AGENDA
Cumberland Town Council Meeting
Town Council Chambers
MONDAY, June 4, 2018
6:00 P.M. Executive Session
7:00 P.M. Call to Order

6:00 P.M. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(C) re: real property

I. CALL TO ORDER

II. APPROVAL OF MINUTES
   May 14, 2018

III. MANAGER’S REPORT
   Swearing in of Police Officer, Ryan Pynchon
   Town Clerk presentation on Rank Choice Voting

IV. PUBLIC DISCUSSION

V. LEGISLATION AND POLICY

18 – 074 To hear a report from the Police Chief re: vaping.

18 – 075 To hold a Public Hearing to consider and act on amendments to Chapter 17 (Animal Control) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 076 To hold a Public Hearing to consider and act on amendments to Chapter 200 (Roads and Public Property), Article I (Roads and Town Owned Property), Section 2 (Animals at large) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 077 To hold a Public Hearing to consider and act on the removal of the stop sign at the intersection of Farwell Avenue and Prince Street, as recommended by the Police Chief, and pursuant to Section 282-6 (Stop and yield intersections) of the Cumberland Code.

18 – 078 To consider and act on accepting the gift of a 4-acre parcel to be included as part of the Rines Forest conservation easement and to issue a gift letter.

VI. NEW BUSINESS
   Next Town Council Meetings:
June 18th at 5:00 p.m. (Swearing in of newly elected Town Councilor’s only)
June 25th regular meeting at 7:00 p.m.

VII. ADJOURNMENT

VIII. BUDGET REPORTS
6:00 P.M. WORKSHOP with Village Green neighborhood re: salt shed, compost pad and timetable for relocation of Public Works Garage

7:00 P.M. Call to Order
Present: Councilors Bingham, Copp, Gruber, Stiles, Storey-King and Turner
Excused: Chairman Edes

I. APPROVAL OF MINUTES
Motion by Councilor Gruber, seconded by Councilor Stiles, to accept the April 23, 2018 meeting minutes as presented.
VOTE: 6-0 UNANIMOUS

Motion by Councilor Gruber, seconded by Councilor Stiles, to accept the May 8, 2018 special meeting minutes as presented.
VOTE: 6-0 UNANIMOUS

II. BUSINESS INTRODUCTION
Jeff Storey of Spring Brook Farm on Greely Road said that they have a farm store that sells beef, pork, chicken, vegetables, eggs, honey, syrup, firewood and compost. They are open from noon to 6 p.m. on weekdays and noon to 5 p.m. on weekends. They are working on growing the farm to be a much larger part of the community. He is grateful for all the community support that they receive.

III. MANAGER’S REPORT
Maine Municipal Association essay contest award presentations to Cassidy Dean and Lauren Dennen, of Greely Middle School.
Cassidy and Lauren read their winning essays and were presented with an award from Maine Municipal Association.

Food Pantry donation from Mark Stewart of the Cumberland Fire Association
Captain Mark Steward explained that every year, the association holds a Christmas tree sale and collects donations to the Food Pantry. This year they collected $855 that was presented to the Food Pantry.

IV. PUBLIC DISCUSSION
Melissa Gattine of Main Street said that for the past 2 weekends there has been a food truck parked and doing business out front of Louie’s restaurant. She spoke to the Town Manager because she was concerned that this was not a permitted use on Main Street. The Town Manager advised her that it was not a permitted use and he had a conversation with the owner of the restaurant, but then the food truck came back the next weekend. The Town Manager was again very responsive when she called him, but then they moved the food truck into Louie’s parking lot and began conducting business. There needs to be a clear understanding on the part of property owners and the food trucks themselves as to where they are allowed.
Town Manager Shane said that he encouraged the food truck owners to come into Town Hall to talk to staff to work together to get them “legal”.

Bill Kenney of Friar Lane encouraged the public to vote no on the school budget. He is not against the school, he realized that the school board works very hard. He feels that they are going about their budget from the wrong direction. We are spending $1,500 to $2,000 per student more than neighboring Towns. He would like the school board to take another look at their budget.

Liz Ventre of Dean’s Way said that she feels compelled to address some of the comments made by the Council at their April 9th meeting, and the fact that this Council does not seem to want to work with the school board, but rather against them. The Town Charter states “The administration of all fiscal, prudential and municipal affairs of the town, with the government thereof, except the general management, care, conduct, and control of the schools of the town, shall be vested by the Town Council”. The charter also states that a Councilor shall forfeit office if he or she violates any express prohibition of the charter. She believes that several members of the Town Council may have violated express prohibition of the charter. She finds it disturbing that the Council is using its role to give themselves as citizens of this town, a greater voice than the rest of the citizens. The Town Council was not elected to use their position to have a bully pulpit for their personal use against the school board, the school budget or any other topic not related to Town business. None of the Town Council chose to attend a school board meeting or workshop during this year’s budget process. Therefore, how can the Council say that the school board did not work hard to get their budget as low as they can and that it is not a responsible budget? They haven’t done the homework. The other thing that she finds troubling is the un-researched and therefore misleading comments that have been made by Town Councilors in respect to this. One is the per-pupil cost and comparisons. These comparisons are not apples to apples and it is impossible to accurately calculate them, given the privacy policies. She is requesting that the Town Council adhere to their charter and keep their personal views on anything to do with the schools to themselves, unless asked for specifically by the School Board, and raise questions and concerns at their meetings, just as the rest of the citizens have to do.

Bert Kendall of Glenview Road complimented the Council, the Manager and staff for the excellent job that they do for this Town. He respectfully disagreed with Ms. Ventre. We elect the Town Council to be responsible for anything that goes on in this Town. The school budget is 70 to 80 percent of our total tax bill. In regard to the proposed solar array, he feels that most people would not be bothered by seeing it on the closed landfill. When you move next to a gravel pit or a closed dump, you have to expect certain things.

Robert Storey of Range Way said that he is bothered by the comments that come from the Council in regard to the Cumberland Fairgrounds, the Farmer’s Club and the residents of Bruce Hill Road. He does not understand why those residents have to get slammed repeatedly for the Farmer’s Club voting not to relocate the Town garage to the fairgrounds. The truth is that the Farmer’s Club approved to improve that land for fair use. The comments are inappropriate and inaccurate.

V. LEGISLATION AND POLICY

18 – 063 To hold a Public Hearing to consider and act on forwarding Contract Zone Agreement amendment #5 for Heritage Village Development (formally Cumberland Foreside Village, LLC), to the Planning Board for a Public Hearing and recommendation.

Town Manager Shane explained that this is another step in a multi-step process. This step is for the Council to forward the Contract Zone Agreement amendment document to the Planning Board for their recommendation, then it will come back to the Town Council at the end of June.
Vice-Chairman Copp opened the Public Hearing.

Public discussion: Jen Grasso of 10 Clipper Street said that she represents the homeowners of Cumberland Foreside Village. The neighborhood does not want to prevent growth, but they need to protect their investments. They would like to see more of a conceptual design from the developer and what buildings will be constructed next to their neighborhood. They would like to see some sort of transitional space between them and lot 8. They are concerned about blasting and buffering. She proposed leaving lot 5 (a wooded lot) as is and moving development to lots 3 or 4 and limit the buildings to 2 or 3 stories. They are concerned about curb cuts, safety and traffic. She hopes that the Town will strike a balance between revenue for the Town and quality of life for the residents of her neighborhood.

Bridget King of 26 Clipper Street said she and her husband moved here because they love the feel of the Town and because the Town cares about preserving itself from big, ugly buildings. Main Street is a perfect example of this. They hope that this will be the same case for lot 8. She has a background in real estate and feels that a warehouse next to their neighborhood will impact the value of their homes, especially those lots abutting lot 8 of the commercial development. She requested that the Council require a berm to be built as soon as possible to buffer lot 8 and move the berm from the beginning of the buffer to the other side of the drainage area, and a minimum of 200 feet between the neighborhood and any construction on lot 8. The berm should be as high and wide as possible with a mixture of different sized evergreens and shrubs at varied heights, and no trees used that are susceptible to brown tail moths, as that is a problem in the area. Any soil brought in should be tested for optimal tree health. Ultimately, the neighborhood does not want to see a warehouse next to them.

T.J. Bell of 20 Nautical Drive said that when they look out their back windows right not, they see a nice woodsy setting that looks and feels like Maine. They always assumed that lot 8 would be developed, but naively never thought that the tiny space between the back edge of their property and Route One would ever be developed, given the limited amount of space there. No matter how large the buffer is built, they will still be looking down on parking lots, warehouses and cars moving along Route One. He hopes that the Council will take this into consideration.

Carrie Roberts of 17 Clipper Street said that she appreciates this process and being able to be heard. The berm is very important to them. There are also concerns about blasting.

Elaine Clark said that at the joint Town Council and Planning Board meeting they had talked about a transitional area between the residential area and the commercial area. The current plan does not show this and they would like to reiterate their support for the transitional area.

Tom Foley of 29 Granite Ridge Road said that the recession made it difficult for the developer to sell the lots and it was also difficult for the Town to decide what type of business would be proper for the area. Things are picking up on Route One now and the Route One corridor is strategic to the residents there as well. We looked at the Seafax building as the gold standard as to what we should be developing on Route One. An attractive building that created jobs and was an asset to the community. We should step back and see if lot 8 can be developed into an attractive, commercial property that will create jobs with high-end businesses that will increase the tax base. All of the commercial properties on Route One have a combined tax base of approximately 15 million dollars. Neighboring towns are becoming overgrown and future development will be moving north of Portland. We are on the prime corridor that can be developed with far better used than commercial warehouses.

Vice-Chairman Copp closed the Public Hearing.
Councilor Bingham said that he appreciates the constructive input from the neighborhoods. There were a lot of valid points and the Council is sympathetic and will do everything possible in regard to buffering, limiting building height, the open area and a lot more of the detail that was discussed this evening. The Town Council will work very hard with the Planning Board and Town staff to come up with fair solutions.

Councilor Gruber said that he is tired of making amendments to this Contract Zone Agreement and he will not support it.

Motion by Councilor Bingham, seconded by Councilor Storey-King, to forward Contract Zone Agreement amendment #5 for Heritage Village Development (formally Cumberland Foreside Village, LLC), to the Planning Board for a Public Hearing and recommendation.
VOTE: 5-1 (Gruber opposed) MOTION PASSES

18 – 064  To hold a Public Hearing to consider and act on acceptance of a Solar Power Purchase Agreement for a solar array to be located on the former landfill site on Drowne Road.

Town Manager Shane explained that the Town has been working on this project for a couple of years. The proposal is for an array of solar panels on the Town Forest side of the former landfill site. It will generate enough power to take care of 9 of the Town electric accounts. We have been working very closely with Eric Fitz and the Cumberland Climate Action Team on this phenomenal project.

Vice-Chairman Copp opened the Public Hearing.

