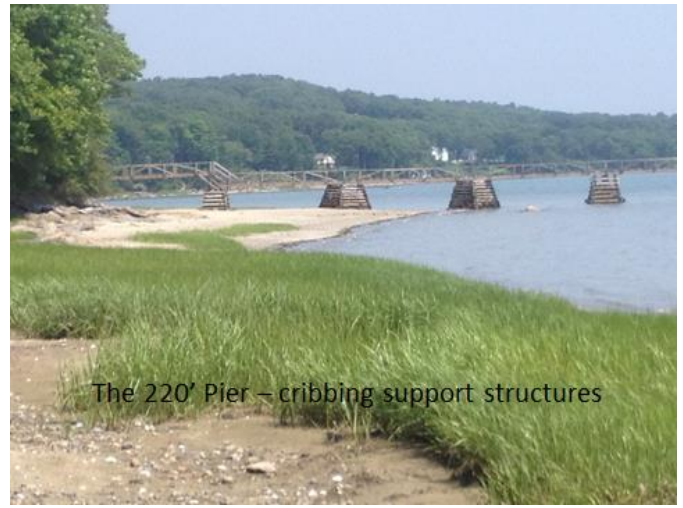


Looking from Wildwood property line  
toward northerly toward pier



Looking from Wildwood property line  
toward northerly toward pier

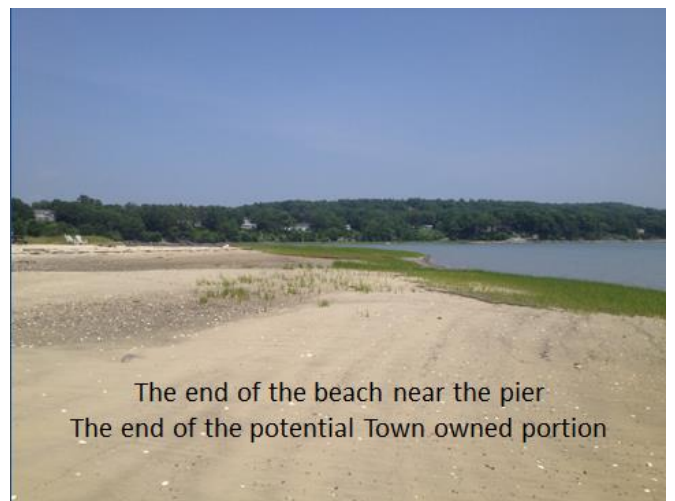




The 220' Pier – cribbing support structures



Ramp & Float at end of the 220' Pier



The end of the beach near the pier  
The end of the potential Town owned portion





Potential future Changing Room- Bathroom



Pathway to the Beach area

### Future Events

- Questions for Tonight
- Purchase & Sale Agreement
  - a. No Money for P&S
  - b. Property Appraisal- Paid 50/50
  - c. Subject to a Town wide Referendum
  - d. Closing December 15<sup>th</sup>
- Bonding up to \$3M
- Referendum – Nov. 4<sup>th</sup>
- Town Attorney, Ken Cole will answer all questions related to the Conservation Easement
- Penny Asherman, President of the Land Trust, is here and will now make some opening comments to help all understand the role of the Land Trust

Chairman Gruber opened the Public Hearing.  
Public comment:

Penny Asherman, President of the Cumberland/Chebeague Land Trust read the following:

*As you heard tonight, the Chebeague & Cumberland Land Trust holds a conservation easement on this 104 acre property. The Board of Directors of the Land Trust held a special meeting on Thursday evening, July 24 to review developments over the past 3 weeks regarding the Payson Property, consider the results of legal research for which we had contracted and work to develop our position regarding the proposed sale of a portion of the Payson Property to the Town of Cumberland. I want to be clear that CCLT has not received any formal request or plans from the Town of Cumberland or the Developers for review at this time. The CCLT Board, after considerable and thorough discussion, was able to reach consensus on an approach that we believe will continue to protect the scenic beauty, habitat and wildlife of the whole parcel, and also lay out a path to work with the Town leadership and its citizens to meet the goals in acquiring a portion of the property for public use.*

*Several underlying factors guided our deliberations.*

*One is the land trust's 27-year commitment to land conservation and stewardship and our success in fulfilling this mission both in Cumberland and on Chebeague and several surrounding islands. We are a nationally-recognized and accredited land trust and we take our responsibilities and reputation very seriously. We are currently good stewards of almost 700 acres of land in our communities, most of which is open to the public.*



*Second is our commitment to this particular land, the Payson Estate, and our success in preserving this special place since we acquired the easement in 1997 from the Payson and Robbins Family. We have enjoyed a good relationship with the owners for 17 years and appreciate their commitment to and love of the land as well. Third is the fact that each conservation easement is different and the easement on the Payson Property, unlike the conservation easements we hold on most of the other properties in our care, is one that allows for some limited development and contains a considerable amount of reserved rights for the owners of the property. Managing any easement is challenging; managing one, like the Payson Property, that allows for development is especially so. In this case, the land trust will need to work with the developers on the proposed construction of new residences on the property and any changes to the existing three homes, as well as, work with the town to manage the proposed town-owned portion of the land.*

*Fourth is our strong belief that all stakeholders—the land trust, the Town, neighbors, users, state representatives and others—must be included in the management of the property going forward to ensure respect for and protection of the natural resources.*

*Fifth is the legal analysis provided by our outside, highly expert counsel, Karin Marchetti Ponte, general counsel for Maine Coast Heritage Trust. Her conclusion is that the proposed **sale** of a portion of the property to the Town is allowed under the terms of the easement because they are a qualified holder. She advises that some of the proposed improvements and uses of the property may or may not require Land Trust approval and/or be allowed under the easement. We cannot elaborate on specifics until a proposal has been put forth to the Trust. In the easement, the Trust has procedures and standards set in place to consider the proposals.*

