

**AGENDA**  
**CUMBERLAND TOWN COUNCIL MEETING**  
**Town Council Chambers, 290 Tuttle Road**  
**Monday, May 22, 2006**

**6:30 p.m. – Workshop – To review Val Halla FY07 Budget**

**7:00 p.m. – CALL TO ORDER**

**I. APPROVAL OF MINUTES**

May 8, 2006

**II. MANAGER'S REPORT**

- RWS Update
- Island Pond request
- Turnpike Authority meeting, July 10, 2006
- MDOT September meeting, Rt.100 Bridge Repair

**III. PUBLIC DISCUSSION**

**IV. LEGISLATION AND POLICY**

- 06 – 085.** To hold public hearing to consider and act on amendment to the Route One South Contract Zone for Cumberland Foreside Village LLC, Owner, Map R01, Lot 11,11B, 8 and 7.
- 06 – 086.** To hold public hearing to consider and act on the On Premise Hotel License(Class 1-A), Off Premise Liquor License, Victualer's and Special Amusement permit renewals for Chebeague Island Inn for the period June 2006-2007.
- 06 – 087.** To hold public hearing to approve Solid Waste Commercial Hauler's Licenses for the period June 2006-07.
- 06 – 088.** To hold public hearing to consider and act on a sewer rate increase for fiscal year 06-07.
- 06 – 089.** To hold public hearing to consider and act on a Resolution relating to the establishment of a 401 Retirement plan.
- 06 – 090.** To make appointments to Boards & Commissions.
- 06 – 091.** Notice of Election and extended voter registration hours.
- 06 – 092.** To consider and act on a change in Council venue for the June 12, 2006 regular meeting.
- 06 – 093.** To send amendments to the Zoning Ordinance, Section 414, Home Occupations to the Planning Board for its review and recommendation.
- 06 – 094.** To authorize the Town Manager to reallocate funds within the existing 2006 Town Budget.
- 06 – 095.** To set public hearing date of June 12, 2006 to consider and act on amendments to the Zoning Ordinance, Section 204.9.1, Industrial District Regulations re: Additional Permitted Uses.
- 06 – 096.** To set public hearing date of June 12, 2006 to consider and act on amendments to the Traffic Ordinance to add stop sign locations. **Continued on next page....**

**REBROADCAST SCHEDULE ON REVERSE**

**06 – 096. CONTINTUED** To set public hearing date of June 12, 2006 to consider and act on amendments to the Traffic Ordinance to add stop sign locations.

• Carriage Road	at Route 88	• Pine Lane	at Ocean Terrace
• Hallmark Road	at Carriage Road	• Birch Lane	at Wildwood Blvd
• Surry Lane	at Carriage Road	• Sylvan Lane	at Birch Lane
• Heritage Road	at Carriage Road	• Sylvan Lane	at Pine Lane (south)
• Heritage Road	at Route 88	• Dean’s Way	at Route 88
• Hallmark Road	at Route 88	• Sea Cove Road	at Route 88
• Longmeadow Road	at Route 88	• Union Road	at Highland Ave
• Starboard Lane	at Route 88	• Road 3 and 3a	at Forest lake Road(east)
• Lantern Lane	at Route 88	• Whitney Road	at Orchard Road(south)
• Highland Ave	at Old Gray Road	• Mill Ridge Road	at Mill Road
• Union Road	at George Road	• Valley Road	at Bruce Hill Road(south)
• Lake Road	at Union Road	• Bruce Hill Road	at Pleasant Valley Road(north)

**V. NEW BUSINESS**

**VI. ADJOURNMENT**

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**CHANNEL 2  
REBROADCAST SCHEDULE**

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- ♦ **Tuesday, May 23 :** **Noon**
- ♦ **Wednesday, May 24 :** **10:00 am**
- ♦ **Thursday, May 25 :** **4:00 pm**
- ♦ **Friday, May 26 :** **7:00 pm**
- ♦ **Saturday, May 27 :** **10:00 am**
- ♦ **Sunday, May 28:** **4:00 pm**

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**MINUTES**  
**CUMBERLAND TOWN COUNCIL MEETING**  
**Town Council Chambers, 290 Tuttle Road**  
**Monday, May 8, 2006**  
**7:00 p.m. – CALL TO ORDER**

**Present:** Vice Chairman Storey, and Councilors Turner, Damon, Kuntz, Moriarty and Porter.

**Excused:** Chairman Stiles.

**I. APPROVAL OF MINUTES**

April 24, 2006

Motion by Councilor Porter; seconded by Councilor Kuntz, to accept the minutes as presented with the clarification requested by Councilor Damon.