Public discussion: Pete Wilson of 18 Oak Ridge Road asked if we know how long solar panels last. Town Manager Shane responded that life expectancy of the panels is around 40 years and the inverters will need to be changed out around year 15.

Jessie Lamar Vincent of 93 Range Road said he has been a resident for 7 months and during that time he has installed solar panels at his home. All of the power at his house is now solar generated. Cumberland is a forward thinking Town and this is a step forward in righting the wrong that we are doing to our planet.

Catherine Pelletreau of 55 Drowne Road said that she is tremendously supportive of everything about this proposal except for the location. In other Maine communities that have used landfills as sites for their solar arrays, they are not right in the middle of a residential neighborhood. It is disruptive for their neighborhood, but she appreciates the effort to move it to the back of the site. She can think of a few other sites around Town where the solar panels could work. She asked the Council to work cooperatively with the residents of the Village Green neighborhood and make an effort to consider other sites.

Charles Graham of 4 Tacoma Lane said that the closed landfill is in the RR1 zone and the Town’s Comprehensive Plan provides that the landfill site is to be employed as open space conservation. Open space, in our zoning ordinance is described as “a portion of a lot or site which is maintained in its natural state or planted with grass, shrubs, trees or other vegetation, which is not occupied by buildings. Unless otherwise specified, it is the intent of the zoning ordinance that any uses not specifically allowed as a permitted use or special exception use, is prohibited”. He did not find any uses listed in the RR1 zone that pertain to solar facilities. Municipal use is allowed and is described as “any use or building maintained by the Town”. If he understands this project, the first 6 years will not be maintained by the Town, but by the private entity that is going to build it. Won’t a variance be required by the Zoning Board of Appeals before it goes to the Planning Board?
Town Manager Shane said that municipal uses are allowed in every zone and the Town Attorney has reviewed the power purchase agreement. The property will be subject to a license and easement from the Town and will be reverted back to the Town after 7 years. The Town Attorney believes it is consistent with the zoning ordinance.

Mr. Graham asked the Town Manager if the 32 acres next to the railroad tracks has been explored as a possible site for the solar array.

Town Manager Shane responded no.

Cathy O’Grady of 53 Drowne Road said that she also supports solar energy, but is also concerned about the location and disruption. She has not heard anybody mention how this would affect Drowne Road during the construction in regard to the flow of traffic.

Town Manager Shane said that these projects are put together by a fairly small crew, onsite. They erect them directly onsite and there should be no disruption to traffic.

Eric Fitz of 7 Blanchard Road said that this is not a large, commercial-type project. The panels will be delivered in batches, the crew is small, and most of the materials can be carried by hand. The reason that the landfill site was chosen and no other sites were considered, is due to the value of other parcels. It makes more sense to leave the valuable land open for other possibilities. The landfill cannot be used for any other purpose other than projects such as a solar array.

Ken Leeman of Tacoma Lane said that there are a number of residents from the Village Green community who have concerns about the way this project has been processed, but also the impact on the neighbors whose daily existence will be looking down on a solar array. It will also affect the value of their property and the amount of taxes that they pay should also be considered. The neighborhood has had a number of impacts put on them. There needs to be extraordinary thought given to site lines. There is a huge difference between a solar array and a grassy field. Perhaps a meaningful and substantial berm can make a difference.

Jane Wilson of Range Road said that the Cumberland Climate Action Team believes that approximately 80% of the Towns electricity could be generated by this project. It will likely save taxpayers 2 million dollars over 30 years. These are both amazing numbers and she has concerns that as a community if we cannot agree that this should go on a landfill, which is unusable and has no other purpose, that would be a real loss for us.

David Witherill of 5 Candlewick Lane voiced his support for the project.

Charles Graham of Tacoma Lane said that the senior housing project will be right next door to the solar array and we should think about them having to look down at it. The Town has not made a thorough exploration of other possible sites.

Tim Fallon of Harris Road said that this project is a great way to make our Town even better. He put solar panels on his roof and it was an easy financial decision that is good for the environment. He appreciates that everyone may not want to see them, but he encouraged everyone to think from the prospective that looking at solar panels is seeing a better future for our children and grandchildren.

John Law of 7 Baxter Lane that he enjoys driving down Tuttle Road and seeing the fields and nice homes. When he enters from Tuttle Road to Drowne Road, he enters an industrial park. When he and his wife bought their home in Village Green, they were told that the Town garage would be removed with Phase 2 of the development. This has not happened and this feels like salt in the wound to this neighborhood. He is ok with the solar panels on the landfill, but he does not like the sequence. Please listen to the folks of Village Green. We need your support.
Bill Follett of 371 Main Street said that he is in the solar industry and the electricity rates in New England are going to increase as the electrical system changes. This is a hedge for the Town against future increases. He understands the concerns regarding impacts to neighboring properties, but he thinks this project can be easily screened. The solar array isn’t the real issue. The real issue is that something was promised (moving the Town garage) that hasn’t happened yet.

Pete Wilson of Oak Ridge Road said that he supports this project but asked why are we doing a 6-year plan with an investor instead of just doing it outright, by ourselves?

Town Manager Shane said that Denny Gallaudet of the Cumberland Climate Action Team studied this and it was almost a coin flip between the 40% reduction that we would get in year 7 and the saving of interest and cash flow, not bonding this project for 1.4 million dollars and in 6 years accumulate enough money to purchase it through a new TIF district, made more sense.

Lowell Smith of 76 Wyman Way said that his concern is the possible expansion of the project.

Town Manager Shane said phase 2 would take considerable changes in State law. There have been two legislative votes to date to not expand the solar bill. The number of accounts that we have today would have to be increased as well as the volume of electricity that could be produced.

Steve Fitzgerald of Blackberry Lane said that he has seen ReVision Energy’s work and they do a clean, professional job and deserve their good reputation.

Vice-Chairman Copp closed the Public Hearing.

Councilor Bingham apologized to the Village Green neighborhood for them not being allowed to speak at the last Council meeting in regard to this project. That was a mistake that the Council was not aware of and it should not have happened. This item will be required to go before the Planning Board for site-plan review and buffering will be considered and discussed.

Councilor Stiles said that he is in favor of this project. The Council has listened to all of the information and they try base their decisions on what is in the best interest of the entire Town. Some people may come forward who do not want the Town garage moved. We’ve seen this happen. He feels that the positioning of the solar panels will not really destroy the view of the neighborhood.

Councilor Storey-King said that she is tremendously sympathetic to what goes on in people’s neighborhood. This project won’t give off any light or noise. None of those things that can be so annoying to neighbors.

Councilor Copp said that the issues seems to be value. He looks at this as lead by example. Maybe if this project is successful, the 32 acres next to Town Hall will have more value as a solar farm than it would a Public Works facility. We just don’t know yet. He thanked Eric Fitz for bringing this project forward.

Motion by Councilor Bingham, seconded by Councilor Gruber, to authorize the Town Manager to execute a Solar Power Purchase Agreement as authorized by the Finance Committee in consultation with the Cumberland Climate Action Team. The solar array shall be located near the Town Forest as depicted on the attached photo.

VOTE: 6-0 UNANIMOUS
To adopt a Town Council Resolution re: 2019 M.S.A.D. 51 proposed budget.

Councilor Turner read the resolution (see motion for resolution language).

Vice-Chairman Copp asked for public comment:

Gwen Dyer of 12 Woodside Drive said that she moved here for the community and the school district. There is a reason that our schools continually rank at the top in the State, and perhaps the county. There has been a lot of talk about value this evening. We should take that same approach with our children’s education and not diminish it. These are our future community members, business owners, Town Councilors, and leaders. This comes at a price and our children’s education is worth it.

Betts Gorksy has lived in Cumberland for close to 35 years. She hasn’t had children in our school system for a long time, but as a community member and property owner, she benefits from living in a Town with a very high quality school system that’s stewarded by a very engaged and thoughtful school board, that weighs the needs of students and the impact on taxes. She is profoundly disappointed that the Town Council has chosen to use its bully pulpit to comment on the school budget. She was surprised to hear that a few of the Council members said that it was time for a dialogue on the school budget, yet there have been numerous public meetings that the Council could have weighed in on, and didn’t. She feels that the Council has simply lost touch with the critical segment of the Town’s community. If the Council were more connected with the school community, she does not think that they would have chosen the comfort of their own forum to have this conversation. The right thing to do is to exercise your rights at the district-wide school meeting this week and at the ballot box in June. The Council should exercise their civic leadership and duty to the Town to serve in their stead and find those younger residents who could be more representative on the Council. She respectfully asked the Council to table the resolution or vote it down.

Councilor Turner responded that the quality of education that our kids get in this Town is more than adequate. The bottom line is, when his father taught at Greely it was also more than adequate. Over the years it has evolved and
we have more and more burdens on the school in terms of special education and other costs. One of the things that prompted this potential resolution was the refusal of the school board to look at per pupil costs based on expenses.

Pete Wilson of Oak Ridge Road said that he feels that it is appropriate for the Town Council to address the school budget. It is appropriate for any group to address it in any forum that they want to. We’re talking about spending 37 million dollars and education the kids. It effects everybody and nobody should be reticent to talk about it in any forum. 3 years ago, our Superintendent gave a presentation in which he made the statement “despite a half million dollar decline in revenues, we were able to keep the growth of expenditures to a percentage” (Mr. Wilson didn’t recall the exact percentage). He interrupted the Superintendent’s presentation and said that declining revenues do not make expenditures go up. In the latest letter to the community, the same statement was included. There is no objective measure that is being offered to compare Greely to other schools.

Greg Wiessner of Labrador Lane said that we have an incredibly well run Town. He is trying to understand what engagement happened between the Town Council and school board prior to putting the resolution in place. He asked the Council to explain. Councilor Storey-King said that she has regular engagement with members of the school board related to the budget. Councilor Bingham said that he has had several engagements. Councilors Copp and Turner said that they have had none. Councilor Gruber said he has had very little engagement. Councilor Stiles said that there was one joint meeting with the Council and school board that was supposed to turn into many joint meetings, which never happened.

Mr. Wiessner said that in an attempt to understand this, the school board is responsible for the school budget and the Town Council is responsible for the Town budget. It is not clear to him what the authority of the Town Council is in regard to the school budget. Town Manger Shane said that the Town Council has no authority over the school board under the Town Charter. The resolution is exercising a request, not an order or directive, but a request to reconsider the current budget.

Jim Baillinson of Fryer Lane said that this resolution assumes that the district and school board have not already done their best at putting this year’s budget together. He is worried that the resolution will blur the lines of responsibility between the Council and school board and it sets a dangerous precedent for the Council to take a position on the school budget. It also takes a step toward political trends in this country that we don’t want to emulate in the Town of Cumberland. The timing of the resolution is wrong. It asks that the school board reviews its budget when it is already out for public approval. It invites a destructive process of cutting spending on the fly without the opportunity of analysis and consideration. He respectfully urged the Council to decline to pass the resolution this evening.

