

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, December 8, 2014

6:30 P.M. Executive Session

7:00 P.M. Call to Order

6:30 P.M. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(D) re: contract negotiations between the Town of Cumberland and the Cumberland Police Benevolent Association.

I. CALL TO ORDER

II. APPROVAL OF MINUTES

November 24, 2014

III. MANAGER'S REPORT

Retiring Twin Brook Committee member John Eldredge

IV. PUBLIC DISCUSSION

V. LEGISLATION AND POLICY

14 – 175 To hold a Public Hearing to authorize the Town Manager to enter into a labor contract agreement with the Cumberland Police Benevolent Association for the period of July 1, 2014 – June 30, 2017.

14 – 176 To hear a report from Public Services Director, Chris Bolduc re: 2014 Household Hazardous Waste Collection, Shredding and Universal Waste disposal.

14 – 177 To amend the Commercial Haulers License application as recommended by Ecomaine.

14 – 178 To set a date of December 22nd to hear a report from the Deputy Tax Collector re: foreclosed properties.

14 – 179 Award for Engineering Services for the Blackstrap Road reconstruction project.

VI. NEW BUSINESS

VII. ADJOURNMENT

MOTIONS

MOTIONS

- 14 – 175 I move to authorize** the Town Manager to enter into a labor contract agreement with the Cumberland Police Benevolent Association for the period of July 1, 2014 – June 30, 2017.
- 14 – 176 No action**
- 14 – 177 I move to amend** the Commercial Haulers License application as recommended by Ecomaine.
- 14 – 178 I move to set** a date of December 22nd to hear a report from the Deputy Tax Collector re: foreclosed properties.
- 14 – 179 I move to award** the Engineering Services contract for the Blackstrap Road reconstruction project to _____.

MINUTES

11/24/14

AGENDA

Cumberland Town Council Meeting
Town Council Chambers

MONDAY, November 24, 2014

6:40 Finance Committee Meeting re: Review of Road Acceptance of Bud's Trail and Rooster Ridge

7:00 P.M. Call to Order

Present: Councilors Gruber, Bingham, Copp, Edes, Stiles, Storey-King and Turner

I. APPROVAL OF MINUTES

Motion by Councilor Bingham, seconded by Councilor Stiles, to accept the November 10, 2014 meeting minutes as presented.

VOTE: 7-0 UNANIMOUS

Chairman Gruber announced that there was an Executive Session scheduled this evening that has been cancelled.

II. MANAGER'S REPORT

Town Manager Shane announced that he would like to allow public comment during Manager's Report this evening to allow those affected by the recent developments in the natural gas project and the sudden closing of Dave Ireland Builders. This is an extremely unfortunate event and the Police Chief is present with some information.

Police Chief Charron reported that the Police Department has been in touch with the Attorney General's Office and they advised the Chief that they had more than 10 complaints against Dave Ireland Builders as of this morning (deposits given with no work done). Those who feel that theft has occurred should contact the Fraud Division of the Attorney General's Office and a report should be given to the Cumberland Police Department as well. All forms can be found on the Town's website.

Mike Duguay of Summit Natural Gas said that Summit had only heard about this situation late Thursday evening. Summit has also reached out to the Attorney General and is speaking to them daily. He also reiterated that anyone affected should contact the Police Department and the Attorney General's Office. Because Dave Ireland is an independent contractor, Summit does not have a list of which residents are using what contractor in their individual gas conversions. Mr. Duguay encouraged anyone who had work done by Mr. Ireland or was in the process of having work done, to contact Summit at 621-8000. A group of contractors who work with Summit have reached out and understand the situation that these people are in and they may have a different margin in which to work, and would like to review the information that people have to determine if they are able to help them.

Councilor Edes asked Mr. Duguay to explain the relationship that Summit has with Dave Ireland Builders.

Mr. Duguay said that Summit does not have a relationship with Dave Ireland Builders. He is an independent contractor.

Councilor Edes referred to a flyer that said Dave Ireland Builders and Summit Natural Gas are “Partners in Energy Efficiency” and wondered if “Summit’s fingerprints” are on any of Mr. Ireland’s issues.

Mr. Duguay reiterated that Summit is not affiliated with Dave Ireland Builders.

Dave Ginsberg of 268 Main Street spoke to Mr. Duguay saying that everyone who has been fleeced by Mr. Ireland probably does not have an extra \$2,500 to start the conversion process all over again. He also referred to the flyer that was in the Summit information packet, showing hands’ shaking, which to him refers to a partnership between Mr. Ireland and Summit. He is now out \$2,500 and is very upset. He has already contacted the AG’s office as well as the PUC. Mr. Ginsberg said that he feels that Summit is responsible for this as they were clearly pushing advertisements and propaganda endorsing Dave Ireland Builders. He feels that Summit should be reimbursing all those customers who were taken advantage of.

Dave Goldman of Crossing Brook Road said that he attended a meeting at Town Hall with Summit Natural Gas and he was also given a brochure from Summit with literature listing Dave Ireland as one of the approved vendors. Since Mr. Ireland was doing a lot of work in his neighborhood, they contacted him, and gave him a check for \$2,500 as a deposit. After many postponements by Mr. Ireland’s office to do their conversion, they learned last week that he had gone out of business. Since Mr. Goldman is an attorney, he filed a lawsuit for himself. He also feels that Summit should try to do something to help all those affected.

Mary Cusick, who traveled here from Gardiner, said that she met with Summit representatives last January and had intended to use a local contractor. Her sales representative from Summit said that Summit recommends that she use Dave Ireland Builders because they are the largest contractor, are familiar with the rebate system, and that Summit has done a lot of work with them. She was led to believe that Dave Ireland Builders were the experts, and she wanted to work with the experts because gas was going into her mother’s house. She began having trouble reaching Dave Ireland Builders in November and lost her \$3,275 deposit.

Town Manager Shane said that John Napolitano, Business Manager for the United Plumbers Union, has advised him that they are in discussions to determine how their contractors can work with those residents that were impacted by this situation. We should have a proposal by Monday, which will be posted on the Town website. It’s nice to hear that contractors who are doing the work are reaching out and understand the impact. It is very frustrating how one person can set this whole project back. These are going to be lifetime customers for Summit and he hopes they can figure out how to make this right for those affected.

Councilor Copp said Summit has the power to make this right and encouraged Mr. Duguay to go back to Summit, talk to them and figure out a way to make this right for all the people affected. Unless they do, he will not become a customer of Summit.

Chairman Gruber said that the Town went into a relationship with Summit Natural Gas and the Council has its fingerprints on the project. He said that Summit has to make this right.

Jim Marcisso, part owner of Pine State Services said that he believes that the popularity of Dave Ireland is due to the fact that he was low priced contractor, and being new to this field, he likely did not realize what it would cost to safely and professionally install these systems. Perhaps 20 installations in, he then realized that he underbid these projects and decided to pull the plug. He urged the community not to choose the lowest bid contract for their conversion. The only thing that could make this situation worse would be a safety disaster.

Alice Ames a Cumberland resident and Executive Director of the Maine Association of Plumbing, Heating and Cooling Contractors said that she would be able to assist in recommending contractors who have been in business for a number of years and who have a lot of experience in gas conversions.

III. PUBLIC DISCUSSION

Jean Gribbin of Longwoods Road said that she understands that Justin Fletcher will be issued permits soon to develop his property on Harris Road. She is concerned because he plans to build homes on a site that is a DEP contaminated water area. If Mr. Fletcher digs a well and disrupts the aquifer, it is a possibility that he will contaminate more wells.

Town Manager Shane said that he was shocked that none of the Harris Road neighborhood had any knowledge of this because of the majority of the neighborhood who opposed the connection of Harris Road to Route 9. It most certainly would have come up then. The Town does not regulate everything. The DEP regulates water issues. The Town has no records of anything going on in that area. He spoke to the DEP today and they sent him a hand drawn sketch depicting the affected area. He advised the DEP that prior to the construction of the connector road, the Town will require well testing. This is consistent with any major road project. The DEP recommended that we also test for VOC's (volatile organic compounds). He will continue to work with the DEP to attempt to get more information, but this may not be a matter that the Town will be involved in. It may be a civil matter between neighbors. Mr. Shane said that he will confer with the Town Attorney to see what can be done, if anything.

IV. LEGISLATION AND POLICY

14 – 172 To hold a Public Hearing to consider and act on the road acceptance of Bud's Trail and Rooster Ridge Road.

Town Manager Shane said that the Finance Committee has met and reviewed the criteria in the Road Acceptance Ordinance. They are recommending acceptance.

Chairman Gruber opened the Public Hearing.

Public discussion: none

Chairman Gruber closed the Public Hearing.

Motion by Councilor Bingham, seconded by Councilor Edes, to accept as a town road "Bud's Trail" generally described as 1150' in length by 50' in width and "Rooster Ridge" generally described as 275' in length by 50' in width and more specifically described in a deed from Walnut Hill Investments, LLC of Cumberland, Maine, dated November 2014, being the parcel identified as "Morrison's Hill Neighborhood" shown and laid out on a plan of Morrison's Hill Neighborhood prepared by Gorrill Palmer Engineers, Inc. and further accept those related easements required by the road acceptance ordinance and described in a deed from Walnut Hill Investments, LLC, of Cumberland, Maine dated November 2014.

VOTE: 7-0 UNANIMOUS

14 – 173 To appoint Tamara O'Donnell as Registrar of Voters from January 1, 2015 through December 31, 2016.

Motion by Councilor Bingham, seconded by Councilor Turner, to appoint Tamara O'Donnell as Registrar of Voters from January 1, 2015 through December 31, 2016.

VOTE: 7-0 UNANIMOUS

14 – 174 Discussion re: Town owned properties and to set a date of December 22nd for a Public Hearing.

Town Manager Shane explained that the Town Council held a site walk on Greely Road Extension and Range Way Town owned properties and staff is now looking for some direction. Easements across private properties will have to be obtained in order to connect trails.

Councilor Bingham thanked the neighbors for showing the Council the property. It is amazing what is there and it would be a great resource for the entire Town to enjoy.

Councilor Storey-King said that during the site walk she noticed that there were deer fences on Town owned property. She has concerns about the deer population and people hunting too close to the residences.

Councilor Stiles said this is a beautiful area and will be a great place for everyone to enjoy. Anyone hunting in the area is required to stay 100 feet away from any homes.

Brad Hilton of Blanchard Road said that for many years the citizens have made and maintained trails for the public to enjoy. He feels it is unfair if the Town does not take some action with Town owned property such as this. He suggested that the Town make a resolution that says leave the land as it is. He does not see any need for easements.

Town Manager Shane said that the easements take the liability away from the property owners. That is important.

Motion by Councilor Bingham, seconded by Councilor Turner, to set a Public Hearing date of December 22nd to consider and act on next steps for Town owned properties.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Copp – a year ago, he felt that the Town owned land that we just discussed should be sold. Since taking the site walk, he has changed his mind. There is not a huge tax value, but a great value to the entire Town if we keep it.

Councilor Storey-King – she is thankful for working in the schools and serving the community this Thanksgiving.

Councilor Edes – he agreed with Councilor Copp that he always felt that the Town should sell the property in the Greely Road Extension/Cottage Farms Road. He will make it a point to walk the property and keep an open mind.

Happy Thanksgiving to everyone. We truly are blessed and our Town Council always tries to do what is in the best interest of everyone. He is very thankful to live in this community.

Councilor Bingham – Murray Boyce of North Yarmouth passed away recently. Murray was the timekeeper at the Greely soccer games and cross country meets. He has always been an avid supporter of our youth and a wonderful man.

He read a note that he received from a Greely Middle School student (and second grade buddy) who sent thank you notes to Veterans on Veterans Day. It really meant a lot to him.

Chairman Gruber – The Aging in Place Committee continues to meet. The committee recently appointed Peter O'Donnell as Chairman of the committee, and Teri Maloney-Kelly as Vice-Chair. This is a very hard working committee.

John Ferland will be stepping down from the Planning Board. He said that he has the deepest respect for John. He has served 2, 3-year terms and he will be difficult to replace.

Councilor Stiles – The Library Board met last week. Circulation and business at the library is up. The Board will be putting together a survey to see what the public wants in regard to programming.

He wished everybody a Happy Thanksgiving.

Councilor Turner – he would like to remind everyone that the majority of those involved in the natural gas project have worked diligently in trying to get the work done in a timely manner. As one of the victims of the Dave Ireland Builders “deposit scandal” he knows that there are other people filling the gap by minimizing the losses that people may be incurring.

Happy Thanksgiving to everyone.

Town Manager Shane – presented the following in regard to the Girl Scouts help with making Thanksgiving baskets for the Food Pantry, and the Middle School “Fill a Bus, Fill a Belly” food delivery to the Food Pantry:







Girl Scouts to the Rescue!
Thanksgiving 2014

Thank you !

Boy Scouts – 12 Pies
 Girl Scouts Donated 50 Pies
 Cumberland - North Yarmouth
 Family Network
 Donated 50 Pies

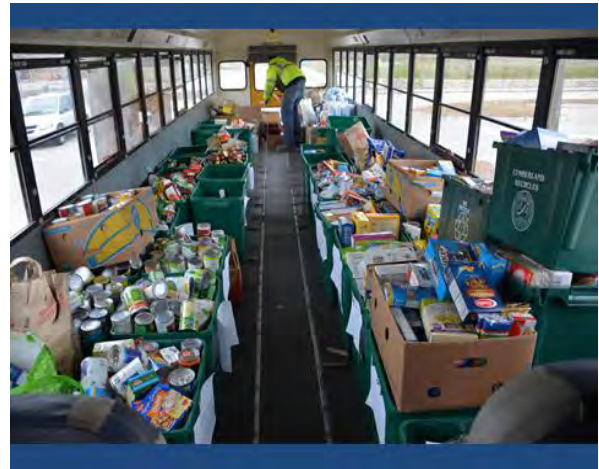




Fill a Bus – Fill a Belly

Renee Dusch
Cumberland – North Yarmouth PTO

All Photographs by Jim Dusch





Thank you
Photographer Jim Dusch
Renee Dusch &
The Cumberland &
North Yarmouth PTO

Over 5,000 lbs. of FOOD!

VI. ADJOURNMENT

Motion by Councilor Bingham, seconded by Councilor Turner, to adjourn.

