

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, May 13, 2019

7:00 P.M. Call to Order

5:30 P.M. Finance and Ordinance Committee Workshop with full Town Council

- Greely Woods Conservation Easement
- Fire Department Ladder Truck
- Shellfish Ordinance

I. 7:00 P.M. CALL TO ORDER

II. APPROVAL OF MINUTES

April 22, 2019

May 7, 2019 Special Meeting

III. MANAGER'S REPORT

IV. PUBLIC DISCUSSION

V. LEGISLATION AND POLICY

- 19 – 064** To hold a Public Hearing to consider and act on amendments to Chapter 223 (Shellfish Conservation) of the Cumberland Code, as recommended by the Shellfish Conservation Commission.
- 19 – 065** To consider and act on allowing the Sunnyfield Lane Homeowners Association to landscape the Town owned land at the entrance to Sunnyfield Lane, as recommended by the Lands & Conservation Commission.
- 19 – 066** To consider and act on authorizing the Town Manager to execute a Conservation Easement with Chebeague & Cumberland Land Trust for Greely Woods, as recommended by the Lands & Conservation Commission.
- 19 – 067** To accept donations for the purchase of benches for the Town Forest and Knight's Pond, as recommended by the Lands & Conservation Commission.
- 19 – 068** To consider and act on cancelling the May 27th (Memorial Day) Town Council Meeting.

- 19 – 069** To consider and act on moving the June 10th and 24th Town Council meetings to June 3rd and 17th due to the election and swearing in of newly elected Town Councilors.
- 19 – 070** To set a Public Hearing date of June 3rd to authorize the Town Manager to transfer inter-departmental operating funds for FY'19, as recommended by the Finance Committee.

VI. NEW BUSINESS

- Meet the Town Council Candidates Night – May 28th at 7:00 p.m. at the Performing Arts Center
- Meet the School Board Candidates Night – May 30th at 7:00 p.m. at Town Hall

VII. BUDGET REPORT

VIII. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(A) re: Town Manager evaluation.

IX. ADJOURNMENT

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, April 22, 2019

6:00 P.M. Call to Order

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

Motion by Councilor Gruber, seconded by Councilor Stiles, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.

VOTE: 6-0 UNANIMOUS

TIME: 6:00 P.M.

Councilor Bingham arrived at 6:44 P.M.

Regular session called to order at 7:00 P.M.

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Bingham, to accept the April 8, 2019 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

II. MANAGER'S REPORT

Councilor Storey-King said that she teaches 7th grade at Greely Middle School and her class has been learning about the United Nations Sustainability Goals. There are 17 sustainability goals that were adopted in 2015, each with measurable outcomes. All 7th grade students have learned about the 17 goals, have selected and researched their goal, have researched a change maker, and chose an action to execute. Many of them chose to do an action right here in our community. There will be a global goals exhibition tomorrow at Greely Middle School and she invited anyone who is interested to attend. She introduced her student, Henry Hale, who came to the Town Council meeting to observe, as part of his action.

Henry Hale explained that as part the action of his goal, he has been working on a public safety announcement about government corruption. He is studying a non-profit called The Creative Youth Initiative Against Corruption which was originally a group of Nigerian school children who saw the huge issues that corruption made in Nigeria. They wanted to fix this, but not through government action or arrests, but by educating the youths in their community on the dangers of corruption.

III. PUBLIC DISCUSSION

Cathy Harper of 102 Blanchard Road said that she would like to see the speed on Blanchard Road addressed. People drive 45 or 55 mph on Blanchard Road. It is ridiculous. You can't even walk on Blanchard Road without feeling like you're taking your life in your hands. Also, the condition of Route 9 is abominable. She has lost a tire and had to have her car re-aligned because of the condition of Route 9. These are issues that affect people every day and she would like to see them addressed. She added that when the Town proposed moving the Public Works garage over to Skillin Road, it was mentioned

that there could be a skating rink there. She thinks that a skating rink in the center of town near the gazebo would be a better location.

Stacey Daigle of 91 Bruce Hill Road said that she attended the Town Manager's lecture at the Library on the future of Cumberland. It was very informative and she appreciated it. He spoke about taking the problem at Drowne Road and moving it to other places. She heard about the compost, the manure, the salt and sand. The fairgrounds was mentioned as a possible location for one of these operations. She is not sure where any of these things are going to end up, but the Manager began a transparency that she would like to see more of. She asked the Council to open up and let residents know what is going on. It creates a stressful environment for people when they don't know what is going to happen.

Town Manager Shane responded that at first, we had attempted to find a new location for the entire Public Works operation, but now we hope to leave the building at Drowne Road as a maintenance operation and find new locations for the compost and the sand & salt building. The composting operation involves both the Town and the fairgrounds because we use approximately 2,500 yards of manure from the fairgrounds each year to enhance our compost. We have recently discovered that our DEP license does not allow us to use horse manure in our compost at the current location. He reached out to the Farmer's Club to see if there was any interest in having the compost pad at the fairgrounds because if we can't compost, they will have to deal with 2,500 yards of horse manure, and if it just sits there, it will become a bigger nuisance to the neighborhood. We are really at the infancy stage and it may not happen. We just don't know yet. It hasn't even been presented to the Farmer's Club board.

Joanne Fryer of 111 Bruce Hill Road said that when the Town previously approached the Farmer's Club about moving the Public Works facility there, they didn't notify the neighbors. Their perception of not being kept in the loop is something that should be fixed. The process is flawed on how all of these decisions are made. She feels that the issue is that there has been a failure to get buy-in from any of the proposed neighborhoods. Residents should have the opportunity to voice their concerns, both factual and emotional, mitigate their concerns if possible, and at least acknowledge their concerns if you are unable to mitigate them. It's very important to have everybody involved at the table. The Village Green neighborhood has been very vocal about all the negative reasons that they want it out of their neighborhood and now you want to put it in her neighborhood? Are they second class citizens? The Council is inadvertently pitting neighborhood against neighborhood. We need to look at the bigger issue with the entire Town of what are we going to do with the Public Works facility. Maybe we should put it to a vote. On a personal note, she has watched with great sadness one Councilor who has repeatedly disparaged the Bruce Hill Road neighborhood over and over again. She understands the frustration with this situation, but it is inappropriate and it felt like bullying. That is not an example of value driven leadership.

A resident of 139 Bruce Hill Road (did not state her name) said that she is concerned about the water being polluted and the environment being affected by moving the compost pad to the fairgrounds. We need to protect our environment. She is concerned about her well.

Josh Houghton of 99 Bruce Hill Road said that he is concerned about any portion of the Public Works operation moving to the fairgrounds area because of the aquifer. It is one of the 3 aquifer's in Town. He does not understand why the Town would even consider putting something on or near the aquifers that

could disrupt the clean water in the area. Perhaps the area of Middle Road near Storey Brothers would be a better location. If nobody wants a compost pad in their neighborhood, maybe we don't need it. Maybe the compost operation should be shut down and we could do what Yarmouth does and have a day every year where brush is picked up curbside, much like bulky item pick up.

Councilor Storey-King clarified that the Town is not proposing to put a compost pad on an aquifer, anywhere in Town. If we shut down the compost operation, the fairgrounds would still have the manure sitting there, so this feels to her like a win-win. The reason that we haven't talked about this location is because we have not even begun deliberations with the Farmer's Club yet. This has to go through a process before it is made public. She assured everyone that the Council has their best interest in mind, no matter what neighborhood you live in.

Clay Holtzman of 125 Bruce Hill Road said that he has heard a lot of comments this evening about advocating for collaboration and how we might be able to take a different approach to this. It is helpful for the entire community to hear about how the Council is going to deal with this issue. People are feeling tense about this topic and he encouraged everyone to take a step back and think about how more information will be helpful for the process and hopefully we can come up with a positive solution for everyone. He hopes that the open dialogue will continue.

Councilor Bingham said that longtime Planning Board Chairman, Mark Robinson, once said that if we listened to the neighbors when we were debating all the different housing developments and every other project in Town, half of you wouldn't be living where you are. Sometimes it does come down to neighbors versus neighbors. When we were debating the purchase of Broad Cove Reserve, the residents of the Foreside and Wildwood were very upset. There are many examples of neighbors that are going to be upset about something. The responsibility of the Town Council, School Board and Planning Board is to consider the welfare of the entire Town. In regard to his remarks about our good friends on Bruce Hill Road, if that is perceived as bullying it may be a result of the hypersensitivity of the world that we are living in today. Over the last 35 years, he has always tried to do this job with a sense of humor, and his remarks were in jest and he apologized to the Bruce Hill neighborhood and anybody else who may have been offended.

Chairman Copp said that there are 7 Town Councilors that represent the entire Town of Cumberland. Our neighborhood is the Town of Cumberland. He lives in West Cumberland, but that is not his neighborhood. His neighborhood is the Town of Cumberland. The Town Council has looked at numerous sites for the Public Works operations and every time a different location has been discussed, the Council chambers is full of people who don't want it in their backyard.

IV. LEGISLATION AND POLICY

19 – 052 To hold a Public Hearing to consider and act on renewing authorization for the Cumberland Police Department to make warrantless arrests outside of Cumberland.

Police Chief Rumsey explained that approximately 10 years ago, the Town Council voted to authorize members of the Cumberland Police Department to make arrests outside of our jurisdiction in certain circumstances. This simply reauthorizes that authority.

Chairman Copp opened the Public Hearing.
Public discussion: none
Chairman Copp closed the Public Hearing.

Motion by Councilor Storey-King, seconded by Councilor Bingham, to authorize members of the Cumberland Police Department to make warrantless arrests outside the Town of Cumberland in conformance with M.R.S.A. Title 30-A, Section 2671-A and in conformance with M.R.S.A. 17-A, Section 15.
VOTE: 7-0 UNANIMOUS

19 – 053 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Southern Maine Coastal Classic Dog Show to be held on May 16th - 19th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.

Town Manager Shane explained that the next seven items are all Mass Gathering Permits. The paperwork for all of them is in order and staff is recommending approval of all seven.

Chairman Copp opened the Public Hearing.
Public discussion: none
Chairman Copp closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Gruber, to approve the Mass Gathering Permit for the Southern Maine Coastal Classic Dog Show to be held on May 16th - 19th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.
VOTE: 7-0 UNANIMOUS

19 – 054 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Girls Round Robin Lacrosse Tournament to be held on May 18th from 8:00 a.m. to 5:00 p.m. at Twin Brook.

Chairman Copp opened the Public Hearing.
Public discussion: none
Chairman Copp closed the Public Hearing.

Motion by Councilor Edes, seconded by Councilor Stiles, to approve the Mass Gathering Permit for the Girls Round Robin Lacrosse Tournament to be held on May 18th from 8:00 a.m. to 5:00 p.m. at Twin Brook.
VOTE: 7-0 UNANIMOUS

19 – 055 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Billy Graham Evangelistic Association's 2019 Decision America Tour to be held on May 19th from 7:00 to 9:00 p.m. at the Cumberland Fairgrounds.

Chairman Copp opened the Public Hearing.
Public discussion: none
Chairman Copp closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Turner, to approve the Mass Gathering Permit for the Billy Graham Evangelistic Association's 2019 Decision America Tour to be held on May 19th from 7:00 to 9:00 p.m. at the Cumberland Fairgrounds.

VOTE: 7-0 UNANIMOUS

19 – 056 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Boys Lacrosse Jamboree Tournament to be held on June 8th and 9th from 8:00 a.m. to 5:00 p.m. at Twin Brook.

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Stiles, to approve the Mass Gathering Permit for the Boys Lacrosse Jamboree Tournament to be held on June 8th and 9th from 8:00 a.m. to 5:00 p.m. at Twin Brook.

VOTE: 7-0 UNANIMOUS

19 – 057 To hold a Public Hearing to consider and act on a Mass Gathering Permit for The Wicked Good Outdoor Fest to be held on June 15th from 10:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Bingham, to approve the Mass Gathering Permit for The Wicked Good Outdoor Fest to be held on June 15th from 10:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.

VOTE: 7-0 UNANIMOUS

19 – 058 To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Penobscot Valley Kennel Club Dog Show to be held June 20th through 23rd from 8:00 a.m. to 5:00 p.m. at the Cumberland Fairgrounds.

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Motion by Councilor Turner, seconded by Councilor Stiles, to approve the Mass Gathering Permit for the Penobscot Valley Kennel Club Dog Show to be held June 20th through 23rd from 8:00 a.m. to 5:00 p.m. at the Cumberland Fairgrounds.

VOTE: 7-0 UNANIMOUS

19 – 059 To hold a Public Hearing to consider and act on a Mass Gathering Permit for Hart's Annual Yard and Bake Sale to be held August 22nd through 25th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Motion by Councilor Gruber, seconded by Councilor Bingham, to approve the Mass Gathering Permit for Hart's Annual Yard and Bake Sale to be held August 22nd through 25th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.

VOTE: 7-0 UNANIMOUS

19 – 060 To hold a Public Hearing to consider and act on forwarding a Contract Zone Agreement amendment with Heritage Village Development Group, LLC to the Planning Board for a Public Hearing and recommendation.

Motion by Councilor Bingham, seconded by Councilor Stiles, to take this item from the table.

VOTE: 7-0 UNANIMOUS

Town Manager Shane explained that staff has worked with the property owner and his team and have come up with a proposal that gets us to where the majority of the Council wanted to be with this development. Some of the more undesirable commercial aspects have been eliminated and it is now more like a traditional Office/Commercial South plan. The commercial properties that would be allowed would be similar to Dr. McCloy's new building on lot 2. The lot that is closest to the existing homes on Route One would be the business commercial lot with buildings that would look more residential. They have included 120 units of residential housing behind Exactitude, with 25 of them being senior, affordable housing. The restrictions in this CZA are consistent with the Route One standards in addition to architectural standards. The process is to forward it to the Planning Board for a Public Hearing and recommendation, then it will come back to the Town Council for final approval.

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Councilor Stiles asked how many buildings similar to the size of Dr. McCloy's building would fit on the commercial lot.

Town Manager Shane responded that 8 would fit on that lot.

Councilor Bingham said that he is in favor of forwarding this to the Planning Board to see what their recommendation is. Site plan review will resolve any concerns of the neighborhood. If we leave this all commercial, nothing will ever happen there. This is our chance to get that property on the tax rolls and not sitting there as a giant gravel pit.

Councilor Storey-King said that she is not comfortable forwarding this to the Planning Board this evening. She has not had an opportunity to read the new amendments.

Councilor Edes said that this proposal is not even close to what he thought came out of our last meeting regarding this Contract Zone Agreement. He feels that this is a short-sighted proposal to sell a piece of property. He will not support it.

Councilor Turner said that he will support it. He is willing to see what the process might end up producing.

Motion by Councilor Bingham, seconded by Councilor Gruber, to forward the Contract Zone Agreement amendment with Heritage Village Development Group, LLC to the Planning Board for a Public Hearing and recommendation.