***The following are the critical points around which our board developed consensus.***

*Foremost, we are committed to working with the Town, the developers and town residents to **strike a balance between the need to protect this beautiful property and the development envisioned in the proposed sale.***

*Public access to the beach and other portions of the property will dramatically increase the need for vigilance in measuring the impact of this new usage on wildlife, marine life, habitat and the ecology, including the beach, eel grass, horseshoe crabs, water quality, water run-off and erosion.*

*CCLT will have to substantially increase its monitoring efforts of the property. These will include a far greater number of monitoring visits and the addition of several more stewards.*

*This enhanced monitoring effort should begin with a comprehensive and technical baseline study and report. The only way to monitor the impact of the increased usage will be to have a clear understanding of current conditions. We envision this baseline study will require considerable technical expertise and hope that at least some of this could be provided by state government and other outside resources. This study will also guide the development of management plans.*

*One area that we do have particular concerns is the potential impact of the proposed parking lot—where it will be sited, its size, the composition of its surface, drainage, and so on.*

*Most importantly, we strongly believe that the success of this new, proposed phase in the life of the Payson Property firmly rests with **establishing an effective structure** for managing it. There are prototypes for this kind of structure already in place in Cumberland, including, perhaps most prominently, the Rines Forest. We envision a robust version of this model—an all-inclusive committee of stakeholders, including neighbors, users, town government, our land trust, naturalists, ecologists and others.*

*We met with some of the neighbors over the weekend and we are particularly sensitive to their interests and we intend to lead the effort to ensure their concerns are heard and addressed.*

*We also embrace the opportunity to actively engage and educate the public on the importance of our natural resources at this beautiful property.*

Wolfe Tone of 19 Coveside Road said that he has dedicated his professional career to land conservation. This is a land conservation opportunity and it is emotional, but it is also about real estate. We are at the start of something, a change to a piece of land. There are three fundamental points that he will share with the Council.

- 1) The one point that he has not heard that is very important is that the conservation easement starts with intent and vision of a landowner. Taking that vision and putting it on paper, setting a relationship with the landowner and a third party holder who has the responsibility and obligation to uphold that vision. The Payson easement document has a purpose statement that says: *it is the purpose of this easement to assure that the property will be retained forever predominantly in its scenic, natural, and open space condition for conservation purposes and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property and the Property's natural resources and associated ecosystems.*
- 2) Staying cognizant of intent, the second point is about process. The Town has put maps up, put value up, and has started to sketch out what it will be. \$3,000,000 is a lot of money. The Town is saying “we know what we are doing and we are going to do it” as opposed to “we have a place to get to, we don’t have the answers, or how we going to get there.” Inside this process is transparency and sharing good information. The appraisal is going to be a very important part of this. He requested that the Town make good use of the expertise of the Land Trust to understand what the instructions are, what we are appraising, and give the public a chance to see the appraisal.
- 3) The reason he feels compelled to speak this evening as a conservation professional is because there very well could be change on the property and we are going to have to look back at the conservation easement document and ask how we got here, and is this the right place to be. Let’s not underestimate the importance of the process, the importance of the easement, and the intent of the landowner.

George Marcus of 1 Ocean Terrace said that he has a concern that the price and an expectation has been set before we complete an important process. There is one section of the conservation easement that grants the right to the public to use this property. In all the discussion about the property, there is one specific section devoted to public access (Section 8). It states that the public has the right to use the trail that runs along Route 88, but no motorized use of the trail is allowed. There is a provision in Section 8 that states that with the agreement of the Trust, the location, direction, and extent of that public trail can be changed. If the Town signs a contract, they cannot get out of it if it is determined that motor vehicles will not be allowed on the trail leading to the beach. To sign a contract without an adequate escape clause is not prudent. The Town should take the time to determine what uses are allowed, what the used should be, and then make a determination of how much we should spend on the property.

Town Attorney, Ken Cole responded that if process was extended as suggested, the Town would not have the opportunity to purchase the property because the developer would develop the property without the Town. The process of process will do away with the opportunity. The conservation easement can be easily interpreted to allow a road elsewhere without moving the existing public access. This is not a question of the Town buying the Land Trust’s easement rights, but rather the Town buying the actual fee and coming back to the Land Trust as a fee owner proposing improvements to the road that already exists. If come Election Day, the public feels that the answers to their questions are inadequate; they have the right to vote against it.

Kenneth Fink from the Town of South Bristol, has worked for over 25 years on shoreline processes along the entire coast with the University of Maine. He has been to the site and feels that it is a wonderful opportunity for access to the shore. Mr. Fink presented the following:



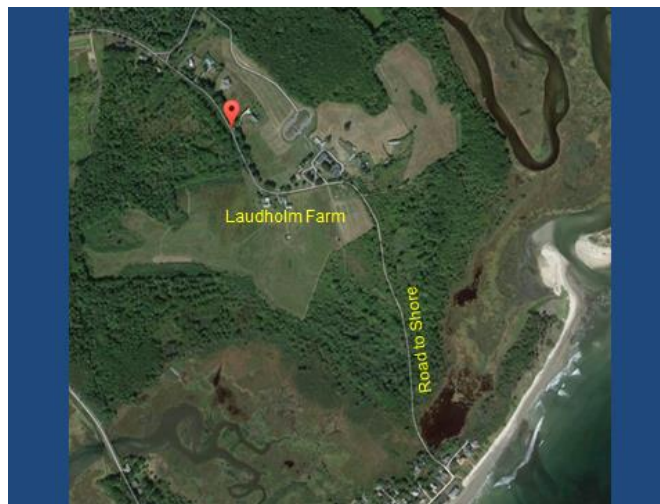
The “spit” area will be the only dry area during a large part of the tidal cycle. It is very limited in size.