VOTE: 7-0 UNANIMOUS

TIME: 9:16 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary

ITEM

14-175

To hold a Public Hearing to authorize the Town Manager to enter into a labor contract agreement with the Cumberland Police Benevolent Association for the period of July 1, 2014 – June 30, 2017

ITEM

14-176

To hear a report from Public Services Director, Chris Bolduc re:
2014 Household Hazardous Waste Collection, Shredding and
Universal Waste disposal

October Waste and Recycle Events 2014

Confidential Shredding Event

- * Saturday, October 4, 2014 8am—1pm
 - * Drop off event for shredding of confidential documents.
-
- * Results: Shredded 10,350 pounds of material
 - * Cost: \$400.00 (\$100.00 first time discount)

Universal Waste Collection

(Ewaste Event)

- * Saturday, October 18, 2014 8am – 1pm
- * Drop off event for electronic items not accepted during bulky waste week.

* Results: 21,000 pounds of material

* Cost: \$3,000

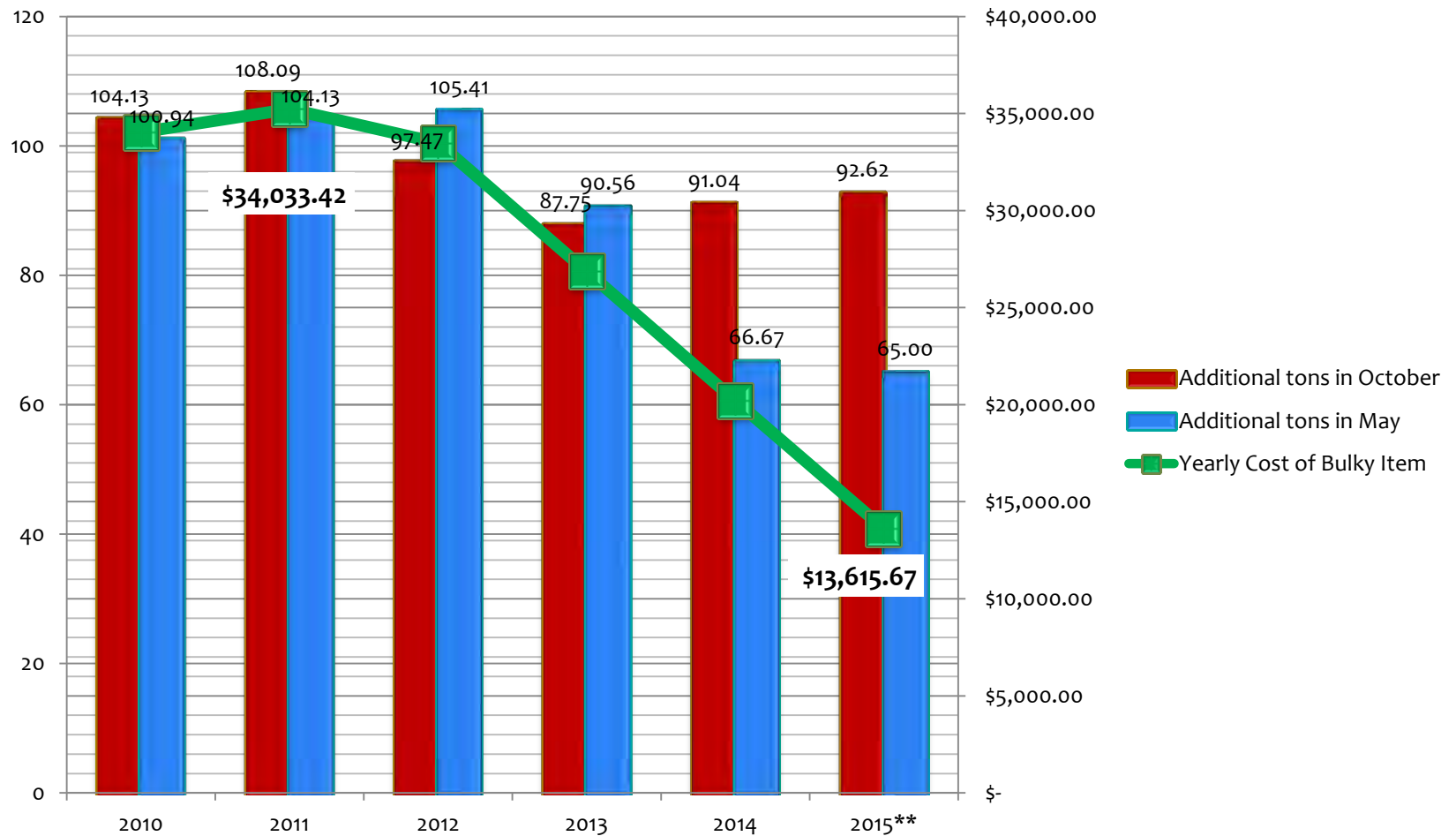
| | |
|-------------------|-------------|
| Batteries | 555 units |
| Bulbs | 424 units |
| Misc. Electronics | 2227 pounds |
| TV's | 9652 pounds |
| Computers | 2888 pounds |
| Monitors | 1170 pounds |
| Printers | 1229 pounds |
| Freon Devices | 66 Units |

Bulky Item Pickup Week

- * Week of October 13 – 17, 2014
- * Curbside Collection on day of waste pickup

- * Results: 92.6 Tons – extra tonnage for October
- * Cost: Ecomaine - \$9,780
 Waste Management – cost built into contract

Bulky Item Pickup History



Hazardous Household Waste Collection

- * Saturday, October 11, 2014 8am—1pm
- * Drop Off Event
- * Cost: \$36,566.64

Highlights:

- * Line of vehicles out to Tuttle Road for the entire 5 hour event.
- * 273 Propane Tanks
- * Paints, Resins, pesticides, solvents, mercury, aerosols, acids, gasoline, oil, creosote.
- * Materials were transported to North Carolina and Tennessee.









Johnston

Clean

200-0

CLEAN EARTH



100-0

Waste and Recycle Events Summary

- * **Future Events:** Condense all supplemental services for waste and recycling into one month (October) to provide a greater convenience for the residents.
- * **Confidential Shredding** – 10,350 pounds of material shredded
 - * **Costs:** \$400
- * **Hazardous Household Waste** – Tremendous turnout
 - * **Costs:** \$36,566.64
- * **Bulky Item Pickup** – Similar results to last fall: 92.6 tons
 - * **Costs:** \$9,780.00
- * **Universal Waste** – Collected over 20,500 tons of materials
 - * **Costs:** \$3,000.00

ITEM 14-177

To amend the Commercial Haulers License application as
recommended by Ecomaine

Original application



TOWN OF CUMBERLAND COMMERCIAL HAULER'S LICENSE APPLICATION



COMPANY NAME: _____

DATE: _____

COMPANY ADDRESS: _____

BUSINESS TEL.: _____

OWNER OR PROPRIETOR: _____

HOME TEL.: _____

ADDRESS: _____

YEARS IN BUSINESS: _____

NUMBER OF VEHICLES IN FLEET: _____

NUMBER OF VEHICLES NORMALLY IN USED IN CUMBERLAND WASTE DISPOSAL
OPERATIONS: _____

| DESCRIPTION: | YEAR | MAKE | CAPACITY | G.V.W. |
|--------------|-------|-------|----------|--------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

NUMBER OF CUMBERLAND CUSTOMERS: _____

DAY(S) OF THE WEEK COLLECTIONS ARE MADE IN CUMBERLAND: _____

ARE COLLECTIONS MADE WEEKLY _____ EVERY OTHER WEEK _____ OTHER:(EXPLAIN) _____

OTHER COMMUNITIES WHERE APPLICANT DOES BUSINESS: FALMOUTH: _____ GRAY _____
PORTLAND _____ WINDHAM _____ POWNAL _____ NORHT YARMOUTH _____ FREEPORT _____
YARMOUTH _____ STANDISH _____ OTHER: _____

FOR TOWN USE ONLY

DATE OF COUNCIL ACTION _____ APPROVED _____ DISAPPROVED _____

DATE FEE PAID _____ AMOUNT _____ LIC # _____ DATE ISSUED _____

COLLECTION/ROUTE SCHEDULE ON FILE _____ CERTIFICATE OF INSURANCE ON FILE _____



Revised Application

TOWN OF CUMBERLAND

COMMERCIAL HAULER'S LICENSE APPLICATION

License fee: \$ _____ per year

Name of Applicant: _____

D/B/A (if any): _____

Location Address: _____

Mailing Address: _____

Contact Person: _____ Phone: _____

Email Address: _____

Check one: Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC ☐

Sole Proprietor/Partnership Information – List of Owner(s) and address:

Name of Owner: _____ Address: _____

Name of Owner: _____ Address: _____

Name of Owner: _____ Address: _____

Corporation/LLC Information – Provide list of names and addresses of directors and officers below or attach a copy of last Annual Report filed with the Secretary of State:

Name of Owner: _____ Title: _____ Address: _____

Name of Owner: _____ Title: _____ Address: _____

Name of Owner: _____ Title: _____ Address: _____

NUMBER OF VEHICLES NORMALLY IN USED IN CUMBERLAND WASTE DISPOSAL OPERATIONS: _____

| DESCRIPTION: | YEAR | MAKE | CAPACITY | G.V.W. |
|--------------|------|------|----------|--------|
|--------------|------|------|----------|--------|

| | | | | |
|--|--|--|--|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

NUMBER OF CUMBERLAND CUSTOMERS: _____

DAY(S) OF THE WEEK COLLECTIONS ARE MADE IN CUMBERLAND: _____

ARE COLLECTIONS MADE WEEKLY _____ EVERY OTHER WEEK _____

OTHER: (EXPLAIN) _____

OTHER COMMUNITIES WHERE APPLICANT DOES BUSINESS: FALMOUTH: ____ GRAY ____
PORTLAND ____ WINDHAM ____ POWNAL ____ NORHT YARMOUTH ____ FREEPORT ____
YARMOUTH ____ STANDISH ____ OTHER: _____

PROVIDE FOLLOWING INFORMATION BY PLACING **INITIALS** AS 'YES' OR 'NO':

1. Have you read and do you understand the solid waste ordinance, rules and/or regulations of the Town of Cumberland? Yes _____ No _____
2. Do you agree that, except as provided below, all nonexempt acceptable solid waste collected by you in the Town of Cumberland must be disposed of at the **ecomaine** facility or other licensed solid waste facility designated in writing by the Town? Yes _____ No _____
3. Do you agree that any food waste that is separated for recycling and not disposed of at the **ecomaine** facility must be delivered to a licensed solid waste processing facility (i.e. digester or solid waste composting facility)? Food waste that is not delivered to **ecomaine** shall not be delivered to any solid waste landfill. On a monthly basis, you must provide the Town of Cumberland with true and accurate copies of scale tickets that document the quantity of food waste being delivered to any alternate facilities. The name of the alternate facility must also be included. In the event that **ecomaine** operates a solid waste composting facility, solid waste processing facility or other facility that is capable of processing food waste in the future, you must dispose of all food waste generated in the Town of Cumberland at the **ecomaine** facility. Yes _____ No _____

By signature below, the Applicant agrees to abide by all of the above conditions, as well as all Town of Cumberland ordinances, rules and regulations governing this permit and the collection and transportation of solid waste, as a requirement for the issuance of this permit, the violation of which could result in sanctions.

Dated: _____

Print Name: _____

Signature: _____

Title: _____

FOR TOWN USE ONLY

DATE OF COUNCIL ACTION _____ APPROVED _____ DISAPPROVED _____

DATE FEE PAID _____ AMOUNT _____ LIC # _____ DATE ISSUED _____

COLLECTION/ROUTE SCHEDULE ON FILE _____ CERTIFICATE OF INSURANCE ON FILE _____

Solid Waste Ordinance

Town of Cumberland, ME
Wednesday, May 29, 2013

Chapter 235. SOLID WASTE

[HISTORY: Adopted by the Town of Cumberland as indicated in article histories. Amendments noted where applicable.]

Article I. Flow Control

[Adopted 7-8-1985]

§ 235-1. Short title.

This article shall be known as and may be cited as the "Ordinance Relating to the Disposal of Solid Waste Within the Town of Cumberland, Maine; Prescribing Rules and Regulations Therefor; Providing Penalties for Violation Thereof" and shall be referred to herein as "this article."

§ 235-2. Purpose.

The purpose of this article is to protect the health, safety and general well-being of the citizens of Cumberland, enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town of Cumberland in accordance with the provisions of 38 M.R.S.A. § 1305, as amended.

§ 235-3. Definitions.

For the purposes of this article, the following definitions shall be observed in the construction of this article:

ASHES

The residue from the burning of wood, coal, coke or other combustible material. *Editor's Note: The definition of "Board" which immediately followed this definition was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

DISPOSAL

The discharge, deposit, dumping or placing of any solid waste into or on any land.

HAZARDOUS WASTE

A waste substance or material in any physical state designated as hazardous by the terms of a certain waste handling agreement between the municipality and EcoMaine. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

INFECTIOUS WASTE

Includes those wastes so defined by the solid waste management regulations promulgated by the Department of Environmental Protection pursuant to 38 M.R.S.A. § 1304.

MUNICIPALITY

The Town of Cumberland.

RESOURCE RECOVERY

The recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and that can be reused or recycled for the same or other purposes.

SOLID WASTE

Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septage tank sludge or agricultural or hazardous wastes.

SOLID WASTE DISPOSAL FACILITY (DISPOSAL FACILITY)

Any land or structure or combination of land area and structures, including dumps and transfer stations, used for storing, salvaging, reducing, incinerating or disposing of solid waste.

§ 235-4. Solid waste disposal facility.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). In accordance with the provisions of 38 M.R.S.A. § 1305, the Town hereby designates the EcoMaine facility, 64 Blueberry Road, Portland, Maine, as its solid waste disposal facility for the purposes cited in the definition of "solid waste disposal facility" in § 235-3 of this article. Subsequent to completion of the disposal facility or such other date as may be established by the Town Council, the dumping or depositing of any solid waste generated within the municipality by any person at any place other than at this designated disposal facility or approved transfer station is prohibited; provided, however, that the owner of any lot, or any other person with the permission of the lot owner, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to state or local land use regulations.

§ 235-5. Administration.

A. The Town Council shall establish the rules and regulations governing the availability and use of the disposal facility. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. The operation of the disposal facility shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

§ 235-6. Restrictions.

- A. No person, firm or corporation shall permanently dispose of waste or refuse of any kind upon any land within the corporate limits of the Town of Cumberland, unless such land has been designated by the Town Council as a solid waste disposal facility.
- B. Certain materials may be excluded by regulation from those refuse materials which may be deposited at a solid waste disposal facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, trees and tree trunks and limbs, burning materials or materials containing hot or live coals, hazardous wastes, and other materials which the Town deems necessary to exclude. Hazardous wastes shall be handled in accordance with Title 38 of the Maine Revised Statutes Annotated.
- C. Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate any solid waste within the Town other than trees, tree limbs, leaves and other wood waste.

