

AGENDA
CUMBERLAND TOWN COUNCIL MEETING
Town Council Chambers, 290 Tuttle Road
Monday, August 14, 2006

6:00 p.m. WORKSHOP

7:00 p.m. – CALL TO ORDER

Workshop – with Planning Board members to discuss 40-acre lot exemption

I. APPROVAL OF MINUTES

July 24, 2006

II. MANAGER'S REPORT

- Twin Brook Advisory Committee recommendations – August 28, 2006 6 p.m. workshop & agenda item
- Set a date for the Annual Football Boosters bonfire
- Info re: Online Payment of Taxes via credit cards
- Bulky Waste Pick-up Dates – October 9-15, 2006
- Household Hazardous Waste Collection Day – Yarmouth Fire Station (North Road) – Sept. 9, 2006
- Universal Waste Collection Day – Sept. 16, 2006
- Norton Open House – August 23, 2006 @ 3:30 p.m.

III. PUBLIC DISCUSSION

IV. LEGISLATION AND POLICY

- 06 – 122.** To hold a public hearing to consider and act on a Consent Decree for zoning violations for property located at 62 Blackstrap Road, Map R07, Lot 41C.
- 06 – 135.** To hold a public hearing to consider and act on a request by Gene Stratton for a forty-acre zone exemption.
- 06 – 136.** To set a public hearing date of August 28, 2006 to consider sending the following Charter Amendments to the voters at the election of November 7, 2006: increase Town Councilors' annual compensation; delete the area representative from Chebeague Island and increase the At Large representatives from three to four; increase the amount required to seek bids from \$10,000 to \$50,000; and add language re: the bond indebtedness process.
- 06 – 137.** To direct the Town Clerk to publish a notice of the 8/28/06 public hearing re: Charter Amendments.
- 06 – 138.** To set a public hearing date of August 28, 2006 to consider and act on a Consent Decree for zoning violations for property located at 42 Middle Road, Map R01, Lot 51C.
- 06 – 139.** To set a public hearing date of August 28, 2006 to receive recommendation from the Planning Board and to consider and act on a Contract Zone Agreement with Jim Guidi to locate four Senior Housing Units at the corner of Cottage Farm Road and Main Street.
- 06 – 140.** To set a public hearing date of August 28, 2006 to consider and act on a Mass Gathering Permit and approve Victualer's Licenses for the Cumberland Fair, Cumberland Fairgrounds, September 24-30, 2006.
- 06 – 141.** To set a public hearing date of August 28, 2006 to consider and act on a Victualer's License for City Brew, 187 Gray Road, for the period August 2006 through June 2007.

REBROADCAST SCHEDULE ON REVERSE

Continued from Page One

- 06 – 142. To set a public hearing date of August 28, 2006 to consider and act on a Victualer's License for Sunset House Bed & Breakfast 74 South Road, C.I., for the period August 2006 through June 2007.
- 06 – 143. To set a September 11, 2006 public hearing date to consider a five year extension of the Cable TV Franchise Agreement with Time Warner Cable.

V. NEW BUSINESS

VI. ADJOURNMENT

VII. EXECUTIVE SESSION – Pursuant to 1 M.R.S.A. § 405 (6)(c) re: Real Estate Hardship Tax Abatement

August 14, 2006
Town Council Meeting
CHANNEL 2
REBROADCAST SCHEDULE

- Tuesday, August 15 : Noon
- Wednesday, August 16 : 10:00 am
- Thursday, August 17 : 4:00 pm
- Friday, August 18 : 7:00 pm
- Saturday, August 19 : 10:00 am
- Sunday, August 20 : 4:00 pm

For further programming information and rebroadcast schedules contact *Alyssa Daniels* at 829-2205 or ADaniels@cumberlandmaine.com
ALSO VISIT: www.cumberlandmaine.com for a complete
Channel 2 broadcast schedule

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MINUTES
CUMBERLAND TOWN COUNCIL MEETING
Town Council Chambers, 290 Tuttle Road
Monday, July 24, 2006

7:00 p.m. – CALL TO ORDER

PRESENT: Chairman Moriarty, Councilors Porter, Turner, Damon, Copp, Storey-King and Stiles.

