

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, OCTOBER 27, 2008

6:30 p.m. Workshop

7:00 p.m. Call to Order

6:30 p.m. WORKSHOP re: Community Education and Recreation Advisory Board Charge

I. APPROVAL OF MINUTES

September 22, 2008

October 13, 2008

II. MANAGER'S REPORT

- Lt. Calder – Police Update
- Tower Balloon Float – November 3rd – 4th
- Philip & Grove Streets drainage update

III. PUBLIC DISCUSSION

IV. LEGISLATION AND POLICY

08 – 153 To authorize the expenditure for the Val Halla Banquet Center utility changeover for January sale.

08 – 154 To award the Corey Road Fish Passage project to A.H. Grover, Inc. of Yarmouth.

08 – 155 To set a Public Hearing date (November 10th) to consider and act on a property tax abatement request for property located at 74 Blanchard Road, Map R05A, Lot 4A.

08 – 156 To hold a Public Hearing to consider input and comments from Range Road residents re: reconstruction and waterline project and to set a Public Hearing date (November 10th) for action.

08 – 157 To set a Public Hearing date (November 24th) for the 2009 Shellfish License allocations.

08 – 158 To set a Public Hearing date (November 10th) to consider and adopt the revised MMA Model General Assistance Ordinance and Appendixes A-C for the period of October 1, 2008 through October 1, 2009.

08 – 159 To set a Public Hearing date (November 10th) 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 – 160 To set a Public Hearing date (November 10th) to consider and act on amendments to the Cumberland Zoning Ordinance, Section 402.4, free range of poultry, as recommended by the Planning Board.

08 – 161 To set a Public Hearing date (November 10th) 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.

V. NEW BUSINESS

VI. ADJOURNMENT

MINUTES

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, SEPTEMBER 22, 2008

6:00 p.m. Workshop

7:00 p.m. Call to Order

6:00 p.m. WORKSHOP re: NIMS 700 Training

7:00 p.m. – CALL TO ORDER

Present: Chairman Turner, Councilors Copp, Perfetti, Storey-King, and Porter.

Excused: Councilors Stiles and Moriarty.

I. APPROVAL OF MINUTES

September 8, 2008

Moved by Councilor Copp, seconded by Councilor Perfetti, to approve the minutes as presented.

VOTE: UNANIMOUS PASSAGE 5-0

II. MANAGER'S REPORT

- Mark Robinson recognition

The Manager introduced Mark Robinson, stating he is “unfortunately no longer a Cumberland town citizen.” Mark was recognized for his many years of service to the town, including the positions of a reserve police officer and volunteer firefighter. Mark also served on numerous town committees, including the last three Comprehensive Plan Committees, the Route 100 Committee, and the Planning Board. “Mark is a citizen who has cared very much about his community. I have always appreciated his viewpoints.” Chairman Turner congratulated Mark and presented him with a chair emblazoned with the town seal. Planning Board Chairman, William Ward, shared the board’s gratitude and appreciation, noting Mark “has contributed heavily over the past two years” in a colorful, entertaining and productive manner. Chairman Turner noted this occasion “with a lot of sadness.” Councilor Porter referred to Mark as “a dying breed” that is not often seen in communities any more. “It’s a great loss to the Town of Cumberland.” Councilor Storey-King noted Mark’s leadership and institutional memory. Councilor Perfetti described Mark Robinson as “very gracious,” adding, “It’s really hard to fill those shoes, and you will be missed more than you know.” Councilor Copp described Mark as dedicated adding he “has done great things.” Mark Robinson thanked the council for their comments and described his time in Cumberland as a “learning experience. I take pleasure in participating” in the committees. “Thank you for the honor of serving the community.”

