

# AGENDA

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, June 22, 2009**

**6:00 p.m. Workshop**

**7:00 p.m. Call to Order**

**6:00 p.m. WORKSHOP re: Yard waste facility fees and Victualer's License fee increases and discussion re: potential Consent Decrees for 52 & 74 Idlewood Drive.**

## **I. APPROVAL OF MINUTES**

June 1, 2009

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

- M.S.A.D. Election results
- Range Road Update

## **III. PUBLIC DISCUSSION**

## **IV. LEGISLATION AND POLICY**

- 09 – 091** To hold a Public Hearing to consider and act on repealing Section 423 (Shoreland Areas) of the Cumberland Zoning Ordinance, and establishing a stand alone Shoreland Zoning Ordinance.
- 09 – 092** To hold a Public Hearing to consider and act on a Wharfing Out Permit for Holly Thibodeau, Sturdivant Island, Map I-08, Lot 3-B.
- 09 - 093** To award a contract to Gorrill-Palmer Consulting Engineers for engineering of the Route 88 drainage and shoulder improvement project.
- 09 – 094** To hold a Public Hearing to consider and act on a recommendation from the Planning Board re: amendments to the Fairgrounds Overlay District to allow concerts & pari-mutuel horse racing.
- 09 – 095** To hold a Public Hearing to consider and act on increasing yard waste facility fees, effective July 1, 2009.
- 09 – 096** To hold a Public Hearing to consider and act on increasing Victualer's License fees for FY'10.
- 09 – 097** To hold a Public Hearing to consider and act on annual Victualer's Licenses for the period of July 1, 2009 – June 30, 2010.
- 09 – 098** To hold a Public Hearing to consider and act on a Mass Gathering Permit and Victualers Licenses for the United Maine Craftsmen's 40<sup>th</sup> Annual Cumberland Arts & Crafts Show, August 13, 14, 15 & 16, 2009 at the Cumberland Fair Grounds.
- 09 – 099** To hold a Public Hearing to consider and act on Tax Anticipation Note borrowing.
- 09 – 100** To consider and act on Commercial Hauler's License renewals for FY'10.

## **V. NEW BUSINESS**

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

## **VII. ADJOURNMENT**

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, June 1, 2009**

**7:00 p.m. Call to Order**

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

## **I. APPROVAL OF MINUTES**

May 11, 2009

Motion by Councilor Moriarty, seconded by Councilor Stiles, to approve the minutes as presented.

VOTE: UNANIMOUS PASSAGE 7-0

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

- Village Center Committee – ten applicants to date, submitting the applications to the Nomination Committee
- MSAD Election – a 10% voter turnout. Budget Validation Referendum passed in Cumberland by 45 votes and failed in No. Yarmouth by 45 votes. The municipal clerks certified results and MSAD 51 has determined another election will be held. The second district budget meeting will be held on Wednesday, June 10, 2009 followed by a second validation vote on June 16, 2009.
- Memo in packet from Operations Director Chris Bolduc re: Range Road project for drainage and water improvements. Nearly 2000 feet of roadway will be paved. Councilor Stiles urged Range Road residents to consider the well testing program because “Every (radon) test so far has failed.”
- The Land Trust will conduct a GPS unit training at Twin Brooks on Saturday.
- Coastal Waters Commission will meet a week from tonight for a site walk of the Sturdivant Island Wharfing Out Permit application.
- Scott Poulin will deliver the Warrants this evening for countersignature.

## **III. PUBLIC DISCUSSION**

Mike Tardiff, 331 Main Street, believes the sign located at the flower shop site is “conveniently missing” important details, such as lighting and a drive-through. “Don’t be fooled by that slick picture,” he cautioned. He recommended he and others be contacted “to get the straight” information on the proposed credit union. He expressed concern regarding the apathy he encountered over the weekend, and stated “people should care. This could happen anywhere in town.” He urged residents to “come out and vote next Tuesday. Vote no.” Deb Sloan, 367 Main Street, expressed appreciation for the council’s work. Her family moved to Cumberland 35 years ago because “we loved the center of Cumberland” and were pleased to move to a community that supported small businesses, which at that time included two stores, a gas station, post office “and Sun Savings and Loan. The rural character of Main Street is changed and it’s not coming back and that’s the way it is.” She expressed frustration over the controversy around this proposal. She believes the business will grow our tax base, and our grandchildren and families will benefit from the credit union. “It’s definitely going to add to the beauty of the center and not deter it the way the building that sits there now is. I’m in favor” of the credit union. She urged residents to vote and vote yes. Chairman Turner shared both speakers’ remarks regarding “a good turnout” - one that is representative of the community’s desires. “I think it’s a significant vote. If you haven’t voted - vote. It’s important.”

