

## **AGENDA**

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, DECEMBER 8, 2008**

**6:00 p.m.** WORKSHOP with the Shellfish Conservation Commission re: clam-flat access

**7:00 p.m.** CALL TO ORDER

### **I. APPROVAL OF MINUTES**

November 24, 2008

### **II. MANAGER'S REPORT**

### **III. PUBLIC DISCUSSION**

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

**08 – 181.** To hear a report from State Senator Gerald Davis and Representative Meredith Strang-Burgess re: the upcoming legislative session.

**08 – 182.** To hear a report from Central Maine Power Company re: a new substation and transmission lines at the Cumberland/Yarmouth town line.

**08 – 183.** To hear a report re: the annual Yule Market to be held on *December 14th* in the parking lot of Mabel I. Wilson School.

**08 – 184.** To hold a Public Hearing to consider and act on extending the Senior Circuit Breaker Program application deadline to *January 18, 2009*.

**08 – 185.** To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, Section 424.3.8, Temporary Political Signs, as recommended by the Planning Board.

**08 – 186.** To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, Section 204.8.1.8, to delete self-storage facilities as a permitted use in OC-S (Office Commercial – South), as recommended by the Planning Board.

**08 – 187.** To set a Public Hearing date (*December 22nd*) to appoint members to Town Board/Committees for 2009.

**V. NEW BUSINESS**

**VI. EXECUTIVE SESSION** – pursuant to Title 36 M.R.S.A., § 841, re: Poverty Abatement Application.

**VII. ADJOURNMENT**

**MINUTES**  
Cumberland Town Council Meeting  
**Town Council Chambers**  
**MONDAY, NOVEMBER 24, 2008**  
**6:00 p.m. Workshop**  
**7:00 p.m. Call to Order**

**6:00 p.m. WORKSHOP re: Main Street Re-zoning and additional uses**

**ROLL CALL -**

Present: Chairman Turner, Councilors Copp, Storey-King, Porter, Moriarty and Stiles.  
Excused: Councilor Perfetti.

**I. APPROVAL OF MINUTES**

October 27, 2008

Motion by Councilor Porter, seconded by Councilor Copp to approve the minutes as presented.

VOTE: UNANIMOUS PASSAGE 6-0

November 10, 2008

Motion by Councilor Moriarty, seconded by Councilor Stiles, to approve minutes with housekeeping amendments made by Councilor Storey-King.

VOTE: UNANIMOUS PASSAGE 6-0

**II. MANAGER'S REPORT**

None

**III. PUBLIC DISCUSSION**

None

**IV. LEGISLATION AND POLICY**

Chairman Turner took Item 08-175 out of order due to Town Attorney Ken Cole's attendance. The Manager informed the council the town has not received the court opinion relating to last year's denial of the Greenlaw Salvage license. Mr. Greenlaw had no comments for the council.

Motion by Councilor Porter to table the junkyard/recycler permit for Greenlaw Salvage pending a decision by the Superior Court; seconded by Councilor Stiles.

VOTE: UNANIMOUS PASSAGE 6-0

The Manager informed Mr. Greenlaw he may continue to operate his business while the town awaits the court's decision.

**08 – 171. To hold a Public Hearing to set the 2009 Shellfish License Allocations.**

Shellfish Commission Chairman, Mike Brown, presented the commission's report, explaining their recommendations are "very similar to what was submitted last year." Shellfish surveys in 2008 were "consistently positive" and the commission's recommendation for 2009 included the following license allocations: unlimited resident recreational, 25 non-resident recreational, 8 monthly resident, 2 monthly non-resident, and zero commercial licenses. Further, the commission recommends the council continue with the Alternative Licensing Procedure established last year whereby after

issuance of 250 resident recreational licenses, one non-resident recreational license is made available for every ten resident recreational licenses sold. No public comments received.

Motion by Councilor Porter, seconded by Councilor Storey-King, to set the 2009 Shellfish License allocations as proposed by the Shellfish Conservation Commission.

VOTE: UNANIMOUS PASSAGE 6-0

At this time, the Town Manager noted several citizens had arrived after the close of public discussion and requested Chairman Turner provide a second opportunity for public comments.