§ 235-7. Rules and regulations.

- A. Authorized disposal facility users. The availability and use of the disposal facility shall be limited to residents of the municipality and to those residents of any other municipality which may, by mutual agreement, be authorized to use the disposal facility. As a means of user control, the municipality shall distribute vehicle permits to authorized users which shall be affixed to user vehicles. Failure to exhibit such permit shall result in denial of use of the facility.
- B. Resource recovery. The municipality may require solid waste to be separated into such categories as may be established by Town regulation and disposed of only in such manner and at such sites and locations as designated.
- C. Property rights. Any solid waste deposited within the disposal facility shall become the property of the municipality or EcoMaine, pursuant to the terms of said waste handling agreement. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the municipality. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 235-8. License fees.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The Town Council may establish by order a schedule of license fees to be charged to commercial refuse collectors for the use of the disposal facility, which schedule shall be posted and published. All fees collected shall be for the use of the Town of Cumberland. Any license granted hereunder may be revoked upon any violation of this article.

§ 235-9. Enforcement.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). It shall be the duty of the Town Council or its designee to enforce the provisions of this article.

§ 235-10. Violations and penalties.

Whoever violates any of the provisions of this article shall be punished by a fine of not more than \$100 plus costs, which fine shall be recovered on complaint to the use of the Town.

Article II. Collection and Recycling

[Adopted 10-1-1988; amended 6-26-1989]

§ 235-11. Definitions and word usage.

A. The following words and terms as used in this article shall have the meaning ascribed thereto, unless the context indicates a different meaning:

ACCEPTABLE WASTE

- (1) Ordinary household, municipal, institutional, commercial and industrial solid waste, including but not limited to the following:
 - (a) Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or small vehicle tires, to the extent that EcoMaine determines that the air emission criteria and standards applicable at the facility are not violated; *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (b) Processible portions of commercial and industrial solid waste; and
 - (c) Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than 4 1/2 feet long and eight inches in diameter, and leaves, twigs, grass and plant cuttings, provided that the Town shall not be obligated to deliver or cause to be delivered any items listed in this Subsection (1)(c) to the facility, and further provided that such items may be delivered to the facility by or on behalf of the Town on an irregular basis only and shall represent an insignificant portion of the total waste delivered to the facility by or on behalf of the Town within any calendar year.
- (2) Notwithstanding any provisions to the contrary, unacceptable waste, including hazardous waste, shall not be acceptable waste and is explicitly excluded therefrom. Furthermore, any substances which are included as acceptable waste but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be acceptable waste under the terms of this article. However, any substances which are not included within the definition of "acceptable waste" because they are considered harmful, toxic, dangerous or hazardous and which are later determined not to be harmful, toxic, dangerous or hazardous by any

governmental agency or unit having appropriate jurisdiction shall be considered acceptable waste unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction or unless such substances are otherwise considered unacceptable waste or hazardous waste.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

AUTHORIZED COMMERCIAL HAULER

A commercial hauler who has a contract with the Town to collect and transport solid waste and/or recyclable materials.

COMBUSTIBLE REFUSE

All paper, straw, excelsior, rags, rubber, shoes, and such other refuse as may result from ordinary housekeeping or commercial pursuits and which may be burned by fire.

COMMERCIAL HAULER

Any person, firm, partnership, association, municipality, corporation, or other legal entity who or which has been licensed by the Town to collect, transport, and dispose of solid waste for a fee as herein prescribed.

COMMERCIAL OR INDUSTRIAL SOLID WASTE AND RECYCLABLE MATERIALS

Solid waste and recyclable materials generated by a commercial or industrial use or activity.

CONSTRUCTION DEBRIS

Waste building materials resulting from construction, remodeling, repair or demolition operations.

DAY OF SCHEDULED TOWN COLLECTION

The day for Town-wide collection of solid waste and/or recyclable materials as established by the Town Manager and the authorized commercial hauler(s) by contract.

FACILITY

The facility described in the waste handling agreement between the Town of Cumberland and EcoMaine and subsequent amendments thereto. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

GARBAGE

All table refuse, animal and vegetable matter, offal from meat, fish, and fowls, vegetables and fruits and parts thereof, and other articles and materials ordinarily used for food and which have become unfit for such use for which reason they are discarded.

HAZARDOUS WASTE

Waste which by reason of its composition, characteristics or other inherent properties is dangerous to handle by ordinary means, or which may present a substantial endangerment to health or safety, or which presents a reasonable possibility of adversely affecting the operation of the facility. "Hazardous waste" shall also mean waste which is defined as harmful, toxic, dangerous or hazardous at any time during the term of the waste handling agreement between the Town of Cumberland and EcoMaine pursuant to (1) the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq., as amended; (2) the Maine Hazardous Waste, Septage and Solid Waste Act, 38 M.R.S.A. § 1301 et seq., as amended; (3) any other federal, state, county or local codes, statutes or laws; and (4) any regulations, orders or other actions promulgated or taken with respect to the items listed in Subsections (1) through (3) above; provided, however, that any such materials which are later determined not to be harmful, toxic, dangerous or hazardous by any

governmental agency or unit having appropriate jurisdiction shall not be considered hazardous waste unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

INCOMBUSTIBLE REFUSE

All discarded articles or materials except sewage, liquid waste, garbage, and combustible refuse.

INERT FILL

That material which does not chemically or biologically decompose, i.e., sand, gravel, bricks, rocks, etc.

OCCUPANT

The person who has use or occupancy of any building or a portion thereof, whether the actual owner or the tenant.

PERSON

Any individual, firm, corporation, partnership, association, municipality, quasi-municipal corporation, state agency, or any other legal entity.

PROCESSED WASTE

Waste that is actually delivered to the facility by or on behalf of the Town and which is removed from the delivery vehicle or container or which is otherwise accepted for handling at the facility.

RECYCLABLE MATERIALS

Newsprint and glass and metal cans and bottles which are acceptable waste and from which resources other than energy may be recovered by the Town.

REFUSE

All combustible refuse and incombustible refuse referred to collectively.

RESIDENCE

A building or structure used for residential purposes and containing one or more dwelling units as that term is defined in Chapter 315, Zoning, § 315-4.

RESOURCE RECOVERY

The recovery of materials that still have useful physical or chemical properties after serving a specific purpose and that can be reused or recycled for the same or other purposes.

RUBBISH

All miscellaneous waste material not otherwise included herein, such as ashes, tin cans, pottery, prunings from trees and vines and materials of all kinds resulting from the ordinary conduct of business or housekeeping. *Editor's Note: The definition of "RWS" (Regional Waste Systems, Inc.) which immediately followed this definition was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

SOLID WASTE

Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse. "Solid waste" shall in no case include sludges from air or water pollution control facilities, septic tank sludge or agricultural wastes.

SOLID WASTE DISPOSAL FACILITY (DISPOSAL FACILITY)

Any land area or structure or combination of land area and structures, including dumps, used for storing, salvaging, processing, reducing, incinerating or disposing of solid waste.

SUITABLE CONTAINERS

Metal or plastic watertight containers covered by a tight-fitting cover free from sharp edges. The maximum capacity of any such container which must be dumped manually shall not exceed 30 gallons and the combined weight of such manually dumped container and its contents shall not exceed 50 pounds. Plastic liners, as used in metal or plastic solid waste containers for storage, when of suitable durability and strength and when tied securely, may be set out and accepted for collection only. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

TOWN

The Town of Cumberland, Cumberland County, State of Maine.

UNACCEPTABLE WASTE

That portion of solid waste which is not acceptable waste and includes, but is not limited to, sewage and its derivatives, construction and demolition debris, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

WASTE

Items, materials or substances delivered to the facility by the Town, its employees, agents or contractors. *Editor's Note: The definition of "white goods" which immediately followed this definition was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter, except where the context indicates differently.

§ 235-12. Unlawful accumulation of solid waste.

From and after the effective date of this article and for reasons of health and sanitation, it shall be unlawful, except as provided for under § 235-20, for any person to accumulate or permit to accumulate upon private property in the Town garbage, rubbish, combustible or incombustible refuse, white goods, or other solid waste generated within said Town, excepting inert fill material.

§ 235-13. Unlawful disposal of solid waste.

It shall also be unlawful for any person to dispose of within the limits of the Town any refuse, garbage, recyclable materials, rubbish, white goods, or other solid waste generated within said Town except in accordance with the terms of this article and Article I, Flow Control, of this chapter.

§ 235-14. Curbside collection from residences.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. The Town shall collect acceptable waste and recyclable materials from all residences in the Town as provided in this article; the Town shall not collect commercial or industrial solid waste and recyclable materials.

- B. The Town may enter into a contract or contracts with one or more commercial haulers, which shall be known as "authorized commercial haulers," for the collection and transport of acceptable waste and recyclable materials from residences in the Town as provided for in this section. Any such contract shall require the authorized commercial hauler to transport recyclable materials directly to the party or parties as designated by the Town Council. In addition to any requirement that may be imposed by state law, rules and regulations, any such contract shall require a commercial hauler to post a performance bond in the amount of \$50,000 to secure its performance of said contract for the collection of acceptable solid waste and shall require a commercial hauler to post a performance bond in the amount of \$25,000 to secure its performance of said contract for the collection of recyclable materials.
- C. Occupants of residences within the Town shall place acceptable waste and recyclable materials in suitable containers at curbside no later than 7:00 a.m. of the day of the scheduled Town collection. Town-designated trash bags shall be used for the disposal of all acceptable trash herein defined. Suitable containers placed at curbside after such time shall be considered as being intended for collection and as such shall be collected by none other than an authorized commercial hauler. All suitable containers shall be covered or securely tied so as to prevent spillage, windblown littering, or the ingress or egress of flies, rats or vermin.
- D. For purposes of this article, "curbside" refers to that portion of a right-of-way adjacent to paved or travelled Town ways and private roads, provided that the owner or owners of each residence abutting such private road have given the Town permission to enter upon the road for the purpose of the collection of acceptable waste and recyclable material and have agreed to release the Town from liability and to defend, indemnify and hold harmless the Town against any and all claims, damages, actions, causes of action, judgments and costs, including attorney fees, for any personal injury (including death) or property damage arising out of or resulting from said collection to the extent such personal injury or property damage is caused by the failure of the private road to be kept in repair so as to be safe and convenient for travelers with motor vehicles.
- E. Care shall be taken in the loading or unloading of acceptable waste and recyclable material so that none is scattered or spilled during its collection, transport and disposal; any acceptable waste or recyclable material so spilled shall be immediately cleaned up and removed by the Town or, if it has contracted with a commercial hauler, by the authorized commercial hauler.

§ 235-15. Commercial haulers.

- A. Commercial hauler's license required. It shall be unlawful for any person to haul, transport, collect, remove and dispose of garbage, refuse, recyclable materials, rubbish, white goods or other solid waste generated within the Town for a fee without first securing a commercial hauler's license. The Town, upon application and after investigation, may issue a commercial hauler's license for a period of one year.

- B. Annual commercial hauler's license; fee. The fee for an annual commercial hauler's license shall be established by order of the Town Council. Any person desiring to secure such a license shall present a written application accompanied by the fee to the Town Clerk; such license shall be issued only after due and proper investigation and recommendation of the Chief of Police and after approval by the Town Council. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See Ch. 84, Fees and Fines.*
- C. Application. An application for an annual or a limited commercial hauler's license shall contain the following information:
- (1) The name of the applicant;
 - (2) The applicant's residence;
 - (3) The address of the applicant's place of business; and
 - (4) A description of equipment to be used.
- D. Place of deposit of solid waste and recyclable materials. The commercial hauler shall deposit acceptable solid waste and recyclable materials at the EcoMaine facility or at any other solid waste disposal facility or facilities as may be designated by the Town Council and shall deposit recyclable materials at a location designated by the Town Council. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- E. Regulation of commercial haulers. All commercial haulers shall comply with the following regulations:
- (1) Commercial haulers must furnish the Town or its appointee with a collection and route schedule.
 - (2) Trucks or other vehicles used for the transportation of garbage or other garbage mixed with refuse shall be of the compactor type, watertight, with an enclosed cargo space. Collection of dry refuse, rubbish, recyclables, and other solid waste materials is permitted in open trucks that can be covered. No trucks or other vehicles shall be permitted to scatter any of the contents on any of the streets, highways, or roads of the Town. Trucks used to haul garbage, refuse, recyclables, materials, rubbish, or other solid waste materials over the streets of the Town must be maintained in a clean and sanitary condition and shall meet all of the requirements of the Town or appropriate state agency where applicable. The trucks may be inspected at any time during normal collection hours by the Public Services Director or his designee. Any deficiencies must be corrected within 48 hours by the commercial hauler.
 - (3) Trucks must be cleaned before handling recyclable materials.
- F. License denial and revocation. Licenses and renewals of licenses shall be denied and any license issued pursuant to the provisions of this article shall be revoked by the Town Council upon failure of the licensee to comply with any of the provisions of this article or with any of the regulations of the State of Maine Department of Environmental Protection

relating to the collection and disposal of garbage, refuse, recyclable materials, rubbish, white goods, and any other solid waste materials.

§ 235-16. Agreements.

- A. Any agreement for the collection, transportation and disposal of commercial or industrial solid waste and recyclable materials shall be by private contract between the person and the commercial hauler licensed for the purpose of collecting, removing, hauling and disposal of such garbage, recyclable materials, refuse, rubbish, white goods and other solid waste materials.
- B. Any agreements for the removal and collection of recyclable materials must provide that materials will be received by the Town or its designee in marketable condition.

§ 235-17. Use of designated solid waste disposal facility required.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. In order to end the objectionable practice of littering the countryside with rubbish and in order to eliminate unhealthy and unsanitary conditions due to improper dumping and disposition of garbage, rubbish, refuse, and other solid waste materials, except as provided in § 235-20 hereof, it shall be unlawful to dispose of garbage, rubbish, refuse, and other solid waste materials generated within the Town at any solid waste disposal facility other than one which has been approved and designated by the Town Council.
- B. The Town shall inform all persons of the location of the solid waste disposal facility or facilities and of residential curbside collection of acceptable waste and recyclables by adequate public notice in writing or print. Improper disposition of the components of waste shall constitute failure to comply with this article. It shall also be unlawful, within the intended effect of this section, for any person to place, leave, or deposit at the entrance of, or along the perimeter fence of, the Town's solid waste facility or facilities any garbage during or outside of the hours of the day and the days of the week which the Town Council has determined those facilities open for the disposal of solid waste materials.