Mr. Robert Malone, Blackstrap Road, shared concerns regarding safety matters at the intersection of Goose Pond and Blackstrap Road. He witnessed an accident a year ago and a near miss a week ago. He requested installation of “some sort of warning system” at this intersection; suggesting installation of a “major speed bump.” He also repeated his request for repairs to Blackstrap Road. He strongly believes both the municipal and MSAD 51 budget elections should occur at the same time. Town Manager Shane responded that Goose Pond Road would be reviewed immediately for safety improvements. Blackstrap Road has been on the list for state funding for several years “and pretty much fallen on deaf ears.” We are reviewing an extension to the water main to Goose Pond as part of the Route 100 TIF District. He concurs with the suggestion of concurrent MSAD and municipal elections.

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

##### **09 – 075 To hold a Public Hearing to consider and act on sending a recommendation to the Planning Board re: amendments to Section 204.18 (Fairgrounds Overlay District) of the Cumberland Zoning Ordinance.**

Manager Shane explained the council met in workshop in response to the Fairgrounds’ recent request to hold a Toby Keith concert. The Ordinance Subcommittee proposed language amending the Fairgrounds Overlay District Ordinance to add “musical concerts of a type, style and character commonly and historically associated with those offered during the annual Cumberland County Fair.” The subcommittee also recommends the addition of pari-mutuel horseracing to Section 204.20. President Bruce Flanigan explained the addition of pari-mutuel horse racing would allow the Cumberland Fairgrounds to consider hosting a “spring meet” with simultaneous live betting.

Councilor Porter stated he prefers amending Section 204.20 to include “musical concerts, period. It’s not up to us to decide what types of concerts they’re going to have.” Councilor Stiles concurred and suggested the word “musical” is unnecessary.

Dan Rosenthal, a neighbor of the fairgrounds, considers the club to be a great neighbor and sought clarity regarding the permit application. The addition of concerts and pari-mutuel wagering “doesn’t mean every application has to be approved.” Mr. Flanigan responded to his question regarding the frequency of concerts and pari-mutuel wagering by stating there are “no immediate plans to change” the current harness racing schedule and the concerts will not displace any of the current summer events. “However, if an opportunity arose to put a concert in where we might lose an event for that additional revenue stream that we need,” they asked for additional language to provide that option. “We’re not looking to put twelve or fifteen concerts here. It’s just not realistic for our limited window.” Mr. Rosenthal responded, “If doing the occasional” event helps the fairgrounds stay healthy “as a neighbor, I’m all for it.” Councilor Stiles explained that horse racing dates are governed by the state’s racing commission. Each year, certain dates become available and organizations bid for these dates. “So, it would be on a very limited basis and...somebody would have to give up...a spring meet” before the meet could occur at the Cumberland Fairgrounds. These generally occur for a week in June each year. “Those aren’t something you can automatically improve, increase or make happen.”

Councilor Moriarty responded to the suggestion to delete wording from the proposed ordinance amendment. While it may be seen as somewhat redundant, he believes it is also “harmless” and adding clarity is “probably a good thing.” He noted the committee attempted to reflect what the fairgrounds sought from the council. “They weren’t looking for, in effect, a wide open concert

venue.” They requested the ability to host as stand alone events the same kinds of musical performances that you can find on a smaller scale routinely during fair week.”

Motion by Councilor Perfetti, seconded by Councilor Stiles, to send to the Planning Board for review and recommendation, amendments to Section 204.18 (Fairgrounds Overlay District) of the Cumberland Zoning Ordinance “with the following change to point 20: to strike all but musical concerts.” (Clarification noted - musical concerts ‘period’, and leave Section 204.21 ‘as is’).