Residents of Range Road were in attendance to request the Town Council to consider a reconsideration of their November 10, 2008 vote, specifically regarding the width of the roadway. Mr. Henry Milburn served as the group spokesperson, sharing that “upon reflection of the full implications” of the council vote, the residents believe a request for reconsideration is necessary. The existing road “fits into the landscape without dominating it.” The new width would make this road wider than any of its surrounding roads and “is just two feet less than Blanchard Road.” Mr. Milburn also suggested the new width will make Range Road one-quarter to one-third wider than its present width. Blanchard Road receives 3,400 cars per day compared to only 700 cars traveling Range Road daily. The residents “can not find any compelling reason to go to 26 feet of pavement.” The group also believes the new pavement width will fundamentally impact the rural character of the road and is in conflict with the stated goals of the open space plan. Range Road is the only road with an extensive stretch that is largely forested and all of the roads which are greater in width are also much more heavily traveled. The group recommended a pavement width of 24 feet, suggesting this width meets the goals for a “safe and durable road.”

Chairman Turner requested individual council response to the request for reconsideration. Councilor Moriarty supported a reconsideration because he believes a 24 foot road-width would be “large enough to address safety related questions” and the vertical and horizontal changes adequately address safety concerns. However, he explained he was unable to offer the motion because a reconsideration motion must be made by a councilor who voted in the majority. The question, he suggested, is whether the additional one foot on either side is a “quantifiable addition to the overall safety” for the project? He believes it is not. Councilor Porter expressed appreciation for the comments offered this evening and described the council’s review of this project as extensive, adding perhaps the council was “too involved” in the details of construction. “We’re not selectmen. We came up with a very responsible compromise” that considered both those in support and opposed to the reconstruction as approved. Chairman Turner reiterated his belief that bikeways on widely paved roads tend to cause drivers to “wander a little bit more. I was convinced that the extra pavement was worth it. The rustic feel of the road isn’t really being impinged upon to the point it’s being destroyed. I wouldn’t change my vote.” Councilor Stiles believed “the Bob Waterhouse compromise was a good one. The extra foot of pavement will help with maintenance.” Shoulders also allow the mailboxes to be closer to the pavement. He added that he has received feedback from other members of the community who “want the road wider” and indicated he would not change his vote. Councilor Copp said he considered the safety and maintenance of the road and believes the extra foot of pavement on each side will provide for a longer-lasting roadway. “I see it every day. I’m going to stick by the motion” made two weeks ago. The council took no action for reconsideration.

**08 – 172. To hear a report from the Route 88 Bike & Pedestrian Committee re: Interim Report and Recommendation.**

Committee Chairman Mike Lebel presented a powerpoint report. Committee members Tom Gruber, John Tarling, Donna Levi, and John Tarling were also present. The committee was asked to “thoroughly research and examine possible improvements to Route 88” to promote increased safety by pedestrians and bicyclists. To date, the committee has held fifteen meetings, two site walks and meetings with

MDOT representatives. Three proposals were submitted for MDOT funding to MDOT. A two-phased proposal showed Phase One addressing the area from the Falmouth line to Schooner Ridge, approximately 2.5 miles, and fronting 470 properties. Phase two passes only 27 properties but “there are significant engineering issues.” A six inch stripe and six inches of pavement on each lane makes the existing roadway “plenty wide to accommodate a four foot strip on either side.” The road is a major urban collector and “one of the oldest roads in the state of Maine.” Drainage issues exist near the Stoney Ridge area. Over one and a half million dollars is needed to bring the road to a condition to support runoff. “It makes no sense to put a band-aid on this stretch of road,” Mr. Lebel suggested. Forty-three town roads have received improvement over the past ten years, and Route 88 is not among them. “We cannot find the last time Route 88 was amended.” The committee recommended a \$3.2 million construction project and supported the recommendation with the following conclusions: The town’s Comprehensive Plan Survey showed 49% of residents support a bike/pedestrian path on Route 88; there is a need for connectivity from the Foreside to Cumberland Center; crumbling infrastructure along Route 88 must be addressed regardless of this project; the state has abandoned their maintenance responsibilities and, no state funding is available because the road is not built to current standards. The committee requested the council consider funding this project through municipal bonds with preliminary design funding in 2010 and summer 2011 bonding for construction. Mr. Lebel concluded with a request for a workshop with the council in January 2009 to discuss the project in more detail.