VOTE: UNANIMOUS PASSAGE 6-0

**II. MANAGER'S REPORT**

The Town Manager announced that former Greely High School graduate Ryan Pote is presently an Air Force ROTC Cadet at the University of Hawaii. Mr. Pote has been nominated to be the squadron commander at the University of Hawaii ROTC Program. He has also received the National American Legion Award, the highest leadership award given by the American Legion, the Warrior Spirit Award, an ROTC medal given only to the top fifteen percent of cadets at the University, and a scholars ribbon from the Deans Office. "Our community has raised a potential leader. We look forward to many great things in his professional career as he moves ahead. He continues to be a leader and we're very, very proud of him." There will be a joint meeting with the SAD Board this Wednesday evening at the Library to discuss the upcoming high school renovations. Cumberland public works crews are working jointly with the public works department in North Yarmouth on a Greely Road ditching project. A drill machine was on Blanchard Road on Friday in preparation for the next water line project, in order to test for ledge in the area. "Glad to say there was no ledge found." He presented Alyssa Daniels, Director of Communications, who presented a new electronic service offered by the town. Ms. Daniels explained that the Council currently received binders with detailed information prior to each town council meeting. "In an effort to provide residents with convenient access to even more information, the Town Manager and Town Clerk asked if it would be possible to provide the documents given to the councilors on line to any residents who wished to view it." Corresponding links to each of the agenda items can be found on the town's website for perusal by the viewing public. This meeting represents its introduction and as a trial run and input regarding change or additions is welcomed. The media packets will be provided to the press may also be accessed online, saving time and paper. "Our hopes are someday we will become a paperless council," stated Manager Shane. Councilor Damon wished to "commend everybody involved in this. I think this is huge and a great model for the whole community and goes a long way toward making this an even more transparent organization than it already is." Vice Chairman Storey agreed stating, "It's there for anybody that wants it."

**III. PUBLIC DISCUSSION**

None.

#### **IV. LEGISLATION AND POLICY**

**06 – 076.** To hold public hearing to consider and act on amendments to the Traffic Ordinance to add the following stop sign locations:

- |                   |                |                     |                       |
|-------------------|----------------|---------------------|-----------------------|
| • Maple Street    | at Lawn Avenue | • Turkey Lane       | at Route 9            |
| • Broadmoor Drive | at Willow Lane | • Town Landing Road | at Route 88           |
| • Blue Heron Lane | at Route 88    | • Teal Drive        | at Ledge Road         |
| • Broad Cove Way  | at Route 88    | • Fern Lane         | at Route 88           |
| • Island Avenue   | at Fern Lane   | • Ebbitide Drive    | at Island View Avenue |

The Town Manager stated these signs are presently in place; however, the council must formally amend the Traffic Ordinance to add these locations.

Mr. Mark McConnell, 13 Maple Street, asked for clarification of the Lawn Avenue location. Councilor Porter questioned whether Mr. McConnell opposed the sign or the location. Mr. McConnell opposes the sign. He would like to see a “no outlet” sign near the Food Stop store. The “loop doesn’t go anywhere else” and feels a sign is unnecessary. The Manager explained there is a need for consistency with traffic policies throughout the community. “Your street is somewhat unique because there is a stop sign there now.” The existing sign never had an acceptance and this item covers that sign.” The Manager will speak with the Public Works Director regarding the placement of the No Outlet sign.

Motion by Councilor Damon, seconded by Councilor Porter, to approve amendments to the Traffic Ordinance to add the following stop sign locations (list read as shown above).

VOTE: UNANIMOUS 6-0 PASSAGE

**06 – 077.** To send request for Zoning Ordinance amendment, Industrial Zone Section, to add a Climate Controlled Storage Unit Building Definition, to the Planning Board for its review and recommendation.