Councilor Moriarty reiterated his remarks noting that an open ended concert venue is “more than what they’re asking for” and “more than what we need...more than what most of us want. If we’re going to progress toward ... a concert venue, I don’t see anything wrong with one step at a time as opposed to one giant leap” toward unrestricted concerts whatsoever. Councilor Porter responded that because “this is so scripted” that “It would be very easy for anybody to make the assumption that (a type of music not previously played at the fairgrounds) couldn’t occur in the future under this ordinance. It’s not up to me to be the concert police. I’d rather they decide, not me.” Councilor Storey-King stated she is not as comfortable changing it...last minute. Councilor Perfetti agreed with Councilor Porter and added the lengthy definition creates a situation “where we may be back here again. I don’t think its last minute...I didn’t see any major objection (by the neighbors) to the language. “This ordinance is a false sense of security. The real governing ordinance here is the Mass Gathering Permit. It also keeps people engaged in the process.” The Mass Gathering Permit provides opportunity for the neighbors to speak to the request by the fairgrounds. Councilor Moriarty remarked the Mass Gathering Permit is “logistical only” and “does not provide the discretion to say no” to the type of musical concert we want to see in town. Councilor Storey-King added, “I’m willing to waiver on this one. The only thing we’re doing right now is sending this to the Planning Board” She supports removing the extra word “musical” to reduce redundancy. At this point, Councilor Perfetti further amended his motion to remove the word “musical.”

VOTE:           PASSAGE 6-1 (Councilor Moriarty opposed)

**09 – 076 To hold a Public Hearing to consider and act on a Victualer’s License for Sweet Fern Farm to operate at the Cumberland Farmer’s Market, for the period of June 1 to June 30, 2009.**

Motion by Councilor Perfetti, seconded by Councilor Copp, to approve a Victualer’s License for Sweet Fern Farm to operate at the Cumberland Farmer’s Market for the period of June 1, to June 30, 2009

VOTE:           UNANIMOUS PASSAGE 7-0

**09 – 077 To hold a Public Hearing to consider and act on a Victualer’s and Retail with Malt & Vinous License for Express Mart Cumberland, 174 Main Street.**

The Manager noted state licenses have been received; inspections made, and offered his recommendation for passage.

Motion by Councilor Porter, seconded by Councilor Perfetti, to approve a Retail with Malt & Vinous License for Express Mart Cumberland, 174 Main Street, for the period June 1, 2009 – June 1, 2010.

VOTE:           UNANIMOUS PASSAGE 7-0

**09 – 078 To hold a Public Hearing to receive a year end report from the Finance Committee and to authorize the Town Manager to transfer inter-departmental operating funds.**

The Finance Committee met on May 19<sup>th</sup> to review the town finances. A majority of the councilors attended the meeting.

Motion by Councilor Perfetti, seconded by Councilor Moriarty, as follows: Be it ORDERED, that the Town Manager is authorized to transfer monies from the end of year Fund Balance to cover revenue shortfalls and over-expenditures in operating funds from the 2009 Fiscal Year Budget. BE IT FURTHER ORDERED, that the Town Manager is hereby authorized to transfer:

\$ 31,000 to the Senior Circuit Breaker Fund  
\$ 7,000 to the Heating Assistance Fund  
\$105,000 to the Town Building Fund  
\$ 36,000 to the Dispatch Transition Fund  
\$ 20,000 to the Unemployment Fund  
\$ 34,000 to the Equipment Reserve Fund  
\$233,000 Total Transfer of Funds

BE IT FURTHER ORDERED, to transfer all remaining unexpended revenues (\$110,772) to Fund Balance.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 079 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on Tax Anticipation Note borrowing.**

This item provides for annual borrowing which is necessary for funding “between the peaks and valleys” occurring between tax collections. This note will borrow \$3 million dollars, which is ten percent than last year’s borrowing.

Motion by Councilor Stiles, seconded by Councilor Porter, to set a public hearing date of June 22, 2009 to consider and act on Tax Anticipation Note borrowing.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 080 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on annual Victualer’s Licenses for the period of July 2009 – July 2010.**

Motion by Councilor Porter, seconded by Councilor Perfetti, to set a public hearing date of June 22, 2009 to consider and act on annual Victualer’s Licenses for the period of July 2009 – July 2010.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 081 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on a Mass Gathering Permit and Victualer’s Licenses for the United Maine Craftsmen’s 40<sup>th</sup> Annual Cumberland Arts & Crafts Show, August 13, 14, 15 & 16, 2009 at the Cumberland Fair Grounds.**