VOTE: 5-2 (Edes and Storey-King opposed) MOTION PASSES

19 – 061 To authorize the Town Manager to execute a 4-year lease agreement with First Data Leasing Company for a point of sale system for Val Halla golf operations. TABLED

Motion by Councilor Stiles, seconded by Councilor Bingham, to table indefinitely.

VOTE: 7-0 UNANIMOUS

19 – 062 To appoint a member to the Cumberland Housing Authority.

Motion by Councilor Bingham, seconded by Councilor Turner, to appoint Janene Gorham to the Cumberland Housing Authority.

VOTE: 7-0 UNANIMOUS

VI. NEW BUSINESS

Councilor Bingham – the recent passing of Terry Snow and Dale Denno has effected the entire community and we all realize the contributions that they both have made over the years.

Moe Chabot also passed away. Moe was a 50 year Cumberland resident, a USM Professor, and President of the Lions Club who was responsible for the “Dollars for Scholars” program. He was very active in our community. This Town wouldn’t be the place that we all enjoy if we didn’t have the Moe Chabot’s, the Terry Snow’s, the Dale Denno’s, and so many others who have come before us and passed the laws, served on committees, drawn up our real estate deals and volunteered in our community.

Councilor Gruber – thanks to Councilor Styles and Copp for their recent efforts. Ron saved the Town over \$8,000 on repairs to one of our police cruisers and thank you to Bill Stiles for carrying the water for him at the Historical Society Building Committee meeting in his absence.

Thanks to Judy Ingraham and Jim Higgins for helping out during his absence from the Food Pantry.

Mornings with Friends is May 15th at the Cumberland Congregational Church. The topic is “Guiding Eyes” (Seeing Eye dogs).

The Age Friendly Network is having a conference on May 1st pertaining to the efforts being made in different communities related to Aging in Place initiatives.

Meet the Candidates night is on May 28th at 7:00 pm at the Performing Arts Center.

The School Board Candidates night will be on May 30th here in the Council Chambers at 7:00 pm. We are coining it the “Peter Bingham Reunion Tour”.

He lost one of his very best friends with the passing of Dale Denno. Dale’s service is scheduled for this Saturday at 1:30 pm at the Cumberland Congregational Church.

Councilor Edes – we lost two very good people with the passing of Dale Denno and Terry Snow. Condolences to their families.

Councilor Storey-King – Dale Denno was a representative and very good friend to the entire Council. He would often pick her brain about how to best serve the underserved in our community. Terry Snow was her family attorney and she taught his daughter in school. Maurice Chabot was the grandfather of 4 of her nieces and nephews. This has not been a good week for the Town with so much loss. She sent her condolence to all of those families.

The Parks and Recreation Advisory Board met recently. They had the opportunity to meet with the Parks and Val Halla staff, Toby Young, Nick Plummer and Ted Bosarge. They talked about the direction that the Parks and Recreation departments are heading.

The Town Manager attended a Council meeting in Windham where they were considering a quarry/extraction ordinance near Forest Lake. They included all of our suggestions into their ordinance. She thanked the Manager for his efforts in making this happen.

Chairman Copp – he also extended his condolences to the Denno and Snow families. This community has suffered a great loss.

Councilor Stiles – he shared fond memories of Terry Snow. Terry will be missed.

He attended the open house at Val Halla last Saturday. It was a great event where Brian Bickford was wished farewell and people got to meet the new golf pro, Nick Plummer.

He also attended the Town Manager’s lecture at the Library. It was a great presentation where residents had the opportunity to get their questions answered.

He thanked Councilor Copp for his donation to the 4-H auction to benefit the Food Pantry. He urged the public to donate to this worthy cause.

A resident asked him who had the authority to close Range Road during the annual frog crossing event hosted by the Chebeague & Cumberland Land Trust.

Town Manager Shane said that it was a safety issue. The Police Chief made the call to close the road and the Manager supported his decision. This event grows every year and there are a lot of children in attendance assisting hundreds of frogs to cross the road. It only happens on a cold rainy night in April,

and there is usually less than 12 hour's notice that it will be taking place. We will be better next year in letting the public know that it will be coming up. CCLT does a good job getting the word out.

Councilor Turner – he considered both Dale Denno and Terry Snow good friends and they will be sorely missed. These two men were the exemplars of decency and they will both be missed by the entire community.

Town Manager Shane – there seems to be some negative confusion regarding relocating the school buses to North Yarmouth and the Town's involvement. The decision to relocate the busses is the School's decision, not the Town of Cumberland's decision.

We will be removing the cardboard recycling container from Public Works because of the amount of trash that continues to be disposed of there. We are charged more to dispose of the contaminated cardboard than we would pay to dispose of trash. All of our efforts to discourage people from doing this have not worked.

The pier at Broad Cove Reserve is completed and will open this week. The kayak racks and floats are in place. He has been working with the CCLT to install a walkway with handrail from the drop off area down to the beach.

Our Tax Assessor is finishing up the property audit. He will present his findings to the Council in July.

He reached out to the Council Chairman with the idea of asking the Planning Board to help with a future master plan for the Town garage. As operations move away from the site, we are going to be left with a garage that has to be something. What that something is needs to be determined. The Planning Board could facilitate ideas, designs, buffers, etc. and they are supportive of the idea and are willing to take this on.

VII. ADJOURNMENT

Motion by Councilor Gruber, seconded by Councilor Bingham, to adjourn.

VOTE: 7-0 UNANIMOUS

TIME: 9:01 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary

MINUTES

Special Cumberland Town Council Meeting

Town Council Chambers

TUESDAY, May 7, 2019

7:00 a.m. Call to Order

7:00 A.M. Call to Order

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

I. LEGISLATION AND POLICY

19 - 063 To countersign the Warrant and Notice of Election calling the June 11, 2019 M.S.A.D. 51 Budget Validation Referendum.

Motion by Councilor Bingham, seconded by Councilor Gruber, to countersign the Warrant and Notice of Election calling the June 11, 2019 M.S.A.D. 51 Budget Validation Referendum.

VOTE: 7-0 UNANIMOUS

II. NEW BUSINESS

None

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

Motion by Councilor Bingham, seconded by Councilor Edes, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.

VOTE: 7-0 UNANIMOUS

TIME: 7:20 a.m.

Councilor Storey-King excused herself at 7:44 a.m.

IV. ADJOURNMENT

Motion by Councilor Gruber, seconded by Councilor Turner, to adjourn.

VOTE: 6-0 UNANIMOUS

TIME: 8:02 a.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary

ITEM 19-064

To hold a Public Hearing to consider and act on amendments to Chapter 223 (Shellfish Conservation) of the Cumberland Code, as recommended by the Shellfish Conservation Commission

~~Suggested amendments to the town ordinance~~

Town of Cumberland, ME

Sunday, February 25, 2018

Chapter 223. Shellfish Conservation

[HISTORY: Adopted by the Town Council of the Town of Cumberland 5-24-2004, as amended through 11-28-2011. Subsequent amendments noted where applicable.]

§ 223-1. Title.

This chapter shall be known and cited as the "Shellfish Conservation Ordinance of the Town of Cumberland, Maine."

§ 223-2. Authority.

This chapter is enacted in accordance with 12 M.R.S.A. § 6671, as amended from time to time.

§ 223-3. Purpose.

The purpose of this chapter is to establish a shellfish conservation program for the Town of Cumberland which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- A.
Licensing.
- B.
Limiting the number of shellfish harvesters.
- C.
Restricting the time and area where digging is permitted.
- D.
Limiting the minimum size of ~~clams~~ shellfish taken.
- E.
Limiting the amount of ~~clams~~ shellfish taken daily by a harvester.

§ 223-4. Findings.

It is hereby determined as follows:

- A.
The ~~clam flats~~ tidal mud flats of the Town are a very valuable shellfish resource which is important to the local economy.
- B.

~~Suggested amendments to the town ordinance~~

These **tidal mud** flats are not an inexhaustible resource, and therefore they must be prudently managed in order to remain viable.

C.

As part of the management process, it may be necessary to restrict the taking of shellfish by limiting the number of shellfish licenses, restrict the size and quantity of shellfish which may be harvested, and take other measures as outlined in this chapter.

§ 223-5. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BULK PILE

"Bulk pile" means any pile or the contents of any box, barrel or other container.

GUEST

One guest shall be permitted to assist a licensed recreational shellfish harvester to harvest one peck of ~~clams~~ **shellfish** per day. The license holder and guest combined may possess no more than one peck of shellfish per day.

JUNIOR LICENSE

A junior license shall be issued to all minors from the age of 12 to 16 at a reduced cost.

LOT

The total number of **soft-shell clams shellfish** in a bulk pile. Where **soft-shell clams shellfish** are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

MUNICIPALITY

The Town of Cumberland, Maine.

NONRESIDENT

Anyone not qualified as a resident under this chapter.

PERSONAL USE

For consumption or use by oneself, by members of the immediate family or by invited guests.

POSSESSION

To have in one's custody or control, either personally or by another who is under one's control.

RESIDENT

A person who has been domiciled in this municipality for at least 180 days prior to the time his or her claim of such residence is made or a person who has paid property taxes on property located in the Town of Cumberland in the calendar year preceding the year in which the license is being issued.

SENIOR LICENSE

Resident and nonresident licenses shall be issued to persons at least 70 years of age.

SHELLFISH

~~Soft-shell clams (*Mya arenaria*). State law shall apply to all other types of shellfish, including quahogs, hen clams, razor clams, and oysters (12 M.R.S.A. § 6601, Subsection 6).~~

"Shellfish" means soft-shell clams (*Mya arenaria*), quahogs/hard-shell clams (*Mercenaria mercenaria*), American/Eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), razor clams (*Ensis directus*), and surf/hen clams (*Spisula solidissima* and mussels), and includes shellstock and shucked shellfish. State law shall apply to mussels. (add reg citation here Chapter 12)

SHELLFISH WARDEN

~~There was discussion about adding a definition of warden or the special police officer...? This will be left to the discretion of the Police Chief~~

SHELLSTOCK

"Shellstock" means shellfish which have not been removed from their shells

TAXPAYER

~~Suggested amendments to the town ordinance~~

The owner of real estate located in the Town of Cumberland.

~~TIDAL MUD FLATS-INTERTIDAL ZONE~~

~~Add definition here The area beneath all coastal waters of the town within the rise and fall of the tide and within the marine jurisdiction of the town. Intertidal zone means the shores, flats, or other land below the high water mark and above subtidal lands~~

TOWN

The Town of Cumberland, Maine.

TOWN-CLOSED CONSERVATION AREA

A ~~clam~~tidal mud flat or ~~clam~~tidal mud flats closed pursuant to § 223-17 of this chapter.

VOLUNTEER

A person who participates in any of the activities of the Shellfish Conservation Commission.

§ 223-6. License required.

A.

A municipal shellfish license is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current, valid license issued by this municipality as provided by this chapter.

B.

No person shall be issued a municipal shellfish license who, upon the time of request, has failed to appear in court for a shellfish violation or has failed to pay any outstanding shellfish violation fines.

§ 223-7. Harvesting.

A.

The harvesting of shellfish within the Town of Cumberland is permitted only during those hours starting 1/2 hour before sunrise and ending 1/2 hour after sunset. It is unlawful to harvest shellfish during the time starting 1/2 hour after sunset to 1/2 hour before sunrise.

B.

As appropriate, the Shellfish Conservation Commission may designate areas in Cumberland to be open to commercial digging. Notice shall be published in a local paper and notice shall be provided to those who have submitted completed notification forms by January 5 each year.

[Amended 12-12-2016^[1]]

[1]

Editor's Note: This amendment also repealed former Subsection B and redesignated former Subsection D as Subsection B.

C.

Rules shall be promulgated annually by the Shellfish Conservation Commission. The rules shall include areas for harvesting as well as a recommendation for the number of licenses to be issued each year in each category of license.

[Amended 12-12-2016^[2]]

[2]

Editor's Note: This amendment also repealed former Subsection C and redesignated former Subsection E as Subsection C.

§ 223-8. Commercial and recreational licenses.

~~Suggested amendments to the town ordinance~~

A.

Commercial licenses.

(1)

Annual resident commercial shellfish license. This license is available to residents and/or taxpayers of the Town of Cumberland and entitles the holder to dig and take two bushels of shellfish per day from the shores and flats of this municipality and reciprocating municipalities in the areas to be designated pursuant to § **223-7** of this chapter. The licensee will maintain an accurate log of the days harvested commercially in his or her required shellfish harvesting log, which is due by June 30 each year to the office of the Town Clerk.

(2)

Annual nonresident commercial shellfish license. This license is available to nonresidents of this municipality and entitles the holder to dig and take two bushels of shellfish per day from the areas designated pursuant to § **223-7**. The licensee will maintain an accurate log of the days harvested commercially in his or her required shellfish harvesting log, which is due by June 30 of each year to the office of the Town Clerk.

(3)

Qualifications specific to commercial shellfish licenses.

(a)

The Shellfish Conservation Commission may specifically designate the period of validity as well as the areas open to commercial harvesting each year.

(b)

Commercial shellfish license holders are supplied with, and required to keep, a shellfish harvesting log, which must be submitted to the Town Clerk by June 30 of each year. The log will include the license holder's name and address and will show the date, location, and number of bushels harvested during each tide. Commercial license holders who do not submit harvesting logs as required will not be eligible for a commercial license during the next period of issuance of commercial licenses.

(c)

A shellfish license must be on your person when harvesting shellfish.

B.

Recreational shellfish licenses. A person holding a recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license. Recreational shellfish licenses are not available and not valid for a person who holds a shellfish license issued by the Maine State Commissioner of Marine Resources. Resident commercial or recreational licenses may be held by a resident of either the Town of Chebeague Island or the Town of Cumberland as per the July 1, 2007, State Legislature Act of Separation. Cumberland and Chebeague Island residents will be eligible for resident licenses in either or both communities. Maine-certified shellfish wardens of the Town of Cumberland shall be issued a recreational shellfish license.

(1)

Guest. One guest shall be permitted to assist a licensed recreational shellfish harvester to harvest one peck of ~~clams~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day. The license holder and guest combined may possess no more than one peck of ~~shellfish~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day.

(2)

Annual resident recreational shellfish license. This license is available to residents and/or taxpayers of the Town and entitles the holder to dig and take no more than one peck of ~~shellfish~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day for his or her personal use. A child 11 years or younger shall be allowed to assist a valid license holder. The license holder and child combined may possess no more

~~Suggested amendments to the town ordinance~~

than one peck of ~~shellfish~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day. A shellfish license must be on your person when harvesting shellfish.

(3)

Annual nonresident recreational shellfish license. This license is available to nonresidents of the Town and entitles the holder to dig and take no more than one peck of ~~shellfish~~ soft-shell clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day for his or her personal use. A child 11 years or younger shall be allowed to assist a valid license holder. The license holder and child combined may possess no more than one peck of ~~shellfish~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day. A shellfish license must be on your person when harvesting shellfish.