The Town Manager explained this item came as a result of the workshop between the Planning Board and Town Council last week regarding the Chase Contract Zone request for property on Route One. Mr. Chase wishes to build a self-storage facility, but they are “not defined anywhere in our ordinance. To allow that use in a Contract Zone it has to be first defined as a permitted use somewhere in the community.” The town felt it would be best located in the Industrial Zone. We do not wish to allow the “tin shack” style buildings. Instead, it will be similar to the climate-controlled storage facility located on Western Avenue in South Portland. The building will house document storage, and not boats and campers. This request will come back at the end of this month with the Contract Zone amendments.

Councilor Moriarty clarified that the intent was to add a definition to the list of definitions and secondly to allow this as a permitted use in the Industrial Zone. He recommended two distinct motions. “This is not final action; all we’re doing is referring this to the Planning Board.”

Councilor Porter suggested guidance be given to the Planning Board as part of the council’s referral. Concerns or issues should be expressed “before we kick it to the Planning Board.” Councilor Kuntz noted the architectural design should be consistent with a New England vernacular, stating “I think that gets us away from the little boxes that dot the landscape throughout Southern Maine. I think that’s a good feature.”

Councilor Moriarty moved to amend Section 104 of the Zoning Ordinance to add a new Subsection 104.116-A to include a definition for a self-storage facility as set forth in the material before us; seconded by Councilor Kuntz.

Upon further clarification by Councilor Porter, the motion was amended to “refer” the amendment as stated to the Planning Board. Councilor Kuntz accepted the amendment.

Councilor Moriarty questioned why this definition would be added to the Office Commercial rather than the Industrial zone? The Manager indicated “it seemed it may be more appropriate...for future use” but agreed it could be added to the OC Zone. Councilor Moriarty agreed “to target the zone we have in mind at this point, recognizing that at any point we can make a recommendation for a change. Vice Chair Storey noted that this issue was before the town three years ago but it was not permitted at that time. “I guess there is a need for it” at this time.

Councilor Moriarty moved to refer to the Planning Board the possible addition of a self storage facility as a permitted use in the OC Zone; seconded by Councilor Turner. The Manager requested the zone be restricted to the Southern OC Zone and both councilors agreed to this clarification.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 078.** To set public hearing date of May 22, 2006 to consider and act on the On Premise Hotel License(Class 1-A), Off Premise Liquor License, Victualer’s and Special Amusement permit renewals for Chebeague Island Inn for the period June 2006-2007.

Motion by Councilor Turner, seconded by Councilor Damon, to set a public hearing date of May 22, 2006.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 079.** To set public hearing date of May 22, 2006 to consider and act on amendment to the Route One South Contract Zone for Cumberland Foreside Village LLC, Owner, Map R01, Lot 11, 11B, 8 and 7.

The Manager stated Mr. Chase’s project will be presented to the Planning Board next week. This is “would allow eight or nine commercial” lots in addition to approximately 120 housing units. The lot is located on Route One near the European Bakery and Falmouth line. ‘It’s a fairly big project...great for economic development for our community.’”

Councilor Moriarty questioned whether any changes came about as a result of last week’s joint workshop. The Manager stated that the confusion related to the blasting on this site was discussed and clarified during the workshop. Mr. Chase will submit a subdivision plan for the entire site and “simultaneously apply for three site plans that he would be blasting upon. That would protect the town as well as the neighbors.” A one hundred foot buffer will be retained during that blasting. “All of us came out with a clearer understanding of the project...the impacts and where the blasting was.” It was determined that the blasting will be “isolated to seven to ten acres.” Councilor Turner added that the implication was made that “the likelihood was that the blasting wouldn’t take over two years.”

Motion made by Councilor Moriarty, seconded by Councilor Kuntz, to set a public hearing date of May 22, 2006.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 080.** To set public hearing date of May 22, 2006 to approve Solid Waste Commercial Hauler’s Licenses for the period June 2006-07.

Motion by Councilor Kuntz, seconded by Councilor Moriarty to set a public hearing date of May 22, 2006.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 081.** To set public hearing date of May 22, 2006 to consider and act on a sewer rate increase for fiscal year 06-07.

The Manager explained there has been an annual increase to the sewer rate for the last two years due to the \$6 million update to the Falmouth Treatment Plant. Cumberland owns approximately 33% of the plant and is responsible for this share of the upgrade. Cumberland has only 1,000 users to cover our costs. The sewer fund is an enterprise fund entirely supported by the users. “We should be...back in the black by next year” and “stay that way for the foreseeable future. As we get more users on the system, the impact lessens a little bit.” These plant improvements are mandated by the state. The Manager will send a letter notifying the users of the public hearing.