American beach grass cannot withstand anyone walking on it. It is very vulnerable.

## Examples of Relevant Beaches

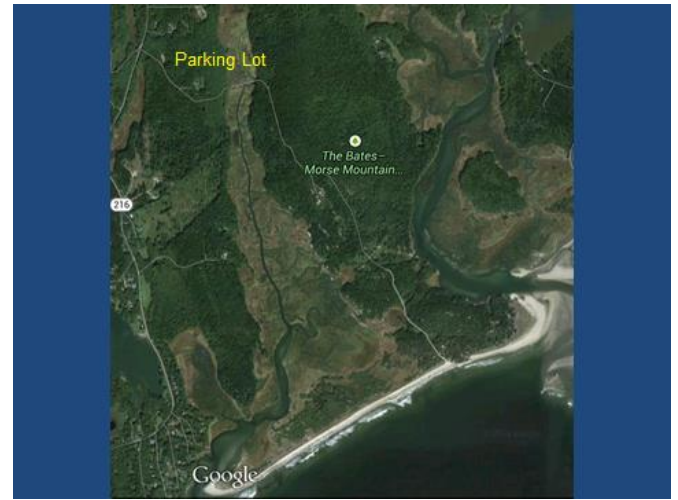
- Laudholm Farm and Laudholm Beach (York Cty.)
- Morse Mountain and Seawall Beach (Phippsburg)





## Examples of Relevant Beaches

- Laudholm Farm and Laudholm Beach (York Cty.)
- Morse Mountain and Seawall Beach (Phippsburg)



## Recommendations

- Adequate Parking Lot Near Route 88
- Encourage Carry In—Carry Out/LNT
- Install Protective Barriers Around FDR to Protect Beachgrass
- Design and Install Appropriate Educational Information Displays Unique to This Shoreline

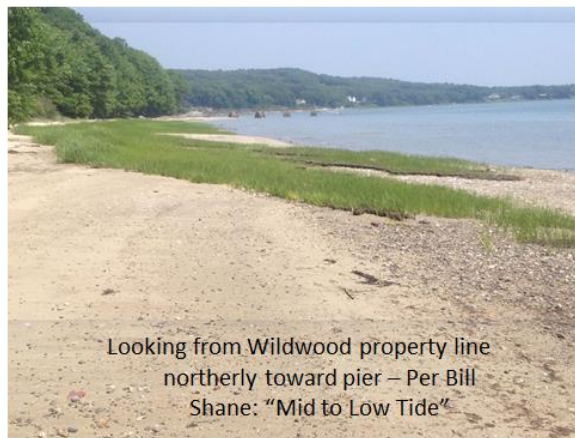
Tom Hyndman of 9 Ocean Terrace presented the following:

Town Council Public Hearing  
Payson Property  
July, 28 2014

A Question?



Has the Town Council had a  
site walk?



Looking from Wildwood property line  
northerly toward pier – Per Bill  
Shane: “Mid to Low Tide”



Looking from Wildwood  
property line northerly  
toward pier – High Tide



Ramp & Float at end of 220' Pier – “Mid to Low Tide”.  
Bill Shane: “I believe, and what I have been told, is that  
at low tide there is approximately three feet of water  
at this ramp.”



Ramp & Float at end of 220'  
Pier – Low Tide

Please, at a minimum, have a  
site walk before acting on this  
issue. Do not commit to  
spending \$3,000,000, site  
unseen.

## Purchase Price Evaluation

- Developer to pay \$6,000,000 for approximately 100 acres = **\$60,000 per acre**
- Town to pay \$3,000,000 for approximately 23 acres = **\$130,000 per acre**
- Developer's actual cost will be \$3,000,000 for approximately 77 acres = **\$39,000 per acre**
- Developer retains all residential development rights (and future profits) on their 77 acres
- Town acquires 23 acres encumbered by the conservation easement with no assurances the proposed uses will be permitted
- The citizens of Cumberland will pay **nearly three and a half times as much** per acre as the Bateman Group (the developer)
- Over 20 years of bond payments, the residents of Cumberland will pay \$4,800,000 (\$240,000 x 20) or **\$208,000 per acre**
- **Where did \$3,000,000 come from? Is this a reasonable deal for the taxpayers of Cumberland?**

## A Comparison

- The Purchase and Sale Agreement is contingent upon an appraisal completed by Oct. 7<sup>th</sup> that supports a value of at least \$3,000,000.
- It is my understanding is that the Town of Cumberland endeavors to assess properties at, or close to, market value
- Wildwood Reserve and Beach – 2.5 acres includes 700 feet of beach – Assessment = \$71,300
- Payson Waterfront – 13.6 acres includes 1,200 feet of beach – 5.4 times larger than Wildwood
  - $\$71,300 \times 5.44 = \$388,000$
- Wildwood lot of Route 88 – .23 acres – Assessment = \$9,300
- Payson lot off Route 88 – 8.8 acres – 38.2 times larger than Wildwood lot
  - $\$9,300 \times 38.2 = \$356,000$
- Combined estimated assessment = \$388,000 + \$356,000 = **\$744,000**
- What is the assessed value of the pier and the land for the road? **Not likely to be anywhere near the \$2.25 million needed to reach the \$3,000,000 P&S price**