Editor's Note: Original Sec. 8, which immediately followed this section and dealt with the Chebeague Island municipal solid waste disposal facility, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 235-18. Disposal of wood products.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- A. Limits on use of Town wood products area. Only residents of the Town, owners of property located within the Town and the owners and operators of commercial and industrial uses or activities located within the Town may dispose of wood products in the Town wood products area located at Drowne Road.
- B. Disposal regulations.

- (1) Disposal shall occur only during those times determined from time to time by vote of the Town Council and only in the presence of a Town employee or agent.
- (2) Every Town employee or agent who supervises the disposal of wood products at the Town facilities is authorized and directed to:
 - (a) Inspect the materials to be disposed of and require such evidence as is necessary to ensure that the materials being disposed of are wood products.
 - (b) Collect the fee described hereinafter.
 - (c) Turn away or refuse entry to any person who does not meet the requirements of this article and any material which does not meet the requirements of this article.

C. Identification required.

- (1) In addition to the requirements set forth above, no person shall be permitted to dispose of wood products in the Town facilities unless the vehicle in which the waste materials are transported displays a current sticker permanently affixed to the vehicle in a prominent location on the vehicle.
- (2) Identification stickers for the use of the Town wood products area and Town garage may be obtained from the Town Clerk at a cost established by order of the Town Council. Stickers shall be good for the calendar year only.

D. Fees. The Town Council shall from time to time set reasonable fees for use of the Town facilities in Cumberland.

E. Penalties for violations. Any person who shall violate or fail to comply with any of the provisions of this section:

- (1) Shall pay a civil penalty of up to \$200 for each violation;
- (2) Shall pay the reasonable costs of the Town's efforts in establishing such violation(s);
- (3) Shall pay the actual costs of removal of any waste deposited in the Town-owned facilities in violation of this section; and
- (4) May by order of the Town Council, after notice and hearing, be prohibited from using the wood products area for a period of up to two years.

§ 235-19. Dumps prohibited.

No person shall use or permit to be used any spot or place within the Town as a public or private dump for garbage, refuse, rubbish, or other solid waste materials generated within the Town.

§ 235-20. Accumulation of solid waste materials.

No persons shall accumulate garbage, refuse, recyclable materials, rubbish, or other solid waste materials generated within the Town upon private property in the Town except in such limited quantities and for such limited periods of time as shall ensure that no annoyance, nuisance, or health or fire hazard shall be created thereby. Compost piles or covered subsurface packaged garbage decomposing units such as a "Bardmatic" are permitted as long as no annoyance, nuisance, or health hazard is created by the presence of the same. Any unauthorized accumulation of garbage, refuse, recyclable materials, rubbish, or other solid waste materials generated within the Town on any premises in the Town for any reason whatsoever is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of garbage, refuse, recyclable materials, rubbish, or other solid waste materials within 30 days after the effective date of this article shall be deemed a violation of this section of this article.

§ 235-21. Rules and regulations.

The collection of garbage, refuse, recyclable materials, rubbish, or other solid waste materials generated within the Town and the disposal thereof shall be subject to such reasonable rules and regulations as may from time to time be promulgated by the Maine Department of Environmental Protection and/or the Town Council.

§ 235-22. Violations and penalties.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Any person who shall violate or fail to comply with any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$100 and costs of prosecution. Each day's continuance of a violation of this article shall constitute a separate offense.

ITEM

14-178

To set a date of December 22nd to hear a report from the Deputy
Tax Collector re: foreclosed properties

ITEM 14-179

Award for Engineering Services for the Blackstrap Road
reconstruction project

EXECUTIVE SESSION

pursuant to 1 M.R.S.A., § 405(6)(D)
re: contract negotiations between the
Town of Cumberland and the
Cumberland Police Benevolent
Association

| | |
|---|----|
| AGREEMENT | 2 |
| ARTICLE 1 - RECOGNITION..... | 3 |
| ARTICLE 2 - ASSOCIATION MEMBERSHIP | 3 |
| ARTICLE 3 - ASSOCIATION LIST..... | 3 |
| ARTICLE 4 - SENIORITY | 3 |
| ARTICLE 5 – PART-TIME HELP | 4 |
| ARTICLE 6 – SCHEDULED WORK | 4 |
| ARTICLE 7 – UNSCHEDULED WORK | 7 |
| ARTICLE 8 - RECORD KEEPING OF HOURS | 7 |
| ARTICLE 9 – WAGES..... | 7 |
| ARTICLE 10 - MEAL & REST PERIODS..... | 8 |
| ARTICLE 11 – HOLIDAYS..... | 9 |
| ARTICLE 12 - PERSONAL LEAVE TIME | 11 |
| ARTICLE 13 - ANNUAL VACATION..... | 11 |
| Article 14 – SICK TIME INCENTIVE | 12 |
| ARTICLE 15 - SICK LEAVE | 12 |
| Article 16 – INJURIES..... | 14 |
| ARTICLE 18 - BEREAVEMENT LEAVE | 16 |
| ARTICLE 19 - MILITARY LEAVE..... | 16 |
| ARTICLE 20 - COURT TIME | 18 |
| ARTICLE 21 – DETAILS..... | 19 |
| ARTICLE 22 – HIGHER EDUCATION | 21 |
| ARTICLE 23 – UNIFORM MAINTENANCE PAY | 21 |
| ARTICLE 24 – PHYSICAL FITNESS | 22 |
| ARTICLE 25 - EMERGENCY MEDICAL STIPEND..... | 23 |
| ARTICLE 26 – TRAINING OFFICER STIPEND | 23 |
| ARTICLE 27 - INSURANCE..... | 23 |
| ARTICLE 28 – HEALTH INSURANCE INCENTIVE PLAN..... | 26 |
| ARTICLE 29 – RETIREMENT..... | 26 |
| ARTICLE 30 - EMPLOYMENT..... | 27 |
| ARTICLE 31 – EMPLOYEE’S RESPONSIBILITY | 28 |
| ARTICLE 32 - SETTLEMENT OF DISPUTES..... | 28 |
| ARTICLE 33 – ASSOCIATION ACTIVITIES..... | 29 |
| ARTICLE 34 - UNIFORMS AND EQUIPMENT | 30 |
| ARTICLE 35 – MANDATORY & ASSIGNED TRAINING | 31 |
| ARTICLE 36 - OFF DUTY EMPLOYMENT..... | 32 |
| ARTICLE 37 - GENERAL AUTHORITY AND RESPONSIBILITY OF THE TOWN | 33 |
| ARTICLE 38 – CONTINUITY OF WORK | 33 |
| ARTICLE 39 - SAVINGS CLAUSE..... | 33 |
| ARTICLE 40 - DISCRIMINATION CLAUSE..... | 33 |
| ARTICLE 41 - PERSONNEL FILE AND FILE PURGING..... | 34 |
| ARTICLE 42 - MEMBER RIGHTS | 35 |
| ARTICLE 43 - TERM OF AGREEMENT | 38 |

AGREEMENT

Pursuant to the Maine [Municipal](#) Public Employees Labor Relations Law, (26 M.R.S.A. §§ 961 - 974, ~~et seq.~~), and the provisions of the Charter of the Town of Cumberland, the Town of Cumberland, a body politic and corporate, situated in the County of Cumberland, State of Maine (hereinafter referred to as "~~Employer~~" "[Town](#)"), and the Maine Association of Police/Cumberland Police Benevolent Association (hereinafter referred to as "Association"), have entered into this agreement for the following purposes:

- To provide and sustain high quality services to the community and its citizens;
- To maintain a relationship between employees and management, characterized by goodwill and trust, and by a constructive, open-minded approach to the resolution of departmental problems;
- To encourage a high level of departmental productivity, thereby minimizing the waste of time and resources;
- To promote proper training;
- To establish equitable and peaceful procedures for the resolution of differences;
- To establish wages, hours, and working conditions for the ~~employees of the Cumberland Police Department~~ [members of the Association](#);
- To support the health, safety, and well-being of Cumberland's professional and uniformed law enforcement officers.

ARTICLE 1 - RECOGNITION

The Town recognizes the Association as the sole and exclusive representative for all regular full-time Police Officers in the Cumberland Police Department, with the exception of the positions of ~~Police~~-Chief of Police and Police Lieutenant, for collective bargaining purposes to the extent provided by the Maine Municipal Public Employees Labor Relations ~~Act~~Law.

ARTICLE 2 - ASSOCIATION MEMBERSHIP

Each officer shall have the option to join the union membership at the successful completion of his/her probationary status, as further described in Article 30, EMPLOYMENT. Dues payments shall be made automatically at the member's written request through regular payroll deductions to the Association. The ~~association~~-Association shall indemnify and ~~save~~-hold the Town harmless against all claims and suits, which may arise by reason of any action taken in making deductions of said dues and remaining the same to the Association pursuant to this Article.

ARTICLE 3 - ASSOCIATION LIST

The Association agrees to supply the Chief of Police with a list of ~~officers~~-members represented by the Association and the name of the Association representatives upon the contract signing date. It shall be the duty of the Association to keep the list of ~~officers~~-members and representative(s) current at all times and to notify the Chief of Police of any change within ten (10) calendar days of such change.

ARTICLE 4 - SENIORITY

The Association shall establish a seniority list naming all employees covered by this agreement, with the employee with the greatest seniority (years of service) listed first. Seniority shall be based upon the employee's ~~last~~-most recent date of hire by the Town ~~of Cumberland~~ irrespective of classification within the association as of that date of hire. The list shall be made available to the Association and the Town within thirty (30) days of the contract signing date.

Except as provided elsewhere herein, seniority shall be the governing factor with respect to reduction in workforce, rehire and vacation preference.

In the event of a lay-off, the member shall retain his/her seniority for fifteen (15) months from the date of his/her last lay-off.

ARTICLE 5 – PART-TIME HELP

Work which is normally performed by employees covered by this agreement will not be offered to part-time employees unless full-time employees covered by this agreement have declined the shift or assignment.

The Town may use part-time personnel to fill vacancies pursuant to a rotation list as provided for in ~~Section H.B of~~ Article 6 (Overtime), ~~section 2,~~ Section II, subsection B and Article 21 (~~Outside~~ Details), Section B.

ARTICLE 6 – SCHEDULED WORK

SECTION I. REGULAR TIME

A. Work Day

For the purpose of this section, a “work day” is defined as 00:00:00 hours to 23:59:59 hours. An officer may work either a schedule of five (5) eight (8) hour days or four (4) ten (10) hour days.

B. Work Week

The regular “work week” will begin on Sunday at 00:00:00 hours and end on Saturday at 23:59:59. The regular work week shall be 40 hours in a one hundred and sixty eight (168) hour workweek and consist of five (5) days at eight (8) hours per day with two days off, or four (4) days at ten (10) hours per day with three consecutive days off.

C. Bid Rotation

For the purpose of bid rotation (picking shifts) the Town agrees to utilize the seniority list provided by the Association pursuant to Article 4 on a rotating basis.

D. DEFINITION OF HOURS WORKED

For the purposes of this agreement, “hours worked” shall include only the following:

1. Hours actually worked;
2. Hours compensated for by holiday;
3. Hours compensated for by vacation;
4. Hours spent in mandatory and/or assigned training;
5. Hours compensated for due to bereavement leave;
6. Hours compensated for by personal leave;
7. Hours compensated for by Compensatory Time, when the Compensatory Time is taken or scheduled prior to any approved overtime assigned during the same workweek. The pre-authorized use of

compensatory time may not result in the double-payment of those hours; i.e. comp hours cannot be both earned and paid at time and one-half.

E. Hours Not Worked

1. Sick leave;
2. Court time;
3. Pre-authorized elective training;
4. Outside and/or special details;
5. Hours compensated for by Compensatory Time, when the Compensatory Time is taken or scheduled subsequent to any approved overtime assigned during the same workweek;

F. Change of Schedule

The ~~town~~-Town will make every effort to provide members with three consecutive days off within a work week when the department is operating at full-strength, defined as not less than eleven full-time sworn officers. If the full-time strength falls below this level due to illness, injury, extended leave, ~~or layoffs~~, ~~or training~~, the Chief may, at his/her discretion, institute work week schedules based upon department needs.

The Chief or his/her designee shall provide thirty (30) days' notice prior to changing the composition of the schedule regarding the number of consecutive working days. A thirty day notice is not required in the event of an emergency.

G. Shift Adjusting

The Town agrees that it shall not change an employee's scheduled shift solely for the reason of avoiding payment of overtime. The Chief or his/her designee may adjust an employee's shift if at least four (4) days' notice is provided to the employee.

SECTION II. OVERTIME

A. Definition

An employee's overtime rate shall be defined as one and one-half (1 ½) times his/her regular, base hourly rate of pay for authorized hours worked in excess of forty (40) hours in a one hundred sixty-eight (168) hour workweek. Hours worked shall include only those defined under Section I(C) of Article 6, Scheduled Work. All overtime shall be approved by the Chief of Police or his/her designee.

WIP – Waiting

Nothing in this Article limits the authority of the Chief of Police or his/her designee from changing work schedules of any employee covered under this agreement prior to offering of overtime.

B. Rotation Procedure

1. All overtime shall be filled on a rotational basis by the Chief or his/her designee based on from a seniority ~~overtime rotation~~ list provided by the ~~association~~ Association.
2. The Chief or his/her designee shall select the manner of overtime notification based on the exigency of the overtime at the time of the notification.

Exigent Circumstances occur when there is less than 72 hours' notice of the need to fill a shift or assignment.

If the Chief or his/her designee determines exigent circumstances exist, he/she shall notify members on the rotation list by contacting each member by phone. The unit shall provide the Chief with a list of member contact numbers, and this list shall be updated quarterly to remain current at all times. The numbers provided on the most current list shall be used when contacting each member. If a member can-not be reached personally, a voice message shall be considered sufficient notice. Each member called will be permitted a **fifteen (15)** ~~twenty (20)~~ minute response time from the actual time of the call or message. It is not necessary for the Chief or his/her designee to call every member of the rotation list if the member with the greatest seniority according to this rotation list accepts the detail, assignment or shift.

Advance Notice includes those occasions when the Chief or his/her designee is aware of the need to fill a shift, detail or assignment, more than 72 hours in advance.

When advance notice is given, the Chief or his/her designee shall post notice to fill the shift a minimum of seventy-two (72) hours in advance. The Chief, or his/her representative, will offer advance notice overtime by assigning the earliest shift first, and continuing until all shifts have been filled.