I. APPROVAL OF MINUTES

Approval of Minutes from July 10, 2006

Councilor Stiles moved to approve minutes as presented;
Councilor Copp seconded

VOTE 5-0-1 (Councilor Porter abstained)

II. MANAGER'S REPORT

Manager Shane informed the Council that property tax bills will be available within the next few weeks. He noted that they would be very different than past bills. The bill will be a smaller, tri-fold version including all the same information as in prior years and envelopes will be printed with "Tax Bill Enclosed." The new changes will be made as a result of in-house printing and will save nearly \$6,000 per year.

The Manager announced that the dedication of the second Cumberland Habitat for Humanity House would take place Saturday, July 29th, at 10:00 am. The Bosarge Family will be moving into the new home at the end of Greely Road Extension. Ted Bosarge works for the Cumberland Public Works Department and his two daughters will be attending Greely Schools this coming year.

Mr. Shane stated that the Town of Cumberland won the Fireman's Muster at the Yarmouth Clam Festival this past Saturday. Team Members included: Joe Bell, Kate Storey, Rachel Storey, Josh Turino, Lydia Monroe and Anesha Pollack. This past Saturday the town of Cumberland won the Fireman's muster at the Yarmouth Clam Festival. The team completed the event in "an amazing 19 seconds" followed by a second place of 48 seconds.

The Manager stated that the paving of Skillins Road would begin Tuesday, July 25th. He noted that traffic will be congested but the white and yellow lines should be completed within five days.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

06 – 126. To consider and act on a License Agreement for Private Utility Crossing for Theron Hamilton, 101 Littlefield Road, Chebeague Island Map 102, Lot30.

Manager Shane introduced this as an administrative matter which is required to be licensed by the town. He noted that there are currently two utility crossings across the road from this property on Chebeague Island. The License has been reviewed and approved by the Town Attorney and paid for by Mr. Hamilton. The Manager added that there is a drain and sewer line that crosses to another part of Mr. Hamilton's property.

Councilor Damon asked about the Golf Club, Jonathan Komlosy and Herbert Maine, who did not come before the council. “They all warranted it and if they haven’t, they’re not legal” replied Town Manager. He did not recall all three, “this is only the second from the island.”

Councilor Porter moved to authorize the Town Manager to execute a License Agreement for Private Utility Crossing with Theron Hamilton, 101 Littlefield Road, Chebeague Island Map I02, Lot 30;

Councilor Storey-King Seconded.

VOTE: UNANIMOUS 7-0

Councilor Stiles asked why it would go across the road rather than on the property to the west side of the road. Manager Shane answered that the ditching on Littlefield Avenue runs along both sides of the area where it has drained in the past and widening at the hairpin turns by the town caused a need to extend the drain. Councilor Damon added that the property line was at one time one parcel of land, and in the 1890’s the proposal was that Littlefield Road would be built straight out to North Road, but did not pass at Town Meeting. It did pass in 1913, but houses had already been built in that path, so they “cobbled the road in there” and there was no road description developed as a result.

06 – 127. To consider and act on Cumberland Fire Department Engine 2 funding authorization.

Deputy Fire Chief Chris Copp was in attendance. It was noted that this item was presented at the last meeting as well. The Manager stated that the Town would save \$50,000 by authorizing the funding today, but would not require immediate payment. He added, “It’s a financial and policy issue for you this evening.” Approval would lock the price for the next 18 months.

The Deputy Chief stated that the Department is looking at continuity of truck model and design. He noted that their current truck is the fourth installment from this manufacturer and Engine 2 will be the fifth; adding, “we don’t want to be the test program for the new emission” designs.

Mr. Copp outlined the high points of this Engine to include emission controls and a widened truck capacity. He added that Engine 2 is a front line truck in the West End. It handles 2,000 gallons of water rather than the current truck’s 1,000 gallons. Mr. Copp noted that the 1979 truck was retrofitted with a water tank, initially intended for ten years of use and it has been over five years so far. He stated that the Department relies on this truck to carry water due to the increase in mutual aid calls; stating “it’s probably one of the most important pieces [we have]”.

Councilor Ron Copp asked about trade in value. He noted that the current truck has gone through “two life cycles now”, adding that older fire trucks have not “fetched a lot of money when you trade ‘em in.” He believes that the value is towards equipment somewhere else.