Liz Ventry of Dean’s Way questioned what the point is of stating that 75% of the homes don’t have children in the schools. It implies that those residents don’t care about the school budget. The point of being part of a community and to pay for things like police and fire service, municipal golf courses, open space and schools is that we all contribute until the day that we need that service. She feels that it is disingenuous to ask the school board to go back and look at their budget if the Town Council goes back to re-look at the Town budget.

Bill Follett of Main Street said that it is not fair to attack the Town Council, who volunteer their time and who have run un-opposed for many years, because others have not volunteered to step-up. Let’s work together instead of fighting.

Margaret Fenderson has lived in this Town since 1971 and wants to compliment the Town Council for making this statement for the people who have been the silent majority in this Town for a long time. We should have a good
school system, but there are 75% of the people who help pay for the school system. There are a lot more people than we think who have a hard time paying their taxes. The cost of everything is going up. In many ways education has become a sacred cow and it is almost to the point where we can’t sustain it.

Carla O’Sullivan of Bayberry Lane said that what concerns her the most with this resolution is the divisive nature that it has caused. She encourages everybody to speak up if they disagree with the school budget. Everybody should be part of the community in a positive way and that is not what she is hearing. She requests that the resolution not be passed and that the Council speak as members of the community as opposed to a Town Council member.

Rick Doane of 4 Catapula Lane said that he supports the resolution and he thinks that it is appropriate. He finds it disturbing that there is a significant portion of the public that are trying to stand on positional responsibly as a reason that the Council should not do this. He feels that the Council is elected by the citizens of the Town of Cumberland to do what they can to make this a good place to live. He feels that the school board has lost its way when it comes to considering the community as a whole and feels that they have become co-opted by the various interests that they represent in a way that renders them incapable of making tough choices, and actually saying that this is the balance that we need to strike in order to achieve fiscal responsibility. The community should inform itself. He is disappointed at the lack of descent, understandable financial information that is available on the website and through the documents that the Superintendent presents. He is not sure that this school board has the capacity or the willingness to be anything other than what it is, and that is failing the community. He is hopeful that we are not talking about this same topic next year.

Tom Hindman of Ocean Terrace said that we need to keep in mind that the school board budget gets voted on twice in a public forum. In the end, residents get two bites at the apple on supporting the budget. To date, the support has been from the public. He thinks this is important to remember. He is not comfortable with the resolution and does not think that the Council should be taking a position. He does not feel that is appropriate.

Karen Campbell of 58 Stonewall Drive and member of the School Board said that she is very proud of this Town, the citizens, volunteers, students, and the work that the Town Council does. Our Aging in Place initiatives are a model for the State. She is proud of the tax abatement and other programs that we provide for our senior residents. A lot of these programs for our seniors would not happen without help from our students. She is proud of the connection between the schools and the community. She is struggling with some of the same points that were made this evening. The school budget was rolled out on March 23rd. They held meetings after that and only one of those meetings was on the same night at a Council meeting. She welcomes conversations with community members. She encouraged everyone to come to the school board meeting on Thursday evening and share their thoughts and please vote on June 12th.

Marla Chance of Dean’s Way said that she is proud of the Town Council for standing up and listening to the 75%, the silent majority of this Town, who do support the school district, but also support long time members of the community who would like to see taxpayer dollars spent on other things, or saved for a rainy day.

Vice-Chairman Copp closed the Public Hearing.

Councilor Bingham said that his Council term is up next year and he encouraged anybody who wants to sit on the Town Council to run. And conversely, we need to get some people who do not have children in the school system to run for school board. He and Connie have lived in Cumberland for nearly 48 years. They bought their house in September of 1970 with money that he saved while serving in Vietnam. They have 3 adult children that went through the SAD 51 system, and they have a granddaughter currently in middle school. He has served 2, 6-year terms on the school board in the 1980’s, and from 2002 to 2008. 4 of those years were as vice-chair and 2 as
Chairman, and he was on the finance committee for all 12 years and chairman for several. As far as he is aware, he got along with fellow board members, staff and teachers. But, that didn’t mean that they didn’t have differences from time to time. He was on the initial committee for the performing arts center and he and Connie were supporters. Since 2002, when he returned to the board and until recently, he has kept up a nearly 16 year dialogue with Scott Poulin, our district finance director. They would exchange thoughts about the Town, the school district, town politics and tried to keep open lines of communication. He considers Scott to be an outstanding financial professional. He also tries to chat on an informal manner with board leadership. He has especially enjoyed his conversations with Martha Legget-Barr, Karen Campbell and Gigi Sanchez. We don’t always agree, but we treat each other with respect and he thinks they consider each other friends. He tries to attend Greely High School and Middle School events, and he chaired the Lions Club meeting last week that awarded $15,000 worth of scholarships to Greely grads. He has 2 macro issues with the budget. His first issue is with the budget in general. Over sustained time, the community cannot support continued 80 to 90 cent increases in the mil rate. Unlike Falmouth and Yarmouth, we don’t have a significant commercial tax base. Part of it is geography and the other part is the unwillingness of the public to turn Route One, Main Street and Route 9 into a strip mall. We have and will continue to try to grow our commercial tax base, but it is never going to approach the level of our neighbors, so the residential taxpayer will continue to carry a substantial portion of the tax burden. Second, when the original Superintendent’s budget was presented, it included a $400,000 placeholder for insurance. When these failed to materialize, positions were added on. Speaking for himself only, he was ready to support the original budget, less those $400,000 savings. He heard a comment the other day that the opposition to the budget was from the “usual people”. The usual people are more than the few that have the courage to stand up at a public meeting. They are probably here tonight, they are probably watching and living their daily lives. These usual people renovated Greely 3 times, Wilson twice, built a new middle school, bought Twin Brook, Knight’s Pond, Rines Forest and the beach. They authorized the Comprehensive Plan, made Cumberland the desirable community we live in, and they were the people who planned and approved the developments that many of you live in today. So please attend the district meeting and vote, no matter what your views are, and let’s try as best as possible to be respectful of one another.

Councilor Storey-King said she is a Greely graduate who has given 34 years of her life to teaching at Greely schools. She has had conversations with Gigi Sanchez and has found Gigi very willing and open to having those conversations. She truly believes that Gigi is trying to change the tone of the board, who has in the past told her that she is never not a Town Councilor or a school teacher. She feels that in the past, she has been bullied by the school board and told not to ask questions. She has been trying to make her decision tonight based on facts. She has looked at the school operating budgets, not assuming anything else, just what we’re paying to educate our children. It’s higher than the districts that we compare ourselves to. We live in a community where she wants to work together to solve problems. She doesn’t want to retire and go somewhere else. Our retired people are living on fixed incomes. Last year social security had a small raise that was totally eaten up by Medicaid. We have 65 families that visit our food pantry on a regular basis. We have 160 senior citizens who collect our property tax rebate. These are real numbers. Our children are our future and they are precious, but she feels that we can do this a little bit better.

Councilor Stiles said that after many years of going to the school board and looking at their budget and not getting any personal satisfaction, he gave up. His brother lives in a different state where those over 65 do not pay school taxes. His own taxes keep going up and up. Since his home paid for he can afford it, but his children are considering leaving town because they can’t afford the taxes here anymore. The continuous increases in the school budget doesn’t seem to take into consideration the affect it has on our senior citizen.

Councilor Gruber said that he thinks that 90% of the community has no idea what goes on in this Town. They like the community and they love the school system. He thinks that this resolution might make them get more involved.
Councilor Turner said that his children went through the Greely school system and they are articulate, fantastic people largely in part of their Greely education. The frustrating thing is the large percentage of people in this Town who are very happy with the Town in general, but do not have a clue what is going on. They pay their taxes and live their lives, giving no thought about Town or school government, until they get their tax bill.

Vice-Chairman Copp said that he is very passionate about this Town. His business has been on the same corner of West Cumberland for 56 years. As a tax payer, his biggest concern is that the school budget is a runaway freight train, and it will only get worse. People like him will end up leaving Town. He cannot sustain the taxes in this Town. His business has gone from 14 employees down to 9, and it will only get smaller and smaller. The purpose of the resolution is to ask the School Board to take another look at their budget and this offends them.

Motion by Councilor Bingham, seconded by Councilor Stiles, to adopt the following Town Council Resolution re: 2019 M.S.A.D. 51 proposed budget:

Whereas, the Town Council recognizes that it is responsible for setting the Municipal Budget and that the MSAD 51 Board of Directors sets the school budget; AND

Whereas, the Town Council supports and values the quality of education MSAD 51 provides for the students of Cumberland and North Yarmouth; AND

Whereas, the Town Council recognizes that the quality of the schools attract many young families to the Town for the opportunity to raise their children in the school system; AND

Whereas, the Town Council is also sensitive to the fact that many residents of the Town have limited or fixed incomes that make them vulnerable to tax increases; AND

Whereas, the Town Council values the work of the MSAD 51 Board of Directors and seeks to continue to work collaboratively with the Board; AND

Whereas, recent MSAD 51 assessment increases have placed a significant burden on many members of the community; AND

Whereas, the average age of residents of the Town of Cumberland is nearly 51 and nearly 75% of all Cumberland households do not have children who attend schools in the District; AND

Whereas, the Town Council understands and is sensitive to the impacts of the loss of State Funding for Education as the Town has lost over a half a million dollars in Revenue Sharing from the State over the past five years;

Now, therefore, be it resolved;

For the reasons set forth above, the Town Council hereby respectfully requests that the MSAD 51 Board of Directors conduct an additional review of the MSAD 51 FY 2019 Budget Proposal to determine if there are any services or programs that could be delayed or reduced in some manner in order to lessen the impacts of the proposed school assessment to the Town of Cumberland for the upcoming fiscal year.

VOTE: 6-0 UNANIMOUS

18 – 066 To consider and act on a Wharfing Out Permit for 7 Ebb Tide Drive (Map U06B/Lot 11), as recommended by the Coastal Waters Commission.

Dave Witherall, Chairman of the Coastal Waters Commission explained that the commission held a site walk and made a recommendation to raise the wharf so the Colonial Rights can be preserved and not interfere with fishing and fowling.

Vice-Chairman Copp asked if there was any public comment.

Public discussion: none
Motion by Councilor Gruber, seconded by Councilor Stiles, to approve the Wharfing Out Permit for 7 Ebb Tide Drive (Map U06B/Lot 11), as recommended by the Coastal Waters Commission.

VOTE: 6-0 UNANIMOUS

18 – 067 To authorize the Town Manager to execute a gift letter to A.H. Grover for work donated at the new Central Fire Station.

Town Manager Shane said that A.H. Grover did a phenomenal job with the earth work at the new fire station. They went above and beyond the scope of work and donated even more of their labor and equipment than the $7,600 of donated work outlines.

