

**AGENDA**  
Cumberland Town Council Meeting  
Town Council Chambers  
**MONDAY, October 26, 2009**  
**6:00 p.m.** Workshop  
**7:00 p.m.** Call to Order

**WORKSHOP 6:00 p.m.** with the Lands & Conservation Commission and Land Trust re: conservation easements on property located on Range Way.

**I. APPROVAL OF MINUTES**

October 12, 2009

**II. MANAGER'S REPORT**

**III. PUBLIC DISCUSSION**

**IV. LEGISLATION AND POLICY**

**09 – 169** Fire/EMS Department recognition awards presentation and swearing in of Lieutenant Gerald Croce.

**09 – 170** To authorize the Town Manager to reinstate the Senior Reassurance Program through the Fire/EMS Department.

**09 – 171** To hold a Public Hearing to repeal the existing Dog Control Ordinance and replace it with an Animal Control Ordinance.

**09 – 172** To hold a Public Hearing to consider and act on a junkyard/recycler permit renewal for Cumberland Salvage for the period of *October 1, 2009 – September 30, 2010*.

**09 – 173** To hold a Public Hearing to consider and adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period of *October 1, 2009 – October 1, 2010*.

**09 – 174** To hear a report re: *November 3, 2009* Ballot Question 2 (Excise Tax) and Question 4 (**TABLE**).

**09 – 175** To set a televised Workshop date of *November 9th at 6:00 p.m.* to discuss the Rines Forest Management Plan (Phase One Harvesting).

**09 – 176** To receive a report from Gorrill-Palmer Consulting Engineers re: the Route 88

drainage & paving project and to authorize the engineer to proceed with the project design as recommended.

**09 – 177** To set a Public Hearing date (*November 9th*) to consider and act on amendments to the following sections of the Cumberland Shoreland Zoning Ordinance:

- **Section .4** (Effective Date)
- **Section C** (Non-conforming Structures)
- **Section E(3)** (Effective Date)
- **Table 1** (Land Uses #26)
- **Section O** (Timber Harvesting)

**09 – 178** To set a Public Hearing date (*November 9th*) to consider and act on approval and adoption of the 2009 Town of Cumberland Comprehensive Plan.

**09 – 179** To set a Public Hearing date (*December 14th*) to consider and act on a land swap and Conservation Easement on property located on Range Way and encompassing over 140 acres.

## **V. NEW BUSINESS**

- November 9<sup>th</sup>, forward the Cumberland Small Wind Energy Ordinance to the Planning Board for a Public Hearing and recommendation.

## **VI. ADJOURNMENT**

# MINUTES

Cumberland Town Council Meeting

Town Council Chambers

**MONDAY, October 12, 2009**

## **5:30 p.m. Finance Committee Meeting**

**TELEVISED WORKSHOP 6:00 p.m. with the Cool Cities Committee re: Windmills 101**

**7:00 p.m. – Call to Order** – Chairman Copp, Councilors Turner, Perfetti, Porter, Storey-King, Stiles, and Moriarty.

## **I. APPROVAL OF MINUTES**

September 14, 2009

Motion by Councilor Moriarty, seconded by Councilor Storey-King, to adopt the minutes as provided.

VOTE: UNANIMOUS PASSAGE 7-0

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

None.

## **III. PUBLIC DISCUSSION**

None.

## **IV. LEGISLATION AND POLICY**

### **09 – 160 To forward the new State Model Wind Energy Facility Ordinance to the Cool Cities Committee for a recommendation.**