Motion by Councilor Damon, seconded by Councilor Turner, to set a public hearing date of May 22, 2006.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 082.** To set public hearing date of May 22, 2006 to consider and act on a Resolution relating to the establishment of a 401K Retirement plan.

The Manager explained this item will create a 401 Retirement Plan, which will be an additional plan. The plan provides an additional opportunity for the town or the employee to deposit retirement funds. The plan is designed exclusively for management employees, including the Manager and department heads. The Manager believes this is a retention and recruitment tool. “This just gives us another tool to compete with other communities in retaining the quality department heads we have.” Councilor Moriarty questioned who will participate in the plan and the Manager responded the town will participate on behalf of the employee. Councilor Porter noted the “difference in this plan is this is the Manager’s... opportunity to reward an employee. With a 457, it’s part of the package.”

Motion by Councilor Damon, seconded by Councilor Moriarty to set a public hearing date of May 22, 2006.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 083.** To hold Public Hearing to consider and act on the 2006-2007 Municipal Fiscal Year Budget and to exceed the Property Tax Levy Limit established by Maine Law pursuant to 30-A, M.R.S.A., Section 5721-A (7)(B).

The Vice Chair explained that the FY 07 budget was reviewed by each member of the council. “It’s a budget we can live with. I think it’s a budget that we can be proud of.” Manager elaborated by noting the following: The budget is increased approximately \$425,000 – the majority related to fuel, contracts, and insurances. The town will also perform a statistical revaluation. “I don’t see a significant impact or shift throughout the community, but it puts us all at the same starting place.” We are also updating the comprehensive plan. These two updates added nearly \$100,000. The Tuttle Road sidewalk project was added at a cost of \$100,000. The tax rate is projected to increase from \$18.80 to \$19.40 and will be set in July. The MSAD budget will be adopted at their annual meeting on May 17<sup>th</sup>. The Tax Assessor will then finalize values as of April 1<sup>st</sup> and present a tax rate to the council “that’s fairly close to \$19.40.”

The Town Manager further explained that LD 1 was adopted by the legislature two years ago, and requires municipalities who exceed the cap established in that legislation to vote to exceed the cap. He requested the council vote to exceed the cap by \$143,380.30. No public comments received.

Council Discussion:

Council Kuntz said he would not vote in favor of the budget because he was against the \$100,000 for the Tuttle Road sidewalk. He felt that the town could come under the cap if they wanted to.

Councilor Damon asked for clarification of when the Council was notified that the town would be over the cap. She felt that if the State was serious about doing something about property taxes and there hasn’t been much influence in Augusta that this is the only place we would have any control. She said that she may not have looked at it (the budget) the same way if she had understood the implication. She asked if there was something that could be cut to make Councilor Kuntz more comfortable voting for the budget.

Councilor Moriarty asked Manager Shane how much earlier the Assessor could have given the Council his analysis. He just assumed that they were under the limit because nothing was said otherwise.

Manager Shane said that LD1 and the property tax levy limit does not project for things that are going to happen in your community on a year to year basis. It basically projects for the status quo, so it doesn’t consider if you have a revaluation, a Comprehensive plan that comes up or a significant infrastructure project this is going to come up year after year. He felt that they prepared a responsible budget when you look at the municipal impact, which is less than 1.7 on the mil rate. He said if the Council wanted to see the number earlier on in the process he could give them a ballpark number until he could get closer numbers from the school district and the town budget. He felt that would not be a healthy exercise only because they wouldn’t be dealing with the pictures, they would be focused on that number. He said that towns in our area would have to

exceed the property tax levy primarily because of their structure and they may never meet those numbers. He said they could go back and look at the budget, that there was no rush to adopt it, but he felt they went through a thorough process and was comfortable with the numbers that were being presented.

Councilor Porter said, “Since when do we care what the State has to say about the Cumberland budget. We rail against the State all the time. We rail against the Federal Government all the time. Since when are we concerned that we are some how going over an artificial limit set by people who know nothing about this town.” He said he had no problem putting his neck out on the line for this (budget). He would “put his fiscal record on these budgets up against anybody’s.” He felt that they “have been very prudent over the years.” He felt that “if the town accepts the artificial limits set under LD1 most of the major issues that need to be dealt with are never going to be addressed.” He was “not concerned about an artificial number set by the State and had no problem supporting the budget as it is.”