Add Language

Upon Notice of shift, the Chief or his /her designee shall wait until all members have responded to notification or 24 hours whichever is shorter before assigning the shift.

3. Upon exhaustion of the rotation list, the Chief or his/her designee may utilize reserve personnel.
4. If the overtime in question is not filled through the steps identified above, the Chief or his/her designee may assign the overtime using a forced reverse seniority rotation list.

Exceptions

Full-time members shall not be forced to cover vacations requested with less than 14 days' notice. The Chief or his/her designee shall deny the unfilled balance of such request.

Full-time members shall not be forced to cover holiday or compensatory time off requested with less than four (4) days' notice. The Chief or his/her designee shall deny the unfilled balance of such request.

ARTICLE 7 – UNSCHEDULED WORK

A. Call-Out Pay

Call out time is defined as any time an employee is ordered to report to duty for unscheduled work with less than twenty-four (24) hours' notice, with the exception of court time, which shall be addressed pursuant to Article 20. The minimum call-out pay for unscheduled work shall be four (4) hours at the employee's overtime rate.

B. Shift Extensions

If it becomes necessary to call in an employee one hour prior to a scheduled shift, or to hold an employee over one (1) hour or more after the end of a scheduled shift, the employee shall receive pay at his/her overtime rate in place of call-out pay.

If the Chief or his/her designee requests an officer to arrive more than one hour prior to his/her scheduled shift for reasons other than reporting to shift duty, the Chief and officer may mutually agree to adjust the officer's shift to compensate for that time.

ARTICLE 8 - RECORD KEEPING OF HOURS

A weekly record of all hours earned and used, as kept by the Finance Director, shall be provided to the Union President each pay period to ensure proper documentation of time and to allow employees to understand current amounts of accrued time. Expiration dates of any accrued time shall be noted on the Finance Director's documents.

ARTICLE 9 – WAGES

Members of the Association shall be paid based on time in service in accordance with the following schedule. It shall be the sole discretion of the Chief of Police to establish the starting pay scale for a new member. That member shall not be required to serve an equivalent amount of

years within the Cumberland Police Department prior to earning or advancing to a certain pay scale.

| | FREEZE FY 13 | | Adjustment | % Change | 2.0% | | 2.0% |
|-----------------|--------------|----------|------------|----------|---------------------|----------|----------|
| | 1-Jul-14 | 1-Jul-15 | | | 1-Jul-16 | 1-Jul-16 | 1-Jul-16 |
| Patrolman | Hourly | | | | | | |
| Prior to 1 Year | \$ 19.44 | \$ 19.83 | 2.01% | \$ 20.23 | \$ 20.63 | | |
| After 1 Years | \$ 20.22 | \$ 20.65 | 2.13% | \$ 21.06 | \$ 21.48 | | |
| After 2 Years | \$ 21.27 | \$ 21.70 | 2.02% | \$ 22.13 | \$ 22.58 | | |
| After 3 Years | \$ 22.33 | \$ 22.78 | 2.02% | \$ 23.24 | \$ 23.70 | | |
| After 5 Years | \$ 23.38 | \$ 24.44 | 4.53% | \$ 24.93 | \$ 25.43 | | |
| After 7 Years | \$ 23.80 | \$ 25.00 | 5.04% | \$ 25.50 | \$ 26.01 | | |
| After 10 Years | \$ 24.43 | \$ 25.35 | 3.77% | \$ 25.86 | \$ 26.37 | | |
| After 12 Years | \$ 24.79 | \$ 25.70 | 3.67% | \$ 26.21 | \$ 26.74 | | |
| After 15 Years | \$ 25.21 | \$ 25.91 | 2.78% | \$ 26.43 | \$ 26.96 | | |
| After 18 Years | None | \$ 26.04 | NEW | \$ 26.56 | \$ 27.09 | | |
| Sergeant | | | | | | | |
| 0 to 3 Years | \$ 27.05 | \$ 27.60 | 2.03% | \$ 28.15 | \$ 28.72 | | |
| After 3 Years | \$ 27.58 | \$ 28.15 | 2.07% | \$ 28.71 | \$ 29.29 | | |
| After 5 Years | \$ 28.10 | \$ 28.70 | 2.14% | \$ 29.27 | \$ 29.86 | | |
| After 10 Years | \$ 28.63 | \$ 29.25 | 2.17% | \$ 29.84 | \$ 30.43 | | |

ARTICLE 10 - MEAL & REST PERIODS

A. Meal Periods

All employees may take a reasonable meal period of short duration during each work shift. During such meal period, employees shall continue to be on duty and stay in assigned areas and within the Town except as otherwise permitted by the Chief, on-duty supervisor, or on-duty senior officer when there is no on-duty supervisor.

The employees of the Department shall be allowed space at the Municipal Building for maintaining their own kitchen facilities, should they so choose.

B. Rest Periods

When practical, one 15 minute rest period during each half-shift shall be provided to each on-duty employee. During such rest period, employees shall continue to be on duty and stay in assigned areas and within the Town except as otherwise permitted by the Chief, his/her designee, on-duty supervisor, or on-duty senior officer when there is no on-duty supervisor. It is understood that rest periods will not be granted during periods of emergency operations that affect the health,

safety, and welfare of any citizen.

C. Concurrent Shifts

Any employee who, for any reason, works two concurrent shifts shall receive a fifteen (15) minute rest period before the start of the second shift. In addition, s/he shall be granted the rest period as provided for in Section B; however that rest period shall not be taken until at least two (2) hours of work has been completed on his/her second shift.

ARTICLE 11 – HOLIDAYS

A. Paid Holidays

The following holidays shall be recognized as paid holidays for all employees covered by this agreement:

| | |
|------------------------|------------------------|
| New Year's Day | Labor Day |
| Martin Luther King Day | Columbus Day |
| President's Day | Veteran's Day |
| Patriot's Day | Thanksgiving Day |
| Memorial Day | Day after Thanksgiving |
| Independence Day | Christmas Day |

Holidays shall be recognized as occurring on the date observed by the Town, except that Christmas Day and New Year's Day shall consist of a twenty-four (24) hour period, which begins at Noon 3:00 p.m. on Christmas Eve and/or New Year's Eve and ends at 3:00 p.m. **Midnight** on Christmas Day and/or New Year's Day.

In addition to the above holidays, the Town agrees to treat any holiday designated by the President, Governor, Cumberland Town Council, or Town Manager as a "paid holiday."

~~B. Holiday Worked~~

HEATHER's Language

B. Holiday Compensation

An employee who works on a holiday shall receive pay at time and one-half his/her base hourly rate of pay. This compensation is earned only when the start of the employee's assigned work shift falls within the 24 hour period during which the Town officially observes the holiday, as defined in Section A of this Article.

An employee who works overtime on a holiday shall receive pay at two times their base hourly rate of pay. Holiday overtime compensation is earned only when both the start of an employee's assigned work shift falls within the 24 hour period of the observed holiday as defined in Section A and the employee works forty hours in that work week. Hours considered "worked"

shall include only those as defined in Article 6, Section 1, Subsection C.

An employee who does not work as defined above is not eligible to receive compensation for hours worked on the holiday.

All employees will receive:

Default option: For each holiday observed by the Town, employees will receive an equivalent number of hours to that of the employee's regularly scheduled shift, to be placed in a holiday accrual to be used as a day off at a later date, which day shall be paid at his/her base hourly rate of pay. For employees who work on a holiday, this shall be in addition to pay for hours worked as defined above. Holiday leave may be accumulated up to 30 hours total. If an employee does not use his/her accrued holiday pay for holiday leave prior to reaching the 30 hour maximum accrual, all hours accumulated over 30 will automatically be paid to the employee at his/her straight base hourly rate in the next payroll.

Alternate option: Instead of receiving hours in a holiday accrual per the default option above, employees may elect to be paid for an equivalent number of hours to that of the employee's regularly scheduled shift, which shall be calculated at the employee's base hourly rate of pay. For employees who work on a holiday, this shall be in addition to pay for hours worked as defined above. This option must be made through a payroll form submitted during the pay period in which the holiday occurs, or the default option above shall apply.

ARTICLE 12 - PERSONAL LEAVE TIME

A. Definition

Beginning July 1st of each contract year, all personnel covered by this agreement shall be entitled to two (2) days leave for personal matters. Application shall be made in writing to the Chief of Police or his/her designee on the standard payroll adjustment slip at least three (3) days before taking such leave (except in the case of an emergency). Personal days are non-cumulative and will expire at the end of each fiscal year.

B. Rate of Accrual

Personal Leave will accrue according to the schedule of the employee at the time it is earned.

ARTICLE 13 - ANNUAL VACATION

A. Accrual

Employees shall be allowed annual vacation with pay based upon the following schedule:

- After being employed one (1) continuous year 80 hours
- After being employed five (5) continuous years 120 hours
- After being employed ten (10) continuous years 160 hours

An employee is permitted to carry forward up to forty (40) hours vacation time beyond his/her anniversary date of hire. Maximum Accrual of Vacation shall not exceed 240 hours per employee at any time.

Accrued vacation leave shall be paid to a member upon separation from the department. In the event of the death of an employee in the Line of Duty, the spouse or surviving dependent shall receive the employee's accrued vacation compensation.

B. Scheduling

1. Vacation leave shall be authorized and scheduled by the Chief. No later than March 31st of each year, the Association shall post a vacation seniority list for employees to indicate their vacation preferences. If a schedule is not presented accordingly by March 31st, the Chief may assign vacations on a first come first serve basis regardless of seniority, according to the staffing needs of the department. Employees are permitted to select vacation time preference ahead of accruing it; however, the time may be taken only if a full workweek has been earned prior to the first day of scheduled vacation.

2. No more than one (1) employee may take vacation leave at one (1) time unless

otherwise authorized by the Chief or his/her designee.

3. Vacations must be taken in units of one full week unless otherwise authorized by the Chief or his/her designee.

4. The Chief or his/her representative may cancel all vacation or holiday leave in the case of an emergency. In such case, the employee so affected shall receive leave at a later time and shall receive his/her overtime rate of pay for the vacation or holiday leave lost during the emergency.

Article 14 – SICK TIME INCENTIVE

Employees may trade one sick day for one personal day during each quarter, to be defined as each ninety (90) day period beginning January 1st, as long as the employee has not used any sick time during the respective ninety (90) day period. An employee may trade a maximum of four sick days for four personal days per calendar year. Personal days accrued under this Article will not carry forward from fiscal year to fiscal year. Any personal days existing on the books as of June 30th, 2008 will not carry forward into the next fiscal year.

ARTICLE 15 - SICK LEAVE

A. Accrual

Sick leave shall accrue at the rate of eight (8) hours for each full calendar month of service beginning with the first full calendar month of employment, accumulated to a maximum of four hundred eighty (480) hours. Accumulations will cease whenever this maximum has been reached and continue to accrue again only when this maximum has been reduced.

B. Retirement Health Savings Plan

Effective July 1, 2007, the Town will have established a Retirement Health Savings Plan through ICMA. (see Town of Cumberland RHSA Plan) All eligible employees shall enroll in the town-established RHSA Plan during the initial enrollment period of June, 2008. Enrollment in the plan is irrevocable. Members with accruals at the maximum of 480 hours will continue to earn sick time at the rate of eight (8) hours each full month worked; however, at the end of each fiscal year, any/all unused accrued sick leave, with the exception of incentive sick time, above the

maximum 480 hours will be valued at one hundred and fifty dollars (\$150) per eight-hour workday and deposited into his/her health savings account.

C. Early Retirement

Sick leave accumulations up to the maximum accumulation level may be used for early retirement at the time an employee retires, or the employee may, at his/her option, be paid his/her regular rate of pay for this time, subject to the necessary tax withholdings. Early retirement is defined as the period immediately prior to retirement from service during which an employee does not report for duty and receives compensation through the use of his/her available sick time via the regular payroll process. For employees participating in the Maine Public Employees Retirement System (MPERS), accumulated sick time, not to exceed the maximum accrual of 480 hours may be used for service credit in the MPERS when the employee terminates from employment with the town. The employee will not receive payment for such time. **Except as provided in this section, employees will not be paid accrued sick leave upon separation per the Town's Personnel Policy.**

D. Examination By Physician

Any employee absent on sick leave more than three consecutive (3) normally scheduled shifts shall, at the request of the Chief, file a doctor's certificate with the Chief setting forth the reasons for such sick leave and, at the request of the Chief, file a doctor's certificate every ten (10) days thereafter for as long as sick leave continues, in order to be able to continue on sick leave. At the request of the Chief and at the expense of the Town, any employee on sick leave for 3 consecutive normally scheduled shifts may be required to undergo a physical examination by a physician of the Chief's choice and/or a Fitness for Duty Evaluation performed by CMCC. See Appendix C for the Fitness for Duty evaluation form. Employees of this unit are covered by the Family Medical Leave Act and pursuant to the Cumberland Family Medical Leave Policy, the Town shall designate any such leave as Family Medical Leave when the town becomes aware that an employee's absence is due to a reason which is covered under the FMLA.

E. Exceptions

Sick leave credits will not be allowed when absence is due to the use of narcotics or intoxicants, misconduct, or any illness or injury occurred while employed by an employer other than the Town of Cumberland.

F. Line of Duty Death

In the event of a death of an employee while in the Line of Duty, the spouse or surviving dependent shall be compensated for 100% of the employee's accrued sick leave, less all applicable taxes.

G. Falsification

False claims of sickness or disability, or falsification of proof to justify sick leave, shall be cause for disciplinary action deemed appropriate by the Chief of Police or his/her designee.

Family Sick Leave

- ~~All personnel covered by this agreement shall be entitled to use up to a maximum of forty (40) hours of accrued sick leave per fiscal year for illnesses in the immediate family, which may be extended at the discretion of the Chief of Police. For the purpose of this section, immediate family shall be defined as an employee's child, spouse, or parent per Maine law, as those persons included under Article 18, Bereavement Leave. The town shall designate family sick leave as FMLA leave when the town becomes aware that the absence is due to a reason covered by the FMLA.~~

UNION REQUEST

- ~~An employee may use up to a maximum of fifty-six (56) hours of family sick leave per fiscal year due to the illness of a member of the employee's immediate family. "Immediate family" shall be defined as an employee's spouse, domestic partner, natural or adopted children, children residing in the household, and parents.~~
- ~~shall be defined as set forth in Article 3 of this ordinance. Exceptions may be made at the discretion of the Town Manager. for the approval of use of sick leave under this section for immediate family members living outside the employee's household. Family Sick leave may also be used for transporting immediate family members to health care appointments. For purposes of applying family medical leave requirements, the town shall treat leave under this section in the same manner as it treats leave for a sick employee.~~
- An employee may use up to a maximum of twelve (12) hours of his/her accrued sick leave per year for the purpose of attending their child(ren)'s school activities. Employee's requesting such leave are expected to notify the Chief or his/her designee at least 48 hours before the leave is needed.