Chairman Turner remarked that any consideration for road improvements without addressing the drainage problems is “just insane. We all know that it’s been inadequate for a long time and it just promises to get worse. It’s a question of taking care of all the problems at once.” Councilor Porter thanked Mr. Lebel and the committee, adding “This is long overdue. We’ve got to find a way to do this.” Councilor Moriarty asked the Town Manager whether the preliminary budget numbers will be worked into the next budget, and the Manager responded, “Anything we can do, we’re going to try to do” to obtain federal or state funding.

Motion by Councilor Copp, seconded by Councilor Moriarty, to set a date of January 12<sup>th</sup> to hold a workshop with the Route 88 Bike & Pedestrian Committee.

VOTE: UNANIMOUS PASSAGE 6-0

**08 – 173. To set a Public Hearing date (December 8<sup>th</sup>) to consider and act on a Mass Gathering Permit for the annual Yule Market to be held on December 14<sup>th</sup> in the parking lot of Mabel I. Wilson School.**

Motion by Councilor Stiles, seconded by Councilor Storey-King, to set a public hearing date of December 8<sup>th</sup> to consider and act on a Mass Gathering Permit for the annual Yule Market, December 14<sup>th</sup> in the parking lot of the Mabel I. Wilson School.

VOTE: UNANIMOUS PASSAGE 6-0

**08 – 174. To set a Public Hearing date (December 8<sup>th</sup>) to consider and act on extending the deadline for Senior Circuit Breaker Program applications to January 18, 2009.**

Chairman Turner explained the town has received a low number of requests for 2008 circuit breaker funds thus far. Program notices were mailed to last year’s applicants and the town plans to advertise the availability of program funds next week. \$20,000 has been expended to date. “It’s growing but not as quickly as I hoped,” added the Town Manager.

Councilor Moriarty questioned the timing between receipt of state reimbursement funds and application for town funds, asking “Should the town extend its deadline for submission?” The Manager responded the town may want to consider moving the deadline to late January in order to

provide an additional two months application period and suggested the subcommittee consider this question between now and the January 18, 2008 council meeting.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to set a public hearing date of December 8<sup>th</sup> to consider and act on extending the deadline for Senior Circuit Breaker program applications to January 18, 2009, and amend the ordinance as such if necessary.

VOTE: UNANIMOUS PASSAGE 6-0

**08 – 175. To hold a Public Hearing to consider and act on a junkyard/recycler permit for Greenlaw Salvage, located at 1 Longwood Road.**

Item taken out of order and addressed as first item of the evening.

**08 – 176. To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, Section 424.3.8, Temporary Political Signs, as recommended by the Planning Board. ITEM TABLED TO 12/08/08**

Motion by Councilor Moriarty, seconded by Councilor Copp, to table this item to December 8, 2008.

VOTE: UNANIMOUS PASSAGE

**08 – 177. To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, to expand the boundary of the OC-S (Office Commercial – South), as recommended by the Planning Board.**

The zone expansion involves lots located between Route One and I-95 toward Tuttle Road on the I-95 side only. The Planning Board recommended expanding the district to include lots #12, 12A, 13, 13A, 13B, 14, 14A, 14B on Map R01, provided that the three lots (13, 12 & 14B) with existing residences as of the amendment date remain permitted uses unless the residences are removed from the property.

Councilor Moriarty questioned and was informed that no comments were received from the impacted property owners. No public comments received.

Motion by Councilor Porter, seconded by Councilor Stiles, to amend the Cumberland Zoning Ordinance to expand the boundary of the OC-S (Office Commercial – South) as recommended by the Planning Board.

VOTE: UNANIMOUS PASSAGE 5-0-1 (Councilor Storey-King)

Councilor Storey-King explained that she abstained because her aunt owns one of the affected properties.