Cool Cities Chairman, Paul Weiss, gave a brief presentation titled “Residential Wind Energy.” Mr. Weiss explained wind energy basics, small scale and residential wind energy, the key concepts of a wind ordinance, the decision factors for Cumberland, and presented the recommendations of the Cool Cities Committee. Councilor Moriarty described the state model ordinance as comprehensive, stating, “I don’t want to give the committee more work than it really needs. We should be focusing on something that allows” a structure for a residential structure. While he supports an ordinance, he prefers the town “basically endorse it with the idea that we’re really looking toward the smaller end of things here. Let’s start out small, we can always work our way up.” Councilor Turner questioned whether there should be any recommendation regarding a height restriction. Councilor Moriarty responded, “Height probably doesn’t concern me at this stage.” Councilor Porter believes the committee is very clear the focus is on “the small residential units.” Planning Board member, Chris Neagle suggested the town focus on a ten kilowatt unit because it “makes it the easiest for all concerned.” We are only concerned with the section that deals with small residential units and making sure it works for Cumberland. Agreeing with Mr. Neagle, and commenting on the excellent presentation by Mr. Weiss, Councilor Turner suggested that is the town seeks to encourage wind power “we ought to encourage viability. I think any new structure that people aren’t used to can have some debilitating effect on the property next door, but that doesn’t change my mind in the slightest about the viability of going forward with this.”

Motion by Councilor Porter, seconded by Councilor Storey-King, to forward the state model Wind Energy Facility Ordinance to the Cool Cities Committee for a recommendation.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 161 To hear a report re: Question #2- Excise Tax reductions.**

Councilor Perfetti indicated while he does not wish to create a scare tactic, he strongly believes services must and will be cut if this initiative is enacted. Maine ranks 41st among 50 states in local spending burden. How much do we spend on roads? We are 15 & 16<sup>th</sup> in a percentage versus state and per capita income. Maine's excise tax has existed since 1929 and was a part of the general property tax prior to 1929. Two out of three cars statewide "pay the lowest mill rate already." Two out of three vehicles will not qualify for the reduction under this proposal. Cumberland currently generates \$1.3 million dollars in excise revenue. Cumberland is not mandated by state law to spend excise tax revenues on its roadways; however, municipalities generally spend more dollars annually than is collected in excise revenues. Cumberland spent \$2.051 million on infrastructure related expenses against its \$1.3 million revenues. The remaining funds came from the property tax. Councilor Perfetti provided a graph showing the decline of excise revenues over six years under this initiative. The net loss to Cumberland is approximately \$530,000. The town must choose between increases to property taxes to maintain the present level of services, cut services to maintain the present tax rate, or some combination of the two. Scenarios were given to show the net impact to a property assessed at \$250,000, \$350,000 and \$750,000. The property tax increase is \$115, \$161 and \$345 respectively if "we were to completely shift the tax" from the car to the home. Excise revenue loss will require a .46 cents reduction in the property tax rate. Examples of service cuts necessary to meet that reduction include closing the library at a savings of .20 cents; eliminating recreation programs at a savings of .09 cents on the tax rate. "There's going to be a number of things we have to cut; that's the reality." Unintended consequences include providing a significant exemption for hybrid vehicles. An example is an \$80,000 hybrid Cadillac SUV. "It would be exempt from the excise tax...and state sales tax." A smaller car with a lesser carbon footprint, while still a hybrid, does not qualify, however. Councilor Perfetti urged a no vote because the objectives are not clear. Excise taxes are paying for roads; this isn't an environmental or 'green' friendly proposal; this will place additional pressure on property taxes and will put at risk all current municipal services. Two additional points are "the two key pieces." Any vehicle over five years old will see no savings. "There are really no savings if you have an older car. The unintended consequences are completely backwards from what they said they wanted." Councilor Porter added this initiative is "a wolf in sheep's clothing." The property tax is regressive and has no bearing on income. Cumberland is in year two of a zero percent increase in its operating budget and LD #1, implemented in 2005, mandated spending increase limit caps with voter approval above those caps. "There are already some measures...to reign in...municipal spending and we've met those requirements." Manager Shane requested the excise tax and TABOR initiative items be placed on the next council agenda. Councilor Turner added his concern regarding affirmative votes due to voters' frustration with state government spending. "I'm afraid they'll vote for it just because they're angry....at overspending on another level." No public comments received.

**09 – 162 To hear a report from the Finance Committee Chair re: FY10 1<sup>st</sup> quarter financials.**

Finance Director Alex Kimball presented the first quarter financial report. Expenses are up over the prior year due mainly to one additional payroll period. Revenues "are holding pretty steadily." State revenue sharing is off slightly at this time. As a sales tax based revenue, revenue sharing is not within the control of the town. Property tax collections through September 30, 2009 are down slightly. "A little bit of drop...equals a lot of money. We'll have a better sense after the second quarter. There's plenty of time for this to turn itself around." Revenues are stable and similar to the prior year. Tax collections are off slightly, and may or may not be a cause for concern in the spring. No public comments received.