Article 16 – INJURIES

A. Use of Deadly Force

Employees who are subject to an investigation by the Maine Department of the Attorney General as a result of an on-duty use of deadly force, will be placed on administrative leave and will be paid their average gross weekly salary for the previous 12 month time period minus taxes, union dues, and all other premiums or shares thereof required to be paid by the employee until the findings are issued or until the Chief determines the employee is fit to return to duty.

B. Extra Hazardous Injuries

An employee covered by this agreement who is on-duty and injured while performing extra-hazardous duties shall receive, in addition to income under the Worker's Compensation Act, an amount sufficient to bring him/her up to his/her average gross weekly salary for the previous 12 month time period minus taxes, union dues, and all other premiums or shares thereof required to

be paid by the employee. This extra hazardous pay shall continue for the period the treating physician declares the employee unable to perform his/her duties or any other duties assigned by the Chief, up to the maximum time afforded by FMLA.

Extra-hazardous injuries include physical injuries requiring hospitalization and when sustained:

- pursuing, apprehending, arresting or detaining subjects.
- during the official operation of a police motor vehicle in emergency situations.
- while standing in a roadway directing traffic, provided the employee has not unreasonably neglected to wear safety equipment.
- while actively engaged in suppressing riots, insurrections, and similar civil disturbances.

C. **On-Duty Injury**

An employee covered by this agreement who is on-duty and injured while performing duties in any other authorized situation in which the department has assigned the officer shall receive, in addition to income under the Worker's Compensation Act, an amount sufficient to bring him/her up to his/her base, weekly salary for the previous 12 month time period after taxes, union dues, and all other premiums or shares thereof required to be paid by the employee. This extra hazardous pay shall continue for the period the treating physician declares the employee unable to perform his/her duties or any other duties assigned by the Chief, up to the maximum time afforded by FMLA.

D. **Leave of Absence**

At its discretion, the Town may consider a paid or non-paid Leave of Absence at the expiration of any qualifying FMLA leave taken as a result of an extra-hazardous injury.

E. **"On-Duty" Status**

An off-duty employee who is compelled to respond to matters of serious public concern, as described in **Rules and Regulations Section 1-5, Page 4**, shall be considered "on-duty" for purposes of this Article. However, this Article does not cover self-initiated reporting which would not reasonably require immediate law enforcement assistance by the off-duty officer.

This is the language:

An off-duty employee who is compelled to respond to matters of serious public concern, as described in Rules and Regulations Section 1-5, Page 4, shall be considered "on-duty" for purposes of this Article, only to the extent that an officer, while off-duty, witnesses a violation of the law within the officer's jurisdiction STATE OF MAINE committed in their presence and which demands immediate attention. The officer may make an arrest, if authorized under law provided

that the officer does not use his or her own personal vehicle to chase or pursue the violator, observes all traffic laws applicable to citizens, displays police identification to the violator and announces his or her purpose. However, this Article does not cover apply to self-initiated reporting which that would not reasonably require immediate law enforcement assistance by the off-duty officer.

Union States an Officer's jurisdiction is confusing and they have jurisdiction within the State.

ARTICLE 17 - COMPENSATORY TIME

At the request of an employee, compensatory time off, in lieu of overtime pay, shall be permitted under this agreement at the discretion of the Chief or his/her designee, with the exception of holidays not worked.

Earned compensatory time shall not exceed twenty (20) hours at any one time.

ARTICLE 18 - BEREAVEMENT LEAVE

An employee shall be excused from work for up to three (3) consecutive days as needed and as determined by the Chief of Police in the event of death in the employee's family. In addition, such employee shall have the use of two (2) days of accrued sick leave, holiday, or vacation leave, if needed and approved by the Chief of Police or his/her designee.

Family shall include: spouse, mother, father, child, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, brother-in-law, sister-in-law, or step-child. The definition of spouse shall include those employees living in an espoused or domestic partner relationship living in the same household. The definition of child shall include natural born, adopted, step, and foster children.

ARTICLE 19 - MILITARY LEAVE

The Town of Cumberland acknowledges the rights of employees who perform duty in the uniformed services and will respect the Uniformed Services Employment & Reemployment Rights Act (USERRA), aka the Military Leave Act.

Use of leave for military training must be pre-approved by the Chief of Police, who may request written documentation of such training prior to approval.

A. Unpaid Military Leave

Military Leave shall be available to employees under the terms and conditions of applicable federal and/or State legislation (Uniformed Services Employment & Reemployment Rights Act, USERRA). Any disputes as to rights under this provision are not arbitrable, but may be determined by a court of competent jurisdiction.

B. Paid Military Leave

An officer who qualifies as a military reservist may earn an additional twenty (20) hours of compensatory time per fiscal year, for the exclusive use of officially mandated military training. Any remaining hours shall expire at the end of each fiscal year. Military training includes National Guard and Reserve duty under federal direction (but not under state direction) and all other mandatory military training. Use of this additional compensatory time must be pre-approved by the Chief of Police, who may request written documentation of such training prior to approval.

ARTICLE 20 - COURT TIME

A. Definition

For the purpose of this article, "court appearance" shall mean the time in which an officer is required, needed, or called into proceedings held in:

1. District Court (to include Traffic and Juvenile Court)
2. Superior Court
3. Grand Jury
4. Bureau of Motor Vehicles hearings
5. Felony Intake
6. Probation Revocation hearings
7. Meetings/conferences with District Attorney personnel

Police Department personnel covered by this agreement making an off-duty attendance in court shall be compensated according to the following schedule. Off duty shall be defined as any time an officer is not working a scheduled shift.

Rate of Pay

An off-duty officer shall receive a minimum of four (4) hours pay at time and one-half his/her regular hourly rate of pay, or actual time spent greater than four (4) hours, when such appearance is required for the purpose of potential testimony. If an officer fails to complete the court slip reimbursement form and submit to the appropriate clerk, the officer shall receive four (4) hours at his/her overtime rate minus the \$50.00 court reimbursement fee. If an officer is required to attend more than one court proceeding in the same day, time in court includes only actual cumulative hours spent in court on that day, regardless of the type or time of proceeding(s). If the total time spent in court exceeds four hours, the officer shall receive compensation at time and one half his/her regular base hourly rate of pay for actual time spent beyond four hours.

Town proposes the hours for court time begin with the first appearance and end after the second appearance.

Example Court 1 – Officer arrives at Police Dept. to pick up case work and vehicle to drive into court at 8:30 AM (start of day). Court begins at 9:00 AM last 30 minutes, Court 2 begins at 2:00 PM ends 3:30 PM and he/she returns to Police Department at 4:00 PM.

Total Court Time pay is 8:30 to 4:00 = 7.5 hours with court slips. Rates of Pay shall be as described in 20 B through 20D. Minimum court time pay will be 4 hours as outlined above.

On duty officers attending court shall be paid at their regular rates of pay.

B. Court Representative_Pay

When an off-duty officer is assigned to represent the department regarding a docket of traffic violations, that officer shall receive a minimum of five (5) hours pay at one and a half-times his/her regular base hourly rate of pay. The officer will be responsible for negotiating fines with defendants, and in the case of a no plea agreement, make contact with the issuing officer. If the representing officer fails to complete the court slip reimbursement form and submit to the appropriate clerk, the officer shall receive five (5) hours pay at one and a half times his/her regular base hourly rate minus the \$50.00 court reimbursement fee.

C. Fees

Any fees paid to officers by bodies other than The Town of Cumberland (reimbursement fees, subpoena appearance fees, witness fees, etcetera) shall be turned-over to the Town.

ARTICLE 21 – DETAILS

A. Definition

Outside details are defined as work assignments not funded by the Town or School Administrative District 51. This includes Cumberland Fairground or Cumberland Farmers Club event patrol and traffic control, private parties, regional or private sporting club events, traffic safety direction and crowd control events, road construction details, Bureau of Highway Safety grant details, parades, and activities of public assembly nature, etc.

School details are defined as work assignments funded by School Administrative District 51. This includes school dances, school gatherings such as graduations or other graduation related events, sporting events (MSAD 51 vs. a “single” opponent), school parking and traffic direction events, etc.

B. Scheduling Procedure

Details are assigned by the Chief of Police or his/her designated representative to a regular, full-time police officer, off-duty and available for such details.

Unless defined by the Chief of Police as an exigent circumstance, the Chief or his/her designee will fill all outside details from a detail rotation list.

1. ***Exigent Circumstances*** occur when there is less than 72 hours notice of the need to fill an outside detail.

If the Chief determines exigent circumstances exist, he/she shall notify members on the detail rotation list by contacting each member by phone. The unit shall provide the Chief with a list of member contact numbers, updated quarterly, which shall be the number used when attempting to contact each member. During exigent circumstances, each member will be contacted and given **20 15 minutes** from the time of contact or message to accept the detail. Further, it is not necessary for the Chief of Police to make personal contact with any member; a voice message shall be considered sufficient. If

the most senior member does not respond within twenty minutes of the call/message, the detail shall be made available to the member next senior on the Detail Rotation List, until accepted. It is not necessary for the Chief to call every member of the detail rotation list if the member with the greatest seniority according to the list accepts the detail. In the event that any regular, permanent officer refuses a detail, he/she shall be treated for purposes of rotation as having taken such assignment.

2. **Advance Notice** includes those occasions when the Chief is aware of the need to fill a detail more than 72 hours in advance.

In the event of the posting of outside details, the Chief or his/her representative will begin offering the available detail by assigning the earliest detail first, and continuing until all details have been filled.

3. Upon exhaustion of the rotation list, the Chief may utilize reserve personnel.
4. If the detail in question is not filled through the steps identified above, the Chief or his/her designee may assign the detail using a forced reverse seniority rotation list.

C. Rate of Pay

School detail pay shall be ~~thirty-nine dollars (\$39.00) per hour,~~ **the TOTAL overtime rate of the highest paid sergeant per hour under this contract,** per officer. Officers will be paid at least a three (3) hour minimum per officer, per event. Any amount of work beyond the three hour minimum shall be compensated at the detail wage in half hour increments.

Outside Detail pay shall be paid at ~~\$39.00 per hour, per officer and~~ **the TOTAL overtime rate of the highest paid sergeant per hour under this contract, per officer and** will be paid at least a four (4) hour minimum per event. Any amount of work beyond the four hour minimum shall be compensated at the detail wage in half hour increments.

TOTAL Overtime Rate shall include all contract incentives required to be calculated into the Officers pay as required by law. The Town shall also add FICA and Worker's Comp to the billing rate for each detail provided.

D. Cancellation of Details

Details cancelled less than two (2) hours prior to the employee's expected arrival time shall result in the four-hour minimum detail payment.

ARTICLE 22 – HIGHER EDUCATION

Employees who are enrolled in an accredited ~~law-enforcement~~ **Public Safety** related degree program shall receive a reimbursement of tuition costs at the rate defined below. ~~of 85% of the USM credit hour rate for a~~ maximum of six (6) credit hours per semester or trimester ~~fiscal year~~. Employees must provide written confirmation of a grade of C or better to be eligible for this benefit. This benefit may be subject to taxation.

An employee who holds a college degree from an accredited institution will be compensated with an additional hourly sum based on the following schedule upon submission of proof of the degree to the ~~Human Resources Director~~ **Town Manager or his /her designee**. Said documentation shall be placed in the officer's personnel file. The compensation will be added to the employee's base rate of pay for the purpose of calculating overtime.

~~\$.36 cents hr (\$750+yr) ASSOCIATES~~

~~\$.48 cents hr (\$1000+yr) BACHELORS~~

~~\$.72 cents hr (\$1500+yr) MASTERS in criminal justice, or police-related field~~

Associates: \$0.36/hr. (\$750)

Bachelors: \$0.72/hr. (\$1,498)

Masters: \$1.00/hr. (\$2080)

USM tuition, books, and course fees

100% compensation for Grade of A

85% compensation for Grade of B

70% compensation for Grade of C

No compensation for Grades less than C

ARTICLE 23 – UNIFORM MAINTENANCE PAY

Officers shall receive annual reimbursement for the cleaning and maintenance of uniforms, up to a maximum of \$600, less applicable IRS deductions. Each member will receive the reimbursement in the first payroll of June of each year. Each officer shall receive a reimbursement equal to \$50.00 per month for each full month worked during the fiscal year, not to exceed \$600.00 per year.

Reimbursement may be paid in two ways: The member will be reimbursed for the amount equal to the receipts provided the town. If no receipts are provided the town, the member will be reimbursed at \$600.00, less applicable taxes.

All receipts must be presented in writing to the Finance Director no later than June 1st of each year. Failure to provide receipts by June 1st will automatically result in the withholding of

taxes.

ARTICLE 24 – PHYSICAL FITNESS

The parties hereby recognize that the physical fitness of employees vitally affects the efficient, safe and productive operation of the department and the quality of police services provided to the public. Each employee is required to demonstrate the physical demands necessary to perform the duties of his/her position.

A. Fitness for Duty

All members shall undergo an annual fitness test, called a “fit for duty” to be performed by the town’s wellness provider, CMCC. Based upon their performance on this test, each officer will be rated as to their ability to meet the physical demands of the job. Failure to demonstrate a level of fitness necessary to satisfy the physical demands of the job shall be considered cause for termination pursuant to Article 37.

Green – demonstrates physical demands of the job with no previous musculoskeletal history
Yellow – demonstrates physical demands of the job but has a medical history or is unable to perform a non-essential job function
Red – Cannot demonstrate the physical demands of the job

All members will be tested to establish a baseline assessment by the end of the 2011 calendar year. Members that are classified in the red category at the baseline assessment will be given until June 30, 2012 to achieve yellow or green status. Those Members in the red category will be offered a no-cost remedial fitness program designed by CMCC. The goal of the remedial program is to move the Member out of the red category. At the discretion of the Chief, members that fail to achieve yellow or green status by June 30, 2012 may be placed on unpaid administrative leave until they move to the yellow or green category, but for no more than three months, or they may be terminated.

Effective July 1, 2012, testing will be conducted on annual basis at the start of the fiscal year. Members that fall into the red category during annual testing may be placed on unpaid administrative leave for a maximum of three months, at the discretion of the Chief. These Members will be offered a no-cost remedial fitness program designed by CMCC, the goal of which is to move them out of the red category. Members that participate in the remedial fitness program will be entitled to use accrued vacation time during their unpaid leave. If a Member is unable to improve his/her level of fitness to yellow or green within three months, he/she may be terminated at the discretion of the Chief.