**08 – 178. To hold a Public Hearing to consider and act on amendments to the Cumberland Zoning Ordinance, to add “Associated Retail” to Section 204.14 as a permitted use; and to add the definition of Associated Retail to Section 104.10A, as recommended by the Planning Board.**

Section 204.14 defines the Rural Industrial (RI) Zone. The need for an amendment came about as a result of the loss of a business desiring to locate on Middle Road. The business required a small retail space as part of the larger business; however, the “associated retail” use is not currently permitted and the Town Planner suggested an amendment to the definition to allow the subordinate

use. Associated retail is defined as “a subordinate use customarily incidental to and located on the same lot with the main building or use.” No public comments received.

Motion by Councilor Moriarty, seconded by Councilor Copp, to amend the Cumberland Zoning Ordinance to add “Associated Retail” to Section 204.14 as a permitted use, and further amend to add the definition of Associated Retail to Section 104.10A, as recommended by the Planning Board.  
VOTE: UNANIMOUS PASSAGE 6-0

**08 – 179. To set a Public Hearing date (November 24<sup>th</sup>) to consider and act on amendments to the Cumberland Zoning Ordinance, Section 204.8.1.8, to delete self-storage facilities as a permitted use in OC-S (Office Commercial – South), as recommended by the Planning Board.**

The Town Manager stated the Planning Board did not want to see the remainder of the OC South Zone include self-storage facilities as a permitted use.

Councilor Moriarty requested the Manager determine which zones the Planning Board intended to permit storage facilities. The Manager responded, “It’s not an inappropriate use somewhere, but not on prime Route One property.” Councilor Porter pointed out that the agenda mistakenly printed this item as setting, rather than holding, a public hearing. The Manager suggested the item be tabled until the next meeting.

Motion by Councilor Moriarty, seconded by Stiles to table the item to December 8, 2008.  
VOTE: UNANIMOUS PASSAGE 6-0

**08 – 180. To accept donations from Trucking 4 Kids Convoy and the Jones Family to be placed in the Police Community Reserve fund.**

The Manager explained the legislative body must accept all donations. These funds will be utilized in the Police Department’s DARE program to fund community related projects.

Motion by Councilor Storey-King, seconded by Councilor Copp.  
VOTE: UNANIMOUS PASSAGE 6-0

## **V. NEW BUSINESS**

**Councilor Porter** - Firefighters For Kids fundraiser pancake breakfast on December 7<sup>th</sup> at Greely Middle School, 7-10 am.

**Chairman Turner** - congratulated Dan Small for a successful grant application; architect to speak with Doane Committee; trash recycling successful but seems to be more trash on the road than usual.

**Councilor Stiles** – SAD 51 funding impacted by state budget cuts and looking at cost savings in order to get to the finish line this fiscal year; next year will be a very difficult year; asked to consider budget meeting dates; wished a great Thanksgiving to all.

**Councilor Moriarty** - 8:00 am 5k road race sponsored by Greely Hockey boosters.

**Town Manager** – town received a thank you plaque from the Maine Marathon Committee for the assistance provided by the Police Department; after the marathon the committee was able to make a \$35,000 donation to the Center For Grieving Children; PROP received additional LIHEAP funding

and he recommends the town hold the \$15,000 in local funds at this time and revisit the need in January.

Motion by Councilor Stiles, seconded by Councilor Copp, to recess to Executive Session, pursuant to 1 M.R.S.A., Section 405 (6)(c) re: real property adjoining the Val Halla Recreation Area.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 8:33 p.m.

**VI. EXECUTIVE SESSION – pursuant to 1 M.R.S.A., § 405 (6)(C) re: real property adjacent to the Val Halla recreation area.**

Motion by Councilor Stiles, seconded by Councilor Storey-King, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 8:53 p.m.

**VII. ADJOURNMENT**

Motion by Councilor Moriarty, seconded by Councilor Copp, to adjourn.

VOTE: UNANIMOUS PASSAGE 6-0

TIME: 8:53 p.m.

Respectfully submitted,

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Nadeen Daniels, CMC  
Town Clerk