## DEVELOPMENT AND ON-GOING COSTS

- The \$130,000 per acre price is only for the property. What other expenses will there be?
- Acquisition / Transaction Costs – estimated cost – **to be determined**
- Anticipated Improvements:
  - 2,400 foot road – estimated cost – **to be determined**
  - 60 spot gravel parking lot – estimated cost – **to be determined**
  - Toilet facility – estimated cost – **to be determined**
  - Water and sewer lines to toilet facility – estimated cost – **to be determined**
  - Sewage pumping facility – estimated cost – **to be determined**

## DEVELOPMENT AND ON-GOING COSTS

- On-going Costs:
  - Beach, Dock, Ramp, Float, Land Maintenance – estimated costs – **to be determined**
  - Safety Requirements – estimated costs – **to be determined**
    - Land Patrol
    - Life Guard on Public Swimming Beach
    - Marina Launch Services
    - Marine Safety Services
  - Plowing and Road Maintenance – estimated costs – **to be determined**
  - Other .... **to be determined**

## DEVELOPMENT AND ON-GOING COSTS

- Impact on Mil rate – **to be determined**
- Debt Service Impact:
  - o FY 2007 - \$514,770 or 5.8% of Town's annual budget
  - o FY 2014 - \$824,825 or 9.1% of Town's annual budget and a 60% increase since 2007
  - o FY 2015 - \$919,267 or 9.7% of Town's annual budget and a year over year increase of 11.45%
  - o \$240,000 added to FY 2015 = \$1,159,267 or a 26% year over year increase
  - o Assumes no other debt increases
  - o Near future holds Town Garage project estimated to cost \$4,000,000

## WHAT DO WE KNOW?

- The Council has very limited knowledge of the property
- No apparent logic as to how your offer was determined other than it is what the developer is asking
- No assurances that the property can be altered as planned
- No estimates of the costs of the alterations
- No estimates of on-going costs and future capital needs
- No estimates of impact on debt service and tax rates
- What do we know? Not Much.

IS THIS HOW YOU WOULD SPEND YOUR OWN  
MONEY?

I ask the Town Council to please vote tonight to table this issue until you have significantly more information. Once the facts and assurances are understood and shared, you will be in the position to make an informed decision on whether or not to commit us, the Cumberland taxpayers, and our money to this plan.

In my opinion, based on the information you have available, voting tonight to accept this binding Purchase and Sale agreement for \$3,000,000 completely inappropriate.

John Ferland of 2 Birch Lane read the following statement:

*I want to address several issues in my remarks this evening. Some of what I will say will not be comfortable to express in a public meeting, for me to say or for the council and manager to hear, but given the complexity of the matter under discussion tonight, I am compelled to speak.*

*I do not stand here tonight to discourage the Town of Cumberland from acquiring public access to the ocean. My message is that the process by which the Town has pursued the Payson purchase has been hasty, it has been conducted without sufficient public input, and for these reasons, as it stands today, it is ill-considered. I urge the Council to defer execution of the proposed purchase and sale agreement, to obtain public input with more time for consideration than the few days notice that have been allowed, and to undertake a more thoughtful review.*

*First, a few caveats in terms of public disclosure:*

*For approximately 10 years I have served on various town committees. I am currently serving my sixth year on the Planning Board, for which I am vice chair. (I have recused myself from the Payson Property and Bateman related activities that may come before the board). My committee work includes the Route 100 Advisory Committee, the Comprehensive Plan Committee and the Route 88 Advisory Committee. I want to emphasize that I speak to you tonight as a Cumberland resident and taxpayer exercising his rights as a private citizen and Payson property abutter.*

*My wife, Christina, and I have been Cumberland residents for over 20 years and have owned property in the Wildwood neighborhood for that duration. We purchased our property from the Payson family and have benefitted greatly from directly abutting the estate. Our property was a corner of the estate prior to our purchase and we therefore have had a close relationship with the late Marion Payson and the Robbins Family over these 20 years. We have been well-aware of the existence of a Conservation Easement on the property and have made many investments in our property based on the assurances provided by the Easement.*

*Under the Town's proposal to acquire part of the Payson estate, we are the most affected individual property owner. In fact, the map that is now part of the purchase and sale agreement and that is being used publicly to illustrate the Town's proposed purchase shows the public road crossing our land. This is no doubt an error, but it reflects the hasty nature in which this proposal has been developed. I have many questions about the proposal, which are best left for discussion at another time, but several overriding issues have emerged.*

*First, as to our family, under the Town's proposal, you intend to establish a public way 20 paces from my home providing direct line of sight into our kitchen, dining room and other living areas. I'm hard pressed to identify*



*examples of similar public incursion into private space elsewhere in our community and have deep concerns regarding loss of privacy and property value.*

*I also have concerns for the Town in general. I know many councilors and the town administration as friends and colleagues. I have much respect for you in your role as public servants. I have admired your leadership in the community, especially in the face of difficult circumstances. In my role on the planning board, as you have experienced as elected and appointed officials, I've been in the position of sometimes telling residents of Cumberland's neighborhoods that a change next to their properties is good for the community at large. In so doing I've tried to model the civil diplomacy and open dialogue that I've seen reflected many times in deliberations by the current and past town councils.*

*But tonight I must tell you directly – I'm displeased with the tactics that the council and administration have used to propose this land purchase.*

*The manager's public presentation on July 14, now posted on the town's website, begins with this bulleted item: Early May – I heard Payson Estate was for Sale – Contacted Bateman Group. Why was that group, and no other group contacted? We are now considering a payment of \$3,000,000 to that group for a portion of the parcel it is acquiring. No doubt, this confers great advantage on that group, but one must question why the Town's purchasing power was given to this group and not any other?*