Motion by Councilor Storey-King, seconded by Councilor Copp, to set a public hearing date of June 22, 2009 to consider and act on a Mass Gathering Permit and Victualer’s Licenses for the United Main Craftsman’s 40<sup>th</sup> Annual Cumberland Arts & Crafts Show, Cumberland Fairgrounds, for the period August 13 – 16, 2009.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 082 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on establishing yard waste facility fees, effective July 1, 2009.**

The issue of keeping the yard waste facility open was a topic of discussion during the budget discussions. The town is seeking a compost facility permit from DEP in order to “mix our leaves and grass clippings here on site.” In order to cover the operating costs of that facility, there will be a nominal per load fee of \$5 for single axle trailers and pick-up trucks; \$10 for larger vehicles, and \$25 for 6-7 yard dump trucks. We will not accommodate larger vehicles. A 6:00 p.m. workshop to discuss these fees and increased victualer’s fees is scheduled for the next meeting. Councilor Storey-King encouraged continued sale of composting bins at Town Hall.

Motion by Councilor Copp, seconded by Councilor Perfetti, to set a public hearing date of June 22, 2009 to consider and act on establishing yard waste facility fees, effective July 1, 2009.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 083 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on increases to Victualer’s License fees for FY’10.**

Motion by Councilor Stiles, seconded by Councilor Perfetti, to set a public hearing date of June 22, 2009 to consider and act on increases to Victualer’s License fees for fiscal year 2010.

VOTE: UNANIMOUS PASSAGE 7Y-0

**09 – 084 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on a recommendation from the Planning Board re: text changes to Section 423 (Shoreland Areas) of the Cumberland Zoning Ordinance.**

The Manager indicated the state requires adoption of new shoreland zoning regulations. Code Enforcement Officer William Longley will attend the next meeting to review the application of this ordinance. Councilor Moriarty explained the committee discussed whether the language should be adopted as a stand alone ordinance or incorporated into the zoning ordinance. The Planning Board has forwarded a recommendation to delete and replace current Section 423 of the zoning ordinance. However, he urged the council to “consider this as a free standing ordinance.” Chairman Turner noted the council’s general consensus for a stand alone ordinance and the Manager noted the advertisement would suggest a stand alone ordinance.

Motion by Councilor Porter, seconded by Councilor Copp, to set a public hearing date of June 22, 2009 to consider and act on a recommendation of the Planning Board to repeal and replace in its entirety Section 423 (Shoreland Areas) of the Cumberland Zoning Ordinance.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 085 To set a Public Hearing date (June 22<sup>nd</sup>) to consider and act on a Wharfing Out Permit for Holly Thibodeau, Sturdivant Island, Map I-08, Lot 3-B.**

The Coastal Waters Commission will meet one week from tonight for a site walk. The application has been reviewed and the commission will prepare a recommendation on June 15<sup>th</sup>. Councilor Stiles questioned the impact of the new shoreland ordinance to the application. Manager Shane explained the new ordinance gives the authority of review to the Coastal Waters Commission.

Motion by Councilor Copp, seconded by Councilor Store-King, to set a public hearing date of June 22, 2009 to consider and act on a Wharfing Out Permit for Holly Thibodeau, Sturdivant Island, Map I-08, Lot 3-B.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 086 To authorize the Town Manager to renew the online services contract with InforME for the period of February 1, 2009 through February 1, 2019.**

Town Attorney has reviewed the contract renewal and the town is satisfied with the INFORME services to date. The Manager recommended renewal of the contract as presented.

Motion by Councilor Perfetti, seconded by Councilor Copp, to authorize the Town Manager to renew a contract with InforME for certain online registration services for the period of February 1, 2009 through February 1, 2019.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 087 To countersign the M.S.A.D. 51 June 16, 2009 Budget Validation Referendum Warrant.**

The Manager noted the Warrants had not yet arrived and recommended a short recess. Before a recess occurred, Ms. Sloan returned and requested to address the council. She informed the council she was “verbally accosted by Mr. Tardiff and called ignorant. So, if you’re wondering why people don’t show up to vote – this is the reason why. There can’t be a democracy when people can’t feel free to give their own opinions and do it without having someone not only insult them but follow them home to make sure they do live on Main Street.” At this time, the Chairman moved on to New Business. 8:10 p.m.

**V. NEW BUSINESS**

**Councilor Copp** – council received an email from Pam Russell re: article on walkability of neighborhoods; Cumberland received a walk score of 12 out of 100 – a “car dependent community”; 10% voted on a \$28 million budget – more people have attended council meetings; take the time to vote because it makes a difference.