(4)

Monthly recreational shellfish license. During all months of the calendar year, a specific number of licenses will be available for issuance during each of the months and will be valid only for the month in which they are issued. (For example, if 10 licenses are available for the month of June, they will not be sold before June 1, and regardless of the day of the month they are sold, they will expire at 12:00 midnight on June 30.) This license entitles the holder to dig and take no more than one peck of ~~shellfish~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day for his or her personal use. A child 11 years or younger shall be allowed to assist a valid license holder. The license holder and child combined may possess no more than one peck of shellfish per day. A shellfish license must be on your person when harvesting shellfish.

(5)

Annual junior recreational shellfish license. This license is available to residents and nonresidents of the Town who are at least 12 years of age but no not more than 16 years of age and entitles the holder to dig and take no more than one peck of ~~shellfish~~ soft-shell clams, razor clams, oysters, or quahogs or 1 bushel of "hen" or "surf" clams per day for his/her personal use.

(6)

Annual senior recreational shellfish license. Resident and nonresident recreational shellfish licenses shall be issued to persons at least 70 years of age.

C.

Volunteer program.

(1)

Should any resident or nonresident volunteer participate in 10 or more hours of Shellfish Conservation Commission activities in a calendar year, that person shall be assured a resident or nonresident recreational license applied for in the following year (cost of the license is the responsibility of the applicant and based on availability of licenses).

(2)

Volunteer hours are to be recorded by a designee of the Shellfish Conservation Commission present for that activity in which the volunteer has participated.

§ 223-9. Fees.

Fees for shellfish licenses are established by order of the Town Council.

[1]

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See Ch. 84, Fees and Fines.

§ 223-10. Signature on license.

~~Suggested amendments to the town ordinance~~

The licensee must sign the shellfish license to make it valid.

§ 223-11. License application.

Applicants must submit a completed application, except as may otherwise be required by state or federal statute, to the Town Clerk for the licenses required by this chapter on forms provided by the municipality.

§ 223-12. Contents of application.

The application must be in the form of an affidavit and must contain the applicant's name, current physical address, birth date, height, weight, signature, and whatever other information the municipality may require.

§ 223-13. False information on application.

Any person who gives false information on a shellfish license application will cause said shellfish license to become invalid and void.

§ 223-14. License expiration date.

Each shellfish license issued under the authority of this chapter expires at 12:00 midnight on the 31st day of December next following date of issue, unless otherwise specified in this chapter.

§ 223-15. Reciprocal harvesting privileges.

Licensees from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their shellfish licenses.

§ 223-16. Number of licenses; notice of period of issuance.

Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of [clamshellfishs](#) per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise control:

A.

Prior to November 1 of each year, the Town Shellfish Conservation Commission, with the approval of the Commissioner of Marine Resources, shall prepare its recommendation to the Town Council of the number of resident and nonresident commercial and recreational shellfish licenses to be made available.

B.

The Shellfish Conservation Commission will notify the Town Council in Cumberland in writing prior to December 1 of the recommended number of resident and nonresident commercial and recreational shellfish licenses to be made available. The Town Council then shall adopt a shellfish license allocation. The Shellfish Conservation Commission, in preparing a recommended allocation of shellfish licenses, and the Town Council, in adopting an allocation of shellfish licenses, shall provide and reserve a minimum number of shellfish licenses for nonresidents, which shall be a number not less than 10% of the number of shellfish licenses provided for

~~Suggested amendments to the town ordinance~~

residents. When the number of commercial resident shellfish licenses is fewer than 10 but more than five, at least one nonresident commercial shellfish license shall be provided. When the number of resident commercial shellfish licenses is five or fewer, nonresident commercial shellfish licenses shall not be required.

C.

The period of issuance for shellfish licenses shall be from January 1 to December 31 each year. After March 31 any remaining shellfish licenses shall be issued to residents and nonresidents on the basis of first come, first served, unless the alternative licensing procedure described in Subsection **G** of this section is used.

D.

At least 10 days prior to the issuance of shellfish licenses, the Town Clerk, upon direction of the Town Council, shall provide notice of the number of shellfish licenses, resident and nonresident, and the procedure for application for such shellfish licenses by publishing the same in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation which the Town Council considers effective in reaching persons affected, and by posting the same in the Town office until the period of issuance concludes.

E.

When the number of licenses is limited, the Town Clerk shall issue commercial, nonresident commercial, resident recreational and nonresident recreational shellfish licenses as allocated, according to the following procedure:

(1)

The Town Clerk and/or Deputy Clerk shall accept applications for commercial, nonresident commercial, resident recreational and nonresident recreational shellfish licenses from resident and nonresident applicants during regular Town office hours through the month of December.

(2)

The Clerk shall prepare a list of the names of the qualifying applicants; the list need not be in any particular order. Next to each name on the list, the Clerk shall enter a unique three-digit number, selected at random, and shall write each such number on an index card. All the index cards shall be of uniform size, color and texture.

(3)

The numbered index cards shall then be placed in a box or other container capable of being closed and sufficiently large so the index cards can be easily mixed by shaking the container.

(4)

The Clerk's assistant shall shake the container in order to mix the contents and shall then place or hold the container at a location above the Clerk's eye level, so that the Clerk can reach into the container and withdraw cards without seeing the numbers on the cards.

(5)

The Clerk shall withdraw all of the cards, one by one, reading each number drawn out loud. The Clerk's assistant shall make a list of each of the numbers so drawn in the order in which they are drawn. Then, using the list prepared under Subsection **E(2)** above, the Clerk shall place the corresponding applicant's name next to each number.

(6)

The Clerk shall then issue the available shellfish licenses to the qualifying applicants, first to residents and then to nonresidents, in the order in which their names appear on the list prepared under Subsection **E(5)**. That list shall establish the order of priority for the issuance of any commercial, nonresident commercial and nonresident recreational shellfish licenses until the next annual licensing procedure under this chapter.

(7)

~~Suggested amendments to the town ordinance~~

The procedure set forth in this section shall be a public proceeding, open to the public, but no applicant or any member of the public has any right to participate in the procedure. Applicants are not required to be present at the time the issuance list is established. The procedure shall be conducted at the Cumberland Town office on the date designated in the Town Clerk notice as provided in Subsection **D** and at a time set by the Town Clerk. The Clerk shall announce the exact time for the procedure by posting a notice in the Cumberland Town office at least seven days prior to the date of the procedure. Any failure to provide such notice shall not invalidate the results of the procedure.

F.

A copy of this chapter shall be given with each shellfish license issued.

G.

Alternative licensing procedures. In the event that the Shellfish Conservation Commission shall establish that no limit on recreational licenses shall be imposed, the following procedure shall govern the issuance of licenses notwithstanding the provisions of Subsections **A** through **D**:

(1)

Beginning on the first business day of January, the Town Clerk shall issue resident recreational licenses to residents upon application, said licenses to be effective that day.

(2)

On the third business day of January, the Town Clerk shall issue nonresident recreational licenses as follows:

(a)

As defined in § **223-8C(1)** (volunteer program), the Town Clerk shall issue nonresident recreational licenses to all eligible volunteers.

(b)

A lottery system as defined in Subsection **E(2) to (7)** shall be used to allocate the remaining nonresidential recreational licenses. All nonresident recreational license applications in receipt by the Town Clerk on the day of the drawing shall be included in the lottery. All applicants will be assigned a number in the order they are drawn and placed on a waiting list.

(c)

When 250 resident recreational licenses are sold, the Town Clerk shall issue one additional nonresident recreational license to the next waiting list applicant. Thereafter, one additional nonresident recreational license shall be issued to the next applicant on the waiting list upon sale of 10 additional resident recreational licenses.

(d)

Any person notified by the Town Clerk that they have been selected from the waiting list for a nonresident recreational license shall pay the applicable license fee within 14 business days of the mailing of said notice of eligibility. In the event that the person fails to make an application, qualify, or pay the license fee within the prescribed time period, he or she shall be returned to the end of the waiting list.

(e)

Any person making application for a nonresident recreational license after the drawing date shall be placed at the end of the waiting list.

(3)

Resident senior citizen licenses issued shall not be counted in the calculation of licenses sold under this section.

(4)

Recreational licenses issued to Maine-certified shellfish wardens of the Town of Cumberland shall not be counted in the calculation of licenses sold under this section.

~~Suggested amendments to the town ordinance~~

§ 223-17. Opening and closing of flats.

[Amended 12-12-2016]

A.

The Shellfish Conservation Commission, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvesting and designate areas and time periods for commercial or recreational harvesting thereon. Upon concurrence of the Department of Marine Resources area biologist that the status of the shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed for either recreational or commercial harvesting, the Shellfish Conservation Commission may call a public hearing on 10 days' notice published in a newspaper having general circulation in the Town, stating the time, place, and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Shellfish Conservation Commission made after the hearing shall be based on findings of fact.

B.

It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the town of Cumberland in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under MSRA Title 12 § 6671.

C.

Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the town of Cumberland to DMR and are part of the resulting permit issued by DMR. These permits are posted at the town office and online: <http://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html>.

§ 223-18. Minimum legal size of ~~soft-shell clams~~ shellfish.

A. ~~Soft-shell clams~~

~~(1)~~

Pursuant to 12 M.R.S.A. §§ 6671 and 6681, as amended from time to time, it is unlawful to possess soft-shelled clamshell stock whose shells are less than two inches in the largest diameter. The Town Clerk's office shall issue annually a two-inch ring with each license. For purposes of this chapter, the term "possess" means dig, take, harvest, ship, transport, hold, buy, and sell retail and wholesale soft-shelled clamshell stock.

B. Quahogs

Pursuant to Department of Marine Resources Regulations (13 188), Chapter 10, Section 10.04, It shall be unlawful to take, possess, ship, transport, buy or sell quahogs that are less than one inch in thickness as measured across the hinge width.

C. Surf Clams and Hen Clams

Refer to Department of Marine Resources Regulations (13 188), Chapter 10.

D. Razor clams

Pursuant to Department of Marine Resources Regulations (13 188), Chapter 10, Section 10.06, It shall be unlawful to take, possess, ship, transport, buy or sell razor clams that are less than 4 inches.

E. ~~Oysters~~

~~(1)~~

Definition: "European oyster" means animals of the species *Ostrea edulis*.

~~(2)~~

~~Suggested amendments to the town ordinance~~

~~Pursuant to Department of Marine Resources Regulations (13 188), Chapter 14, Section 14.10 (B), It shall be unlawful to take, possess, ship, transport, buy or sell European oysters whose shells are less than 3 inches in the longest diameter.~~

~~(1) Closed Season: Pursuant to Department of Marine Resources regulations, Chapter 14, it shall be unlawful to take, possess, ship, transport, buy or sell European oysters from June 15 to September 15 of any year.~~

~~(2) Exceptions: Persons holding an aquaculture lease issued pursuant to 12 M.R.S.A. §6072, §6072-A or §6072-B, as provided in §6073-A, and persons holding a limited purpose aquaculture (LPA) license pursuant to 12 M.R.S.A. §6072-C, may harvest European oysters from an aquaculture site from June 15 to September 15 of any year. Transportation, buying or selling must be done in accordance with Chapters 9 and 15-20 and 21-24.~~

~~A person shall not be in violation of Chapter 14.10(A) if they are in possession of a bill of lading for the amount of European oysters purchased from June 15 to September 15 of any year showing those oysters were lawfully obtained from an origin outside the State of Maine and possess any applicable license and permit in accordance with Chapter 24.~~

~~(3) Minimum size: It shall be unlawful to take, possess, ship, transport, buy or sell European oysters whose shells are less than 3 inches in the longest diameter.~~

§ 223-19. Method of determining tolerance.

A. Soft-Shell Clams

Pursuant to 12 M.R.S.A. §§ 6671 and 6681, as amended from time to time, any person may possess soft-shelled clams that are less than two inches if they comprise less than 10% of any bulk pile. The tolerance shall be determined by numerical count of not less than one peck or more than four pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

B. Quahogs

~~Pursuant to Department of Marine Resources Regulations (13 188), Chapter 10, Section 10.04 (B), any person may possess quahogs that are less than one inch if they comprise less than 5% of any bulk pile. The tolerance is determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.~~

§ 223-20. Shellfish Conservation Commission.

The Shellfish Conservation Program for the Town of Cumberland will be administered by the Shellfish Conservation Commission consisting of seven members. The Cumberland Town Council will appoint the Shellfish Conservation Commission members. In addition, the Shellfish Conservation Warden shall serve as an ex officio member. The Commission's responsibilities include:

A.

Establishing, annually, in conjunction with the Department of Marine Resources, the number of shellfish digging licenses to be issued.

B.

Surveying the ~~clam~~-tidal mud flats to maintain current information on shellfish resources.

C.

~~Suggested amendments to the town ordinance~~

Submitting to the Town Council proposals for the expenditures of funds for the purpose of shellfish conservation.

D.

Keeping this chapter under review and making recommendations for its amendment.

E.

Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.

F.

Recommending conservation closures and openings to the Town Council in conjunction with the Department of Marine Resources.

G.

Submitting an annual report to the municipality and the Department of Marine Resources covering the above topics and all other Commission activities.

§ 223-21. Enforcement; violations and penalties; term.

A.

Enforcement. The Chief of Police, ~~and members of the Cumberland Police Department,~~ ~~special police officers as provided in 30-A M.R.S.A. § 2672, and the Shellfish Conservation Wardens~~ shall designate personnel who are certified municipal shellfish wardens to enforce this ordinance. ~~chapter as provided in (enter reg citation here).~~

B.

Penalty. A person who violates this chapter shall be punished as provided in 12 M.R.S.A. § 6671, as amended from time to time.

C.

Duration. This chapter shall remain in effect until amended or repealed.

§ 223-22. Misrepresentation.

It shall be unlawful and a violation of this chapter for any person to falsify or give false information in connection with a shellfish license application. In addition to any criminal penalties which may result from a violation of this chapter, the shellfish license granted to any person who gives false information on a shellfish license application will automatically be void.

§ 223-23. Suspension of license.

A.

Violation of this chapter. The Town Clerk shall suspend any and all shellfish licenses issued under this chapter if the license holder is convicted in court of violating any section of this chapter.

B.

Suspension based on conviction in a Town-closed conservation area. The Town Clerk shall suspend any and all shellfish licenses issued under this chapter if the license holder has been convicted in court of possessing shellfish from a Town-closed conservation area.

~~Suggested amendments to the town ordinance~~

C.

Length of suspension for Subsections **A** and **B** above. The suspension of a license may not exceed the following:

(1)

Thirty days from the date of first conviction.

(2)

Three hundred sixty-five days (one year) from the date of the second conviction.

(3)

Lifetime revocation of shellfish license for all third violations.

D.

Applicable standards. Any conviction more than three years before last conviction shall not be counted in determining lengths of suspension.

§ 223-24. Suspension based on refusing inspection.

The Town Clerk shall suspend any and all shellfish licenses if the license holder refuses to allow inspection in the enforcement of this chapter. This suspension may not exceed 90 days.

§ 223-25. Hearing on license suspension.