*During his remarks on the 14<sup>th</sup>, the Town Manager apologized to Mr. Robbins of the Payson family for entering the property without the landowner's permission, and acknowledged that Mr. Robbins had him escorted off the land. I have great respect for the manager and I support his efforts to finally bring the property discussion into the open, but this approach with the Bateman group, whether it was correct or not, leaves the impression, right or wrong, that town officials acted surreptitiously. I'm so sorry to say this to you because I have so much respect for you. The Cumberland comprehensive plan states that coastal access is an important goal for the community. It does not establish a policy to pursue it at all costs – align confidentially with a prospective buyer, mislead the landowner and propose bond levels that have no market basis.*

*I think the high level of interest in this discussion would indicate the need to create a properly facilitated process to guide effective decision-making. This community spent nearly three years figuring out how to rezone Route 100. It spent about two years figuring out how to create a business district in Cumberland Center. It has spent less than two months figuring out the best way to improve access to the ocean—and of this two month period, we have had public disclosure and opportunity to comment for only 2 weeks – 14 days - since July 14.*

*We have such a great track record of taking the proper time to enable effective decision-making but I think something has gone astray in our culture of open government in this community. Coastal access may well be an important goal that we can all support, but important or not, this end does not justify any means. We should not be dealing with a sole-source developer; we should not be negotiating for months before public disclosure is made and we should not be rushing into a multimillion dollar project before there is adequate time for public discussion.*

*I'm not here to suggest anything has been done illegally – I never would do that, this is a well-run community - but I am suggesting a serious violation of proper disclosure and public discourse, resulting in lost trust between you and your constituents.*

*This situation can be repaired. I urge you to not approve your three motions tonight and instead to make every effort to create a more transparent and inclusive process for addressing the coastal access goals of this community.*

Coleen Higgins of 59 Harris Road asked if there would be any archeological research and investigation of the property.

Councilor Storey-King responded that the conservation easement contains provisions for archeological study, although they have not been done.

Pete Robbins of Orchard Road said that he is the manager of the LLC and a member of the Payson family. He said that his family now feels as though they have to "continue to steward the language of the easement in the face of the decomposition of the intent of the document". They are very interested in maintaining and respecting the vision and values of the easement, and whatever the final design elements are, that they are consistent with the spirit of the easement. The diligence of the Chebeague/Cumberland Land Trust gave the family confidence that the easement was strict and binding. Given this, he said that he was a little surprised by Ms. Asherman's remarks this evening on behalf of the Land Trust.

Mr. Robbins said that his family has lived in Cumberland for generations and they have tried to be good neighbors. He feels that his family has done an excellent job in caring for the conservation easement that his grandmother generously entrusted to the Land Trust at the end of her life.

His family would like to state that they are "deeply offended and disappointed by the process and the lack of transparency".

Chairman Gruber addressed Mr. Robbins saying that there has been and always is complete transparency from the Manager and the Council.

Robert Baldacci requested that the Council slow down. There is a lot at stake and we are talking about significant tax payer dollars. Go through a process and involve the community.

Glenn Morazzini said that he has a lot of questions about this topic, just like everybody else. If there has been a rush to judgment here, it has been born out of frustration that the Town has tried to purchase ocean access previously, and was not successful. Think about who is getting "locked out". It's our teachers and our kids. He feels that a committee could be formed to get the land in a process that is honorable. Reexamine the property value and reexamine the process.

Doug Geheb of 16 Wildwood Boulevard said that he and his family are avid waterfront people who love boating. The beach on this property is not like Crescent Beach. Every other weekend, there is very little beach when the tide is high. The pier is not useful at all, except at the best of tides and very limited to the type of boat you can use at the pier. He said that we all need to realize exactly what is there, and its worth.

Josh Otto of 19 Country Charm Road said the he applauds the Town Council and Town Manager in their efforts to establish public land on the Atlantic Ocean. It is frustrating to him and other Cumberland residents that there is no public recreational access to the ocean, despite that it has over three miles of coastline. Parks such as this will enhance the quality of life for everyone in this Town. He respectfully encourages the Council and others to be mindful of the harmful value of elitism under the guise of conservation and process, as this has characterized debate in other Maine Towns that have ventured into discussions about how their citizens can enjoy the ocean. He sincerely hopes that Cumberland can rise above that. Public access to the beautiful features of nature is a chief tenant of the conservation ideals. Pioneers such as John Muir, Rachel Carson and Theodore Roosevelt all advocated for governmental purchasing land to preserve it for public enjoyment. In 1910, Gifford Pinchot said, "conservation means the greatest good to the greatest number for the longest time. The natural resources must be developed and preserved for the benefit of the many, and not merely for the profit of a few." This is the time, this is the opportunity, and he supports the efforts of the Town.

Susan Gallo of 272 Main Street said that she feels that there are many residents who are not present this evening, which are looking for water access. She likes the idea of parking on the road and walking in to the beach. There are so many opportunities ahead of us and she urged the Council not to stop the process. Let it go forward and let the people decide in referendum.

Jeff Porter of 37 Crossing Brook Road said that he trusts this Council and trusts the Manager. He hopes that the Council will move this forward and not allow a certain minority in the community to derail the process before the people of the community have an opportunity to speak.

Peter Longley of Oakridge Road said that this meeting has been very informative. He would like to see the Town obtain shorefront property and thinks this is a good opportunity.

Chairman Gruber closed the Public Hearing.

Councilor Copp said that he felt that the negative remarks about the Manager were rude. There is nobody more passionate about what takes place in this Town than the Town Manager. Anything he does is only for the good of this Town and there is not anyone who has done more for this Town than Bill Shane has. He will stand behind the Manager to the end.