**09 – 163 To set a Public Hearing date (October 26<sup>th</sup>) to consider and act on a junkyard/recycler permit renewal for Cumberland Salvage for the period of October 1, 2009 – September 30, 2010.**

No public comments received.

Motion by Councilor Perfetti; seconded by Councilor Storey-King, to set a public hearing date of October 26, 2009 to consider and act on a junkyard/recycler permit renewal for Cumberland Salvage for the period of October 1, 2009 through September 30, 2010.

VOTE: UNANIMOUS PASSAGE 5-1-0 (Councilor Stiles out, Chairman Copp abstained)

**09 – 164 To hear a report from the Town Clerk re: New Dog License Warrant Law.**

The Town Clerk provided a summary of the M.R.S.A. Title 7 animal welfare update which eliminated the municipal dog warrant procedure. This amendment became effective Saturday, September 12, 2009 and means that the council will no longer issue an annual Dog Warrant, which is traditionally issued in April of each year. Additionally, the law imposed a permanent \$15 late fee for dogs that remain unlicensed on February 1<sup>st</sup> of each year. The clerk explained the late fee is anticipated to increase to \$25 in 2010. No public comments received. No council action taken.

**09 – 165 To hear a report from the Town Clerk re: November Early Voting.**

The Town Clerk explained Cumberland is one of eight communities who have requested approval from the Secretary of State's Office to participate in a pilot program for Early Voting. Early Voting is permitted during the ten days prior to Election Day. Cumberland must adhere to strict security measures for each day's balloting and properly document the numbers of voters and ballots issued during each day of the early voting program. Early Voting will begin on Saturday, October 24<sup>th</sup>. Every absentee voter who votes in person at Town Hall during Early Voting will deposit their ballot directly into the voting machine. No longer will the voter be required to place their ballot into an envelope and provide their signature. The early voting ballots will be tabulated at the close of the polls on Election Day. No public comments received. No council action taken.

**09 – 166 To hold a Public Hearing to consider and act on amendments to the Cumberland Mass Gathering Ordinance.**

Councilor Moriarty explained the Ordinance Committee is recommending certain housekeeping amendments to the current Mass Gathering Ordinance. They recommend downsizing from 1000 to 500 the size of event to which the ordinance applies as well as some terminology changes. No outdoor events shall continue beyond 11 pm regardless of the size. Otherwise, there is no radical change to the structure of the ordinance or its applicability. Councilor Moriarty has received no input from the public since the committee first proposed these changes. Councilor Perfetti noted that Section 6 of the ordinance is expanded to allow the council to waive any requirements under the ordinance. "Under this change we can now waive requirements under the entire ordinance. So, it gives us more flexibility in fact." Councilor Storey-King questioned how the ordinance amendments affect school events such as soccer and football games with respect to required police presence. "I think you're getting to that one thousand number pretty closely; it's certainly five hundred." Manager Shane responded that the school events are in compliance now with the rules in the ordinance. If the events start to grow in size we may think about requiring these events to submit a 'blanket' mass gathering permit similar to the procedure followed by the town for its own annual events at Twin Brook. "All those things that the Mass Gathering Ordinance would cover have been in place and would continue to be in place regardless." The Manager did agree that it may be beneficial to "check in with the school and get their slate" of annual events. Councilor Storey-King further queried how a decision is made to hire or not hire a police officer to attend any of the school events. The Manager explained that the Recreation and School

Athletic Director work in tandem with respect to large school outdoor events and supported adding the large school events to the annual blanket mass gathering permit approval procedure. Councilor Porter clarified that this ordinance covers indoor and not outdoor events. He questioned why the threshold was lowered from 1,000 to 500 and the Manager replied the events that fell just short of 1,000 require the same level of review by staff for reasons such as traffic control and emergency personnel presence. "This still doesn't cover" events such as races (bicycles and pedestrians) whose sponsors currently notify us their events as a courtesy and not as a requirement. "Once it gets to 500 it gets to that manageable level where we do need some type of traffic enforcement" and internal oversight. No public comments received.