Any licensee whose shellfish license has been suspended shall be entitled to a hearing before the Town Manager, upon the filing of a written request for hearing with the Town Manager within 30 days following the effective date of suspension. The applicant shall be given at least seven days' prior written notice of the date, time and place of hearing before the Town Manager. Any person aggrieved by the Town Manager's decision may appeal to the Superior Court within 30 days from receipt of the Town Manager's written decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

§ 223-26. Enforcement officers.

The Cumberland Police Department shall be the legal enforcement agency for the enforcement of this chapter. The Chief of Police shall designate an officer or officers certified by the Department of Marine Resources to enforce violations of this chapter and conduct required water quality sampling.

§ 223-27. Unlawful washing or holding of shellfish.

A person may not:

A.

Wash, hold or keep shellfish in any area closed by state regulation.

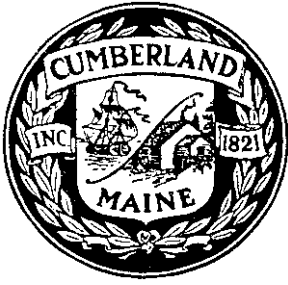
B.

Possess, ship, transport or sell shellfish washed, held or kept in any area closed by regulation per 12 M.R.S.A. § 6621.

ITEM

19-065

To consider and act on allowing the Sunnyfield Lane Homeowners Association to landscape the Town owned land at the entrance to Sunnyfield Lane, as recommended by the Lands & Conservation Commission



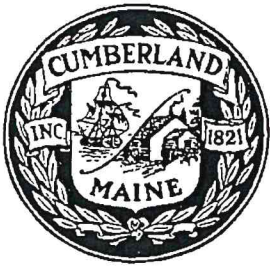
M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205 FAX: 829-2224

To: Town Council
From: William R. Shane, Town Manager
Date: May 8, 2019
Re: 19-065 Sunnyfield HOA Request

Ann Sawchuck from the Sunnyfield Lane HOA will be requesting your permission to complete a landscape design at the entrance of their neighborhood adjacent to Blanchard Road. Per the Cumberland Code, they presented and received a unanimous recommendation for approval last week from the Lands and Conservation Commission.

Their design and plant types are attached for your review. Staff recommends approval of the request.



TOWN LANDS AND CONSERVATION COMMISSION

(Commission)

Town of Cumberland

290 Tuttle Road

Cumberland, ME 04021

Date: May 5, 2019

(* = Chair; + = liaison TC; ++ = Town Mgr.; (T) = trails SC; (F) = forest SC)

Bill Shane ++; Tom Gruber +; Peter Bingham + (abs)

To: Members:

Jenn Grasso (abs)	(F) Ted Chadbourne	(F) Timothy Schneider	(T) Rachael Becker McEntee
Ellen Hoffman	(F) Melissa Cott	(F) *Sally Stockwell ✓	(T) Stephen Fitzgerald
John Jensenius vice* (abs)	(F) Denny Gallaudet		(T) Peter Garsoe ✓
Steven Knowles (abs)	(F) Rhonda Grigg		(T) *John Jensenius
*Mike Schwindt	(F) Gordon Lichter		(T) Matthew Leclair
Jennifer Taylor (abs)	(F) Linda Putnam		(T) Shawn McBreairty
David Young			(T) Don Stowell ✓
Sam York			

Note: Only members of the Commission and voting members of the subcommittees need attend. "✓" indicates subcommittee member attended Commission meeting.

From: Ellen Hoffman

Re: Meeting May 1, 2019

- April minutes were approved as written.
- Also in attendance: Penny Asherman (Chebeague and Cumberland Land Trust), Ann Sawchuck (resident Sunnyfield Lane), and Carla Nixon (Cumberland Town Planner).
- Ann Sawchuck spoke on behalf of the Sunnyfield Lane Home Owners Association's (HOA) request to install a garden on the Town owned property in front of their development. Sally moved the LCC recommend the Town Council approve the Sunnyfield Lane HOA's request to install a small native garden on the Town owned land along Blanchard Rd. Motion passed unanimously.
- Commission (Mike)
 - Bill report:
 - Planning Board (May 21st) – nothing new
 - Public Hearing: Amendment to approved Site Plan for Friends School – addition and other minor changes.
 - Public Hearing: Final Review for Christmas Creek 20 lot Major Subdivision.
 - Recommendation to TC on proposed amendments to the Contract Zone Agreement for Cumberland Fireside Village.
- Presentation by Carla Nixon on Cumberland's planning review processes (handout distributed). Discussed:
 - Zoning ordinance and districts – designations and acreage
 - Overlay districts

William Shane

Subject: FW: Sunnyfield Lane Open Space - Lands and Conservation Commission
Attachments: McLeod Common Space Design-2.pdf; McLeod Common Space Plant Pages-2.pdf

From: Ann Sawchuck [mailto:annsawchuck8@gmail.com]

Sent: Thursday, April 18, 2019 4:53 PM

To: Mike Schwindt <applewoodacres@hotmail.com>

Cc: Carla Nixon <cnixon@cumberlandmaine.com>; William Shane <wshane@cumberlandmaine.com>; Jan Macleod <jmacleod@maine.rr.com>; Lisa Agren <lagren1@maine.rr.com>

Subject: Re: Sunnyfield Lane Open Space - Lands and Conservation Commission

Hi Mike,

After looking at the documents related to the Sunnyfield Open Space, including the warranty deed, and the By Laws for the Homeowners Association, I can't find anything related to its maintenance. However, the Sunnyfield Farm Homeowners Association has always maintained the front area and we would like to continue to do so by installing a small garden.

Bill Shane has suggested that we first present the garden plan to the Lands and Conservation Commission and then ask Town Council to approve the installation. I would be happy to discuss the garden at the next meeting of the Lands and Conservation Commission on May 1. If you would like to take a look at the property beforehand I'd also be happy to give you a site walk.

I think all we need the Commission to say to Town Council is that there is no objection to the installation of the garden by the Lands and Conservation Commission. If you wanted to say that it seems to fit in with the town's rural character and will increase the beauty of our town center, that would be nice.

Attached is another copy of the proposed garden plan and the related plants. Please let me know if you have any comments.

I will be out of town next week but I am available tomorrow afternoon, Saturday afternoon, April 27, Tuesday morning, April 30, and Wednesday afternoon, May 1, for a site walk.

Here is Larkspur Design's, website: <https://www.larkspureco.com/resources/>

Thanks!

Ann Sawchuck
730-0129

Jan McLeod
Common Space
Cumberland, Maine



LARKSPUR
DESIGN

2019

Perennials

- EP Echinacea purpurea 'Ruby Star' (Purple Coneflower)
EPW Echinacea purpurea 'White Swan' (White Coneflower)
MF Monarda fistulosa (Bergamot)
N Nepeta 'Walker's Low' (Catmint)

Grasses

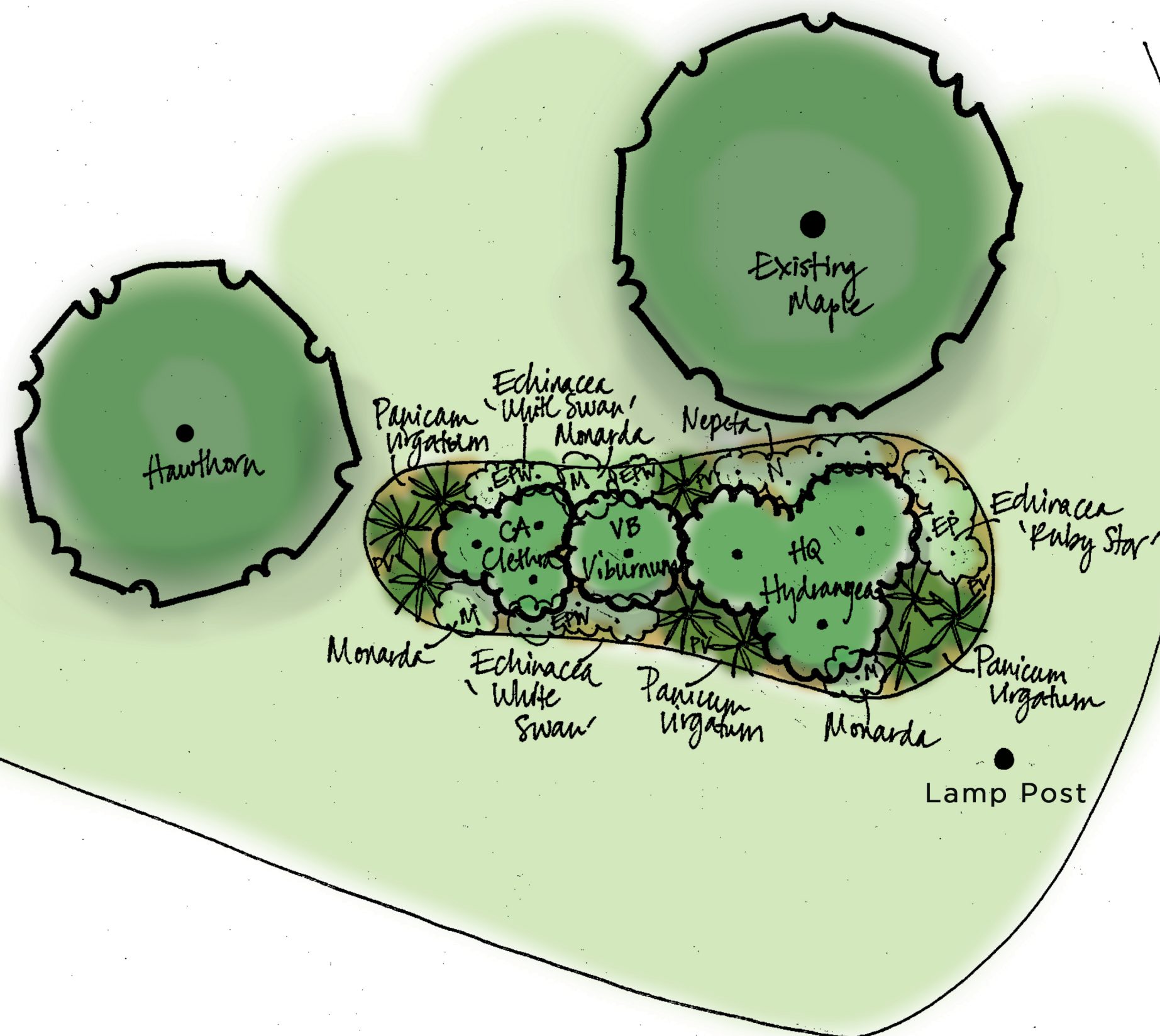
- PV Panicum virgatum 'Prairie Fire' (Switch Grass)

Shrubs

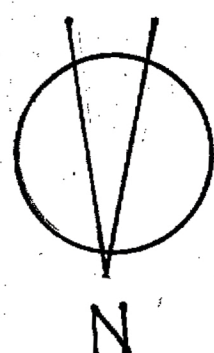
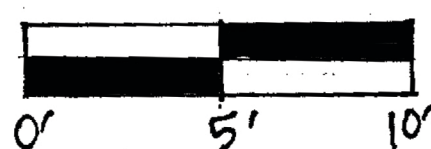
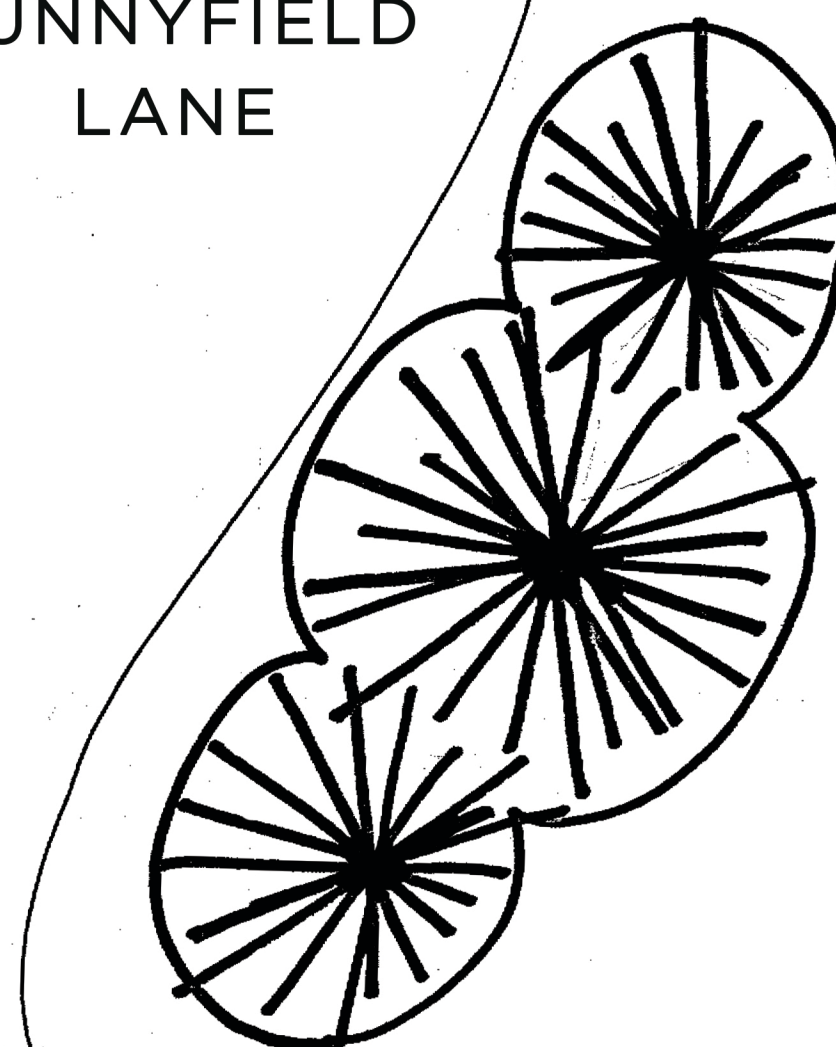
- CA Clethra alnifolia (Summersweet)
HQ Hydrangea paniculata 'Quickfire'
VB Viburnum nudum 'Brandywine' (Brandywine Viburnum)

Trees

- Crataegus crusgalli inermis (Thornless Hawthorn)



SUNNYFIELD
LANE





Echinacea 'Ruby Star'
Ruby Star Coneflower

Bloom: Summer
Height: 30 – 40"



Echinacea 'White Swan'
White Swan Echinacea

Bloom: Summer
Height: 18 – 24"



Monarda fistulosa
Bergamont

Bloom: Summer
Height: 24 – 48"



Nepeta 'Walker's Low'
Ornamental Catmint

Bloom: Spring
Height: 15 – 18"



Panicum virgatum 'Heavy Metal'
Heavy Metal Switchgrass

Bloom: Late Summer
Height: 48 – 60"



Clethra alnifolia 'compacta'
Compact Summersweet

Bloom: Late Summer
Height: 3 – 4'



Hydrangea paniculata 'Quick Fire'
Quick Fire Panicle Hydrangea

Bloom: Early Summer
Height: 6 – 8'



Viburnum numdum 'Brandywine'
Brandywine Viburnum

Bloom: Mid Spring
Height: 5 – 6'



Crataegus crusgalli
Thornless Hawthorn

Bloom: Mid Spring
Height: 15 – 20'

ITEM 19-066

To consider and act on authorizing the Town Manager to execute a
Conservation Easement with Chebeague & Cumberland Land Trust for
Greely Woods, as recommended by the
Lands & Conservation Commission



M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205 FAX: 829-2224

To: Town Council
From: William R. Shane, Town Manager
Date: May 8, 2019
Re: 19-066 Greely Woods Conservation Easement

Last week the Lands & Conservation Commission unanimously approved the attached Conservation Easement for Greely Woods. The language has been reviewed and approved by the Town Attorney. We are currently working with the Town Attorney and surveying on the legal description for the property which will be added prior to recording.