- CMP Power Expansion Project

CMP seeks to expand power lines throughout the state and Cumberland will be impacted by the expansion through CMP’s plan to acquire 12-17 acres of land for the placement of a new \$35 million dollar substation, the second largest in the state. Negotiations are underway with area homeowners. He urged councilors to visit the substation in Pownal in order to better visualize the impact. “They do make noise.” He expects the impact to be more greatly felt by Yarmouth and North Yarmouth. The Manager has requested a CMP representative to come to a council meeting in December. “There are a lot of issues we’re going to keep our eye on here. The substation would

have a great impact to us as a community.” The intervener process will continue for at least six months. The PUC hearings will likely conclude in summer of 2009. Councilor Porter sought confirmation that the council has very little input in relation to the transmission lines. CMP is one of the larger taxpayers in the community now and anticipated tax revenue ranges between \$140,000 and \$300,000 per year.

III. PUBLIC DISCUSSION

None. At this time, Chairman Turner offered comments in response to an article in the Forecaster, commenting that an important duty as chair is to “uphold the integrity of the council” and ensure the “intent at least of complete transparency of everything we do. This council has always demonstrated the same. Chairman Turner took exception to a statement of the Falmouth Town Manager regarding executive sessions, which implied a contrast between the public nature of negotiations with the developer. “Those discussions did not take place for months” and the “brunt of the whole article...is basically hinged on that particular paragraph which is patently false.” Chairman Turner requested calls or emails from any resident who feels the council is not forthcoming at any time. Councilor Porter added he also took offense to the article and had a pointed discussion with the reporter. “This community has done nothing but inform citizens of what’s going on. We had conversations” with Falmouth. “We’ve done everything properly. The reality is it was out there for our citizens to comment on.”

IV. LEGISLATION AND POLICY

08 – 144 To hear a report from a citizen re: free range of poultry, §402.4 of the Cumberland Zoning Ordinance.

Brita Bonechi, 34 Longwoods Road, requested the council consider a change to the Cumberland Zoning Ordinance to remove the restriction prohibiting the free range of poultry, stating, “We have had free range chickens here for 34 years.” Chickens “keep down the ticks and Japanese beetle” population. Chickens “don’t go very far” and when they do she stated their “droplets” are great for lawns. Councilor Storey-King asked about the scenario of a chicken killed by a dog on the property to which it roamed. “It’s not a reason to have a squabble,” responded Ms. Bonechi. Councilor Porter believes the Comprehensive Plan encourages more agriculture in our community. “It’s a small piece of what we need to continue and encourage in this community. If we can make this work, we should make it work.” Councilor Copp added that there is a citation for a dog roaming at large and suggested that may be a probability with ranging chickens.

Animal Control Officer, Chuck Burnie, stated that in the half dozen years he has dealt with animal issues for Cumberland, he has found most neighbors are respectful enough to work out the issue between them. “98% of the problems are taken care of because” our ordinance “backs up the complainant.” On the other hand, he has not seen the same success in North Yarmouth, which he attributes to a lack of an enforcement ordinance. “I think the ordinance should stay in place.” Chairman Turner agreed with sending the request to the Planning Board to give the issue ‘maximum vetting.’

Motion by Councilor Porter, seconded by Councilor Storey-King, to forward the request to the Planning Board for input regarding changing our ordinance on free range chicken.

VOTE:

PASSAGE 4-1 (Councilor Perfetti opposed)

08 – 145 To hold a public hearing to consider and act on junkyard/recycler permit renewal for Cumberland Salvage for the period 10/01/08 through 9/30/09.

No comments received during the public hearing.

Motion by Councilor Porter, seconded by Councilor Perfetti, to approve a junkyard/recycler permit for Cumberland Salvage for the period 10/01/08 through 9/30/09.

VOTE: UNANIMOUS PASSAGE 4-0-1 (Councilor Copp abstained)

08 – 146 To hold a public hearing to consider and act on a “blanket” Mass Gathering Permit for Twin Brook Recreation Area events.