Councilor Stiles asked about Engine 2 maintaining turnpike speeds. Deputy Copp answered that they have run into transmission overheating and shifting problems and the truck is just not safe to be driven over 50 mph. The new truck will also have an enclosed cab, which the current truck does not in addition to an improved turning radius.

Councilor Storey-King thanked the Fire Department for their advanced thinking.

Councilor Porter moved to authorize the Town Manager to execute a contract with Ferrara Fire Apparatus for the purchase of the new Engine 2;
Councilor Damon seconded.

VOTE: UNANIMOUS 7-0

06 – 128. To hold a public hearing to consider and act on a Victualer’s License for Cumberland House of Pizza, 176 Gray Road for the period July 2006 through June 2007.

Chris Copp began by saying that they are “working very hard” and being held up only by subcontractors. He announced a tentative opening date for the end of the first week in August.

Councilor Damon asked where it’s located. Mr. Copp answered that the building used to be a tack shop. Councilor Damon commented that she thinks “this is a great move for the beginning of the new downtown” in West Cumberland.

Councilor Storey-King asked about the eat-in accommodations. Mr. Copp answered that the restaurant has 28 seats, but business will be primarily take out. In-house dining will be on paper plates and plastic silverware.

Councilor Copp added that they are doing a “top notch” job, West Cumberland is looking forward to it.

Councilor Porter moved to approve a Victualer’s License for Cumberland House of Pizza, 176 Gray Road for the period July 2006 through June 2007 pending financial inspections;

Councilor Stiles seconded.

VOTE: UNANIMOUS 7-0

06 – 129. To hold a public hearing to set the tax rate for FY 07.

Chairman Moriarty commented that this is the “last stage of the budget process.” Manager Shane stated that the Town Assessor, Bill Healey recommends a rate of \$19.40.

Councilor Copp asked for the current tax rate. Manager Shane answered that the tax rate is currently \$18.80 which would mean an increase of .60 cents.

Councilor Stiles moved to set the tax rate for Fiscal Year 06/07 at \$19.40 per thousand dollars of assessed value; Councilor Porter seconded.

VOTE: UNANIMOUS 7-0

06 – 130. To hear a request from Jim Guidi for a contract zone to locate four Senior Housing Units at the corner of Cottage Farm Road and Main Street and to consider referring same to Planning Board for review and recommendation.

Chairman Moriarty opened the discussion by referring the Councilors to the information in their packets and introducing Mr. Guidi. Mr. Guidi noted that he had submitted a sample Contract Zone which had been redesigned to a 4 unit building after feedback from neighborhood members. He stated that he is looking for a rear setback adjustment of 15 feet; including 10 for the building “plus 5 for a little play.” Mr. Guidi added that the rear setback is currently 40 feet. He needs an additional ten feet, but is looking for 15. The building is 115 feet which will leave 25 feet rather than 40 feet as required.

John Mackie, an abutting neighbor, opened the public comments. He stated that he is interested in the rear setback request and inquired about the garage location and access points. He also asked about the buffer area, height of the building and the property line, stating that his concern is what he will view from his property.

Mr. Guidi answered that the garage will sit opposite of Dr Howard’s parking lot; about ten feet off the line and 15 feet back. He noted that Mr. Mackie would be looking at the rear of the garage; all vegetation on the back of the house. He assured Mr. Mackie, “you won’t see headlights and there will not be access to the back of the building.” Mr. Guidi added that he expects the Planning Board to require landscaping and appropriate lighting..

A resident of 251 Main Street stated that this is a good idea and hopes that it can be successfully resolved. He feels that it is a great thing for some of our senior citizens and there are lots of advantages to living in the center of town.

Councilor Damon asked about the orientation of the property. Mr. Guidi described that the front of the building, visible from Main Street, will be designed as a cape style house with a farmer's porch. Councilor Damon also asked what is considered as the rear setback. Mr. Guidi has not yet discussed that with the Code Enforcement Officer. Councilor Damon then inquired about the garage discussion. Councilor Copp noted that no easement is needed for the garage. Mr. Mackie's concern is that by granting the setbacks to Mr. Guidi, the lot becomes non-conforming which in turn would hurt his property value.