Public comment: none

Motion by Councilor Storey-King, seconded by Councilor Gruber, to authorize the Town Manager to execute a gift letter to A.H. Grover for work donated at the new Central Fire Station.

VOTE: 6-0 UNANIMOUS

18 – 068 To hold a Public Hearing to consider and act on amendments to Chapter 229 (Site Plan Review) of the Cumberland Code, as recommended by the Planning Board.

Town Manager Shane explained that the Site Plan Ordinance is being amended so projects that contain over one thousand cubic yards of fill will be reviewed by the Planning Board. The Ordinance Committee has reviewed this and held a workshop with the Planning Board.

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

Motion by Councilor Stiles, seconded by Councilor Gruber, to amend Chapter 229 (Site Plan Review) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

18 – 069 To hold a Public Hearing to consider and act on amendments to Chapter 226 (Shoreland Zoning) of the Cumberland Code, as recommended by the Planning Board.

Town Manager Shane explained that this simply gives the authority of bridges in the Shoreland Zoning Ordinance to the Code Enforcement Officer instead of the Coastal Waters Commission.

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

Motion by Councilor Stiles, seconded by Councilor Gruber, to amend Chapter 226 (Shoreland Zoning) of the Cumberland Code, as recommended by the Planning Board.

VOTE: 6-0 UNANIMOUS

18 – 070 To appoint a members to vacant Board/Committee seats.

Public comment: none
Motion by Councilor Bingham, seconded by Councilor Turner, to appoint Jerry Benezra to the Prince Memorial Library Advisory Board and Christina Mitchell to the Parks and Recreation Commission.
VOTE:  6-0         UNANIMOUS

18 – 071 To hold a Public Hearing to consider and act on a Mass Gathering Permit for Maine’s Ultimate Yard Sale to be held on Saturday, June 9, 2018 from 9:00 a.m. to 2:00 p.m. at the Cumberland Fairgrounds.
Vice-Chairman Copp opened the Public Hearing.
Public discussion: none
Vice-Chairman Copp closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Stiles, to approve the Mass Gathering Permit for Maine’s Ultimate Yard Sale to be held on Saturday, June 9, 2018 from 9:00 a.m. to 2:00 p.m. at the Cumberland Fairgrounds.
VOTE: 6-0        UNANIMOUS

18 – 072 To consider and act on cancelling the May 28th (Memorial Day) Town Council meeting.
Public comment: none

Motion by Councilor Stiles, seconded by Councilor Turner, to cancel the May 28th (Memorial Day) Town Council meeting.
VOTE: 6-0        UNANIMOUS

18 – 073 To consider and act on moving the June 11th Town Council meeting to June 4th, swearing in newly elected Town Councilors on June 18th and keeping June 25th as a regular Town Council meeting date.
Public comment: none

Motion by Councilor Bingham, seconded by Councilor Gruber, to switch the June 11th Town Council meeting to June 4th, swear in newly elected Town Councilors on June 18th and keep June 25th as a regular Town Council meeting date.
VOTE: 6-0        UNANIMOUS

VI. NEW BUSINESS
Councilor Bingham – The Deputy Fire Chief of North Yarmouth, Dick Brobst passed away recently. We extend our sympathies to his family and the residents of North Yarmouth.

Councilor Gruber – Councilor Bingham will be making the Memorial Day speech this year. Thank you Peter.

The food pantry received a $20,000 grant for a walk in refrigerator/freezer.

Mornings with Friend’s will have a presentation on Wednesday at 10:00 a.m. at the Congregational Church.
Councilor Storey-King – She attended the Fire Department dedication. What an amazing building the new fire station is.

Councilor Copp – He too attended the Fire Department dedication ceremony. He is very impressed with the building.

Councilor Stiles – He attended the open house at the new Central Fire Station. It was a great event.

Councilor Turner – none

VII. ADJOURNMENT
Motion by Councilor Gruber, seconded by Councilor Turner, to adjourn.
VOTE: 6-0 UNANIMOUS
TIME: 11:00 p.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary
ITEM 18-074

To hear a report from the Police Chief re: vaping
Vaping

The New KOOL
Vaping Basics
vaping
atomizer
juice
mod
e-liquid
e-hookahs

vape pen
electronic nicotine delivery system

Terms

JUULING
Some E-Cigarettes Look Like Regular Cigarettes

But they have different components that include:

• A rechargeable lithium battery, that can be charged with a USB connector.

• A cartridge containing nicotine, flavoring and chemicals like glycerin or polyethylene glycol. (Since they are not regulated, they may not list all their ingredients).

• An atomizer, which consists of a heating coil.

• An LED light to simulate a burning cigarette.

• A sensor that registers when you take a drag and activates the atomizer and LED light.

Sometimes referred to as first generation products, as the first e-cigarettes on the market look a lot like this.
Vape Pens

These e-nicotine devices look more high-tech. They operate in much the same way as first generation e-cigs, but have a refillable chamber for e-liquid and are a bit larger in size.

Sometimes referred to as second generation products, because they were the second wave of e-devices. These can be purchased online and in specialty smoke-shops which also carry a wide variety of e-liquids in assorted flavors.
This is a high voltage personal vaporizer. It has a large atomizer, and can produce larger amounts of vapor than vape pens picture on the previous slide.

You can also purchase room vaporizers.

These are third generation products which are also available online and in specialty shops.
Other Vaping Devices
PAX by PLOOM

Loose-Leaf Vaporizer
The Vapor

E-cigarettes produce large clouds of vapor, which have the subtle smell of whatever flavor e-liquid is in it.

Since e-cigarettes are not regulated, it’s difficult to know exactly what’s in the vapor every time. However we know it’s more than just water vapor.

Some vapor has been proven to have harmful chemicals such as: toluene, acetaldehyde, benzene, cadmium, formaldehyde, isoprene, nickel, lead, and nicotine.
“blu™ electronic cigarettes...

freedom to have a cigarette without the guilt.”

— Jenny McCarthy

Click Here To Watch The Video
WARNING: Smokeless tobacco is addictive.
Youth Health Concerns

- Brain risks
- Addiction
- Behavior Risks
- Harm to Lungs
Regulations on E-Cigarettes

• Until recently, e-cigarettes have not been regulated at the federal level and there have not been requirements for ingredient testing or disclosure.

• Some e-cigarette labels do not disclose that they contain nicotine.
Maine Laws

• Under Maine law, e-cigarettes are considered tobacco products and cannot be sold to anyone under 18 (This will be changing to age 21 in July 2018).

• In 2015, Maine passed a law prohibiting the use of e-cigarettes in the same public places where smoking is prohibited.
**MSAD 51 District Policies**

- Smoking of any products (including e-cigarettes) is prohibited on school grounds, in school vehicles, and when school is not in session at all times by all persons.

- Students are prohibited from possessing, selling, distributing, or dispensing tobacco products on school property or in school vehicles at all times (this includes any school events).

- Employees are prohibited from selling, distributing, or dispensing tobacco products.

- Employees may not use tobacco products or electronic smoking devices at any time while supervising students, whether on or off school property.
References


Casco Bay CAN
CREATE AWARENESS NOW
TOGETHER, PREVENTING YOUTH SUBSTANCE ABUSE
Serving Cumberland, Falmouth, Freeport, Gray,
New Gloucester, North Yarmouth, Pownal & Yarmouth
www.cascobaycan.org

Beth Blakeman-Pohl
beth@cascobaycan.org
207-688-8816

Krista Walker
kwalker@portlandmaine.gov
207-541-6956
ITEM
18-075

To hold a Public Hearing to consider and act on amendments to Chapter 17 (Animal Control) of the Cumberland Code, as recommended by the Ordinance Committee
Chapter 17
Animal Control

[HISTORY: Adopted by the Town Council of the Town of Cumberland 10-26-2009. Amendments noted where applicable.]

§ 17-1 Purpose and authority.
A. The purpose of this chapter is to require that all animals in the Town of Cumberland be kept under control of their owner/keeper at all times so they will not injure persons or other animals, damage property, or create a public health threat or nuisance. Under control, as defined below, means that the animal’s proper and safe activity is directed by the owner/keeper. Control is achieved by proper use of a leash or voice control.

B. This chapter is enacted pursuant to the authority in 30-A M.R.S.A. §§ 2101 and 3001, and the purpose of this chapter is to provide regulations in addition to those contained in Title 7 of the Maine Revised Statutes Annotated with respect to controlling companion animals throughout the Town of Cumberland in the interest of the health, safety and general welfare of its residents.

§ 17-2 Definitions.
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANIMAL
Every living, sentient creature not a human being.

AT LARGE/STRAY
Off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the companion animal. "Premises" includes residences, including land and buildings, and motor vehicles belonging to the owner or keeper of the companion animal.

COMPANION ANIMAL
A cat or a dog.

CONTROL
The power or ability to direct the proper and safe activity of an animal.

DANGEROUS DOG
A dog that bites an individual not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily harm by assaulting or threatening to assault that individual or that individual's domestic animal. "Dangerous dog" does not include a dog certified by the state and used for law enforcement use.

DANGEROUS DOG
“Dangerous dog” means a dog or wolf hybrid that bites an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner’s or keeper’s premises at the time of the bite or a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid’s owner’s or keeper’s premises and is acting in a reasonable and
nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal. “Dangerous dog” does not include a dog certified by the State and used for law enforcement use. “Dangerous dog” does not include a dog or wolf hybrid that bites or threatens to assault an individual who is on the dog or wolf hybrid owner’s or keeper’s premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

For the purposes of this definition, “dog or wolf hybrid owner’s or keeper’s premises” means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

**DOG**

Any of large and varied groups of domesticated animals in the canine family.

**DOG**

“Dog” means a member of the genus and species known as canis familiaris and/or a member of the genus and species known as canis familiaris or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid.

**KEEPER**

A person in possession or control of an animal.

**KEEPER**

“Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than dog or livestock, if the person feeds that animal for at least 10 consecutive days. If a companion animal is in violation of the restrictions of this chapter, the owner of the companion animal and the keeper are jointly and severally liable for the violation.

**LEASH**

A handheld device which can be used to restrain a companion animal if the companion animal fails to respond to voice commands. In cases where a leash is required by law or ordinance or by order of a law enforcement officer, the owner or responsible party will be required to use a leash of 15 feet or less.

**LICENSED DOG**

A dog whose owner or keeper has presented to Town officials evidence that the dog has been vaccinated against rabies and has paid the annual registration fee for the dog, in compliance with state regulation title 7, chapter 721, §3921.

**NUISANCE COMPANION ANIMAL**

A companion animal which, by loud, frequent and continual barking, howling, or other loud or unusual noises, unnecessarily annoys or disturbs any person at any time.

**OWNER**

Any person, firm, association or corporation owning, keeping or harboring an animal.

**OWNER**

“Owner” means a person owning, keeping or harboring a dog or other animal.
RESPONSIBLE PARTY
Any person who has possession or custody of a companion animal. If a companion animal is in violation of the restrictions of this chapter, the owner of the companion animal and the responsible party are jointly and severally liable for the violation.