Many events such as the AYSO Recreational Soccer Tournament, Recreation Youth Running All-League Meet, Maine College Cross Country Meet, and the High School Regional Cross country Meet occur at Twin Brooks each year. While several events may come close most do not meet the threshold for a Mass Gathering Permit. Any additional programs beyond those mentioned will be presented to the council before the event and “compressed” into an annual Mass Gathering blanket approval. A public hearing will also provide area residents an opportunity to comment or provide feedback about the events.

Public Services Director Bill Landis stated the Maine Principals’ Association event requires police and parking control presence. “When you add it all up...it does come close to the 1,000” threshold attendance. He will work with the administration to determine the events which fall within the permit requirements.

Mr. Landis noted the renovations at Twin Brook are complete and a dedication will occur at 1:00 p.m. on Sunday, October 5, 2008. “It really shows well.” He has received comments from residents who were originally opposed to a building at Twin Brook who now believe the building is a tremendous asset to the community.

Councilor Storey-King asked about the completion of the trails and commented on the high number of students who are picked up by parents at the fields. “Just on a regular day...that traffic was unreal.” Mr. Landis replied that the trails still require some top dressing after the last storm event and referred to Twin Brook as “athletic central from 2:30 to 5:00.”

Motion by Councilor Copp, seconded by Councilor Storey-King to approve the blanket Mass Gathering Permit for Twin Brook Recreation Area events.

VOTE: UNANIMOUS PASSAGE 5-0

08 – 147 To countersign the MSAD 51 Referendum Warrant re: Reorganization.

Councilor Storey-King reminded citizens to tune in tomorrow evening at 7:00 pm to hear an update from the MSAD 51 Regional Planning Committee’s transition team. Voters will receive a ballot question at the November 4, 2008 election asking whether they approve the reorganization of the school administrative district with North Yarmouth and Falmouth.

Chairman Turner added, “it’s a no brainer to vote yes because there are consequences if we don’t and no adverse consequences if we do. This is a fairly safe bet from my point of view.”

Councilor Perfetti encouraged residents to educate themselves about the choices and clarified that action this evening “is a very technical vote” to place the question on the ballot. “We’re making no judgment one way or the other.” Councilor Porter remarked “We’ve heard a lot of angst” and his response is Cumberland and North Yarmouth have worked well together for many years. “I think that it’s a specious argument” to suggest the reorganization with Falmouth will diminish the success of our school system or Falmouth’s system.

Motion by Councilor Storey-King, seconded by Councilor Perfetti, to countersign the MSAD 51 Referendum Warrant re: Reorganization.

VOTE: UNANIMOUS PASSAGE 5-0

08 – 148 To authorize the Town Manager to accept a promissory note/mortgage with the owner of Map U20, Lot 9A, for the repair/replacement of a septic system and chimney.

The Manager explained that a homeowner has encountered a failed septic system. The homeowner is disabled and in extremely hard times financially. They have done all they can “to keep their heads above water.” The Manager has met with the homeowner who is requesting a Promissory Note, secured by a mortgage against the real property, in order to address this public health issue. The mortgage lien amount is \$8,837.54.

Chairman Turner sought confirmation that the town is taking “virtually no risk” due to the mortgage lien on the property. Councilor Perfetti asked about Section 4 of the Promissory Note which addresses the transfer of the property. The Manager explained that the section addresses the transfer of the property to the homeowner’s son.

Motion by Councilor Copp, seconded by Councilor Perfetti, to authorize the Town Manager to accept a promissory note/mortgage with the owner of property at Map U20, Lot 9A, for the repair/replacement of a septic system and chimney.

VOTE: UNANIMOUS PASSAGE 5-0

V. NEW BUSINESS

Councilor Copp – a motor home fire Saturday about 100 yards over the Cumberland line; gave thanks to Chief Small who personally called Rite Aid to get the gentlemen his prescriptions; a phenomenal job, the Chief went over and above his duties.