Councilor Storey-King agreed with Councilor Copp's comments and was also upset with the remarks about the Council not being transparent. This Council is very transparent and always tries to make good decisions that will be in the best interest of the entire Town. She realizes that a lot of opposition is born out of fear, but the Town has a track record for being good stewards. Twin Brook was not opened for 2 years after acquisition until a citizen committee decided how it should be used.

Councilor Bingham said that one of the great objectives of the Comprehensive Plans has been ocean access. The Council is responsible for giving the Manager direction and they did that. Any wrath should be brought upon the Council, not the Town Manager. This is probably the last large section of property with water access for the Town. He has faith in the voters of Cumberland that they will make the right choice for the entire Town.

Councilor Stiles said that he has been on past Council's where there were attempts to purchase water front property that never happened. He is all in favor of getting public access to the water and this is the time to go for it.

Councilor Turner said that the question is what the quality of the ocean access is and if it is worth \$3 million dollars. He remembers the three other attempts of the Town to purchase ocean front property. None of those properties had the potential that this property does. We are the only Town from Portland to Camden that does not have ocean access. He thinks that this process should go forward and there will be a lot of opportunity to dismantle and defects that happen to be part of it.

Town Manager Shane said that he realizes that there is a lot of emotion in the room this evening. The Town does not have all the answers but there is a lot of information still to come. He thanked the public for allowing him to be their Manager for the past 11 years. He takes his job very seriously and values it.

Chairman Gruber said that he was disappointed that someone felt it necessary to talk about the integrity of an individual. That is unacceptable.



Motion by Councilor Bingham, seconded by Councilor Storey-King, to authorize the Town Manager to enter into the Purchase and Sale Agreement proposed by 179 Foreside LLC relating to the acquisition of the real estate located at 179 Foreside Road in Cumberland.

VOTE: 6-0                      UNANIMOUS

**14 – 128    To hold a Public Hearing to consider and act on adopting a Town Council order authorizing the issuance of General Obligation Bonds in an amount not to exceed \$3,000,000, and notes in anticipation thereof, and to appropriate the proceeds thereof to finance costs related to the acquisition and use of property located at 179 Foreside Road in Cumberland.**

Motion by Councilor Bingham, seconded by Councilor Stiles, to adopt the Town Council order authorizing the issuance of General Obligation Bonds in an amount not to exceed \$3,000,000, and notes in anticipation thereof, and to appropriate the proceeds thereof to finance costs related to the acquisition and use of property located at 179 Foreside Road in Cumberland.

VOTE: 6-0                      UNANIMOUS

**14 – 129    To hold a Public Hearing to call a special Town election to be held on November 4, 2014 for the purpose of submitting to a referendum vote the question of “Shall the Town purchase certain property at 179 Foreside Road in Cumberland pursuant to the Purchase and Sale Agreement with 179 Foreside LLC and authorize the issuance of General Obligation Bonds and Notes in an amount not to exceed \$3,000,000 to finance the costs related to the acquisition and use of said property.”**

Motion by Councilor Storey-King, seconded by Councilor Copp, to call a special Town election to be held on November 4, 2014 for the purpose of submitting to a referendum vote the question of “Shall the Town purchase certain property at 179 Foreside Road in Cumberland pursuant to the Purchase and Sale Agreement with 179 Foreside LLC and authorize the issuance of General Obligation Bonds and Notes in an amount not to exceed \$3,000,000 to finance the costs related to the acquisition and use of said property.”

VOTE: 6-0                      UNANIMOUS

Councilor Edes returned to his seat on the dais for the remainder of the meeting.

**14 – 130    To hold a Public Hearing to consider and act on authorization of revenue bonds for The Friends School of Portland project.**

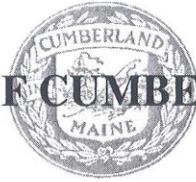
Town Manager Shane said that it is exciting to finally have the Friends School before us for the final puzzle piece to their project.

Motion by Councilor Storey-King, seconded by Councilor Copp, to authorize and approve issuance of Revenue Bonds of the Town in an aggregate principal amount not to exceed \$2,300,000, to be designated “Town of Cumberland, Maine Revenue Bonds (Friends School of Portland Project)”. The proceeds of the Revenue Bonds, if and when issued by the Town, shall be loaned to Friends School and used to finance the Project. Nothing herein shall obligate the Town to issue the Revenue Bonds, which shall be issued in the sole discretion of the Town.

VOTE: 7-0  
UNANIMOUS

**14 – 131    To hear a report from the Tax Assessor and to hold a Public Hearing to set the FY’15 tax rate.**  
Tax Assessor, Gary James summarized how he got to the number that will be the tax rate.

# TOWN OF CUMBERLAND



Gary N. James, MBA, CMA  
Assessor  
[james@cumberlandcounty.org](mailto:james@cumberlandcounty.org)  
(207) 822-2204

July 22, 2014

To: William Shane  
Town Manager

From: Gary N. James  
Assessor

A handwritten signature in black ink, appearing to read "G. N. James", is written over the printed name of the Assessor.

Re: Tax Rate Calculations

The below noted calculations have been utilized to determine a recommended tax rate of .0174 mils on the dollar for the fiscal year 2014-2015 for the Town of Cumberland.