VOICE CONTROL
The dog is within sight of the owner at all times and returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. Means that the dog returns immediately to and remains by the side of the owner/keeper in response to the owner/keepers verbal command, whistle or hand signal. If a dog approaches or remains within 10 feet of any other person other than the owner/keeper, that dog is not under voice control and shall be deemed to be “at large”, unless such person (or in the case of a minor child, an adult present with the child) has communicated to the owner/keeper by a spoken word or gesture that such person consents to the presence of the dog.

[Amended 7-14-2014]

§ 17-3 Dogs at large.
[Amended 7-14-2014]

It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner/keeper of any dog found at large shall be subject to the civil penalties provided in Title 7, Chapter 719, of the Maine Revised Statutes Annotated. Dogs at large on public property are also subject to the regulations set forth in §200-2 of this Code.

Dogs shall be considered at large when on Town-owned public property such as cemeteries, Prince Memorial Library, and the Cumberland Historical Society unless controlled by a leash of not more than 15 feet in length. Dogs are permitted on all Town-owned open space located more than 100 feet from a residential property, provided that the dogs are under owner/keeper control, except as otherwise designated below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broad Cove</td>
<td>Leash only from Foreside Road to 67 Beach Drive. Dogs prohibited from 67 Beach Drive to the water.</td>
</tr>
<tr>
<td>Knight’s Pond</td>
<td>Dogs allowed under owner/keeper control</td>
</tr>
<tr>
<td>Rines Forest</td>
<td>Dogs allowed under owner/keeper control</td>
</tr>
<tr>
<td>Town Forest</td>
<td>Dogs allowed under owner/keeper control</td>
</tr>
<tr>
<td>Twin Brook (Greely Road)</td>
<td>Dogs allowed under owner/keeper control. No dogs allowed during posted organized activities.</td>
</tr>
<tr>
<td>Twin Brook (Tuttle Road)</td>
<td>No dogs allowed during cross-country ski season as dictated by signage. No dogs allowed during posted organized activities. Dogs allowed under owner/keeper control at all other times.</td>
</tr>
<tr>
<td>Val Halla</td>
<td>Leash only on pathways from March 1st-December 1st. Dogs allowed under owner/keeper control from December 2nd to February 28th.</td>
</tr>
</tbody>
</table>
§ 17-4 Impoundment or return of companion animals at large.
All companion animals found at large/stray in violation to Title 7, Chapters 719 and 720, of the Maine Revised Statutes Annotated may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer.

§ 17-5 Disposition of impounded animal.
An owner is entitled to resume possession of any impounded animal provided that all provisions of this chapter have been met and that all impoundment fees due under the provisions of this chapter have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by Title 7 of the Maine Revised Statutes Annotated.

§ 17-6 Impoundment and boarding fees.
[Amended 9-10-2012]
An owner may reclaim an impounded companion animal at the animal shelter by paying to the Town of Cumberland a fee established by order of the Town Council for each companion animal, plus the boarding fee established by the shelter. The shelter will collect the Town's impound fee.

§ 17-7 Animal noise.
A. Except as provided in Subsections B and C below, no owner/keeper shall permit or allow any companion animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 20 minutes or more or recur intermittently for one hour or more.

B. Subsection A shall not apply if any companion animal is situated or by other has legitimate cause for provocation.

C. Subsection A shall not apply to farm animals kept on a property located in the Town of Cumberland. For purposes of this exception, dogs are not farm animals and kennels are not farms.

§ 17-8 Sanitation
It shall be unlawful for any person who owns, possesses, controls, or keeps a dog to fail to promptly remove and properly dispose of any feces left by his/her dog on any sidewalk, street, beach, or public owned property or private property (other than the property of the owner of the dog or of a person who has consented to the presence of the dog on his/her property). This provision shall not apply to any working police dog while on duty or a disabled person who, by reason of his/her disability, is unable to remove and properly dispose of the feces.

§ 17-9 Possession of Leash Required
An owner/keeper shall have a leash, as defined above, in his/her possession for each dog which is off leash at all times except when the dog or dogs are on the premises of the owner/keeper or other private property if permitted to be there. A leash shall not include an electronic control collar or other device.

§ 17-10 No more than 3 dogs
It shall be unlawful for any person to be on the premises of any Town-owned property while keeping, walking, exercising, controlling or to otherwise be in custody of more than three dogs.

§ 17-11 Dogs prohibited during certain events
When proper notice has been provided, dogs shall be prohibited on the Tuttle Road side of
Twin Brook. Proper notice shall consist of conspicuously placed signs at the entrances of Twin Brook and shall also consist of notice, posted at least 24 hours prior to the event, on the Town’s website.

§ 17-§12 Violations and penalties.
[Amended 9-10-2012; 7-14-2014]

A. Any persons who violate § 17-3, Dogs at large, § 17-7, Animal noise, Subsection A, or § 17-8, Sanitation, §17-9, Leash Required, §17-10, No more than 3 dogs, and §17-11 Dogs Prohibited during certain events shall be subject to a civil penalty of not less than $50 and not more than $250 for the first violation and not less than $100 nor more than $500 for each subsequent offense.

B. All civil penalties collected pursuant to this chapter shall be recovered for the use of the Town of Cumberland and deposited in the separate account required by Title 7 of the Maine Revised Statutes Annotated.

C. The fine for failure to obtain a dog license shall be $100.

D. A person, not previously convicted of or having paid a waiver fee for a violation under this ordinance, may elect to pay a waiver fee of the minimum penalty of $50 specified above in lieu of appearing in court to answer the citation. Such payment must be received by the office of the Town Clerk within seven (7) business days from the date the citation was issued. Upon receipt of such payment by the Town Clerk, the Animal Control Officer or Police Officer shall cause the citation to be dismissed. A person, having been previously convicted of or having paid a waiver fee for a single violation of this ordinance, may elect to pay a penalty of $100 in lieu of appearing in court to answer the citation. If a person elects to pay the minimum penalties above in lieu of appearing in court to answer the citation, and if the person is cited for a third or subsequent violation, the civil penalty for the subsequent violation shall not be less than $100 nor more than $500 and must be referred to court.
ITEM 18-076

To hold a Public Hearing to consider and act on amendments to Chapter 200 (Roads and Public Property), Article I (Roads and Town Owned Property), Section 2 (Animals at large) of the Cumberland Code, as recommended by the Ordinance Committee
Chapter 200
Roads and Public Property

[HISTORY: Adopted by the Town of Cumberland as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Stormwater management — See Ch. 242.
Street names and property numbers — See Ch. 246.
Subdivision of land — See Ch. 250.

Article I
Roads and Town-Owned Property

[Adopted 5-20-1985]

§ 200-1 Digging up street or highway.
[Amended 9-10-2012]

No person, except by direction of the Road Commissioner, when acting within the scope of his authority, shall dig up any part of a street, highway, or Town way without first obtaining written permission from the Town Council. Whoever violates this section shall be punished as provided in § 200-5.

§ 200-2 Animals at large.
[Amended 9-10-2012; 7-14-2014]

A. Whoever, being the owner or person having the care of any sheep, swine, horses, oxen, cows, or other grazing animals, shall permit them to go at large or to graze on any street, lane, park, square, cemetery or other public place within the limits of the Town of Cumberland, or permit any such animal to go or stand upon any sidewalk therein, and whoever shall fasten any horse or other grazing animal to any tree growing in any street, public way or park within said limits, shall be subject to violations as provided in § 200-5.

B. Dogs shall be considered at large when on Town-owned public property such as cemeteries, Prince Memorial Library, the Cumberland Historical Society, Town Hall, and any other Town-owned open space located within 100 feet of a residential property, as well as all athletic fields, unless controlled by a leash of not more than 15 feet in length. Dogs are permitted in the Rines Forest and on all Town-owned open space located more than 100 feet from a residential property, except as otherwise specifically excluded above, provided that they are on leash or under voice control. Dogs shall be permitted on all other Town-owned property pursuant to the times and rules as designated in the table below: [Amended 12-28-2015].
§ 200-3 Removing or damaging trees and plants.  
[Amended 9-10-2012]

Whoever, except a person employed by the Town for the purpose, removes, mutilates, damages, or destroys any ornamental tree, shrub, flower, or other plant, planted or growing in any cemetery or other public property of the Town, shall be punished as provided in § 200-5.

§ 200-4 Woodlots; forest management.

A. Whenever the Town becomes the owner, by reason of three or more tax deeds or tax liens on which the period of redemption has expired, of any woodlot within the Town, the Town Council shall have such woodlot appraised by a trained forester and after such appraisal shall determine whether or not it is in the best interests of the Town to hold such woodlot as a part of the Town forest. The determination of the Town Council to hold a woodlot as part of the Town forest shall be recorded by the Town Clerk, and thereafter it shall never be sold except after a vote by the Town Council to do so.

B. Immediately after a woodlot is designated as part of the Town forest, the Town Council shall locate the bounds of the lot and have them plainly marked and shall place suitable signs on the lot identifying it as property of the Town of Cumberland.
C. The Town forest shall be managed by the Town Council. The Council shall seek the recommendations of the Forestry Department of the University of Maine and advice of the Maine Extension Service Forester, or other trained person, when cutting, thinning or planting in the Town forest and in all other places of forest management.

§ 200-5 Violations and penalties.
[Added 9-10-2012; amended 7-14-2014]

Whoever violates § 200-1, 200-2 or 200-3 of this article shall be subject to a civil penalty of not less than $50 nor more than $250 for the first offense and not less than $100 nor more than $500 for each subsequent offense.

Article II
Construction, Excavation and Heavy Loads

[Adopted 6-22-1998]

§ 200-6 Purpose.
This article has been enacted by the Town Council to regulate the use of public rights-of-way in the interest of public safety and convenience and to operate and protect public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety, and function of the public right-of-way.

§ 200-7 Definitions.
As used in this article, the following terms shall have the meanings indicated:

ADEQUATE SIGHT DISTANCE
Continuous and clear sight of 10 feet of sight distance for every one mile of posted speed limit. This standard may be reasonably reduced by the Public Services Director in circumstances where no reasonable alternative exists.

EMERGENCY EXCAVATION
An immediate excavation necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of such emergency rests with the applicant.

EXCAVATION
Any operation in which earth, rock, paving or like material on or below the surface of the ground is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.

PUBLIC ROAD
The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of traffic, except for private roads and private ways.