Councilor Perfetti – none

Councilor Storey-King – we were remiss when thanking Mr. Robinson in not acknowledging Mrs. Robinson; thank you for sharing Mark with us for so many years; it’s a commitment on her part as well; event for Representative Turner at Val Halla at 2:00 on October 5th; concern regarding the consolidation referendum and encouraged “yes” voters to vote.

Chairman Turner – none

Councilor Porter – received a card from employee Anne Brushwein thanking the council for the flowers sent after her step-father’s passing.

Manager Shane – the most important thing we do in town government is elections; beginning Monday, September 29th we will be open every single day for a month to provide in-person voting; schedule as follows: regular hours at Town Hall and we will also take our show on the road in a mobile vehicle on Saturdays; we are committed to get everybody to vote; we also have Sunday hours at West Cumberland Recreation Hall; his message tonight is Voted Early,” Cumberland is competing with Bangor for the highest % of absentee voters, bio-diesel conference Friday at Eco-ME; drill at Cumberland Fairgrounds a week ago Saturday really showed how well prepared our staff is for a major event; very proud of our staff; update that the public works site does not meet the standards for a windmill; received a proposal from a cell tower company to meet with the council re: placement of a 125’ cell tower at public works;

advertising in November for the Veterans Memorial Committee; Route 88 Committee will have an interim report and recommendation in November; holding neighborhood meetings on October 13th and 27th re: Range Road - the decision will focus on width and paved versus unpaved shoulders; a site walk on Range Road Saturday 18th and 25th ; received inquiries regarding the Chase Flower Shop on Main Street, which will take a contract zone because a one-year period of non commercial use has passed; a developer has come forward regarding locating a bank on that site and the design is that of a single-family structure; recommended taking a comprehensive look at zoning along Main Street; possibly consider an overlay district.

Moved by Councilor Perfetti, seconded by Councilor Copp, to recess to Executive Session, pursuant to Title 36 M.R.S.A., §841 re: Poverty Abatement Application.

VOTE: UNANIMOUS PASSAGE 5-0

TIME: 9:15 p.m.

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

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

VOTE: UNANIMOUS PASSAGE 5-0

TIME: 9:35 p.m.

VII. ADJOURNMENT

Motion by Councilor Perfetti, seconded by Councilor Porter, to abate \$3,080.00 in taxes for property located at Map R06, Lot 025, for FY 2009.

VOTE: UNANIMOUS PASAGE 5-0

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

VOTE: UNANIMOUS PASSAGE 5-0

TIME: 9:37 p.m.

Respectfully submitted,

Nadeen Daniels, CMC
Town Clerk

MINUTES
OCTOBER 13, 2008
CUMBERLAND TOWN COUNCIL

6:00 p.m. WORKSHOP – to discuss potential uses and rezoning of overlay district along Main Street.

Present: Chairman Turner, Councilors Perfetti, Copp, Storey-King, Stiles, Moriarty and Porter. Town Planner Carla Nixon and Town Manager William Shane.

7:00 p.m. – CALL TO ORDER

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

I. APPROVAL OF MINUTES

II. MANAGER’S REPORT

- Range Road - Town Council will conduct a site walk the next two Saturdays along Range Road stopping at approximately ten locations on the road, beginning at 9:00 am.
- MSAD 51 School Consolidation Referendum of November 4, 2008; referred to letter from SAD Trustees Chairman, Dave Perkins, and provided facts regarding the consolidation. Issue is not about local control. Cumberland made the choice to become an SAD “a long time ago.” Cumberland will lose over \$307,000 in state aid for education as a penalty if consolidation fails. A MSAD 51 yes vote means no penalty “period.” If Falmouth votes no, MSAD 51 will look for another ‘partner’ but there is no penalty. Councilor Porter added, “This is a no brainer.”
- CMP representative will attend October 27th meeting to provide an overview of the power line/substation project along the Greely Road/Middle Road area on the Yarmouth/Cumberland line.
- Neighborhood meeting to be held in November regarding a contract zone request for siting a bank on the Chase Flower Shop site.
- Update regarding “David and Goliath” competition with Bangor. Cumberland has received 907 requests (16%) for absentee ballots and 501 (8.65%) have been returned thus far.