The Facility Use Plan and Forest Management Plan still need to be developed. You may wish to ask the L&CC if they could add these tasks to their work Plan for FY 2020.

Staff recommends approval.



TOWN LANDS AND CONSERVATION COMMISSION (Commission)

- Subdivision and site plan ordinances
 - Design and review process
 - Post approval process
- Foreside Garden Club (Mike) – Gift of \$1000 for benches, bird and bat houses for the BFG area of the Town Forest. Motion made by Sam to recommend the Town Council accept the offer of the Foreside Garden club for about \$1,000 to be used for benches, bird and bat houses at the Butterfly Garden and in the Town Forest. Unanimously approved. Also discussed was an offer to serve as a conduit for a bench – similar to the benches in the Town Forest - donated by CCLT to be placed at Knights Pond.
- Greely Woods Easement (Penny) – Revised version modified by the Land Trust. Greely Woods about 38 acres. Real estate transfer. Town own property, land trust hold and enforces – similar to Rines Forest arrangement. Land Trust monitors properties once a year to make sure in compliance with easement. To easement, added potential parking area – no location set. Placement of a porta potty mentioned.
 - Sally questioned need to light parking area; suggested seek professional forester or other expert before any tree or vegetation cutting – system of checks and balances; should be no storage of chemicals on property and use of chemicals should be discouraged. Typo of hunting and trapping not on designated trails.
 - Peter G expressed his concern of development of property – more like a park than a forest. Said we are transforming, not conserving.
 - Bill mentioned that the contract very restrictive, allows for passive uses only. Basically protecting ourselves from ourselves.
 - Penny mentioned that there are “Forever Wild” easements for habitat protection.
 - Sally made motion (written by Mike) that the LCC recommend the Town Council approve the Greely Woods Easement (version 4-29-19) with the suggested corrections Sally mentioned above. Seconded; unanimously approved.
- Open Space survey (Dave) – mentioned if we take any action on this, should be done while school is still in session to get maximum responses. Survey still needs to be edited. Do we still want to go forward on this? Purpose of survey is to find out if the public want to reduce the number of building permits. Also find out if residents are interested in buying more land. Sally mentioned that this approach could backfire. Maybe should incorporate survey in Open Space plan (similar to what was done in previous Open Space plan)?
- Workshop with Town Council – to make sure we are on the right track as far as doing what the council expects this committee to be involved in. Suggested to wait until after June 3rd so that the new council members are seated.
- Forest and Natural Resources Subcommittee – no subcommittee meeting.
- Trails Subcommittee (Don) Handout:

1. Oceanview/Cumberland Crossing Development - Phase 1

CONSERVATION EASEMENT GREELY WOODS

The **TOWN OF CUMBERLAND**, a duly organized Maine municipal corporation, located and operating in Cumberland County, Maine and having an office at 290 Tuttle Road, Cumberland, ME 04021 (hereinafter “GRANTOR,” which word is intended to include, unless the context clearly indicates otherwise, the above-named GRANTOR, its successor and assigns, and any successors in interest to the Protected Property) with its Town Lands and Conservation Commission, DOES HEREBY GRANT as a gift to the **CHEBEAGUE AND CUMBERLAND LAND TRUST, INC.**, a charitable and non-profit corporation organized and existing under the laws of the State of Maine, with a mailing address of 371 Tuttle Road, #2, Cumberland, ME 04021 (hereinafter “HOLDER,” which word shall, unless the context clearly indicates otherwise, include HOLDER’s successors and/or assigns), **WITH QUITCLAIM COVENANT**, in perpetuity, this conservation easement (the “Conservation Easement” or “Easement”) pursuant to Title 33 M.R.S.A. Section 476 et seq., inclusive, as amended, on over and through three adjoining parcels of land of approximately 8.49 (“Parcel A”), 21 acres (“Parcel B”), and 8.4 acres (“Parcel C”), respectively. Parcel A is located southeasterly and adjacent to Greely Road Extension in Cumberland, Maine, being described in a deed from Edward Copp and Paula B. Copp dated December 29, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13566, Page 148. Parcel B is located southeasterly and adjacent to Parcel A, being described in a (1) deed from Jerald Copp dated February 15, 1957 and recorded in the Cumberland County Registry of Deeds in Book 2743, Page 204; and (2) a deed from Richard W. Doane dated October 8, 2018 and recorded in said Registry of Deeds in Book 35292, Page 285. Parcel C is located southeasterly of Parcel B and connected to Parcel B through a Town of Cumberland Easement along Crystal Lane Subdivision, being described in a deed from Elizabeth Sweetser Baxter, Philip S. Sweetser and Richard W. Sweetser to Yankee Acreage, Inc. dated June 1, 1964 and recorded in the Cumberland County Registry of Deeds in Book 2832, Page 60. Parcel A, Parcel B and Parcel C are more particularly described in **Exhibit A** and depicted on the map of the property (**Exhibit B**) and trail map (**Exhibit C**) attached hereto and made part hereof (hereinafter referred to collectively as the “Protected Property”).

This Conservation Easement provides additional protection to the Protected Property, and further ensures that it shall be managed for conservation purposes and uses.

This Conservation Easement is granted exclusively for the following conservation purposes:

I. PURPOSE OF THE EASEMENT.

The purpose of this Conservation Easement is to preserve in perpetuity the unique and undeveloped character of the Protected Property and to protect the high-quality habitat of the forest and associated ecosystems, while also providing a variety of opportunities for outdoor recreation, trail access and scenic enjoyment for the general public.

The following recitals more particularly describe the conservation and other values of the Protected Property:

WHEREAS, the Protected Property consists of approximately 37.89 acres of wooded, undeveloped land located southeasterly of Greely Road Extension in Cumberland, Maine; and

WHEREAS, the Protected Property provides an ideal site for low-impact outdoor recreation including, but not limited to, nature study and observation, hiking, running, mountain biking, snowshoeing, cross country skiing, snowmobiling on designated trails, fishing, hunting, and picnicking by the general public; and

WHEREAS, the Protected Property abuts properties which currently provide or will provide in connection with this Conservation Easement trail access to already conserved land in other locations of the Town of Cumberland, and ultimately access to an emerging three-town conservation and recreation corridor; and

WHEREAS, the Protected Property provides high quality habitat of forest, wetlands, and associated ecosystems for wildlife; and

WHEREAS, the Town of Cumberland is subject to considerable development pressure and sprawl that often closes or restricts access to open space traditionally used and enjoyed by the public and this parcel is in a dense residential area of town; and

WHEREAS the GRANTOR and the HOLDER, recognizing the uniqueness of the Protected Property have the common purpose of conserving the high quality wildlife habitat, natural and recreational values of the Protected Property by conveyance of this Conservation Easement on, over, through and across the Protected Property that will establish a natural recreation area, recreation trails, prohibit development of the Protected Property, and prevent any use or change that would conflict with its wildlife habitat values or its predominantly natural and scenic condition.

NOW, THEREFORE, the GRANTOR and HOLDER hereby establish this Conservation Easement on, over, through and across the Protected Property consisting of the foregoing recitals and purposes, and the following terms, covenants, restrictions and affirmative rights granted HOLDER, its successors and assigns, which shall run with and bind the Protected Property, in perpetuity:

II. LAND USE & DIVISION:

A. Land Use. The Protected Property may be used only for conservation, low-impact outdoor recreation by the general public, educational activities and natural resource management activities that do not adversely affect its important natural, ecological and habitat values. Low impact recreation includes, but is not limited to, nature observation and study, hiking, running, biking, snowshoeing, cross-country skiing, hunting, and trapping. Snowmobiling shall be allowed on designated trails.

B. Management Plan. The Protected Property will be managed consistent with the terms of this Easement under a Management Plan to be prepared by GRANTOR. The Management Plan as originally adopted, and as may be subsequently amended from time to time, will be submitted to HOLDER for review and comment to ensure that the Management Plan is and remains consistent with the terms of this Easement. The Protected Property will be managed by GRANTOR to protect the natural resource, scenic, and recreational values with oversight by HOLDER. GRANTOR will maintain a copy of the Management Plan at the Town Offices.

C. Division. For the purpose of land uses permitted under this Conservation Easement, the Protected Property must remain in its current configuration as three single lots under unified ownership. Subdivision, partition or creation of other parcels or lots, whether by lot division, or other manner of ownership which creates discrete parcels or separate ownership or control of portions of the Protected Property, shall be prohibited, except for boundary adjustments to resolve bona fide boundary disputes. Under no circumstances may the Protected Property or any portion thereof be included as part of the gross tract area of other land not subject to this Conservation Easement, for the purposes of determining density, lot coverage, or land area requirements, under otherwise applicable laws, regulations or ordinances controlling land use, building density, or transfer for development rights.

Notwithstanding the foregoing, any portion of the Protected Property may be conveyed to an entity that is a federal, state, or local government agency or a non-profit conservation organization which is a “qualified organization” set forth under Section 170(h) of the United States Internal Revenue Code and a “qualified holder” under Title 33, Maine Revised Statutes, Section 476(2), for permanent conservation ownership.

D. Existing Conditions. As of the date of this Easement, there are boundary markers and one wooden bridge on the Protected Property. As of the date of this Conservation Easement, there are no surface alterations on the Protected Property other than an existing trail network as depicted on **Exhibit C**. The remainder of the Protected Property is undeveloped and forested. All existing conditions are documented in the Baseline Documentation (hereinafter defined) and certified as accurate by GRANTOR and HOLDER as of the date of this Conservation Easement.

E. Structures. It is the intention of this Easement that the Property be used as conservation land for low impact outdoor recreation, nature observation and study and that uses and improvements be limited to the extent necessary or appropriate to preserve its natural and undeveloped character.

No structures, temporary or permanent, are permitted on the Protected Property without prior written consent of HOLDER, except however, the GRANTOR reserves for itself, its successors and assigns, the following rights:

1. Minor Structures. GRANTOR reserves the right to locate, construct, repair, maintain and replace minor structures to accommodate low impact outdoor recreation and nature observation and study. Such minor structures may include, but are not necessarily limited to the following: small unlighted informational and interpretive signs including commemorative plaques and memorials; informational kiosks and registration boxes; low barriers to discourage unauthorized access; fencing to protect natural resources or for safety purposes; support and erosion control structures necessary for permitted parking area and trails; trail and boundary markers; rustic trail improvements, including, hand rails, steps, stream or trail bridges, bog boardwalk, culverts and water bars; benches and picnic tables; portable toilet; small shelter up to 200 square feet; temporary tents; pet sanitation boxes; and temporary structures associated with wildlife, plant, archeological or other scientific study under professional supervision under professionally accepted standards.

Notwithstanding the foregoing, the following structures are not permitted, except as expressly set forth above or elsewhere in this Conservation Easement: buildings, barns, bleachers, permanent lighting, and major recreational improvements such as athletic or sports facilities and fields.

F. Surface Alterations. No alterations may be made to the surface of the earth or to the wetlands of the Protected Property except as reserved below by GRANTOR.

1. Mining. No mining, quarrying, or surface mining activities are permitted on the Protected Property.

2. Excavation, filling, dredging and grading. No excavation, filling, dredging or grading or other alteration may be made to the surface of the Protected Property except as necessary to install, maintain or replace permitted structures and trails. Any such activity shall secure and meet all permitting requirements under local, state, and federal laws and regulations.

3. Exercise of Reserved Rights. GRANTOR reserves the right to alter the surface of the land to the minimum extent necessary to exercise the Grantor's rights and reservations expressly set forth in this Conservation Easement.

4. Parking. GRANTOR reserves the right to install and maintain a parking area on the Protected Property. The parking area may be of gravel or similar surface and shall be constructed to minimize erosion, drainage, and impact on the Protected Property or nearby environmentally sensitive areas, wetlands, or water bodies. Any parking area to be considered shall be mutually agreed upon by and between the GRANTOR and HOLDER. The parking area shall be limited to maximum 10 spaces and buffered from neighboring properties with trees and shrubs. GRANTOR reserves the right to establish and maintain an access road to the parking area which shall not exceed the minimum width required under the applicable zoning ordinances at the time of construction. Prior to the start of construction, the parking area and access road must meet all applicable federal, state, and local permitting requirements.

5. Trails. A number of improved and unimproved trails currently exist on the Protected Property, and are depicted on a map attached hereto as **Exhibit C**. Consistent with the Management Plan to be adopted by GRANTOR pursuant to Part II Paragraph B herein, and in consultation with HOLDER, GRANTOR may improve existing trails and may develop additional trails to create an interconnected network of unpaved trails within the Protected Property. The trails shall be constructed and maintained in a manner consistent with the goals and purposes set forth in Part II Paragraph A herein, and designed and located to prevent erosion and protect the other conservation values of this Easement. The Management Plan may include or refer to trail development standards recommended by state or federal agencies or by private organizations dedicated to conservation or natural resource protection purposes.

6. Archeological and Ecological Study. GRANTOR reserves the right to permit archeological and ecological study of the Protected Property, including excavation of sites, provided that all such work must be conducted in accordance with applicable then-current professional standards, and the disturbed area must be restored to its natural appearance as soon as reasonably possible after completion.

G. Vegetation Management. It is the intention of this Conservation Easement to foster an intact, healthy, forested area to preserve healthy soils and habitat for wildlife, preserve the ecological integrity of streams, vernal pools, and wetlands, and protect the scenic character of the Protected Property.

1. Tree and Vegetation Cutting. GRANTOR reserves the right to alter or remove vegetation as necessary to install, establish and maintain the structures permitted under Section II Paragraph E and surface alterations permitted under Section II Paragraph F of this Easement; to reduce safety hazards for the uses permitted herein; to remove invasive plant species; and to prevent fire and spread of disease or non-native insects with input from a professional forester and wildlife ecologist. All of the foregoing shall be conducted in a manner to minimize soil erosion, prevent damage to fragile plant communities, wetlands, and wildlife habitat, and to protect other important natural resources.