Councilor Porter stated that Mr. Guidi "needs to clean this up quite a bit" before Planning Board Review. He clarified that Mr. Guidi is asking for a density change and a change in the rear setback. He added that a contract zone has to show a public benefit. Councilor Porter asked for Mr. Guidi's definition of affordable units. Mr. Guidi answered that the state website defines affordable housing as 80% of mean for Cumberland County which translates to approximately 24,000 per year. He is looking at selling the units at \$150,000 each as affordable housing for those 62 and older.

Manager Shane stated that the contract needs to clearly define the income threshold for the two affordable units and a clause that would allow the housing authority to review annually the income of the tenants. He added that the square footage of the building and garages need to be defined. The Manager noted that the max building height according to the ordinance is 35 feet and assumes that Mr. Guidi will not exceed that. Mr. Shane also noted that the rear setbacks need to be clearly defined. The Manager noted that Mr. Guidi is using Greater Portland household median income which needs to be specified. Chairman Moriarty assured that these details will be worked out before this item goes to the Planning Board.

Councilor Damon asked what can be done if these units are purchased and the residents' income increases. Councilor Porter answered that the units are deed restricted to purchase and after purchased, "it's not required". The Manager added that this is a hybrid, these units could be bought by children for their parents but residents need to be 62. Councilor Damon stated that she does not want someone to get into the unit and later encounter a problem. She was assured that the guidelines will be very clear from the start.

Councilor Stiles moved to send a Contract Zone request to locate four Senior Housing Units at the corner of Cottage Farm Road and Main Street to the Planning Board, after the Town Manager has met with Mr. Guidi to finalize details, for review and recommendation;

Councilor Copp seconded.

VOTE: UNANIMOUS 7-0

Councilor Porter added that it is important that the Council offer its concerns to the Planning Board.

Chairman Moriarty said that it's a "good proposal" which clearly shows a public benefit. He added that it should be screened appropriately with minimum lighting. He likes the look of it, the location and the purpose it is designed to serve.

Councilor Turner commented that he is in favor of the project on a policy basis.

Councilor Damon stated that she is still concerned about the "clarity of the portability" and the siting of garage, but feels that the more affordable housing units the Town has, the better.

Councilor Stiles supports the proposal and added that he believes the garage can be sited within the current building zones.

Councilor Porter is supportive and in favor of the density requirement and setback. He added that the Planning Board is responsible to make sure the neighbors are provided the proper buffer.

Councilor Copp stated that he fully supports the proposal.

Councilor Storey-King added that she supports the project. She feels that it looks like a single family dwelling without some of the issues of a single family dwelling.

06 – 131. To set a public hearing date of August 14, 2006 to consider and act on a request by Gene Stratton for a forty acre zone exemption.

Manager Shane opened the discussion by noting that this item went to the Planning Board for recommendation to change the Zoning Ordinance to exempt 40 acre lots. The Planning Board concluded that there should be no change made for one individual.

It was believed that Mr. Stratton could not provide a clear compelling issue why this change should be made at this time. There was no great impact but also no great benefit.

Councilor Turner stated that he had watched the Planning Board Meeting and felt it worth noting that there are at least 49 other parcels that might fall into this exemption category. He does not feel that the zone change would be appropriate for just Mr. Stratton. Councilor Turner added that he feels strongly that it is not the “Planning Board’s purview to make a decision based on policy”. He views the decision as a common sense move that might save some property owners from going into minor subdivision without need.

Councilor Stiles stated that he expected the Planning Board to discuss the merits on why the Town should not make this change instead of making “an attack on the presentation”.

Councilor Storey moved to refer to the Planning Board once again;

Councilor Turner seconded with the proviso that the Planning Board consider the item in the light of their administrative oversight and the difficulty or non-difficulty of their executing the process.

Councilor Porter commented that he was not pleased with one member’s position. He agrees with discussion aside from the attack on the Town Manager. He added that he would not have voted for this exemption. Councilor Porter questioned why the Council should make this exemption in a public policy sense.

Councilor Turner answered that he is considering the other 49 parcels and the potential for any of those properties to be divided. He added that he is “just not for having oversight for the sake of having oversight”.

Chairman Moriarty raised the issue of a seller with subdivision plans who is not the developer.