III. PUBLIC DISCUSSION

None.

IV. LEGISLATION AND POLICY

08 – 149. To hear a report from the Finance Committee Chair re: FY '09 first quarter financials.

Councilor Stiles introduced Finance Director Alex Kimball and together they provided a year-to-date budget report. Mr. Kimball noted the public safety numbers showed an increase over the last year; “something of a one time difference.” A three year comparison on fund revenues show a slight decrease, however, the indicators are that “we’re on track.” Property tax collections are doing well and building permits decreased from the prior year. Councilor Storey-King asked about the decrease in interest on savings. “It is more a function of us lowering our expectations than significantly less money coming in,” explained Mr. Kimball.

08 – 150. To hold a public hearing to consider and act on changes to the Cumberland Shellfish Ordinance.

Shellfish Committee members Mike Brown and Tom Peterson were present. Mr. Brown summarized the changes as follows: definitions section – returned language to allow guests to assist a licensed digger; a Junior License issued to all eligible minors between the age of 12 – 16 at a reduced cost; removed the “lot” definition. Language was added to allow children under the age of 12 to assist a licensed digger; new language to make clear that volunteers are assured a recreational license, but at a cost. Other amendments included a Junior License fee at \$15.00, and the exclusion of recreational licenses issued to Maine Certified Shellfish Wardens from the calculation of licenses sold.

Councilor Stiles clarified juniors under the age of eleven “can not dig on their own.” In response to Councilor Moriarty’s question, Mr. Brown explained that monthly recreational shellfish licenses are available to both non-residents and residents and those available to non-residents are determined on a ten to one percentage basis. No comments received during public hearing.

Motion by Councilor Porter, seconded by Councilor Stiles, to amend the Cumberland Shellfish Ordinance as drafted.

VOTE: UNANIMOUS PASSAGE 7-0

08 – 151. To hear a request from Mariner Tower re: lease agreement for property located at the town garage for a wireless communication facility and tower.

Manager Shane introduced Chris Ciolfi, Chief Development Officer, Mariner Tower, who provided an overview of their request to lease property owned by the town and located on Drowne Road. No council action is sought this evening.

There is no significant existing T-Mobile coverage in the Main Street/Tuttle Road area, so T-Mobile has enlisted Mariner Tower to improve wireless services to this area of

Cumberland. T-Mobile has no further capacity to their equipment located at the Cumberland Congregational Church and has identified the Drowne Road area as an acceptable location for a new facility. They propose building a self-supported lattice style tower of approximately 150 feet, along with telephone and electric services and concrete slabs for equipment, all surrounded by a chain link fence, and sited on 7,000 square feet of land. A lattice tower allows for “a lot more flexibility” than a monopole.

T-Mobile has agreed to allow the town to attach its public safety radio equipment to their tower, rent free. The noise is “on the magnitude of a home refrigerator or normal office talk.” The visual impact can be witnessed through a balloon test. Councilor Copp asked the height if it were located on Main Street. “It would probably be closer to the 70 feet” but the higher tower allows for additional carriers on one tower as opposed to “three seventy foot towers right in a row.”

When asked by Councilor Porter if Range Way was considered, Mr. Ciolfi responded the need is in the Main Street area. Moving it to the east will “defeat the whole purpose of doing it.” When asked about placing a tower on a capped landfill, Mr. Ciolfi stated there is no prohibition against it, but he would be concerned about placing a foundation on those soils. “We’re really looking for virgin land.” The lease arrangement is not in lieu of taxes; property taxes will be paid. Councilor Porter questioned why the church’s lease amount is “significantly higher. What is the difference?” The disparity is due to the fact that “they’re not really developing anything.” This project involves site development and “we need to recoup our capital investment.” Each service provider will also bring between \$150,000 and \$250,000 in assessed personal property. Councilor Moriarty asked if there is a capacity to a tower this size? The design will be based on the development potential and this facility will be designed for four carriers. Councilor Porter believes the town would be “foolish not to pursue this...to get more information.” Councilor Perfetti feels “this alters the landscape a great deal” but agreed the town should receive further information. The Town Manager indicated this item will come before the council again in November.