2. Forest Management Plan. Except as provided in paragraph G.1. above, any harvesting of trees shall be consistent with a forest management plan developed by a professional forester with input from professional wildlife biologists and adopted by GRANTOR. The forest management plan shall include provisions for protecting soils, water quality, wetlands and high value plant and animal habitat and generally be consistent with current Best Forestry Management Practices as defined by “Best Management Practices for Forestry: Protecting Maine’s Water Quality,” prepared by the Maine Department of Agriculture, Conservation and Forestry, Maine Forest Service, in such publication’s most current version at the time of this Conservation Easement, and as the same may be further amended, supplemented or replaced after the date of this Conservation Easement. GRANTOR shall provide HOLDER with a copy of any forest management plan for HOLDER’s review and comment. All forestry activities shall be in compliance with applicable federal, state and local laws and regulations. GRANTOR shall give notice to HOLDER sixty (60) days prior to any proposed harvesting activities in accordance with the forest management plan and provide HOLDER with sufficient information concerning the nature, extent and timing of the proposed activity. Harvesting proceeds from any and all forestry activities are property of the GRANTOR.

H. Water Protection, Pollution Control, and Waste Disposal. No dumping, storage or burial of refuse or waste materials is permitted on the Protected Property. No vehicles may be stored on the Protected Property except that temporary storage of vehicles as may be required for permitted maintenance, construction, conservation or forest management activities shall be permitted. The direct discharge of treated or untreated sewage into the surface waters on or about the Protected Property is prohibited. The use, discharge or runoff of chemical herbicides, pesticides, fungicides, fertilizers or other toxic agent would be discouraged unless a particular need arises and shall be controlled as required by state or federal law to prevent adverse impacts on wildlife, waters, and other important conservation values protected by this Conservation Easement.

I. Public Use and Access. GRANTOR agrees to permit, and will refrain from prohibiting or discouraging, use of the Protected Property by the general public for low impact outdoor recreational uses, such as: nature observation and study, hiking, running, biking, snowshoeing, cross-country skiing, hunting, and trapping. Snowmobiling shall be allowed on designated trails. GRANTOR has the right to prohibit or make reasonable rules and regulations for any of the following uses for public recreation: night use; camping; loud activities; open fires; use of motor vehicles except as provided in this Conservation Easement; access by domesticated animals or pets; any use that may interfere with or be harmful to members of the public using the Protected Property. GRANTOR also has the right to temporarily restrict public access on limited areas of the Protected Property to protect fragile areas under study, or for safety purposes during active timber harvesting or other permitted management activities that may pose a hazard to recreational users; such right of GRANTOR may be exercised only following 30 days’ prior notice to HOLDER and an opportunity to comment, except in

an emergency in which notice to Holder shall be as soon thereafter as possible. HOLDER and GRANTOR may agree in writing to restrict access and use of the Protected Property by the general public for other purposes, but only to the extent and for the duration necessary to assure safety, to permit necessary maintenance, or to preserve important scenic, ecological, or other conservation values of the Protected Property.

GRANTOR and HOLDER agree that any fees or charges imposed by either party for public access shall be reasonable and comparable to those charged in Maine for similar facilities. Any fees charged for the use of the Protected Property must be approved by the Town Council, of the Town of Cumberland.

GRANTOR AND HOLDER each claim all of the rights and protections against liability for injury to the public to the fullest extent of the law under the Recreational and Harvesting Use Liability Limitations set forth in Title 14 M.R.S.A. Section 159-A, et seq. as amended and successor provisions thereof (The Maine Recreational Use Statute), under the Maine Tort Claims Act as set forth in Title 14 M.R.S.A. Section 8104-A(2)(A)(3), and under any and all other applicable provisions of law or equity.

III. HOLDER'S AFFIRMATIVE RIGHTS

A. Entry and Inspection. HOLDER is granted the right to enter the Protected Property at any time for the purposes of inspection, monitoring, and enforcement to undertake ecological or other studies of the Protected Property, and to exercise any other affirmative right hereunder. An annual written inspection report shall be filed by HOLDER with GRANTOR within 60 days from the end of each calendar year.

B. Enforcement. HOLDER shall have the right to enforce this Conservation Easement by proceedings at law and in equity, including the right to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it might be entitled for violation of the terms of this Easement and to require restoration of the Protected Property to the condition that existed prior to such injury, provided however that naturally occurring changes and "acts of God," defined by 42 U.S.C. §9601(1) shall not give rise to any right in HOLDER to require restoration. Prior to initiation of an enforcement action, HOLDER shall provide GRANTOR with prior written notice and a thirty (30) day opportunity to cure any breach; except that where such breach cannot be reasonably cured within such thirty (30) day period, HOLDER may determine a reasonable timeframe in which to cure such breach and except where emergency circumstances require more immediate enforcement action.

If HOLDER is the prevailing party in any action against GRANTOR to enforce or defend this Conservation Easement, or any others for whose actions on the Protected Property Grantor is responsible, GRANTOR shall reimburse HOLDER for any reasonable costs of enforcement or defense, including court costs, mediation and if applicable, arbitration costs, reasonable attorney fees and any other payments ordered by such court or arbitrator. Notwithstanding the foregoing, prior to the commencement of litigation by either party, the parties agree to enter into good faith negotiations through a neutral mediator in order to attempt to resolve their differences if the following conditions are met: i) Grantor agrees not to proceed with the disputed use or activity pending resolution of the dispute, and ii) no injury to the Protected Property has occurred or will occur while the parties are

engaged in mediation. Each party shall be responsible for one-half of the neutral mediator's fees, and their own attorney fees.

GRANTOR is not responsible for injury to or change in the Protected Property resulting from natural causes, acts of God or environmental catastrophe beyond GRANTOR's control, such as fire, flood, storm and earth movement or from prudent action taken by GRANTOR under emergency conditions to prevent, abate or mitigate significant injury to Protected Property resulting from such causes.

The terms of the Conservation Easement do not supersede or waive more restrictive applicable law and regulations.

C. Signage. HOLDER is authorized to install small, unlighted informational signs that identify HOLDER's contributions to and interests in the Protected Property, in addition, signs that mark the boundary of the Protected Property, that enhance the public use of and appreciation of the Property, and that promote appreciation of plant and animal life; such minor signage to be completed in a manner consistent with the goals of this Easement and the Management Plan.

D. Trails. HOLDER has the right with GRANTOR approval, but not the obligation, to help build and maintain the trail network on the Protected Property in accordance with the provisions of this Conservation Easement and Management Plan.

E. Boundaries. It is GRANTOR's obligation to keep the iron pins and boundary markers currently set on the Protected Property, and as depicted in the Baseline Documentation Report, in a manner that they can be located by HOLDER. In the event such iron pins are not clearly marked within a reasonable amount of time after notice by HOLDER, HOLDER shall have the right to engage a professional surveyor to locate or reset the iron pins. The costs associated with the survey work necessary to locate or reset such pins shall be paid by the GRANTOR only if and to the extent necessary to determine if a breach of this Conservation Easement has occurred on the Protected Property.

F. Notice. HOLDER has the right to require that GRANTOR's reserved rights be exercised in a manner that avoids adverse impact to the conservation values to be protected by this Easement. GRANTOR agrees to notify HOLDER prior to undertaking any activity or exercising any reserved right that may impair the conservation interests associated with the Easement.

G. Right to Assign. In the event that HOLDER fails to continue operations or is dissolved, either voluntarily or involuntarily, or is not able to fulfill its obligations under this Conservation Easement, it shall assign the easement to another qualified entity (not the then current GRANTOR of the Conservation Easement) chosen by the GRANTOR. A qualified entity for such purposes shall be one that meets the definition of "HOLDER" at Title 33 Maine Revised Statutes Annotated Section 476(2), as amended or re-codified, and that meets the requirements of Section 170(h)(3) of the Internal Revenue Code, or successor provisions thereof, and that as a condition of transfer, agrees to carry out the conservation purposes of this grant.

IV. GENERAL TERMS AND STANDARD PROVISIONS

A. Notice and Approval Requirements. GRANTOR agrees to notify HOLDER prior to undertaking any activity or exercising any reserved right that may have an adverse impact on

the conservation values protected by this Conservation Easement, and where prior notice or approval is specifically required in this Conservation Easement. GRANTOR's notices must include sufficient information to enable HOLDER to determine whether GRANTOR's plans are consistent with the terms of this Easement and the conservation purposes hereof.

(i) Any notices or requests for approval required by this Easement shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, or by such commercial delivery service as provides proof of delivery, to GRANTOR and HOLDER, at the following addresses, unless one has been notified in writing by the other of a change of address or change of ownership:

To GRANTOR: Town of Cumberland, Attention: Town Manager, 290 Tuttle Road, Cumberland, ME 04021

To HOLDER: President, Chebeague and Cumberland Land Trust, 371 Tuttle Road #2, Cumberland, ME 04021

(ii) When GRANTOR is required to provide notice to HOLDER pursuant to this Easement, such notice as described hereinabove shall be given in writing at least sixty (60) days prior to the event giving rise to the need to give notice except as otherwise specifically provided herein.

(iii) When GRANTOR is required to obtain HOLDER's prior written consent and approval, such request as described hereinabove shall be given in writing sixty (60) days prior to undertaking the proposed activity except as otherwise specifically provided herein. HOLDER, upon receipt of GRANTOR's request, shall acknowledge receipt of the same. Following receipt of such notice, HOLDER, shall, in writing, grant, grant with conditions, or withhold its approval. No proposed activity may proceed without HOLDER's written consent and approval as provided herein, except as may be expressly permitted under the terms of this Conservation Easement.

B. Responsibility of Grantor. GRANTOR acknowledges that HOLDER has neither possessory rights in the Protected Property, nor any responsibility nor right to control, maintain, or keep up the Protected Property. GRANTOR shall retain all responsibilities and shall bear costs and liabilities of any nature related to the ownership, operation, upkeep, improvement, and maintenance of the Protected Property.

C. Maine Conservation Easement Act. This Conservation Easement is established pursuant to the Maine Conservation Easement Act at Title 33, Maine Revised Statutes, Sections 476 through 479-C, inclusive, as amended, and shall be construed in accordance with the laws of the State of Maine.

D. Baseline Documentation. In order to establish the present condition of the Protected Property and its conservation attributes protected by this conservation easement, and its natural and scenic resources, so as to be able to monitor properly future uses of the Protected Property and assure compliance with the terms hereof, HOLDER and GRANTOR have prepared an inventory of the Protected Property's relevant features and conditions (the "Baseline Documentation") and have certified the same as an accurate representation, to the extent known, of the condition of the Protected

Property as of the date of this Conservation Easement. A certified copy of the Baseline Documentation, and any amendments or supplements thereto, shall be maintained, in perpetuity, at the offices of HOLDER.

E. Extinguishment.

(i) The parties agree that the grant of this Conservation Easement creates a property right that vests immediately in HOLDER. The parties further agree that this property right as of the date of its creation has a fair market value that is equal to the percentage by which the fair market value of the unrestricted Protected Property as a whole as valued in accordance with IRS Regulations at 1.170-A 14(h)(3)(ii), is reduced by the terms and conditions imposed by this Conservation Easement, as of the date of the execution of this Conservation Easement (hereinafter the “Original Percentage Reduction”).

(ii) This Conservation Easement may only be extinguished or terminated by judicial order in a court of competent jurisdiction. It is the intention of the parties that an extinguishment or termination be approved by a court only if all of the conservation purposes of this Conservation Easement are impossible to accomplish, and if both GRANTOR and HOLDER (and any third party who has a bona fide right of enforcement, if any) agree. Should this Conservation Easement be terminated or extinguished as provided in this Paragraph, in whole or in part, HOLDER shall be entitled to be paid no less than a portion of any proceeds of sale, exchange or lease computed as to the greater of: (i) the Original Percentage Reduction; or (ii) the increase in value of the GRANTOR’s estate resulting from such extinguishment, as determined by the court, or in the absence of such court determination, by the agreement of the parties or, in the absence of such agreement, by an independent appraiser mutually selected by GRANTOR and HOLDER. HOLDER shall use its share of the proceeds or other moneys received under this Paragraph in a manner consistent, as nearly as possible, with the stated, publicly beneficial purposes of this Conservation Easement. GRANTOR agrees and authorizes HOLDER to record a notice of a lien on the Protected Property which lien will be effective as of the date of such extinguishment, to secure its rights under this Paragraph.

F. Controlling Law and Interpretation. The interpretation and performance of this Easement shall be governed by the laws of the State of Maine. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the conservation purposes of this Easement and the policy and purpose of the Maine Conservation Easement Act at Title 33, Maine Revised Statutes Annotated, Sections 476 et seq., inclusive, as amended. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the conservation purposes of this Easement shall govern.

G. Subsequent Deeds and Transfers. This Easement must be incorporated by reference in any deed or other legal instrument by which GRANTOR conveys any interest in the Protected Property, including, without limitation, a leasehold or mortgage interest. GRANTOR further agrees to give written notice to HOLDER within thirty (30) days of the transfer or conveyance of any interest in the Protected Property. The failure of GRANTOR to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

H. Discretionary Approvals. GRANTOR and HOLDER recognize that certain activities by the GRANTOR may warrant the prior discretionary approval of HOLDER, and that

HOLDER has the right to issue such discretionary approvals without prior notice to any other party. Nothing in this Paragraph shall require the HOLDER to agree to any discretionary approval.

I. Amendment. GRANTOR and HOLDER recognize that rare and extraordinary circumstances could arise that warrant modification of certain of the provisions of this Conservation Easement. To this end, subject to more restrictive laws and regulations, if any, GRANTOR and HOLDER have the right to agree to amendments to this Conservation Easement, provided that in the reasonable judgment of HOLDER, such amendment enhances or does not materially detract from the conservation values intended to be protected by this Conservation Easement, in accordance with Maine law. Amendments shall become effective upon the recording at the Cumberland County Registry of Deeds. Nothing in this Paragraph shall require the GRANTOR or the HOLDER to agree to any amendment or to consult or negotiate regarding any amendment.

J. Economic Hardship. In making this grant, GRANTOR has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. In addition, the unprofitability of conducting or implementing any or all of the uses permitted under the terms of this Conservation Easement shall not impair the validity of this Conservation Easement or be considered grounds for its termination or extinguishment. It is the intent of both GRANTOR and HOLDER that any such economic changes shall not be deemed to be changed conditions or a change of circumstances justifying the judicial termination, extinguishment, or amendment of this Conservation Easement.

K. Nonwaiver. The failure or delay of the HOLDER, for any reason whatsoever, to do any action required or contemplated hereunder, or to discover a violation or initiate an action to enforce this Conservation Easement shall not constitute a waiver, laches, or estoppel of its rights to do so at a later time.

L. Severability, Entire Agreement, No Forfeiture. If any provision of this Conservation Easement or the application of any provision to a particular person or circumstance is found to be invalid, the remainder of this Conservation Easement and the application of such provision to any other person or in any other circumstance shall remain valid. This Conservation Easement and the Baseline Documentation set forth the entire agreement of the parties with respect to this Conservation Easement and supersede all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement, all of which are merged herein. Nothing contained herein will result in a forfeiture of this Conservation Easement or reversion to GRANTOR of any rights extinguished or conveyed hereby.