§ 200-8 Entrances to public roads.
A. Entrance permit required. No owner of property abutting upon any public road within the Town shall construct, cause or permit to be constructed, alter or relocate any driveway, entrance, or approach or other improvement within the right-of-way of such road or extending from such road onto his property except in accordance with an entrance permit issued upon his application to the Public Services Director and except for the bona fide purpose of securing access to his property. An entrance permit does not authorize parking or servicing vehicles within such right-of-way. A permit fee established by order of the Town Council shall be paid for each permit. This article applies to all entrances to public roads proposed to be created after the effective date of this article.
B. Application. Application shall be filed with the Public Services Director together with an application fee as established by order of the Town Council. The applicant shall furnish a copy of plans or sketches showing the proposed entrance:

1. Location(s), width, and arrangement;
2. Distance between existing entrances within 100 feet of the proposed entrance(s);
3. Distance(s) from the center line of the traveled way to any structures, gasoline pumps, or other obstructions within 100 feet of the proposed entrance(s), etc.;
4. Length, size and location of existing pipes, culverts, catch basins or manholes, curbing, curb and gutter, and/or sidewalks within 100 feet of the proposed entrance(s); and
5. The proposed location of new pipes, culverts, catch basins or manholes, curbing, etc.

C. Entrance standards. The location, design and construction of any entrance permitted shall be in accordance with the Public Services Department's rules and the following standards:

1. Sight distance. All entrances shall be so located that vehicles approaching or using the entrance will be able to obtain adequate sight distance, in both directions, as defined in § 200-7.
2. Grade. Entrance grades shall be at least a negative grade of 2% from the existing edge of pavement to an appropriate drainageway.
3. Number. Not more than two entrances (or exits) shall be allowed on any parcel of property for which the frontage is less than 200 feet. Additional entrances (or exits) for parcels of property having a frontage in excess of 200 feet shall be permitted only after showing of necessity. When frontage is 50 feet or less, only one combined entrance and exit is permitted, the width of which shall not exceed 30 feet.
4. Separation islands between multiple drives. Where culverts are not required or where they are continuous between entrances, an island raised not less than six inches above the surface of the adjacent drives is required. The island shall be curbed, seeded, sodded, or paved. If an open swale is used between entrances, the raised island is not necessary.
5. Sidewalk and curbs. When sidewalk, curbing or curb gutter is to be removed, it shall be replaced at the owner's expense at the break points of the entrance. All curbing at the side of the entrance shall be rounded with a radius of not less than two feet.
6. Drainage. Drainage in roadside ditches shall not be altered or impeded, and suitable, approved drainage structures shall be provided at all entrances. Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the road. Culverts or other provisions shall be made underneath the entrance or filled areas adjacent to the road adequate to carry the water in the roadside ditches. The size and adequacy of proposed drainage structures shall be approved by the Public Services Director prior to installation.

D. Heavily used entrances. Application for entrances to drive-in theaters, shopping centers, ballparks or other large public gathering places may be granted only after site plan review approval by the Planning Board based upon special studies and detailed plans and specifications as it may require.\[1\]

§ 200-9 Excavation and utility installation.
A. Street opening permit required. No person or utility, except utilities performing emergency excavations, shall make any excavation in any public road without first obtaining a street opening permit from the Public Services Director or his/her designee. All such excavations are governed by this article.\[2\]
B. Application. An application shall be filed by submitting a form provided by the Town of Cumberland to the Public Services Director or his/her designated agent. The completed application shall state the applicant's name, address, twenty-four-hour emergency phone number and the purpose of the excavation. Applicants shall provide a Dig Safe confirmation number on the application that is applicable to the proposed excavation site. The completed application shall also provide the name of location to be excavated, the beginning date of the proposed work, the completion date, and the name of the property owner for whom work is being done.

C. Conditions of permit. Upon review of completed street and sidewalk opening application, an opening permit will be issued. A fee established by order of the Town Council shall be paid for each permit or renewal thereof. Street opening permits shall be only issued from April 1 to November 30, unless an emergency or special circumstance exists. An explanation shall be given to the Public Services Director explaining the special situation or emergency prior to the issuance of a permit during the months of December 1 through March 31. Any oral explanation shall be followed up by a written explanation within two working days. Excavation work must be started not later than 30 working days from the date of issuance of the permit. After the expiration of the thirty-day period, such street opening permit shall become null and void. Notification shall be made to the Public Services Department on the actual day the work will begin. No work shall be done under the permit on Saturdays, Sundays, or holidays, unless approved by the Public Services Director. During all street excavations, one-way traffic shall be maintained for emergency vehicles. Temporary exceptions may be made only by the Fire/EMS Chief and only when another means of access is available.

D. Excavation standards. Applicants shall pre-mark the proposed area of excavation. Limits of pre-marked sites shall be within a reasonable area for purposes of the excavation. Identification shall be done using company or utility initials, in letters no larger than 12 inches high. Identification shall be placed in the area to be excavated so that the identification will be eliminated after the job is completed. The Town of Cumberland is an associate member of Dig Safe, Inc., and requires that Dig Safe, Inc., be contacted for all excavations on any public road within the Town of Cumberland.

E. Protection of public property. In the course of any excavation, individuals and/or utilities shall not remove any trees or shrubs which exist in the street area without first obtaining the consent of the Public Services Director.

F. Pavement breaking in streets. All excavations on paved street surfaces shall be precut in a neat, straight line with pavement breakers or saws. Cutouts of the trench lines must be normal or parallel to the trench line. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

G. Pavement breaking in sidewalks. All parts of Subsection F shall also apply to sidewalks in all cases except concrete sidewalks. Concrete sidewalks shall be saw cut. Use of payment breakers will not be allowed. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on the other side of the excavation. All sidewalk restorations shall be made to provide pedestrian ramps in accordance with the Americans With Disabilities Act and as required by the Public Services Department.

H. Backfilling.

(1) All backfilling of street openings shall be done in accordance with the following standards:

(a) All work must be conducted in strict accordance with the latest regulations of OSHA for excavations.

(b) All work must be protected from freezing.

(c) Temporary or permanent sheeting must be used to support the side walls where necessary to prevent undermining of the pavement. [3]
Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.

Backfilling of excavations shall be performed by the permittee as soon as practicable so that the least possible subsequent settling will occur. Before backfilling operations shall begin, the permittee must notify the Director, allowing adequate time as determined by the Director for inspection.

Granular borrow material selected from the soil, or delivered to the site, shall be spread in layers not exceeding eight inches in loose depth and thoroughly compacted around and under the appropriate bedding material for any substructure and used as backfill up to the bottom of the pavement structure subbase.

Where the excavated material is primarily clay, it shall be allowed for use of backfill only upon the express approval of the Director, with the intention of minimizing differential settling.

All remaining excavated material shall be removed from the job site and disposed of, as the permittee's responsibility, in such a manner that will minimize interference with pedestrian and vehicular traffic. No material shall be left within the right-of-way once the repair and/or installation is complete.

I. Pavement structure base and subbase materials. The pavement structure subbase shall be backfilled with crushed Type D gravel (or better) conforming to Maine Department of Transportation specifications. The crushed aggregate shall be spread in layers not exceeding eight inches in loose depth and compacted to no less than 95% of the maximum dry density of the material, ASTM D1557, to the depth required by the Public Services Director.

(1) The pavement structure base material will be crushed Type A gravel conforming to the Maine Department of Transportation specifications and ASTM D1557, to the depth required by the Public Services Director.

(2) The maximum dry density of the material to be used in the trench along with the corresponding moisture contents, in accordance with ASTM D1557, shall be filed at the time of application to obtain a permit. The Town reserves the right to verify maximum density and field density at any time.

J. Inspections. The Public Services Director or his/her designee shall make such inspections as are necessary in the enforcement of this article.

K. Restoration of surface in streets. All road surfaces shall be restored after an excavation in accordance with the following standards:

(1) Permanent resurfacing of excavation in streets and sidewalks shall be the responsibility of the permittee under this article.

(2) For temporary resurfacing on all arterial and connector type streets and when directed by the Public Services Director, the top surface of the backfill shall be covered with two inches compacted depth of bituminous temporary resurfacing material. Such temporary material shall be cold mix, except that the permittee under this article may use or the Town may require hot mix. All temporary material shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it as well as for vehicular traffic to pass safely over it at the legal rate of speed. The permittee may maintain excavations in streets only with the written permission of the Public Services Director and provided that the trench is properly maintained and covered with calcium chloride. The permittee shall maintain the temporary paving and trenches for a period not to exceed 15 calendar days. At this time, the contractor shall install a permanent patch over the excavation. All excavations shall be kept safe for pedestrian and vehicular traffic until the excavation has been permanently resurfaced by the contractor. If it is not possible to maintain the surface of the
temporary paving in a safe condition for pedestrian and vehicular traffic, then the permittee shall maintain barriers and lights where required in this article until a permanent patch has been installed.

L. Proof of insurance. Applicants for street opening permits shall supply to the Public Services Department a certificate of insurance listing the Town of Cumberland as an additionally named insured. Coverage shall be maintained throughout the period of work performed under this article and shall not be for not less than the following amounts:

(1) General liability, including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operations, contractual, independent contractors, broad form property damage and personal injury.

(a) Bodily injury and property damage each occurrence: $300,000.

(b) Bodily injury and property damage aggregate: $500,000.

(c) Personal injury aggregate: $300,000.

(2) Automobile liability, including any auto, hired autos and nonowned autos: $300,000 bodily injury and property damage combined.

(3) Workers' compensation and employers' liability.

(a) Each accident: $100,000.

(b) Disease, policy limit: $500,000.

(c) Disease, each employee: $100,000.

M. Excavations in reconstructed or repaved roads. After a public road has been reconstructed or repaved, no permit shall be granted to open such road for a period of five years unless an emergency condition exists or unless the necessity for making such installation could not have been reasonable foreseen at the time of the reconstruction or repaving. This subsection shall be void unless the Town shall have given 60 days' notice by registered mail of the impending work to the owners of property abutting the road and to all public utilities serving the road.

§ 200-10 Heavy loads.

[4] Upon the recommendation of the Public Services Director, and after seven days' notice published once in a newspaper of general circulation in the community, the Road Commissioner shall authorize posted registered gross vehicle weight limits on any Town public road.

§ 200-11 Performance guarantees.

Prior to the issuance of any permit, the Public Services Director shall set the amount of a cash escrow account to be held in a non-interest-bearing account to secure the completion of all work approved under any permit issued under this article.

§ 200-12 Violations and penalties.

Any person, firm or corporation who or which shall violate any provision of this article shall be subject to a fine in an amount established by the order of the Town Council. Each day of continued violation and every violation of a provision of this article shall constitute a new and separate offense. If any work performed under any permit issued under this article is not completed in compliance with the terms of this article, or if any work is undertaken without a required permit, the Town may cause such work to be repaired. In the event of such repair, the Town shall prepare a bill for the cost of the repair, with an additional amount of 50%. The Town shall issue no further permits to any person who has performed such work until the Town receives payment from the person for the repair work.
§ 200-13 **Town held harmless.**
The applicant shall hold harmless the Town of Cumberland and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of an entrance permit.