Councilor Turner agreed largely with what Councilor Porter said but “that as a procedural matter, arbitrary or not, the State guideline had some logic to it” and it seemed to him that if they have some sense that they are going to go beyond a cap, it would help them look a little harder at numbers than they may have without having that awareness, so in the future at least, if it’s not an overburden for the town, they should have a ball park idea early on. He also agreed with Councilor Kuntz to the extent that if he had known that they were going over the cap he would have been more concerned about the \$100,000 for the improvement of the sidewalk. He had not come to the conclusion that the process was flawed to the extent that he would not vote in favor of the budget, but he thought that they would be in a better position to look at line by line items if they have an idea that they are going over a limit that may or may not be arbitrarily set by the State.

Councilor Moriarty spoke about how they will approach the process in the future and that each year they take away something different. He said he was in support of this budget and felt that they should have an idea of the limit in the beginning of the process. He said he would support the budget. He was concerned about the lack of public input regarding the budget.

The Council further discussed the issue of knowing about exceeding the cap during the budget process.

Vice Chairman Storey said that the councilors had made some good points about going over the cap and that he would still support the budget.

The Council discussed the amount of public input for the budget and Councilor Kuntz said that he wasn’t against repairing the sidewalks and now that they have had this discussion he would support the budget.

Manager Shane said that he would provide an estimated number for the Council earlier in the process for future budgets but he said that this discussion would most likely happen every year because projects will come up that will not be able to budgeted for within the parameters of LD1.

Motion by Councilor Porter, seconded by Councilor Moriarty to adopt the 2006-2007 Municipal Fiscal Year Budget and hereby vote, pursuant to 30-A M.R.S.A. Section 5721-A (7)(B), to exceed the property tax levy limit established by Maine law, having adopted a budget of \$17,142,163.08, which would exceed the property tax levy limit by \$143,380.30.

VOTE: UNANIMOUS PASSAGE 6-0

**06 – 084.** To hold public hearing to consider and act on a Victualer’s license and Malt & Vinous Mobile Golf Cart License at the 13<sup>th</sup> hole snack shack, Falmouth Country Club, and physically located in Cumberland.

Manager Shane said that all the paperwork was in order and that staff recommended approval. Mr. Russ Riseman, Food & Beverage Director of the Falmouth Country Club was present to answer any questions the Council might have. Manager Shane explained that this item was before the Council because a part of the Falmouth Country Club was located in Cumberland.

Councilor Kuntz stated that he would oppose this because he opposed the same type of operation at Val Halla.

Councilor Damon stated that she also would oppose the licenses.

Councilor Moriarty asked for clarification that this was the same license that Val Halla has been approved for. Manager Shane said it was.

Mr. Riseman commented on the Mobile Golf Cart operations.

Councilor Turner said that golf courses are in a lot of competition and not to offer malt beverages in a conservative way on a golf course today is not going to happen. To be functional they have got to do it.

Motion by Councilor Porter, seconded by Councilor Moriarty to approve a Victualer’s License and Malt & Vinous Mobile Golf Cart License at the Falmouth Country Club’s 13<sup>th</sup> hole snack shack, located in Cumberland.

VOTE: PASSED 4-2 (Damon, Kuntz)

**V. NEW BUSINESS**

Councilor Turner – none

Councilor Damon – turn around at Wharf Road? State sent an approved contract last week. We are moving forward.

Councilor Kuntz– none

Vice Chair Storey – Wed night SAD meeting at High School library.

Councilor Moriarty – none

Councilor Porter – nominating committee meeting tomorrow night; May 16 interviews for Comprehensive Plan Committee -21 candidates. Questioned Manager if we heard from North Yarmouth re: police coverage? Have not and Chair has not set a meeting at this time. Indicated Fire Dept responded this morning to a fire in North Yarmouth.

Town Manager – In touch with Paul Balesca at CI boat yard and the postal service. “We’re back on track.” We will put in place temporary permits and begin the process with the Planning Board for a permanent site. Reminder re: council pictures at next meeting. Councilor Damon thanked the Manager for getting involved and his “persuasive nature.” This was at a very crucial stage.

**VI. ADJOURNMENT**

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

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 8:30 p.m.

Respectfully submitted by:  
Nadeen Daniels, Town Clerk