**Assessments:**

1	County Tax	\$ 696,073
2	Municipal Appropriation	\$ 8,736,821
3	TIF Financing Plan Amount	\$ 1,294,321
4	Local Educational Appropriation	\$14,313,387
5	Overlay Not to Exceed 5% of "Net To Be Raised	<u>\$ 463,346</u>

**Total Assessments** **\$25,040,602**

**Deductions:**

1	State Municipal Revenue Sharing	\$ 385,710
2	Other Revenue	<u>\$3,297,432</u>

**Total Deductions** **\$ 3,683,142**

**Net Tax for Commitment** **\$21,357,460**

<b>Total Taxable Valuation Base:</b>	<b>\$1,243,394,274</b>	
<b>Recommended Tax Rate (mils):</b>	<u><b>.0174</b></u>	
<b>Tax To Be Raised:</b>		<b>\$21,635,060</b>

Should you have any questions, feel free to call me or contact me via email.

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290 Tuttle Rd., Cumberland, Maine 04021

Page 1

Chairman Gruber opened the Public Hearing.

Public comment: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Turner, to set the municipal tax rate for FY2015 at \$17.40.

VOTE: 7-0                      UNANIMOUS

**14 – 132    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 Gruber opened the Public Hearing.

Public comment: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Copp, to set an interest rate of 7% for delinquent real and personal property taxes for FY2015.

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

**14 – 133    To amend the dollar amount for the municipal property tax levy for LD 1 for FY 2015.**

Tax Assessor, Gary James explained:



# TOWN OF CUMBERLAND



Gary N. James, MBA, CMA  
Assessor  
[james@cumberlandcounty.org](mailto:james@cumberlandcounty.org)  
(207) 822-2204

July 22, 2014

To: William Shane  
Town Manager

From: Gary N. James  
Assessor

A handwritten signature in black ink, appearing to read "G. James", is written over the printed name "Gary N. James".

Re: LD-1 Calculations – Exceeding Limits Explanation

Attached you will find the 2014 Municipal Property Tax Levy Limit Worksheet (a. k. a. the LD-1 calculations). This worksheet ensures that Cumberland is in compliance with Maine law on the rate of property tax increases.

Based on the calculations, this year's Municipal Property Tax Levy will exceed the limit by approximately \$265,000. As a result, a vote by the town council is required to exceed the limit.

The council may vote to exceed the limit once, or to increase the limit permanently.

It is my recommendation that the Cumberland Town Council vote to exceed the limit for this year.

Should you have any questions, feel free to call me or contact me via email.

**OFFICE OF POLICY AND MANAGEMENT - 2014 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET**Questions? Call the Office of Policy and Management - 287-2873. Or visit "<http://www.maine.gov/economist/economics/ld1>"Municipality: Cumberland Contact Person\*: Gary N. James Phone Number: (207) 650-8217**\* The Contact Person should be able to answer clarifying questions about the reported information.**

The following two pages show how to calculate your municipality's property tax levy limit. Completing these pages is not mandatory, but doing so will help ensure that your municipality complies with Maine law on the rate of property tax increases. Information on new property, appropriations, and deductions should be collected from the assessor and the valuation book before completing these pages.

**Calendar Year Municipalities** - For communities with "calendar year" budgets, the use of the term 2013 refers to the budget year that ended at the end of 2013 or early 2014. The use of the term 2014 refers to the budget year that will end at the end of 2014 or in early 2015.

**Fiscal Year Municipalities** - For communities with "fiscal year" budgets, the use of the term 2013 refers to the July 1, 2013 to June 30, 2014 budget year. The use of the term 2014 refers to the July 1, 2014 to June 30, 2015 budget year.

**LAST YEAR'S (2013) MUNICIPAL PROPERTY TAX LEVY LIMIT**

This is the portion of 2013 property tax revenue used for municipal services.

- If last year the municipality committed LESS THAN or EQUAL TO the limit, enter last year's **limit** on Line 1 below.
- If last year the municipality voted to EXCEED the limit ONCE (just last year), enter last year's **limit** on Line 1 below.

**1. LAST YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT**\$4,595,361**OR**

- If last year the municipality voted to INCREASE the limit PERMANENTLY, complete Steps A-D below. The information needed for this calculation is on the *Municipal Tax Assessment Warrant*, filed in the Valuation Book.

- A.** Last year's Municipal Appropriations (Line 2, 2013 *Municipal Tax Assessment Warrant*) \$ \_\_\_\_\_
- B.** Last year's Total Deductions (Line 11, 2013 *Municipal Tax Assessment Warrant*) \$ \_\_\_\_\_
- C.** If necessary, enter any revenue included in Total Deductions that paid for non-municipal appropriations, such as schools. (If all deductions paid for municipal appropriations, enter "0".) \$ \_\_\_\_\_
- D.** Add Lines A and C, and subtract Line B. Enter result on Line 1 above.

**CALCULATE GROWTH LIMITATION FACTOR**

- Each municipality's Growth Limitation Factor is based on local property growth and statewide income growth.

- 2.** Total New Taxable Value of lots (splits), buildings, building improvements, and personal property first taxed on April 1, 2013 (or most recent year available) \$30,962,800
- 3.** Total Taxable Value of Municipality on April 1, 2013 (or most recent year available) \$1,212,377,000
- 4.** Property Growth Factor (Line 2 divided by Line 3) 0.0255
- 5.** Income Growth Factor (provided by Office of Policy and Management) 0.0109
- 6.** Growth Limitation Factor (Line 4 plus Line 5) 0.0364
- 7.** Add 1 to the Growth Limitation Factor calculated in Line 6. 1.0364  
(For example, if Line 6 is 0.0362, then enter 1.0362 on Line 7.)

**OFFICE OF POLICY AND MANAGEMENT - 2014 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET**



# OFFICE OF POLICY AND MANAGEMENT - 2014 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET

## CALCULATE 2013-2014 CHANGE IN REVENUE SHARING (previously "NET NEW STATE FUNDS")

- Determine if revenue sharing increased or decreased. Years refer to municipal fiscal year.