Councilor Copp commented that in this case, Mr. Stratton is a 70 plus year old and will not see this land developed. He does not feel that Mr. Stratton is trying to “pull the wool over anybody’s eyes. He’s trying to sell this land in order to survive”. Councilor Copp feels that the State does not require this, the Town does and the Town has the flexibility to change that.

Councilor Damon noted that this is a good example of unintended consequences and the Planning Board Review process can become costly to land owners.

The Manager directed the Council to go forward if they are in support or state if they are not. Councilor Damon agreed that it would not make sense to return to the Planning Board.

Councilor Porter stated three options for the Council: refer back to Planning Board, go forward with Public Hearing on August 14th, or sit down with the Planning Board and discuss the item in a workshop. He added that his proposal would be for the Public Hearing.

Councilor Porter moved to refer this item to the Planning Board once again; seconded by Councilor Stiles.

VOTE: FAILED 2-5 (Councilors Porter and Stiles)

Councilor Copp stated that he feels a workshop is a good idea.

Chairman Moriarty noted that the next meeting is Monday, August 14th. He suggested a 6:00 pm workshop that evening or some evening in the next week.

Councilor Stiles asked about information from the Planning Board to assist in the Council's decision. Councilor Turner added that he feels the workshop would be valuable to clarify the roles in this process.

Manager Shane stated that he will speak with the Town Attorney regarding other communities' exemptions and put together backup information for reference.

Councilor Storey-King clarified that any decision would apply to others as well. She also expressed concern with the prospect of becoming fearful of unintended consequences.

Councilor Damon moved for 6:00 on the 14th to hold a workshop with the Planning Board;
Councilor Copp seconded

VOTE: UNANIMOUS 7-0

Councilor Stiles moved to set a Public Hearing on August 14th
Councilor Copp seconded

VOTE: UNANIMOUS 7-0

06 – 132. To set the interest rate to be charged on delinquent sewer fees and real and personal property taxes.

Manager Shane recommended the MMA interest rate of 11%.

Councilor Stiles moved to set the interest rate charged on delinquent sewer fees and real and personal property taxes at 11%;
Councilor Copp seconded

VOTE: UNANIMOUS 7-0

06 – 133. To authorize application of real estate tax payments to oldest unpaid tax.

Manager Shane stated that this is an annual authorization which applies monies to the oldest unpaid taxes in order to avoid foreclosure.

Councilor Stiles moved to apply all real and personal property tax payments to the oldest unpaid tax;
Councilor Copp seconded

VOTE: UNANIMOUS 7-0

06 – 134. To set rate at which interest will be paid in overpayment of real estate taxes.

Manager Shane recommends 7% as suggested by MMA.

Councilor Stiles moved to set the interest rate at 7% for overpayment of real estate taxes;
Councilor Turner seconded

VOTE: UNANIMOUS 7-0

V. NEW BUSINESS

Councilor Copp – Noted that construction to the Route 100 intersection of Skillins and Blackstrap Roads is due to start in two weeks. He added that his business will be used to store some equipment.

Councilor Damon – Asked when the Town was scheduled to cut the grass on the sides of roads. She noted that this year the mainland was first, followed by the Island. The Manger answered that it should begin within the next week.

Councilor Storey-King – Thanked everyone who rides bicycles on the side of the road rather than in the middle of the road.

Councilor Turner – None.

Chairman Moriarty – Announced that next Monday would be a special recognition luncheon at Val Halla at noontime. He added that he and Manager Shane had scheduled a nine member transitional committee meeting for Sunday, September 10th.

Councilor Stiles – Noted that “Good Things Are Happening at Val Halla!” He added that it is the best place for lobster rolls and the Course looks great.

Councilor Porter – Asked when the sidewalks would be completed. The Manager answered that the project would begin two weeks from today. Councilor Porter expressed that he hopes for the work to be done before the start of school.

VI. EXECUTIVE SESSION – Pursuant to 1 M.R.S.A. § 405 (6)(a) re: Personnel Matters

Councilor Porter moved to enter into Executive Session at 8:34 pm;

Councilor Stiles seconded

VOTE: UNANIMOUS 7-0

VII. ADJOURNMENT

Councilor Stiles moved to adjourn at 10:00 pm;

Councilor Copp seconded.

VOTE: UNANIMOUS 7-0

VII. WORKSHOP – TIF Districts

Respectfully Submitted,

Nadeen Daniels
Town Clerk