Councilor Moriarty moved; seconded by Councilor Perfetti, to adopt the Mass Gathering Permit as amended.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 167 To set a Public Hearing date (October 26<sup>th</sup>) to repeal and replace the current Animal Control Ordinance.**

Manager Shane explained the Chief and Animal Control Officer will be present at the next council meeting to discuss areas of jurisdiction under state animal welfare laws and address the changes proposed to the ordinance. Councilor Porter noted that the original ordinance was titled Dog Control Ordinance. However, there are lots of other animals that should be considered in adopting the final ordinance. Councilor Moriarty offered his recommendations for substitution of the word dog to animal without any major change in the impact or intent of the ordinance. No public comments received.

Motion by Councilor Moriarty; seconded by Councilor Storey-King, to set a public hearing date of October 26, 2009 to repeal and replace the current Animal (Dog) Control Ordinance.

VOTE: UNANIMOUS PASSAGE 7-0

**09 – 168 To set a Public Hearing date (October 26<sup>th</sup>) to consider and adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2009 – October 1, 2010.**

This item represents the annual action to update and adopt a General Assistance Ordinance. Cumberland has traditionally adopted the Maine Municipal Association's Model General Assistance Ordinance as its own. No public comments received.

Motion by Councilor Perfetti; seconded by Councilor Turner, to set a public hearing date of October 26, 2009 to consider and adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2009 – October 1, 2010.

VOTE: UNANIMOUS PASSAGE 7-0

**V. NEW BUSINESS**

Councilor Turner - none

Councilor Perfetti – none

Councilor Porter – love the newsletter email updates from the Town Clerk; encouraged residents to send their email address to the Clerk to receive these newsletter updates; we're down to the last week for the reduced golf membership at Val Halla; Fire Department had another well attended open house; Planning Board meeting last week re: Comprehensive Plan where only a few participants came - that

document is our framework; soccer tournament played on Falmouth fields under very challenging conditions; unfortunately, the fields “were trashed.”

Councilor Storey-King – also encouraged residents to sign up for the ‘Cumberland Cryer’ newsletter; Community Heritage Grant Project kicked off with a public meeting on Tuesday – town is looking to get primary source documents onto the web – a fascinating project; an employee recognition luncheon will be held next Monday – she wished to thank the employees publicly; extended a hearty, happy 50<sup>th</sup> wedding anniversary to Carol & Harland Storey this Saturday.

Chairman Copp – Range Road is looking fantastic - the sightlines are great, a huge improvement; Will Irving passed away last Friday after fighting a courageous battle with cancer; encouraged walkers to wear some nature of reflective clothing.

Councilor Stiles – Range Road is now paved to Idlewood - looks splendid; starting next phase shortly, contractor will attempt to stripe the road by the end of the week; Valley Road demolition site looks fantastic.

Councilor Moriarty – none

Town Manager – Range Road is paved to Idlewood; residents will be asked to travel toward Winn Road to allow road grinding from Idlewood; water line will be laid toward Bruce Hill Road; Valley Road demolition site had final seed and mulch today and looks very good; outstanding job by AH Grover; bulky waste begins a week from today on your regular trash day; brush and construction demolition is not acceptable; October 22<sup>nd</sup> the MSAD 51 School Board would like to hold a joint meeting with Cumberland Town Council and North Yarmouth selectmen regarding the FY 2011 budget; Employee Appreciation Day at Val Halla on October 19 - town hall closed at noon; last Saturday the Maine State Championship was held among 40 Class A golf teams and Greely finished 5<sup>th</sup> under Coach (Golf Pro) Brian Bickford; individual championships this coming Saturday; 25% who qualified are home based on our home court; all seven members of the girls team have qualified and seven of the boys qualified; Route 88 bus tour this coming Saturday at 9:00 am; another tour on the following Saturday 10/24.

## **VI. ADJOURNMENT**

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

VOTE: UNANIMOUS PASSAGE 7-0

TIME: 8:40 p.m.