8. 2013 Municipal Revenue Sharing	\$414,616
9. 2014 Estimated Municipal Revenue Sharing	\$385,710
10. If Line 8 is greater than Line 9, then calculate Line 8 minus Line 9. Enter result at right; skip Line 11	\$28,906
11. If Line 9 is greater than Line 8, then complete 11A & 11B below.	
A. Multiply Line 8 by Line 7.	\$429,724
B. Calculate Line 9 minus Line 11A. Enter result at right. (If result is negative, enter "0".)	\$0

## CALCULATE THIS YEAR'S (2014) MUNICIPAL PROPERTY TAX LEVY LIMIT

- This year's Property Tax Levy Limit is last year's limit increased by the Growth Factor and adjusted for revenue sharing.

12 Apply Growth Limitation Factor to last year's limit. (Line 1 multiplied by Line 7)	\$4,762,811
13 THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT	
If Line 9 is greater than Line 8 (revenue sharing increased), you <u>MUST</u> subtract Line 11B from Line 12. This is <u>required</u> . OR If Line 9 is less than Line 8 (revenue sharing decreased), you <u>MAY</u> add Line 10 to Line 12. This is <u>optional</u> .	
- Enter result at right.	\$4,791,717

## CALCULATE THIS YEAR'S (2014) MUNICIPAL PROPERTY TAX LEVY

- The information needed for this calculation is on the 2014 *Municipal Tax Assessment Warrant*, filed in the Valuation Book. Use estimates if necessary.

A. This year's Municipal Appropriations (Line 2, 2014 <i>Municipal Tax Assessment Warrant</i> )	\$8,736,821
B. This year's Total Deductions (Line 11, 2014 <i>Municipal Tax Assessment Warrant</i> )	\$3,683,142
C. If necessary, enter any revenue included in Total Deductions that paid for non-municipal appropriations, such as schools. (If all deductions paid for municipal appropriations, enter "0".)	\$
14 THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY (Add Lines A and C, and subtract Line B)	\$5,053,679

15 COMPARE this year's MUNICIPAL PROPERTY TAX LEVY to the LIMIT (Line 13 minus Line 14) (If the result is <b>negative</b> , then this year's municipal property tax levy is greater than the limit and a vote must be taken.)	(\$261,962)
--	-------------

16 Did the municipality vote to <u>EXCEED</u> the limit <u>ONCE</u> (just this year)?	<input type="checkbox"/> NO <input type="checkbox"/> YES
---	--

(Voting to exceed the limit means the municipality will calculate next year's limit based on line 13.)

If "yes", please describe why:

17 Did the municipality vote to <u>INCREASE</u> the limit <u>PERMANENTLY</u> (for current and future years)?	<input type="checkbox"/> NO <input type="checkbox"/> YES
--	--

(Voting to increase the limit means the municipality will calculate next year's limit based on line 14.)

If "yes", please describe why:

# OFFICE OF POLICY AND MANAGEMENT - 2014 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET



Motion by Councilor Bingham, seconded by Councilor Stiles, to increase the property tax levy limit to \$5,053,679.00, pursuant to Title 30-A, Section 5721-A of the Maine Revised Statutes, as amended, it is the intent of the Town Council to increase the commitment to greater than the Property Tax Levy Limit for Fiscal year 2015.

VOTE: 7-0

UNANIMOUS

**14 – 134 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the 143<sup>rd</sup> Cumberland Fair to be held from September 21<sup>st</sup> – 28<sup>th</sup>, 2014 at the Cumberland Fairgrounds.**

Chairman Gruber opened the Public Hearing.

Public comment: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Bingham, to approve the Mass Gathering Permit for the 143<sup>rd</sup> Cumberland Fair to be held from September 21<sup>st</sup> – 28<sup>th</sup>, 2014 at the Cumberland Fairgrounds.

VOTE: 7-0

UNANIMOUS

**14 – 135 To hold a Public Hearing to consider and act on the Mass Gathering Permit for the Cumberland Soccer Club's "Just For Fun" Labor Day Soccer Tournament to be held at Twin Brook on August 30<sup>th</sup> & 31<sup>st</sup>, 2014.**

Chairman Gruber opened the Public Hearing.

Public comment: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Bingham, to approve the Mass Gathering Permit for the Cumberland Soccer Club's "Just for Fun" Labor Day Soccer Tournament to be held at Twin Brook on August 30<sup>th</sup> & 31<sup>st</sup>, 2014.

VOTE: 7-0

UNANIMOUS

**NEW BUSINESS**

**Councilor Copp** – there was a motor vehicle accident on Black Strap Road recently that he was called to, and he noticed that of the dozen or so firefighters and EMT's that were on scene, 5 of them were children of Lou Croce. Lou and his family are so dedicated to the Fire Department and this Town that he wants them to know that it is appreciated.

**Councilor Storey-King** – congratulations to Ashley Storey who was in Washington, D.C. last week playing with her AAU team and they won the National Championship. This is the second National Championship for Ashley.

**Councilor Edes** – he stressed to the Town Manager that he has his utmost trust and confidence.

**Councilor Bingham** – None

**Chairman Gruber** – None

**Councilor Stiles** – we have reached the half-way point in raising money for the 4-H auction to purchase meat for the food pantry.

**Councilor Turner** – None

**Town Manager Shane** – the Nominating Committee will be meeting in the next few weeks to develop a committee charge for a new facilities use committee for the water front property.

**VI. ADJOURNMENT**

Motion by Councilor Copp, seconded by Councilor Storey-King, to adjourn.

VOTE: 7-0

TIME: 9:49 P.M.

Respectfully submitted,

Brenda L. Moore  
Council Secretary