The annual fitness test and any member’s classification thereby shall not be a factor in any promotional consideration within the Association.

Refer to Appendix A for the Physical Job Requirements Overview and Appendix B for the Health History Questionnaire used in the annual fitness test.

B. Physical Fitness Incentive

Any member may take the M.C.J.A. physical fitness test for the opportunity to receive a fitness stipend. An instructor certified by the Maine Criminal Justice Academy shall administer the test. The Department will work with the employees to provide the testing at a reasonable time. While participating in this testing an employee will be considered on duty. Officers passing the M.C.J.A. Standards in place at the time of testing shall be compensated as follows:

- If all of the test requirements are passed at the fortieth (40th) percentile, the officer shall receive \$600 per fiscal year.
- If all of the test requirements are passed at the eightieth (80th) percentile, the employee shall receive \$800 per fiscal year.

The stipend shall be paid on the payroll period following notification to the Finance Department of the successful completion of the test. The stipend shall be awarded once per fiscal year. At least eight months must elapse between annual tests (i.e. it is not possible to receive this stipend for passing tests on June 30 and then again on July 1).

ARTICLE 25 - EMERGENCY MEDICAL STIPEND

Employees who successfully complete a State of Maine approved EMT course and become Maine state-licensed EMT's shall be reimbursed for the cost of books and/or materials required as part of the course, in addition to the licensing fee.

Licensed State of Maine EMT's will be compensated at an additional ~~\$2.00~~ **\$2.50** per hour upon submission of a copy of the license to the Human Resources Director for placement in his/her personnel file. The additional hourly pay shall be added to the employee's base rate of pay for purposes of calculating overtime. ~~The increase of \$1.25 dollars will be staggered over the three year term of the contract. Year 1 of the contract will be \$0.42 cents (\$1.17), year 2 \$0.42 cents (\$1.59), and year 3 \$0.41 (\$2.00).~~

ARTICLE 26 – TRAINING OFFICER STIPEND

A Field Training Officer (FTO) who completes a state-sanctioned FTO program and State certified Firearms Instructors shall receive an additional \$1.00 per hour for any and all hours spent while engaged in the training of a employee. Any officer utilized as an FTO must be pre-authorized by the Chief of Police to perform in this role.

ARTICLE 27 - INSURANCE

A. Workers' Compensation

The Town shall provide ~~Workmen's~~ Workers' Compensation coverage for all employees of the department as prescribed by law.

B. Health Insurance

Chris W. to provide language from Attorney for this Section

The Town offers group health insurance through Anthem Blue Cross/Blue Shield to regular full-time employees and their dependents. Between July 1, 2011 2014 and June 30, 20142015, the Town will pay a minimum of eighty percent (80%) of the cost of the employee's selected health plan and a maximum of twenty percent (20%) will be paid by the employee in the form of a payroll deduction on a pre-tax basis. Employees may choose to participate in a predesigned wellness program to reduce the percentage of cost paid by the employee to no less than 10%. In the event the Town elects to or is required to change insurance coverage in any plan year, the Association will be notified and, if the change in coverage will result in an increase in the cost of the members' premiums, the Association will be consulted. However, for the 2015 and 2016 plan years, the Town shall not pay more for its share of the cost of health insurance coverage than is equivalent to ninety percent (90%) of the employee's selected health plan as of July 1, 2014. The Town's contribution to health insurance coverage for the 2015 and 2016 plan years shall remain subject to the employee's participation in the wellness program as outlined above. For employees that do not participate in the wellness program, the Town will pay the equivalent of eighty percent (80%) of the cost of the employee's selected health plan as of July 1, 2014. If an employee enrolls as a new participant or changes his/her health plan in the 2015 or 2016 plan years, the Town will pay a minimum of 80% and a maximum of 90% of the cost of an equivalent health plan as of July 1, 2014.

Employees may earn up to 100 points through the wellness program. An employee that earns the maximum 100 points will pay ~~40%~~, the lowest percentage offered by the Town of the cost of their selected health plan premium for that plan year. Wellness points earned below 100 will be calculated respectively to determine the percentage of the employee's contribution, not to exceed ~~20%~~ the maximum percentage offered by the Town of the cost of their selected health plan premium for that plan year. The wellness program point system consists of the following:

33.34 points for an Annual Health Risk Assessment

16.67 points for periodic follow-ups to the HRA as deemed necessary by the wellness provider

16.66 points for meeting goals set by the wellness provider

33.33 points for attending or viewing Lunch & Learns

Bonus points may be awarded throughout the year for participation in additional health and wellness programs made available by the Town.

Above Still a WIP – Obamacare Uncertainty

C. Professional Liability

The Town agrees to continue to provide Police Professional Liability Insurance for employees to the extent that such insurance is available to the Town at rates that, at the sole and exclusive discretion of the Town Council, are reasonable. The Association shall be given notice of any proposed change in coverage prior to any changes being implemented.

D. Maine Public Employees Retirement System

The Town shall continue to offer pension and disability retirement under the Maine Public Employees Retirement System (MPERS) for employees enrolled in the MPERS prior to the effective date of this contract.

E. F.I.C.A.

The Town agrees to continue participation in the Social Security program (F.I.C.A.) for the period of this agreement.

F. Long Term Care

The town will provide a Long Term Care Insurance Plan to regular employees according to the base policy as established by the town each fiscal year.

Vision

Insurance coverage shall provide for one eye exam per 12 month period.

ARTICLE 28 – HEALTH INSURANCE INCENTIVE PLAN

A. After determining eligibility, the Town will provide a health incentive to any eligible employee who selects not to insure him/her-self, or his/her eligible dependent(s) and spouse. The incentive will be determined as follows:

1. If an employee moves from a more expensive to less expensive tier, the employee will receive the applicable incentive as shown in the chart below.
2. If an employee removes an eligible dependent, and this removal does not result in a tier reduction, the employee will receive an annual stipend of \$500 for each dependent removed.
3. If the removal of one or more dependents does result in a move to a less expensive tier, then the applicable incentive (as shown in the chart below) will apply.

| Tier Selection | ELIGIBILITY TIERS | | 2+ | 3+ |
|-----------------------|-------------------|-------------------|-----------------------|---------|
| | Single | Employee + spouse | Employee + child(ren) | Family |
| None | \$1,500 | \$2,250 | \$2,250 | \$3,000 |
| Single | - | \$1,500 | \$1,500 | \$2,250 |
| Employee + spouse | - | - | - | \$1,500 |
| Employee + child(ren) | - | - | - | \$1,500 |

B. All incentive payments are made on a pay-period basis and are subject to taxation.

C. The employee must provide evidence of insurance for him/herself and each dependent in order to qualify for this incentive plan.

D. The incentive will cease automatically at the time an employee or dependent becomes ineligible for coverage under the Town's plan requirements.

E. The effective date of any incentive shall be the date of the qualifying event which causes the change in tier selection.

F. The town reserves the right to set a Health Insurance Incentive Plan and the plan's incentive dollars each fiscal year.

ARTICLE 29 – RETIREMENT

A. Maine Public Employees Retirement System

Effective, January 1, 2015 ~~July 1st, 2007~~ the Town shall offer pension and disability retirement under the Maine Public Employees Retirement System (MainePERS) Special Plan ~~26~~ **#3C** (25

years of service, no minimum retirement age requirement, 2/3 of Average Final Compensation plus 2% for each year of service beyond 25 years ~~66% 1/2 pay with COLA~~) for those employees enrolled in ~~the~~ MainePERS prior to that date and for all new employees eligible to be enrolled in MainePERS after that date. The Town shall not be responsible for the cost of conversion of any contributions made prior to January 1, 2015. All contributions made prior to January 1, 2015 shall remain in the Plan that was in effect during the time the contributions were made, unless the employee elects to convert some or all of those contributions to the new plan at his/her sole expense.

B. I.C.M.A.

For employees who do not elect to participate in the Maine Public Employees Retirement System plan, the Town offers a 457 deferred compensation plan through ICMA Retirement Corporation. The Town will match employee contributions to the I.C.M.A. retirement plan up to a level of ~~eight (8) seven (7) percent~~ of the employee's annual base salary. For employee contributions less than ~~seven (7) eight (8) percent~~, the Town will match the amount equal to the employee's percentage contribution. Employees are responsible for any fees assessed to plan participants and are solely responsible for their investment options and choices.

C. Long Term Disability

The Town shall offer a long-term disability plan with coverage similar to that provided by the MPERS. The Town contribution for the plan shall be limited to 1% of the annual base salary of an employee. The employee shall pay any balance due through payroll deductions.

ARTICLE 30 - EMPLOYMENT

A. Probationary Period

~~All new employees shall serve a probationary period of either twelve months from his/her date of hire or, if previously certified from the Maine Criminal Justice Academy, within six months from his/her date of hire or one year from graduation from MCJA whichever is longer (as required by Maine law), whichever is shorter.~~ The employee shall have no seniority rights during this period. It is understood that during this probationary period said employee may be discharged at any time without cause. The Association hereby agrees not to grieve and/or arbitrate any dispute that arises from this section.

Pre-Employment Physical

All new employees, including a re-hired employee must successfully complete a pre-employment physical exam by a physician of the Town's choice subsequent to his/her offer of employment and/or a Job Placement Assessment evaluation. The Town will pay for the cost of such examination.

ARTICLE 31 – EMPLOYEE’S RESPONSIBILITY

The Town shall furnish each new employee with a copy of all existing work rules upon employment and provide updates in a timely fashion. It will be the responsibility of employees to familiarize themselves with the work rules and to read the bulletin board or memoranda daily for working rules and amendments thereto.

ARTICLE 32 - SETTLEMENT OF DISPUTES

A. The Association agrees that this article will settle any and all disputes that arise between parties.

B. It is understood that if the Association, or any members of the Association, use any other means to settle a dispute, the grievance is automatically adjusted to the Town of Cumberland and shall be final and binding.

C. Stewards and Association Representatives

Employees selected by the Association to act as representatives of the Association shall be known as “stewards.” A steward may temporarily appoint any association member as the acting representative or steward during a grievance involving the steward or the steward may submit the grievance on his/her own behalf. The names of the employees selected as stewards, and the Association steward or president shall certify the names of other Association representatives who may represent employees in an acting capacity, in writing to the Town on July 1st of each fiscal year. The Town may at any time request a meeting with the association steward to discuss procedures for avoiding future grievances. In addition, the steward may discuss with the Town other issues which would improve the relationship between the parties.

The term “working day” for the purpose of this section shall be considered to mean Monday thru Friday, 8:00 AM to 4:00 PM and shall start on the first full day after a grievance is received by either the Chief or Town Manager.

D. All reprimands, suspensions, and dismissals of employees who are members of the Association are to be made public to the Association within three (3) days in writing by the Chief of Police or his/her designated representative stating the reason and conditions of the disciplinary action, when agreed to by the employee. If, in the opinion of the Association, the disciplinary action is not warranted, the Association has the option of submitting, in writing, such a statement to the Chief of Police, within five (5) working days. If an agreement is not made between the Chief of Police and the Association within five (5) working days, the process outlined below shall be followed.

D. Grievance and Arbitration Procedure

Any dispute which arises between the parties concerning the application, meaning or interpretation of this agreement shall be settled in the following manner:

Step 1. Any grievance shall be presented in writing by the Association steward or his/her

representative to the Chief within ten (10) working days after the cause for the grievance arose. The Chief shall respond to the Association steward or designee in writing within five (5) working days of his receipt of the written grievance.

Step 2. If the grievance remains unadjusted, it shall be presented in writing within five (5) working days after the response of the Chief by the Association steward or representative to the Town Manager. The Town Manager shall respond in writing to the Association steward/representative within five (5) working days of his written receipt.

Step 3. If the grievance is still unsettled, either party may, within thirty (30) working days after the reply of the Town Manager is due, by written notice to the other, request arbitration. The arbitration proceedings shall be conducted by an arbitrator mutually selected by the Town and the Association within ten (10) working days after the notice has been given. If the parties fail to select an arbitrator, either may request the American Arbitration Association to provide an arbitrator in accordance with the American Arbitration Association Rules. The decision of the arbitrator shall be final and binding on the parties, and the arbitrator shall be requested to issue his/her decision within thirty (30) days after the conclusion of the testimony and argument. Expenses for the arbitrator's services and the proceedings shall be born equally by each party. However, each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. Grievances initiated by the Town shall be processed in the same manner.

ARTICLE 33 – ASSOCIATION ACTIVITIES

A. The employer agrees that during working hours at the Town Hall and without loss of pay, the Association steward or Association representative shall be allowed to:

1. Post Association notices.
2. Distribute Association literature.
3. Transmit communications, authorized by the Association or its President, to the Town.
4. Consult with the employer, its representative, local Association officers or other Association representatives concerning the enforcement of any provision of this agreement.
5. Process grievances.
6. Attend negotiation meetings.

B. The Association will be allowed to maintain a bulletin board in a prominent location with the police department for all members to see and access.

B. The steward or representative may engage in these activities during working hours without loss of pay except when the Chief determines that such activities interferes with the needs of the Department and the public's safety, health and general welfare.

ARTICLE 34 - UNIFORMS AND EQUIPMENT

A. If any employee is required to wear uniform, protective clothing or any type of protective device as a condition of employment, such uniform, protective clothing or protective device shall be furnished by the Town to the employee. The Town shall pay for any equipment required by the Department for its employees as listed in Appendix A. ~~Issued equipment shall include:~~

| # | Item | # | Item |
|---|--|----|--|
| 1 | Armor trauma plate* | 1 | Portable radio |
| 3 | Badges (2 uniform, 1 wallet) | 1 | Radio collar microphone |
| 1 | Battle Dress Uniform (BDU set) | 1 | Radio holster |
| 5 | Belt keepers | 1 | Rain coat |
| 1 | Chemical Irritant (OC) – Non Flammable | 50 | Rounds of pistol duty ammunition biennially |
| 1 | Class A Uniform (Town will only outfit one employee per year as necessary) | 50 | Rounds of pistol/rifle practice ammunition quarterly |
| 1 | Clipboard | 1 | Soft body armor (100% woven Kevlar) and carrier set |
| 1 | Collar brass (pair) | 1 | Spare soft body armor carrier* |
| 1 | Department ID and ID/Badge wallet | 1 | Spring/3 season jacket |
| 1 | Duty bag | 1 | Summer uniform hat |
| 1 | Duty belt | 4 | Summer uniform shirts |
| 1 | Duty gloves | + | Sweater |
| 1 | Duty holster | 3 | Turtlenecks |
| 3 | Firearm magazines | 1 | Uniform foot wear |
| 1 | Firearm with night sights | 1 | Uniform hat acorns |
| 1 | Flashlight holder | 1 | Uniform hat badge |
| 1 | Glove holder | 1 | Uniform hat strap (3-piece) |
| 1 | Handcuff holster | 4 | Uniform pants |
| 2 | Handcuffs (pair) | 2 | Uniform ties |
| 1 | Inner belt | 1 | Winter jacket |
| 1 | Keys – 1 building | + | Winter uniform hat-winter skull cap |
| 2 | Nametag | 4 | Winter uniform shirts |
| 1 | OC holster | 1 | Winter watch cap |

Town Requests entire List be placed in an Appendix

B. Such items shall be replaced by the town as becomes necessary due to wear and tear in the performance of law enforcement duties, or as determined by the Chief of Police or his/her representative. The Town agrees to purchase replacement ballistic vests when warranty periods have lapsed. Unless exempted by the Chief of Police, the Town requires all officers to wear ballistic vests while on duty.