M. Standing to Enforce. Only HOLDER and GRANTOR may bring an action to enforce this grant, except as provided in Title 33 M.R.S.A. Section 478, and nothing herein should be construed to grant any other individual or entity standing to bring an action hereunder, unless otherwise provided by law; nor to grant any rights in the Protected Property by adverse possession or otherwise, provided that nothing in this Easement shall affect any public rights in or to the Protected Property acquired by common law, adverse possession, prescription, or other law, independently of this Conservation Easement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Town of Cumberland has caused its acknowledgement and seal to be hereto affixed and these presents to be signed by William R. Shane, its Town Manager in its name and on its behalf this _____ day of _____, 2019.

TOWN OF CUMBERLAND

Witness

William R. Shane, Town Manager

STATE OF MAINE

COUNTY OF CUMBERLAND, ss

_____, 2019

Personally appeared the above named, William R. Shane, Town Manager of the **TOWN OF CUMBERLAND**, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the **TOWN OF CUMBERLAND**.

Before Me,

Notary Public/Attorney at Law

Print Name of Notary

My commission expires:_____

HOLDER ACCEPTANCE

The above foregoing Conservation Easement being duly authorized to be accepted by the **Chebeague and Cumberland Land Trust, Inc., HOLDER**, hereby accepts this Conservation Easement by and through Penny Asherman, its President, hereunto duly authorized, this ____ day of _____, 2019.

Chebeague and Cumberland Land Trust, Inc.

Witness

Penny Asherman, President

Personally appeared Penny Asherman, President and authorized representative of the **CHEBEAGUE AND CUMBERLAND LAND TRUST, INC.**, and acknowledged the acceptance of the foregoing instrument to be her free act and deed in her said capacity, and the free act and deed of the **CHEBEAGUE AND CUMBERLAND LAND TRUST, INC.**, a Maine non-profit corporation.

Before me,

Notary Public

Please print name

My commission expires: _____

EXHIBIT A
Legal Description of the Protected Property

EXHIBIT B - MAP OF PROPERTY

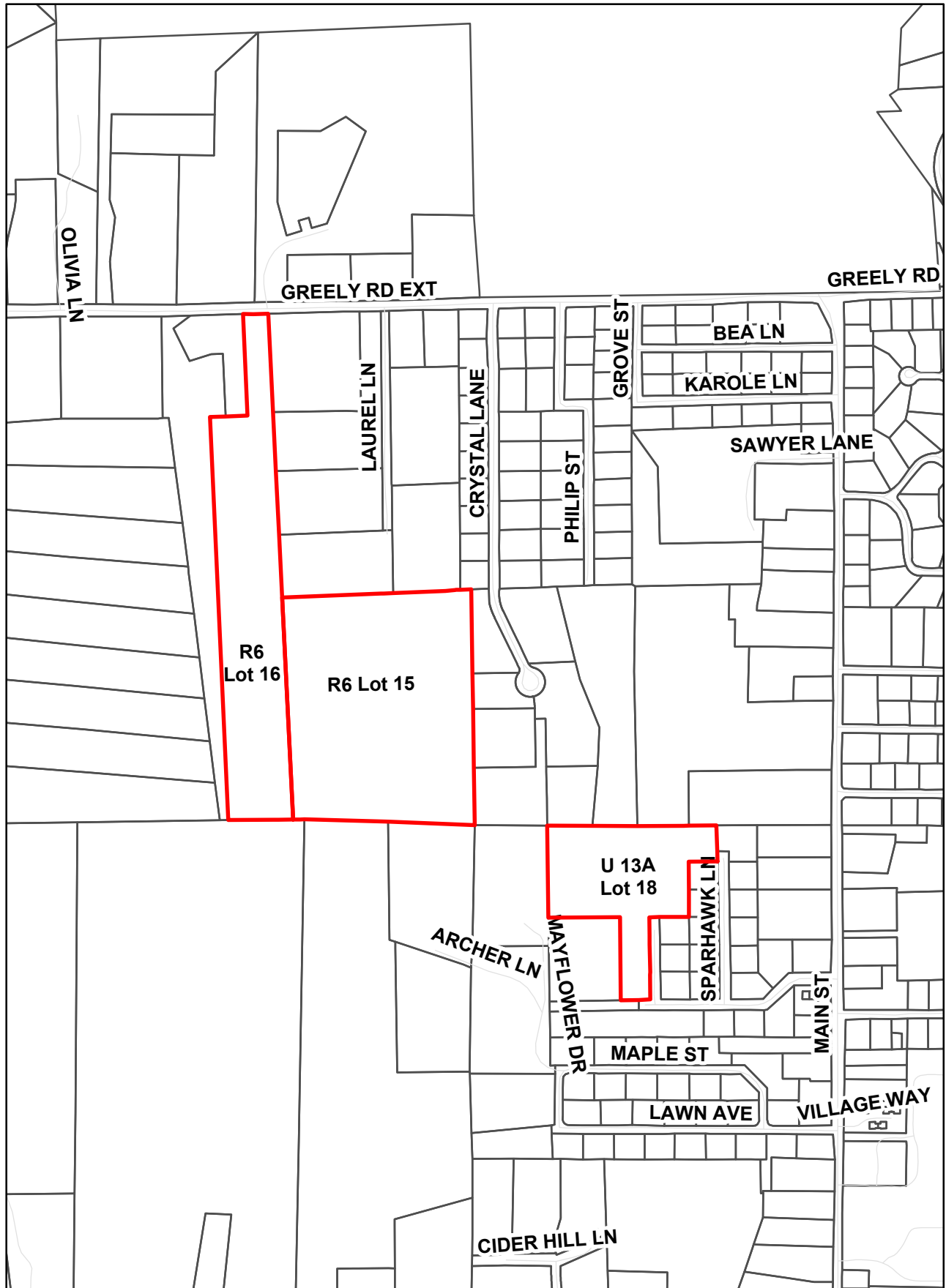


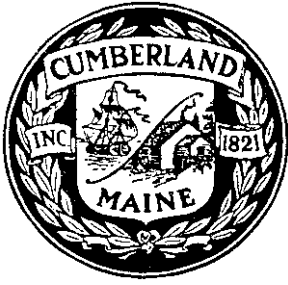
EXHIBIT C
Trail Map of Property



ITEM

19-067

To accept donations for the purchase of benches for the Town Forest and Knight's Pond, as recommended by the Lands & Conservation Commission



M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205 FAX: 829-2224

To: Town Council
From: William R. Shane, Town Manager
Date: May 8, 2019
Re: 19-067 Bench Donations

Last week, at the busy Lands & Conservation Commission meeting, the LCC recommended acceptance of two gifts. The Foreside Garden Club is donating 2 benches for the Town Forest and Martha Ehrenfeld is donating a bench for the Knight's Pond Preserve. The benches will be located by the LCC with input from the Land Trust. The Public Works Department will install both benches. Staff recommends approval of the gift and asks to allow the Town Manager to execute a gift letter for the full value of each bench (\$350).





TOWN LANDS AND CONSERVATION COMMISSION (Commission)

- Subdivision and site plan ordinances
 - Design and review process
 - Post approval process
- Foreside Garden Club (Mike) – Gift of \$1000 for benches, bird and bat houses for the BFG area of the Town Forest. Motion made by Sam to recommend the Town Council accept the offer of the Foreside Garden club for about \$1,000 to be used for benches, bird and bat houses at the Butterfly Garden and in the Town Forest. Unanimously approved. Also discussed was an offer to serve as a conduit for a bench – similar to the benches in the Town Forest - donated by CCLT to be placed at Knights Pond.
- Greely Woods Easement (Penny) – Revised version modified by the Land Trust. Greely Woods about 38 acres. Real estate transfer. Town own property, land trust hold and enforces – similar to Rines Forest arrangement. Land Trust monitors properties once a year to make sure in compliance with easement. To easement, added potential parking area – no location set. Placement of a porta potty mentioned.
 - Sally questioned need to light parking area; suggested seek professional forester or other expert before any tree or vegetation cutting – system of checks and balances; should be no storage of chemicals on property and use of chemicals should be discouraged. Type of hunting and trapping not on designated trails.
 - Peter G expressed his concern of development of property – more like a park than a forest. Said we are transforming, not conserving.
 - Bill mentioned that the contract very restrictive, allows for passive uses only. Basically protecting ourselves from ourselves.
 - Penny mentioned that there are “Forever Wild” easements for habitat protection.
 - Sally made motion (written by Mike) that the LCC recommend the Town Council approve the Greely Woods Easement (version 4-29-19) with the suggested corrections Sally mentioned above. Seconded; unanimously approved.
- Open Space survey (Dave) – mentioned if we take any action on this, should be done while school is still in session to get maximum responses. Survey still needs to be edited. Do we still want to go forward on this? Purpose of survey is to find out if the public want to reduce the number of building permits. Also find out if residents are interested in buying more land. Sally mentioned that this approach could backfire. Maybe should incorporate survey in Open Space plan (similar to what was done in previous Open Space plan)?
- Workshop with Town Council – to make sure we are on the right track as far as doing what the council expects this committee to be involved in. Suggested to wait until after June 3rd so that the new council members are seated.
- Forest and Natural Resources Subcommittee – no subcommittee meeting.
- Trails Subcommittee (Don) Handout:

1. Oceanview/Cumberland Crossing Development - Phase 1

REVENUES

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TOWN OF CUMBERLAND HISTORICAL ACTUALS COMPARISON REPORT

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FOR PERIOD 11 OF 2019

ACCOUNTS FOR: 001 General Fund	PRIOR YR3 ACTUALS	PRIOR YR2 ACTUALS	LAST YR ACTUALS	CURRENT YR ACTUALS	CY REV BUDGET
<hr/>					
0011 Other Tax Revenues					
<hr/>					
0011 0303 Motor Vehicle Excise Tax	-1,657,242.09	-1,768,536.92	-1,912,500.99	-1,820,397.02	-1,950,000.00
0011 0304 Boat Excise Tax	-13,140.50	-11,328.70	-14,191.74	-7,717.30	-14,000.00
0011 0325 Supplemental Taxes	-12,507.10	-14,130.35	.00	.00	.00
0011 0328 Outer Islands Property Tax	-39,889.25	-43,352.06	-21,887.03	-22,020.50	-42,000.00
0011 0329 Payment in Lieu of Taxes	-29,608.00	-29,804.00	-30,688.00	-31,918.00	-31,000.00
TOTAL Other Tax Revenues	-1,752,386.94	-1,867,152.03	-1,979,267.76	-1,882,052.82	-2,037,000.00
0012 License & Permit Revenues					
<hr/>					
0012 0311 Hunting/Fishing Lic Agent Fees	-471.25	-427.03	-426.50	-401.25	-541.00
0012 0312 Marriage Lic & Vital Records	-1,959.00	-1,967.86	-1,827.60	-2,104.80	-2,436.00
0012 0313 Birth Certificates	-1,133.00	-1,370.80	-1,572.40	-1,216.00	-1,361.00
0012 0314 Death Certificates	-1,359.80	-1,713.93	-1,355.60	-1,546.40	-1,713.00
0012 0315 Clerk Licenses	-4,955.00	-2,965.00	-4,075.00	-3,800.00	-4,608.00
0012 0316 Shellfish Licenses	-553.44	-629.69	-537.86	-579.64	.00
0012 0317 Conservation Fees	-121.56	-140.31	-122.14	-150.36	.00
0012 0334 Snowmobile Reg. Agent Fees	-183.00	-241.00	-201.00	-223.00	.00
0012 0361 Motor Vehicle Reg. Agent Fees	-19,253.00	-19,049.00	-19,955.00	-18,072.00	-21,406.00
0012 0362 Boat Reg. Agent Fees	-535.00	-480.00	-550.00	-349.00	-1,098.00
0012 0366 Building Permits	-77,684.47	-114,734.71	-63,908.63	-66,971.70	-75,000.00
0012 0367 Electrical Permits	-17,567.10	-24,147.28	-24,028.50	-18,191.30	-21,634.00
0012 0368 Plumbing Permits	-14,127.98	-20,005.00	-16,790.00	-13,221.00	-18,789.00
0012 0369 Other Permits	-1,550.00	-1,698.00	-586.00	-868.00	-1,751.00
0012 0383 ATV Reg. Agent Fees	-28.00	-29.72	-65.00	-78.00	-37.00
0012 0390 Misc. Revenue	.00	.00	.00	-1,350.00	.00
0012 0398 Application Fee	-1,297.23	-800.00	-1,450.00	-3,950.00	-1,300.00
0012 0401 Dog Reg. Clerk Fees	-2,413.00	-2,378.00	-926.00	-914.00	-2,800.00
0012 0404 Commercial Haulers License	-200.00	-400.00	-100.00	.00	-500.00
TOTAL License & Permit Revenue	-145,391.83	-193,177.33	-138,477.23	-133,986.45	-154,974.00
0013 Intergovernmental Revenues					
<hr/>					
0013 0331 State Revenue Sharing	-375,202.14	-360,268.95	-398,690.58	-314,395.09	-453,207.00
0013 0332 Park Fee Sharing	-8,133.33	-10,624.80	.00	.00	-10,055.00

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TOWN OF CUMBERLAND
HISTORICAL ACTUALS COMPARISON REPORT

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FOR PERIOD 11 OF 2019

ACCOUNTS FOR: 001 General Fund	PRIOR YR3 ACTUALS	PRIOR YR2 ACTUALS	LAST YR ACTUALS	CURRENT YR ACTUALS	CY REV BUDGET
0013 0335 DOT Block Grant	-63,232.00	-68,012.00	-69,136.00	-68,644.00	-69,136.00
0013 0341 North Yarmouth Recreation Shar	-7,288.00	-32,768.00	-25,032.00	-14,190.00	-35,000.00
0013 0342 North Yarmouth Library Share	-145,952.00	-108,266.00	-116,568.00	-120,054.00	-160,000.00
0013 0347 North Yarmouth Channel 2	-2,548.00	-2,072.00	-737.00	.00	.00
0013 0348 ACO Sharing Payments	-6,322.00	-10,039.34	.00	.00	.00
TOTAL Intergovernmental Revenue	-608,677.47	-592,051.09	-610,163.58	-517,283.09	-727,398.00
0015 Other Revenues					
0015 0305 Interest & Penalties	-29,847.50	-30,056.23	-23,839.04	-22,339.60	-30,000.00
0015 0306 Over/Short	-11.05	56.39	866.28	490.27	-100.00
0015 0364 Growth Permits	-3,700.00	-13,400.00	-2,700.00	-2,300.00	-2,000.00
0015 0365 Board of Appeals	-500.00	.00	-300.00	-100.00	.00
0015 0379 Investment Earnings	783.86	-349.64	.00	.00	.00
0015 0382 Sale of Assets	-7,599.00	.00	.00	.00	.00
0015 0390 Misc. Revenue	-41,888.63	-37,012.36	-35,965.95	-40,593.59	-25,000.00
0015 0399 Staff Review Fee	-3,577.77	-10,675.00	-21,450.00	-10,600.00	-14,117.00
0015 0402 Cable TV Revenue	-111,418.32	-116,809.64	.00	-128,633.84	.00
0015 0403 Mooring Fees	-1,185.00	-2,800.00	-3,850.11	-2,885.92	-1,500.00
0015 0410 Private Ways	-1,200.00	-200.00	-200.00	-800.00	-400.00
0015 0432 Workers Compensation Dividend	-10,803.37	-13,558.82	.00	.00	.00
0015 0508 Impact Fees	-103,822.70	-178,009.19	-52,600.80	-69,941.90	-60,000.00
TOTAL Other Revenues	-314,769.48	-402,814.49	-140,039.62	-277,704.58	-133,117.00
0021 Police Related Revenues					
0021 0337 State Grant revenue	.00	.00	.00	-1,195.00	.00
0021 0351 Police Issued Permits	-3,497.00	-2,557.00	-1,699.00	-2,075.00	-2,000.00
0021 0353 Police Insurance Reports	-513.00	-408.00	-522.00	-416.00	-500.00
0021 0390 Miscellaneous Police Revenue	-545.00	-95.00	-318.15	-805.25	-648.00
0021 0427 Parking Tickets	.00	-111.00	-590.00	-375.00	-100.00
0021 0431 Outside Detail	-25,017.14	-27,582.89	-26,128.58	.00	.00
0021 0536 Dog Licenses ACO Revenue	-1,685.00	-1,771.00	-2,912.00	-2,646.00	-1,800.00
0021 0540 MSAD #51 SRO Reimbursement	.00	.00	-48,000.00	-49,000.00	-49,000.00
0021 0546 Court Reimbursements	-1,439.76	-953.72	-1,543.04	-434.32	-2,200.00
0021 0620 Federal Grant revenue	-25,000.00	.00	.00	.00	.00
TOTAL Police Related Revenues	-57,696.90	-33,478.61	-81,712.77	-56,946.57	-56,248.00
0022 Fire Related Revenues					