08 – 152. To appoint a member to the Comprehensive Plan Committee.

Councilor Porter explained Ms. Brita Bonechi has attended several committee meetings and participated as a citizen.

Councilor Stiles encouraged interested residents to complete an application for submission to the Appointments Committee. Councilor Porter also addressed the issue of staggering appointments on the Val Halla Trustees, recommending staggered terms of three, three and two years. Councilor Moriarty reminded the public that committee vacancies occur at the end of the year and encouraged residents to submit their interest.

Councilor Porter moved, and Councilor Moriarty seconded, to appoint Brita Bonechi to the Comprehensive Plan Committee.

VOTE: UNANIMOUS PASSAGE 7-0

NEW BUSINESS

Councilor Copp – he has seen computer monitors, microwaves and tvs on the curbside during this bulky waste pick-up; reminded residents the hauler will not pick up these items. All universal waste has to go to Riverside Transfer Station.

Councilor Perfetti – pleasure to attend the pumpkin fest; it went well and was a really nice family event; he has not voted by absentee – nationally it has no impact on the voter outcome.

Councilor Storey-King – farmers market is here as well as absentee voting on Saturday; thanked Karl Turner for his years of representation in the legislature; bulky waste is a great recycling program; encouraged viewers to read the Forecaster regarding the upcoming referendum on school consolidation; interesting editorial by David Perkins with details regarding efficiencies and budget cutting; we just can't afford the penalties; intention is to consolidate the administrative functions; Dr. Hasson has been great about moving this idea forward; she is not afraid of losing local control; PTO is sponsoring a visit with Dr. Hasson in their next upcoming meeting; and an SAD public hearing is scheduled on October 20th.

Councilor Porter – school consolidation - very interesting and very unusual to see people step up and show leadership even at the risk of losing their job; Karl Turner's event was a lot of fun - he has represented us extremely well; pumpkin fest was a ton of fun – everything handled very smoothly, hope we get them back; honor to speak this evening with Gage Gallatti regarding citizenship Boy Scout badge; no interest in delaying the Main Street overlay district discussion - we've had dozens of companies interested in locating on Main Street over the past several years.

Chairman Turner – expressed gratitude to Karl Turner for his time and service; will take phone calls on any town issue and prefers phone calls to emails; there is no consensus on the council regarding the overlay zone – he prefers to wait until November for additional data from the Comprehensive Plan Committee and Doane Committee. A poll of the council resulted in the chair recommending the item be placed on the second meeting in November agenda.

Councilor Stiles – took material to Riverside and was pleasantly surprised by reception, service and minimal cost; attended Twin Brook dedication ceremony - encouraged public to visit Twin Brook; informed Manager of a grappling hook on power line on Route 9.

Councilor Moriarty – thanked Karl Turner; received positive comments regarding Twin Brook - shelter has been an enormous improvement; bulky waste pick-up regulations are noted well in advance but many residents still put these items out, which will remain there at the end of the week.

Manager Shane – it's not 'free trash week' - a lot of stuff will stay there if it's in black trash bags; fire department open house was a huge success this past weekend; will hold the Employee Appreciation Day on October 20th and Town Hall will be closed at noon; Town Hall will also be closed to regular business on Election Day.

V. ADJOURNMENT

Motion by Councilor Porter; seconded by Councilor Copp, to adjourn.

VOTE: UNANIMOUS PASSAGE

TIME: 9:01 p.m.

Respectfully submitted,

Nadeen M. Daniels, CMC
Town Clerk