C. The Chief of Police shall designate the style, color, and brand of all items of visible clothing and equipment in order to maintain uniformity in appearance of all officers. All items of clothing and equipment provided by the town before and after the signing of this agreement, shall remain the property of the Town of Cumberland, and shall be returned upon termination of employment.

D. The Town agrees to allow officers to carry personally owned patrol rifles on duty as long as

they meet department mil-spec requirements surrounding the AR-15 weapon system platform. Officers are required to qualify with a personally owned rifle before to carrying them on duty. Only Department-approved ammunition will be allowed in personal rifles while on duty.

E. The Town agrees to repair or replace the following personal property when not covered by insurance or worker's compensation, if damaged as **a result of an extra hazardous duty:**

1. Eye glasses/eye wear (up to \$100)
2. Dentures (up to \$50)
3. Timepieces (up to \$50)
4. Personal Communications Devices (up to \$150)

Town proposes to replace the above language limits with "up to value of existing property" Example: an I-Phone replacement value is nearly \$600.

Replacement value of existing property or personal insurance deductible (up to \$500), whichever is less.

Extra Hazardous Duty will be defined as:

- pursuing, apprehending, arresting or detaining **subjects or;**
- while actively engaged in suppressing riots, insurrections, and similar civil disturbances.

ARTICLE 35 – MANDATORY & ASSIGNED TRAINING

A. If the State of Maine mandates in-service training of police officers and the officer is required to attend that training outside of his/her regular working hours, the officer shall be paid one and a half his/her base hourly rate of pay for any such hours training. The department will strive to provide training opportunities to all interested personnel within the boundaries of schedule and budget limitations.

B. All employees shall receive firearms training and will demonstrate proficiency with rifles, pistols, and shotguns in accordance with Maine Criminal Justice Academy standards twice per year. One training and qualification session shall involve low-light environments. Pistol duty ammunition will be fired in the course of training, at minimum, biennially. The Town agrees to pay a Firearms Instructor's membership fee to a local firearms range, said fee not to exceed \$250, for the exclusive use of offering firearms armoring, testing, and training to department members.

C. All employees shall receive ~~Taser~~ TASER© re-certification training **as required by Taser TASER International.** ~~an annual basis.~~

D. All employees shall receive CPR training on an annual basis (equivalent to the American Heart Association's Healthcare Provider level), to include AED use.

E. All employees shall receive state and federally mandated workplace-safety training.

F. The Town will reimburse 75% of the annual dues for an Officer's single membership to the Scarborough Fish & Game Association. Application fee and membership acceptance will be the responsibility of the member, not the Town of Cumberland.

G. The Town will establish an elective training fund each fiscal year, subject to the Town Council's approval of the municipal budget. The elective training fund shall be used for training opportunities in addition to those that are required by law or by this Agreement. It shall be the member's responsibility to present an application for elective training to the Chief of Police including a description of the proposed training program, a statement as to how the training will benefit the member and the department, and an estimate of expenses and time required to attend the training program. It shall be within the sole discretion of the Chief of Police to approve applications for elective training and all applications shall be subject to the availability of monies within the elective training fund. Approval of elective training applications will be conducted on a rotational basis. An officer that has received approval for an elective training may not be approved for another elective training until all other members have received at least one approval for elective training.

ARTICLE 36 - OFF DUTY EMPLOYMENT

An employee may engage in off duty employment subject to the following limitations:

1. That such employment constitutes no more than twenty (20) hours per week **when employed by an entity other than the Town of Cumberland.**

Below - May be impacted by Side Letter from Article 6 – 10/23/14

SEE Union Letter

2. **All off duty employment for which the Town of Cumberland is the employer is subject to this Article and the provisions of Article 6, Section II of this Agreement. Although an employee may engage in off duty employment for which the Town of Cumberland is the employer, the job requirements, demands and essential functions of the employee's duties as a law enforcement officer shall take precedence over the requirements, demands and essential functions of any and all off duty employment positions.**
3. **Off duty employment in fire protection activities for the Fire Department of the Town of Cumberland shall not constitute more than fifty-three (53) hours per workweek when combined with the hours worked for the Police Department during that same workweek. Workweek shall have the same meaning as prescribed in Article 6, Section I (B) of this Agreement.**
4. **All other off-duty employment for the Town of Cumberland must be performed on an occasional or sporadic basis solely at the employee's option and in a different capacity from which the employee is regularly employed.**
5. An employee shall submit requests for **any and all** off-duty employment in writing to the Chief of Police, whose approval must be granted prior to engaging in such employment.

6. An employee shall not engage in any employment or business involving the sale or distribution of alcoholic beverages, attorneys, or bail bond agencies, or work for an employer who has been convicted of a felony or who openly associates with convicted felons.

ARTICLE 37 - GENERAL AUTHORITY AND RESPONSIBILITY OF THE TOWN

- A. The Association hereby recognizes that the Town shall retain all rights and authority to manage and direct the operations of the Town Department and its working force, including the right to plan, direct and control Department activities; to schedule and assign work to employees, including in emergency situations the right to split two days off; to determine means, methods, procedures and equipment to maintain the efficiency of the Department and their employees; to determine the manner of jobs, to create, or for lack of funding or for lack of work, revise (meaning a material change in job assignments relating to law enforcement activities) or eliminate jobs; to establish and require observance of rules and regulations governing the conduct and performance of its employees; to formulate and adopt ordinances and other regulations incidental to management of the affairs of the Town; to hire and promote employees to maintain order. The Association hereby agrees not to grieve and/or arbitrate any dispute that arises from this section.
- B. The Town reserves the right to discipline or discharge for cause

ARTICLE 38 – CONTINUITY OF WORK

The Association agrees that neither it nor its officers or members will engage in, or encourage, any strikes, slowdowns, mass absenteeism, or picketing which will involve suspension of or interference with the normal work of the Department or other Town Departments. In the event that the Association members participate in such activities in violation of this provision, the Association shall notify those members so engaged to cease and return to their normal duties. In any event, the Town may discharge any employee participating in these prohibited activities.

ARTICLE 39 - SAVINGS CLAUSE

If any provisions of this agreement shall be contrary to any law, such invalidity shall not affect the validity of the remaining provisions of this agreement.

ARTICLE 40 - DISCRIMINATION CLAUSE

The Town agrees to continue its established policy against all forms of illegal discrimination, including (1) discrimination with regard to race, creed, color, national origin, sex, sexual orientation, marital status, age, physical or mental disability, unless based upon a bona fide occupational qualification; and (2) intimidation or harassment on the basis of race, creed, color, national origin, sex, sexual orientation, marital status, age, physical or mental disability.

The Association agrees to continue its policy to admit all members to membership and to represent all members without regard to race, creed, color, national origin, sexual orientation, sex, marital status, age, physical or mental disability.

The Association and the Town agree that discrimination, intimidation, or harassment of employees, including sexual harassment in all its various forms is unacceptable conduct and will not be condoned or tolerated by the Association or the Town.

The Town and the Association agree that any disputes arising out of the provision of this article may be processed through the grievance procedure contained in the Grievance and Arbitration Procedure. This provision shall not preclude other legal remedies provided by law.

All references in the Agreement to employees of the male gender are used for convenience only and shall be construed to include both male and female employees.

ARTICLE 41 - PERSONNEL FILE AND FILE PURGING

A. Personnel File

Pursuant to M.R.S.A. Title 30-A, §2702.2, the Town shall, upon written request from a member or former member, provide the member, former member or duly authorized representative with an opportunity to review or request a copy of the member's personnel file if the employer has a personnel file for that member. The review and copying must take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and location for the member are arranged. A personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and non-privileged medical records or nurses' station notes relating to the employee that the employer has in the employer's possession. Personnel records may be maintained in any form including paper, microfiche or electronic form. The employer shall take adequate steps to ensure the integrity and confidentiality of these records, and make every attempt to keep each file up-to-date at all times.

B. File Purging

1. Oral Reprimands/Counseling's shall be purged from the personnel file of an employee 6(six) months after the issuance of the discipline, provided no repeat of a similar nature has occurred in that six month period. All records relating to the oral reprimand/counseling violation shall be provided to the employee and the violation will not be considered in any future matters.

2. Written Reprimands and Suspensions, as defined by Standard Operating Policies and Procedures:

Category 1 Violations: Any record of disciplinary action shall be purged from the personnel file of said employee after 24 months from the issuance of the discipline. All records relating to the violation shall be provided to the employee and the violation will not be considered in any future matters.

Category 2 Violations: Any record of disciplinary action shall be purged from the personnel file of said employee after 48 months from the issuance of the discipline. All records of the violation shall be provided to the employee and the violation will not be considered in any future matters.

Category 3 Violations: Any record of disciplinary action taken shall permanently remain a part of the personnel file.

ARTICLE 42 - MEMBER RIGHTS

Whenever a complaint (written or oral) is lodged against an employee, the complainant will be directed to contact the Chief of Police, or his/her designee, who shall make every attempt to solve the problem at his level. Complaints from juveniles must be made in the presence of parents or legal guardians. If the complaint cannot be resolved at the Chief's level without disciplinary action (not to include oral reprimands/counseling's), then the complainant shall reduce the complaint to writing, utilizing the department Appendix #1-A "Report of Complain Against Law Enforcement Personnel" Form, and define the specifics of the complaint, including the names of all witnesses, with his/her signature applied to the complaint. The complaint shall then be investigated as follows:

The Chief (or designated officer) shall be responsible to ensure that all allegations of misconduct and other violations shall be investigated. Such investigation shall be completed within a reasonable time based upon the circumstances or the alleged misconduct and the investigation. If the investigation is a result of a complaint from the public, or misconduct or other violations that come to the attention of a superior officer, the following procedure shall be followed:

The Chief (or his/her designee), shall investigate all such allegations. Such investigator shall inform any member under investigation and his/her commanding officer of the nature of the investigation before it commences. If diligent efforts to contact the member fail, the investigator shall advise the designated representatives of the Association. Sufficient information to apprise the member of the specific allegations will be provided. The investigating officer shall be allowed to interview the complainant prior to notifying the member. Where no probable cause is found, the investigation will terminate and the record shall not become part of the member's personnel file.

When an investigator believes that there is reasonable cause to interview a member under investigation concerning an alleged violation of the Department's operating procedure or misconduct, the member shall be afforded forty-eight (48) hours, unless an emergency exists or

such right is waived, to contact and consult privately with an attorney or other counsel of his/her own choosing before being interviewed.

The interview of any Department member shall be at a reasonable hour, preferably when the member is on duty unless the course of the investigation dictates otherwise, and such interview will be conducted without unreasonable delay.

The interview shall take place at a location designated by the investigating officer and shall be at the Cumberland Police Department when feasible. If requested, a representative may be presented at the initial interview and shall be allowed to confer privately with the employee. The interview of any Department member shall be conducted at a reasonable time taking into consideration the working hours of the members and the legitimate interests of the Department.

The member of the Department being questioned shall be informed of the identity of all persons present during the interview. If it is known that the member of the Department being interviewed is a witness only, he shall be so informed. The interview shall be conducted with the maximum amount of confidentiality possible. The questions shall be specifically related to the alleged violation. If any other previously undisclosed matter is discovered which may be subject to investigation, it shall be handled pursuant to this procedure.

If after the investigating officer has interviewed the complainant and the member in question and it is determined by the Chief (or designee) that such misconduct, or other violation, is not a dismissible offense or other such magnitude that a suspension would result, the findings shall be provided to the member's commanding officer for disposition within ten (10) days of such determination, and the member so informed.

Upon completion of such investigation where probable cause exists to warrant suspension or dismissal, the results of such investigation and interviews shall be provided to the Chief (or designee). In such cases, when formal charges are preferred, such charges shall be provided the member in question in writing and a copy provided to the President of the Association. In cases where probable cause exists that a criminal offense has been committed, the member may be suspended immediately without pay pending disposition of the charges.

If the member under investigation agrees to submit to a polygraph examination, he/she will be furnished a list of the questions to be asked, sufficiently prior to the examination to enable the member to confer with counsel of his/her choosing prior to the polygraph examination. If a member agrees to submit to any other type of test, he/she shall be advised of the type of test and the member will be afforded an opportunity to obtain a similar independent test if available.

Within fifteen (15) calendar days of the completion of the investigation, the member shall be advised of the final outcome. The investigating officer shall bring no charges unless the proper interview procedures are followed as outlined in the previous paragraphs and the investigating officer found probable cause. Failure to follow the above procedures, unless waived by the member in question, shall result in dismissal of all charges, with prejudice and destruction of all related records.

ARTICLE 43 - TERM OF AGREEMENT

This agreement shall govern the rights of the parties from the date of July 1, 2014 through June 30, 2017 regardless of the date of ratification by both parties, with the exception of dates otherwise specifically noted in this contract language. The parties further agree that they shall meet in January of 2017 to begin contract negotiations.

IN WITNESS WHEREOF, the said Town of Cumberland, Maine, has caused these presents to be signed in its behalf by William R. Shane as Town Manager, thereunto duly authorized; and the Cumberland Police Benevolent Association has caused these presents to be signed in its behalf by Antonio Ridge, its president, thereunto duly authorized.

DATED: _____

TOWN OF CUMBERLAND

Witness

By: _____
William R. Shane, Town Manager
Duly Authorized

CUMBERLAND POLICE BENEVOLENT ASSOCIATION

Witness

By: _____
Christopher Woodcock, Its Shop Steward
Duly Authorized