**Councilor Perfetti** – eliminating the town meeting style district meeting and moving to one vote on the regular election cycle in June is ‘a simple solution’; his five year old remarked on the condition of the credit union site; it’s shameful that a fellow community member accosted another community member.

**Councilor Storey-King** – this is not the first time that we hear about disrespect regarding differences of opinion; it’s ok to be passionate about something without insulting someone with a different opinion; the council is meeting this evening because of the Memorial Day holiday and the June 9<sup>th</sup> vote; council swearing-in on June 15<sup>th</sup>; regular scheduled meeting on June 22; we can only ask the MSAD to be considerate – it’s not easy to change the requirements; asked people to be mindful of the safety during graduation season; help us all in keeping our kids safe.

**Councilor Porter** – asked for an update re: a private party that occurred in the Rines Forest; it occurred on Dale Rines’ private property rather than the town forest; he would secure the site; please respect the property; disappointed with the 5/26 turnout; very clear example of how important voting is; graduation is on Sunday and the balloon bash and soaking event will no longer occur.

**Chairman Turner** – reiterated the importance of each vote; you can make a difference; it’s easy to fall into complacency;

**Councilor Stiles** – reminder re: June Jamboree and 4H will be actively practicing at the fairgrounds; the town council does not control what the school spends; 500 people voting on the school budget is “pathetic”; received the credit union brochure which contained several good points; we are one of the few communities that does not have a financial institution in it – now we have the opportunity to have one, right next to the school; encouraged Range Road residents to get your water checked for radon.

**Councilor Moriarty** – also encouraged voting; district wide voting format would require a change in state statute; the district budget meetings have had more people in attendance than voted last week; will be out of town on the 10<sup>th</sup> but here on the 15<sup>th</sup>.

**Town Manager Shane** – council committee assignments will be made at the 6/15 meeting; letter sent to Glenn Hutchins for a phenomenal job on the Memorial Day Parade; Bob Vail located Julie Ferland who spoke at the parade ceremonies on behalf of all veterans. Councilor Storey-King expressed her thanks to Manager Shane for his instrumental efforts on behalf of the parade and WWII veterans.

Manager recommended a recess to Executive Session followed by a return to meeting session when the MSAD Warrants arrive.

Motion by Councilor Porter, seconded by Councilor Copp, to recess to Executive Session pursuant to Title 1 MRSA §405(6)(C) re: real estate property acquisition, and pursuant to Title 36 MRSA §841 re: Poverty Abatement application for property identified as tax Map U12, Lot 08.

VOTE: UNANIMOUS PASSAGE 7-0  
TIME: 8:36 p.m.

**VI. EXECUTIVE SESSION** pursuant to 1 M.R.S.A., § 405 (6) (C) re: real property acquisition, and pursuant to Title 36 M.R.S.A., § 841, re: Poverty Abatement Application for property identified as tax map U12/Lot 08.

Motion by Councilor Porter, seconded by Councilor Perfetti, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE 7-0  
TIME: 9:15 p.m.

Motion by Councilor Stiles, seconded by Councilor Porter, to acknowledge receipt of the MSAD 51 June 16, 2009 Budget Validation Referendum Warrant and countersign the same.

VOTE: UNANIMOUS PASSAGE 8-0

Motion by Councilor Stiles, seconded by Councilor Moriarty, to recess to Executive Session pursuant to 1 M.R.S.A. §405(6)(C) re: real property acquisition and pursuant to Title 36 M.R.S.A. §841 re: poverty abatement application for property identified as Tax Map U12/Lot 08.

VOTE: UNANIMOUS PASSAGE 7-0  
TIME: 9:21 p.m.

Motion by Councilor Porter; seconded by Councilor Perfetti, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE  
TIME: 9:40 p.m.



Motion by Councilor Porter, seconded by Councilor Stiles, to table the poverty abatement request for property identified as Tax Map U12/Lot 08 until the first meeting of October 2010 at the latest.

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 9:45 p.m.

**VII. ADJOURNMENT**

Motion by Councilor Porter, seconded by Councilor Storey-King, to adjourn.

VOTE: UNANIMOUS PASSAGE

TIME: 9:45 p.m.

Respectfully submitted,

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Nadeen Daniels, CMC  
Cumberland Town Clerk