### Article III

#### Road Acceptance

[Adopted 6-4-2012]

§ 200-14 **Title, purpose and authority.**
A. Title. This article shall be known and may be cited as the "Municipal Road Acceptance Ordinance of the Town of Cumberland, Maine."

B. Authority. This article is adopted pursuant to 30-A M.R.S.A. § 4401.

C. Purpose. The purpose of this article is to provide a uniform, consistent, and equitable process for the dedication and acceptance of municipal roads and to ensure that the cost of the acceptance of new roads and associated infrastructure by the Town does not create a financial burden for the Town.

§ 200-15 **Definitions.**
As used in this article, the following terms shall have the meanings indicated:

**APPLICANT**
A developer, one or more individuals, a corporation, a homeowners' association, or other legal entity which owns the fee simple interest in the land area proposed to be dedicated and accepted by the Town of Cumberland as a public road.

**PRIVATE ROAD**
A road privately owned and maintained over which the owner may restrict use or passage, to include a discontinued way even if a public recreation easement has been reserved.

**PUBLIC ROAD**
A road owned and maintained by the state, county or Town over which the general public has a right to pass.

**ROAD**
A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

§ 200-16 **Applicability.**
The provisions of this article shall apply to all roads offered for public acceptance in the Town of Cumberland, whether within subdivisions or not.

§ 200-17 **Application process.**
[5]An application with an application fee established by order of the Town Council and supporting documentation shall be submitted by the applicant to the Public Services Director. The applicant shall be responsible for payment of all costs incurred by the Town in the application review and consideration process, and the application fee shall be applied to the total cost owed. Documentation shall include the information listed in the following sections.

§ 200-18 **Technical requirements.**
A. Conformance with Subdivision Ordinance. A private road proposed for acceptance as a public road
shall be built to the standards in Article VI, Street Design and Construction Standards, of Chapter 250, Subdivision of Land, of this Code prior to an application being filed for road acceptance. Only roads built in accordance with these standards shall be considered for acceptance by the Town Council.

B. Monumentation. The applicant's project surveyor shall provide a certificate that all monuments for the road, easements, lot boundary lines and subdivision boundary lines have been set as required by the approved subdivision plan. Monuments shall extend six inches above grade and be six inches by six inches wide by 4.5 feet in length.

C. Plot plan. A plot plan of the proposed public road at a scale of not more than 100 feet to one inch, including ownership of adjoining lots, drainage courses, drainage easements, and all angles, bearings, and radii, shall be provided.[6]

D. Legal description. The applicant's project surveyor shall provide a metes and bounds legal description of the proposed right-of-way and any associated drainage easements. This description must be a full perimeter description in each case; a description by reference to plan or center-line description will not be accepted.

E. Road cross section. A typical cross section of the proposed public road at a horizontal scale of five feet to one inch and a vertical scale of one foot to one inch shall be provided.[7]

F. Drainage maintenance. The applicant shall be responsible for the maintenance of all detention ponds and drainage infrastructure for the proposed public road.

G. Planning Board conditions. The applicant shall provide a written letter stating that all conditions of approval by the Cumberland Planning Board have been met. A letter confirming this shall be provided by the Town Engineer or Town Planner.

H. Location within right-of-way. The applicant's project surveyor shall certify that the roadway and its appurtenances as built lie within the proposed right-of-way, and similarly that the drainage structures as built lie within their respective easements.

I. Documentation verification. All required documentation as described in this section shall be reviewed and approved by the Cumberland Town Planner, the Cumberland Town Engineer, or the Public Services Director, as may be appropriate.

J. Occupancy requirement. Prior to an application for public road acceptance, at least 75% of the lots must have received occupancy permits.

§ 200-19 Legal requirements.

A. Warranty deed. Once the proposed legal description has been reviewed and approved by the Town Attorney, the applicant shall prepare a warranty deed suitable for recording at the Cumberland County Registry of Deeds. This deed shall include a signature block for the Town Manager to indicate the Town's acceptance of the conveyance. The Town Attorney shall record the final warranty deed at the Cumberland County Registry of Deeds after acceptance by the Town Council.

B. Encumbrances. The applicant shall provide a letter from its attorney certifying that the applicant has good and marketable title to the property on which the proposed public road will be located and that there are no encumbrances on the property. The applicant shall provide lien release notices for all contractors, engineers, subcontractors, and major suppliers (over $10,000).

C. Utilities. The applicant shall prepare all utilities and easements for acceptance and recording to be approved by the respective utility company, including but not limited to water, sewer, electric, cable, and telephone.
D. Drainage maintenance agreement. The applicant shall provide a recordable drainage maintenance agreement approved by the Town and that meets all conditions imposed by outside agencies such as the Maine Department of Environmental Protection and Cumberland County Soil and Water Conservation District.

§ 200-20 Warranty agreement.

A. Warranty agreement required. The applicant shall provide a written warranty for a period of two years after the acceptance of the public road by the Town of Cumberland. The warranty shall state that the applicant will be financially responsible for the repair of any defects in materials or workmanship that cause the road to fall below the street design and construction standards as set forth in Article VI of Chapter 250, Subdivision of Land, of this Code.

B. Maintenance letter of credit. In addition to the written warranty, the applicant shall provide the Town of Cumberland with a letter of credit for the repair of defects in materials or workmanship for a period of two years after acceptance of the road. The letter of credit shall be for an amount equal to 10% of the value of the performance guarantee required prior to construction of the road.

C. Repair of defects. In the event of a defect in materials or workmanship occurring on a public road within two years of its acceptance, the Town will conduct all necessary repairs. The cost of repair will be attributable to the warranty agreement provided by the applicant and drawn directly from the applicant's letter of credit.

§ 200-21 Inspection.
The Public Services Director and Town Engineer shall inspect the proposed public road for compliance with the street design and construction standards of Chapter 250, Subdivision of Land, of this Code. The applicant shall schedule a final on-site inspection with the Town Engineer who shall provide a final inspection letter to the Town Manager. Final roadway inspection and approval by the Town Engineer and Public Services Director will include inspection of the drainage structures and appurtenances and a site inspection to ensure the project has been constructed in accordance with the approved subdivision plans.

§ 200-22 Review and approval requirements.

A. Review and recommendation by the Town Council Finance Committee. The Finance Committee shall review the fiscal impact of the proposed public road and make recommendations to the Town Council.

B. Review by Municipal Attorney. The Municipal Attorney shall review the application, dedication, and supporting documentation for the proposed public road and report to the Town Council.

C. Review by the Town Council. The Town Council shall review and act upon the application, dedication, and supporting documentation for the proposed public road. The final decision as to whether to accept a road remains within the legislative discretion of the Town Council.

§ 200-23 Records and filing requirements.

A. The applicant shall provide two paper copies of detailed drawings of the project as built. Information to be included: the as-built location, size, and materials of water and sewer mains, storm drains, culverts, and underground and overhead utilities.

B. The applicant shall provide an electronic file for the as-built project in the most recent version of AutoCAD. Information to be included: the as-built location, size, and materials of water and sewer mains, storm drains, culverts, and underground and overhead utilities.
ITEM 18-077

To hold a Public Hearing to consider and act on the removal of the stop sign at the intersection of Farwell Avenue and Prince Street, as recommended by the Police Chief, and pursuant to Section 282-6 (Stop and yield intersections) of the Cumberland Code.
Farwell Avenue is a residential street in Cumberland which runs generally east-west from Main Street to Hemlock Drive. Farwell is intersected by Balsam Drive and twice by Prince Street, a short loop which begins and ends on Farwell.

At the easternmost intersection of Farwell and Prince Street, two stop signs are in place: one on Prince Street and one on Farwell, stopping traffic heading west (toward Main Street).

The placement of the stop sign on Farwell is unusual. The area is flat and level, and lines of sight on Farwell are unobstructed. All traffic is local (Farwell cannot be used as a cut-over from Main Street to Val Halla Road).

The Manual for Uniform Traffic Control Devices offers the following guidance regarding the placement of stop signs:

1. Stop signs should not be used for speed control.
2. In most cases, the roadway carrying the lowest volume of traffic should be controlled.
3. A stop sign should not be installed on the higher volume roadway unless justified by an engineering study.
4. The use of stop signs on the minor street approaches should be considered if engineering judgement indicates that a stop is always required because of one or more of the following conditions:
   a. The vehicular traffic volumes on the through street or highway exceed more than 6,000 vehicles per day;
   b. A restricted view exists that requires road users to stop in order to adequately observe conflicting traffic on the through street or highway; and/or
   c. Crash records indicate that three or more crashes that are susceptible to correction by the installation of a stop sign have been reported within a 12-month period, or that five or more such crashes have been reported within a 2-year period.
I do not believe that any of the three conditions listed above exist for the stop sign on Farwell Avenue:

1. Although it has not been measured, traffic volume on the street in question is undoubtedly far below 6,000 vehicles per day;
2. There is no restricted view by road users on Farwell; and
3. A 5 year search of crash records reveals no crashes on Farwell at the intersection of Prince Street.

Based on all the foregoing information, I recommend that the stop sign on Farwell Avenue at the intersection of Prince Street be removed.

I have attached a picture of the section of roadway on Farwell where the stop sign is located. I have also attached a satellite picture of the entire street, for your reference.

Please let me know if you need any further information as you consider my recommendation.
§ 282-6 Stop and yield intersections.

A. Through streets designated. Those streets and parts of streets described in Schedule C[1] attached hereto and made a part hereof are hereby declared to be through streets for the purpose of this section.

B. Signs required at through streets. Whenever this chapter designates and describes a through street, it shall be the duty of the Chief of Police or his or her designee, with the cooperation of the Public Services Department, to place and maintain a stop sign or, on the basis of an engineering and traffic investigation at any intersection, a yield sign on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic control signals; provided, however, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets, as may be recommended to and voted by the Town Council, by the Chief of Police or his or her designee upon the basis of an engineering and traffic study.

C. Other intersections where stop or yield required. The Chief of Police or his or her designee is to designate intersections where a particular hazard exists upon other than through streets and to determine and recommend to the Town Council:

1. Whether vehicles shall stop at one or more entrances to any such intersection, in which event, upon vote of the Town Council, he or she shall cause to be erected a stop sign at every such place where a stop is required.

2. Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection, in which event upon vote of the Town Council he shall cause to be erected a yield sign at every place where obedience is required.

D. State approval. On state aid and state highways, the designation of through streets and the installation of stop and yield signs are subject to Maine Department of Transportation approval.
ITEM
18-078

To consider and act on accepting the gift of a 4-acre parcel to be included as part of the Rines Forest conservation easement and to issue a gift letter
To: Town Council  
From: William R. Shane, Town Manager  
Date: May 31, 2018  
Re: Benard Gift Letter

As you may recall, the homeowners on Windsor Lane and Paul Benard developer of Windsor Lane, Oxford Lane, and homeowner off Oxford Lane have had major disagreements about the overburdening of Windsor Lane with a new 4 lot subdivision on Oxford Lane which uses Windsor Lane as its primary access to and from Blanchard Road (see attached map).