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**TOWN OF CUMBERLAND
HISTORICAL ACTUALS COMPARISON REPORT**
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FOR PERIOD 11 OF 2019

ACCOUNTS FOR:	PRIOR YR3	PRIOR YR2	LAST YR	CURRENT YR	CY REV
001 General Fund	ACTUALS	ACTUALS	ACTUALS	ACTUALS	BUDGET
<hr/>					
0022 0390 Misc. Revenue	-60.00	-77.50	-450.00	.00	-100.00
0022 0431 Outside Details	-17,921.35	-19,726.54	-19,698.25	.00	.00
0022 0504 Rescue Billing	-133,428.59	-148,125.86	-168,340.43	-123,791.47	-160,000.00
0022 0505 Non Emergency Transports	-67,006.58	-52,680.42	-6,865.06	.00	-12,000.00
0022 0507 Paramedic Intercepts	-900.00	-600.00	-300.00	.00	-600.00
TOTAL Fire Related Revenues	-219,316.52	-221,210.32	-195,653.74	-123,791.47	-172,700.00
 0031 Public Services Revenues					
<hr/>					
0031 0390 Misc. Revenue	-390.00	-234.00	-488.00	-3,191.00	-500.00
0031 0391 Field Usage Fees	-10,847.56	-5,274.00	-7,416.20	-5,383.20	-10,000.00
0031 0431 Outside Details	-1,909.49	-1,043.80	-1,407.02	-1,234.03	.00
0031 0517 Bags/Universal Waste	-213,822.50	-237,681.00	-270,252.50	-209,020.00	-286,015.00
0031 0539 Brush Passes	-6,918.00	-8,811.00	-9,241.00	-7,814.00	-8,277.00
0031 0617 Twin Brooks Donations	-77.00	-23.00	-143.00	.00	-92.00
TOTAL Public Services Revenues	-233,964.55	-253,066.80	-288,947.72	-226,642.23	-304,884.00
 0035 VH Other Revenues					
<hr/>					
0035 0329 Payment in Lieu of Taxes	-2,000.00	-2,000.00	-3,000.00	.00	-8,000.00
0035 0378 Soda Sales	-1,986.87	-1,991.19	-2,196.80	-2,047.60	-2,500.00
0035 0560 Rental Income	-15,077.70	-20,919.91	-19,248.78	-10,276.25	-14,000.00
0035 0565 Cell Tower Land Lease	-12,600.00	-21,600.00	-19,800.00	-19,800.00	-24,000.00
TOTAL VH Other Revenues	-31,664.57	-46,511.10	-44,245.58	-32,123.85	-48,500.00
 0037 VH Golf Revenues					
<hr/>					
0037 0306 Over/Short	-12.21	-17.46	-4.62	241.09	.00
0037 0357 Golf Memberships	-216,979.85	-203,043.50	-213,421.45	-172,891.15	-230,000.00
0037 0358 Greens Fees	-107,121.95	-93,757.77	-106,463.63	-101,847.35	-120,000.00
0037 0359 Golf Cart Rentals	-65,212.24	-71,600.63	-78,743.49	-58,544.29	-88,000.00
0037 0416 Practice Range	-7,879.00	-6,036.75	-7,561.00	-4,911.75	-10,000.00
0037 0417 VH Program Revenues	-35,766.84	-50,267.00	-64,371.52	-56,606.70	-56,529.00
0037 0419 Advertising Sales	-6,050.00	-18,095.69	-9,340.00	-13,581.50	-23,392.00

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**TOWN OF CUMBERLAND
HISTORICAL ACTUALS COMPARISON REPORT**
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ACCOUNTS FOR:		PRIOR YR3	PRIOR YR2	LAST YR	CURRENT YR	CY REV
001	General Fund	ACTUALS	ACTUALS	ACTUALS	ACTUALS	BUDGET
0037	0522 Outing Golf	-72,602.08	-57,391.43	-36,680.00	-42,978.43	-45,000.00
0037	0617 Donations Received	.00	.00	-845.00	.00	.00
	TOTAL VH Golf Revenues	-511,624.17	-500,210.23	-517,430.71	-451,120.08	-572,921.00
0041 Recreation Related Revenues						
0041	0371 41000 Fall Recreation Revenue	-44,877.45	.00	.00	.00	.00
0041	0372 41000 Winter Recreation Revenue	-97,131.00	.00	.00	.00	.00
0041	0373 41000 Spring Recreation Revenue	-37,799.00	.00	.00	.00	.00
0041	0374 41000 Summer Recreation Revenue	-146,623.50	.00	.00	.00	.00
0041	0440 41100 After School Programs	-198,237.43	-250,035.82	-294,337.50	-295,449.59	-214,836.00
0041	0441 41110 Youth Enrichment Programs	.00	-113,819.63	-146,312.40	-162,100.20	-108,607.00
0041	0442 41120 Youth Sports Programs	.00	-89,314.00	-95,396.00	-105,433.75	-93,052.00
0041	0443 41130 Skiing Programs	.00	-47,545.00	-50,715.00	-53,362.00	-45,020.00
0041	0444 41140 Day Camps	.00	-145,254.05	-151,279.24	-141,765.75	-180,160.00
0041	0445 41150 Swimming Programs	.00	-23,097.00	-26,920.00	-24,270.29	-54,052.00
0041	0446 41160 Adult Enrichment Revenue	-37,463.60	-42,975.50	-41,228.95	-36,782.43	-39,515.00
0041	0447 41170 Adult Fitness Revenue	-55,604.75	-70,604.60	-60,889.28	-60,796.83	-37,743.00
0041	0448 41190 Special Events/Trips Reven	-329.00	-7,408.00	-5,025.00	-4,174.00	-2,243.00
0041	0449 41190 Recreation Programs	-7,996.00	-1,234.75	-3,050.00	-2,151.00	-6,971.00
0041	0570 41190 Rec Soccer Revenue	-9,410.00	-19,770.00	-25,193.00	-20,645.00	-20,245.00
0041	0571 41190 Rec Ultimate Frisbee Reven	-15,663.00	-13,135.00	-12,285.00	-13,224.00	-15,672.00
0041	0606 41190 CPR/First Aid Revenues	1,401.20	-960.00	-275.00	-455.00	.00
	TOTAL Recreation Related Reven	-649,733.53	-825,153.35	-912,906.37	-920,609.84	-818,116.00
0045 Library Related Revenues						
0045	0379 Library Interest Income	-293.70	.00	.00	.00	.00
0045	0392 Library Fines	-3,982.70	-3,184.66	-3,085.26	-2,765.15	-3,500.00
0045	0394 Misc. Library Revenue	-1,100.65	-1,521.16	-1,131.00	-1,049.60	-1,000.00
	TOTAL Library Related Revenues	-5,377.05	-4,705.82	-4,216.26	-3,814.75	-4,500.00
	TOTAL General Fund	-4,530,603.01	-4,939,531.17	-4,913,061.34	-4,626,075.73	-5,030,358.00
	TOTAL REVENUES	-4,530,603.01	-4,939,531.17	-4,913,061.34	-4,626,075.73	-5,030,358.00
	GRAND TOTAL	-4,530,603.01	-4,939,531.17	-4,913,061.34	-4,626,075.73	-5,030,358.00

EXPENSES

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TOWN OF CUMBERLAND HISTORICAL ACTUALS COMPARISON REPORT

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FOR PERIOD 11 OF 2019

ACCOUNTS FOR: 001 General Fund	PRIOR YR3 ACTUALS	PRIOR YR2 ACTUALS	LAST YR ACTUALS	CURRENT YR ACTUALS	CY REV BUDGET
<hr/>					
10 General Government					
<hr/>					
130 Administration	531,745.44	548,672.03	569,632.94	522,798.59	588,736.00
140 Assessor	101,193.65	79,931.61	85,856.19	91,286.78	96,036.00
150 Town Clerk	200,758.78	199,695.44	197,271.65	201,369.40	247,295.00
160 Technology	155,554.59	184,277.40	198,915.48	175,085.54	202,151.00
165 Elections	3,413.41	12,197.15	6,720.50	8,400.30	16,026.00
170 Planning	65,961.65	63,626.74	57,681.17	54,157.72	71,630.00
190 Legal	43,485.66	55,681.55	42,498.25	49,527.30	47,500.00
999 Finance/GAAP entries	-1,346.92	.00	.00	.00	.00
TOTAL General Government	1,100,766.26	1,144,081.92	1,158,576.18	1,102,625.63	1,269,374.00
20 Public Safety					
<hr/>					
210 Police	1,224,238.25	1,216,312.61	1,233,065.72	1,111,336.04	1,378,565.00
220 Fire	784,750.75	883,616.65	852,519.25	785,611.00	968,342.00
240 Code Enforcement	100,351.80	95,639.81	124,989.25	121,214.60	132,952.00
250 Harbor Master	.00	105.49	6,058.23	4,682.18	11,650.00
260 Animal Control	28,968.29	27,571.12	30,562.28	26,481.70	31,108.00
TOTAL Public Safety	2,138,309.09	2,223,245.68	2,247,194.73	2,049,325.52	2,522,617.00
30 Public Services					
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310 Public Works	924,366.18	1,108,102.02	1,127,203.57	997,267.77	1,166,478.00
320 Waste Disposal	420,940.77	410,167.47	420,887.85	397,901.29	512,350.00
430 Parks	206,617.76	193,725.24	260,537.64	256,434.12	292,754.00
440 West Cumberland Rec	3,602.67	5,376.02	5,967.68	5,192.61	7,202.00
470 Historical Society Building	2,622.28	3,799.87	5,429.91	6,695.40	4,958.00
TOTAL Public Services	1,558,149.66	1,721,170.62	1,820,026.65	1,663,491.19	1,983,742.00
37 Val Halla Golf Club					
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350 Valhalla-Club	34,614.44	33,204.16	32,408.91	30,378.19	26,485.00

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**TOWN OF CUMBERLAND
HISTORICAL ACTUALS COMPARISON REPORT**
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ACCOUNTS FOR:	PRIOR YR3	PRIOR YR2	LAST YR	CURRENT YR	CY REV
001 General Fund	ACTUALS	ACTUALS	ACTUALS	ACTUALS	BUDGET
360 Valhalla-Course	411,882.30	404,577.06	421,942.31	390,154.01	489,882.00
370 Valhalla-Pro Shop	191,314.56	203,673.48	202,769.06	211,542.44	243,415.00
TOTAL Val Halla Golf Club	637,811.30	641,454.70	657,120.28	632,074.64	759,782.00
40 Recreation					
410 Recreation	756,886.20	847,028.75	896,230.19	906,112.82	993,045.00
420 Aging in Place	.00	.00	.00	20,529.89	37,453.00
TOTAL Recreation	756,886.20	847,028.75	896,230.19	926,642.71	1,030,498.00
45 Library					
450 Library	372,320.61	388,616.32	409,639.62	413,381.41	494,236.00
TOTAL Library	372,320.61	388,616.32	409,639.62	413,381.41	494,236.00
90 Other					
580 General Assistance	23,781.06	35,173.98	28,285.42	33,012.28	35,000.00
590 Health Services	13,077.20	13,577.20	13,577.20	13,279.10	13,875.00
620 Cemetery Association	38,100.00	27,925.00	26,700.00	28,450.00	26,700.00
630 Conservation	6,046.68	4,733.73	4,716.29	6,212.20	5,000.00
800 Fire Hydrants	51,681.04	58,596.10	63,367.31	66,801.14	75,624.00
810 Street Lighting	36,534.69	36,471.56	40,173.98	27,512.55	45,000.00
830 Contingent	1,298.92	13,622.01	3,715.00	2,907.19	10,000.00
840 Municipal Building	71,420.71	77,817.11	88,792.43	82,258.10	90,847.00
850 Abatements	87,646.48	42,444.09	23,069.43	23,670.91	20,000.00
TOTAL Other	329,586.78	310,360.78	292,397.06	284,103.47	322,046.00
96 Fixed Expenses					
650 Debt Service	835,125.86	867,225.40	962,673.17	969,023.35	970,000.00
750 Insurance	217,436.52	209,485.58	210,846.61	281,421.59	286,554.00

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**TOWN OF CUMBERLAND
HISTORICAL ACTUALS COMPARISON REPORT**

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FOR PERIOD 11 OF 2019

ACCOUNTS FOR:	PRIOR YR3	PRIOR YR2	LAST YR	CURRENT YR	CY REV
001 General Fund	ACTUALS	ACTUALS	ACTUALS	ACTUALS	BUDGET
910 Capital Reserves	1,181,500.00	1,038,598.00	693,000.00	699,300.00	699,300.00
TOTAL Fixed Expenses	2,234,062.38	2,115,308.98	1,866,519.78	1,949,744.94	1,955,854.00
98 Assessments					
860 MSAD #51	14,260,630.01	14,722,101.24	15,774,098.34	15,575,225.70	18,690,270.84
890 County Tax	747,431.00	775,374.00	813,904.00	878,954.00	878,954.00
TOTAL Assessments	15,008,061.01	15,497,475.24	16,588,002.34	16,454,179.70	19,569,224.84
TOTAL General Fund	24,135,953.29	24,888,742.99	25,935,706.83	25,475,569.21	29,907,373.84
TOTAL EXPENSES	24,135,953.29	24,888,742.99	25,935,706.83	25,475,569.21	29,907,373.84
GRAND TOTAL	24,135,953.29	24,888,742.99	25,935,706.83	25,475,569.21	29,907,373.84