As part of their final agreement, the homeowners have agreed to settle their dispute with Mr. Benard in exchange for one of the new lots to remain in Open Space and allow for a pedestrian easement to the Rines Forest.

Mr. Benard is gifting the lot to the Town to comply with the settlement and will prepare documents for transfer and legal descriptions for the Town Attorneys review for this transfer to occur. The previous lots have sold for approximately $160,000. I am recommending that you accept the gift of 4 Acres and authorize me to issue a ‘gift letter” for $160,000 on your behalf one Mr. Benard has transferred the land over to the Town. The land is intended to be a part of the Rines Forest Conservation Easement which we will be working with the Town Council and land trust over the next few months to execute an amendment to the current agreement.
Hi Bill,

I would like to gift Lot 5 on Oxford Lane to the Town as open space land. The Lot will have an easement for the Windsor Lane Association to cross the land to access the trails for the Rhine Forest. Lots 3 & 4 will be sold for $160,000 each to a builder.

I have notified my Attorney, James Monteleone, of my intent to gift the land and he will contact the Towns Attorney once the Board approves my request. Please let me know what you will need from me for the meeting on June 4th.

Thanks
Paul Benard
BUDGET REPORT
## REVENUES

### TOWN OF CUMBERLAND

#### HISTORICAL ACTUALS COMPARISON REPORT

**FOR PERIOD 11 OF 2018**

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## Historical Actuals Comparison Report

**FOR PERIOD 11 OF 2018**

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**TOTAL VH Golf Revenues**

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**TOTAL Recreation Related Revenues**

<table>
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<tr>
<th>ACCOUNTS FOR:</th>
<th>General Fund</th>
<th>PRIOR YR3 ACTUALS</th>
<th>PRIOR YR2 ACTUALS</th>
<th>LAST YR ACTUALS</th>
<th>CURRENT YR ACTUALS</th>
<th>CY REV BUDGET</th>
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<tbody>
<tr>
<td>0045 Library Related Revenues</td>
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<td>0045 0379 Library Interest Income</td>
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<td>0045 0392 Library Fines</td>
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<td>0045 0394 Misc. Library Revenue</td>
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**TOTAL Library Related Revenues**

<table>
<thead>
<tr>
<th>ACCOUNTS FOR:</th>
<th>General Fund</th>
<th>PRIOR YR3 ACTUALS</th>
<th>PRIOR YR2 ACTUALS</th>
<th>LAST YR ACTUALS</th>
<th>CURRENT YR ACTUALS</th>
<th>CY REV BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>0045 0408 Library Revenues</td>
<td>-6,699.84</td>
<td>-5,377.05</td>
<td>-4,705.82</td>
<td>-4,216.26</td>
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**TOTAL General Fund**

<table>
<thead>
<tr>
<th>ACCOUNTS FOR:</th>
<th>General Fund</th>
<th>PRIOR YR3 ACTUALS</th>
<th>PRIOR YR2 ACTUALS</th>
<th>LAST YR ACTUALS</th>
<th>CURRENT YR ACTUALS</th>
<th>CY REV BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>0045 0408 Library Revenues</td>
<td>-3,610,120.99</td>
<td>-4,530,603.01</td>
<td>-4,939,531.17</td>
<td>-4,816,284.47</td>
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**GRAND TOTAL**

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<th>PRIOR YR3 ACTUALS</th>
<th>PRIOR YR2 ACTUALS</th>
<th>LAST YR ACTUALS</th>
<th>CURRENT YR ACTUALS</th>
<th>CY REV BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>0045 0408 Library Revenues</td>
<td>-3,610,120.99</td>
<td>-4,530,603.01</td>
<td>-4,939,531.17</td>
<td>-4,816,284.47</td>
<td>-4,787,399.00</td>
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</table>
## EXPENSES

**TOWN OF CUMBERLAND**

**HISTORICAL ACTUALS COMPARISON REPORT**

**FOR PERIOD 11 OF 2018**

<table>
<thead>
<tr>
<th>ACCOUNTS FOR:</th>
<th>PRIOR YR3 ACTUALS</th>
<th>PRIOR YR2 ACTUALS</th>
<th>LAST YR ACTUALS</th>
<th>CURRENT YR ACTUALS</th>
<th>CY REV BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>001 General Fund</td>
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<tr>
<td>10 General Government</td>
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<tr>
<td>130 Administration</td>
<td>491,239.21</td>
<td>531,745.44</td>
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<td>571,347.00</td>
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<td>140 Assessor</td>
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<td>101,193.65</td>
<td>79,931.61</td>
<td>85,856.19</td>
<td>85,625.00</td>
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<td>179,671.02</td>
<td>200,758.78</td>
<td>199,695.44</td>
<td>197,183.01</td>
<td>197,180.00</td>
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<td>152,798.93</td>
<td>155,554.59</td>
<td>184,277.40</td>
<td>198,555.52</td>
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<td>3,413.41</td>
<td>12,197.15</td>
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<td>63,626.74</td>
<td>57,670.63</td>
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<td>1,144,081.92</td>
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<td>1,168,362.00</td>
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<tr>
<td>210 Police</td>
<td>1,078,026.03</td>
<td>1,224,238.25</td>
<td>1,216,312.61</td>
<td>1,229,650.95</td>
<td>1,358,525.00</td>
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<td>220 Fire</td>
<td>790,867.02</td>
<td>784,750.75</td>
<td>883,616.65</td>
<td>851,477.62</td>
<td>874,775.00</td>
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<td>240 Code Enforcement</td>
<td>87,601.12</td>
<td>100,351.80</td>
<td>95,639.81</td>
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<td>105.49</td>
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<td>2,242,461.97</td>
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<td>30 Public Services</td>
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<tr>
<td>310 Public Works</td>
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<td>924,366.18</td>
<td>1,108,102.02</td>
<td>1,124,948.55</td>
<td>1,113,973.00</td>
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<td>426,855.24</td>
<td>420,940.77</td>
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<td>420,887.85</td>
<td>497,785.00</td>
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<td>430 Parks</td>
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<td>206,617.76</td>
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<td>440 West Cumberland Rec</td>
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<td>3,602.67</td>
<td>5,376.02</td>
<td>5,967.68</td>
<td>5,775.00</td>
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<tr>
<td>470 Historical Society Building</td>
<td>969.40</td>
<td>2,622.28</td>
<td>3,799.87</td>
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<td>4,958.00</td>
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<td><strong>TOTAL Public Services</strong></td>
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<td>1,901,644.00</td>
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<td>37 Val Halla Golf Club</td>
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<td></td>
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<td></td>
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</tr>
<tr>
<td>350 Valhalla-Club</td>
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<td>33,204.16</td>
<td>32,408.91</td>
<td>35,804.00</td>
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</table>
# Historical Actuals Comparison Report

**For Period 11 of 2018**

## General Fund

<table>
<thead>
<tr>
<th>Account</th>
<th>Prior YR3</th>
<th>Prior YR2</th>
<th>Last YR</th>
<th>Current YR</th>
<th>CY Rev Budget</th>
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<tbody>
<tr>
<td>360 Valhalla-Course</td>
<td>.00</td>
<td>411,882.30</td>
<td>404,577.06</td>
<td>421,214.90</td>
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<td><strong>TOTAL Val Halla Golf Club</strong></td>
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<td>641,454.70</td>
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<td>735,188.00</td>
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## Recreation

<table>
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<tr>
<th>Account</th>
<th>Prior YR3</th>
<th>Prior YR2</th>
<th>Last YR</th>
<th>Current YR</th>
<th>CY Rev Budget</th>
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</thead>
<tbody>
<tr>
<td>40 Recreation</td>
<td>674,850.34</td>
<td>756,886.20</td>
<td>847,028.75</td>
<td>893,042.61</td>
<td>920,638.00</td>
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<tr>
<td><strong>TOTAL Recreation</strong></td>
<td>674,850.34</td>
<td>756,886.20</td>
<td>847,028.75</td>
<td>893,042.61</td>
<td>920,638.00</td>
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## Library

<table>
<thead>
<tr>
<th>Account</th>
<th>Prior YR3</th>
<th>Prior YR2</th>
<th>Last YR</th>
<th>Current YR</th>
<th>CY Rev Budget</th>
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</thead>
<tbody>
<tr>
<td>45 Library</td>
<td>352,938.08</td>
<td>372,320.61</td>
<td>388,616.32</td>
<td>405,766.25</td>
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<tr>
<td><strong>TOTAL Library</strong></td>
<td>352,938.08</td>
<td>372,320.61</td>
<td>388,616.32</td>
<td>405,766.25</td>
<td>437,550.00</td>
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## Other

<table>
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<tr>
<th>Account</th>
<th>Prior YR3</th>
<th>Prior YR2</th>
<th>Last YR</th>
<th>Current YR</th>
<th>CY Rev Budget</th>
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<tbody>
<tr>
<td>580 General Assistance</td>
<td>29,742.99</td>
<td>23,781.06</td>
<td>35,173.98</td>
<td>28,285.42</td>
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<td>590 Health Services</td>
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<td>13,577.20</td>
<td>13,577.20</td>
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<td>620 Cemetery Association</td>
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<td>38,100.00</td>
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<td>26,700.00</td>
<td>26,700.00</td>
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<td>630 Conservation</td>
<td>2,902.51</td>
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<tr>
<td><strong>TOTAL Other</strong></td>
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<td>310,360.78</td>
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## Fixed Expenses

<table>
<thead>
<tr>
<th>Account</th>
<th>Prior YR3</th>
<th>Prior YR2</th>
<th>Last YR</th>
<th>Current YR</th>
<th>CY Rev Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>650 Debt Service</td>
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<td>835,125.86</td>
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<td>210,846.61</td>
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<td>860 MSAD #51</td>
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<td>15,774,098.34</td>
<td>17,208,107.00</td>
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</table>
### TOWN OF CUMBERLAND

#### HISTORICAL ACTUALS COMPARISON REPORT

**FOR PERIOD** **11** **OF 2018**

**ACCOUNTS FOR:**

<table>
<thead>
<tr>
<th></th>
<th>PRIOR YR3 ACTUALS</th>
<th>PRIOR YR2 ACTUALS</th>
<th>LAST YR ACTUALS</th>
<th>CURRENT YR ACTUALS</th>
<th>CY REV BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
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<tr>
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<tr>
<td></td>
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<td>24,888,742.99</td>
<td>25,913,495.78</td>
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<tr>
<td></td>
<td>TOTAL EXPENSES</td>
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<td>24,135,953.29</td>
<td>24,888,742.99</td>
<td>25,913,495.78</td>
</tr>
<tr>
<td></td>
<td>GRAND TOTAL</td>
<td>22,067,180.19</td>
<td>24,135,953.29</td>
<td>24,888,742.99</td>
<td>25,913,495.78</td>
</tr>
</tbody>
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