

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
MONDAY, FEBRUARY 11, 2002**

- I. Call to order in the Council Chambers at Cumberland Town Hall at 7:00 p.m.
- II. Manager's Report
- III. Public Discussion
- IV. Legislation and Policy
 - 02-04 To consider and act on a grant for work in the Town Forest to be conducted by Drowne Road School students.
 - 02-05 To hear presentation from the Town Planner and Planning Board Chairman regarding the Subdivision Ordinance and the planning review process.
 - 02-06 To hear presentation from the Public Works Director re: transportation issues and funding options.
 - 02-07 To consider and act on the expenditure of funds for a traffic study at the intersection of Skillins/Blackstrap Roads and Routes 26/100.
 - 02-08 To consider and act on the Central Corridors Coalition transportation study.
 - 02-09 To consider and act on a proposed agreement with ASCAP for the use of copyrighted works.
- V. Correspondence
- VI. New Business
- VII. Adjourn

MEMBERS OF THE TOWN COUNCIL

Stephen Moriarty (Chair)	829-5095	Jeffrey Porter	829-4129
Mark Kuntz	829-6482	Harland Storey	829-3939
Peter Bingham	829-5713	Donna Damon	846-5140
Michael Savasuk	781-3061		



Meeting Notice

TO: Linda Cohen
Tony McDonald
Bill Whitten
Gary Plummer
Brian Petrovek
Paul Stevens

FROM: Jerre Bryant, Chair

DATE: January 18, 2002

RE: Long-Range Planning Committee Meeting

There will be a Long-Range Planning Committee meeting on **Thursday, January 24th at 4:30PM**. It will take place in the Captain's Club at the Civic Center.

The purpose of the meeting is to meet with the communications consultant, Elizabeth Swain of Barton and Gingold. She will be available to give an update and answer any questions.

cc: Tom Bartell
Dale Olmstead
Dick Ranaghan
Ellyne Fleshner
Neal Pratt
Len Nelson
County Commissioners
Steve Crane
Joe Gray
Anita LaChance
Frank LaTorre

JB/ap

MEMORANDUM

To: Town Council
From: Carla Nixon, Assistant Town Manager
Re: Brown Tail Moth Update
Date: 2/11/02

Dick Bradbury of the Maine Forest Service has provided a recommendation that the Town consider conducting aerial spraying this spring for Brown Tail Moth control. On the mainland he has identified 585 acres, and on Chebeague Island he has identified 90 acres (mostly in three targeted locations). No other islands are recommended for spraying. The cost for the insecticide (Dimilin) and its aerial application is \$25 per acre or \$16,875 for the 675 total acres. However, Mr. Bradbury has recommended that the Town consider allocating a full \$20,000, in case an additional 125 questionable acres require spraying.

Administrative time and mailing costs have not been estimated yet since we do not know how many households will need to be notified. Each affected property owner will be notified of the Town's intention to spray and will have the choice of opting out of the spraying. If the parcels that are not to be sprayed are located in such a way as to make aerial spraying of an area impossible, then the cost for spraying will be less than anticipated.

If the Council decides to fund this project, we would plan to mail the notification letters in late March. Property owners have 30 days to respond which would allow us the time needed to complete our mapping work, execute the contract with the applicator, and conduct the actual spraying in early May, prior to bud break.

If the Council wishes, we could set a public hearing for February 25th and take action to appropriate funds for the project at that time. This would give town staff the time needed to prepare the mailing of notifications.



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION

DIVISION #6 OFFICE
P.O. BOX 1940
PORTLAND, MAINE
04104

COPY

ANGUS S. KING, JR.
GOVERNOR

JOHN G. MELROSE
COMMISSIONER

January 24, 2002

Robert B. Benson
Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, Maine 04021-9321

Dear Mr. Benson:

This is in response to request for the Department to investigate the need for a full traffic signal at the intersection of Skillins/Blackstrap Road and Route 26/100. I have discussed this with Mr. Randall Dunton the Division Traffic Engineer and offer the following plan:

1. Mr. Dunton has already requested the accident history and reports from Augusta for the period 1998-2000.
2. Please provide Mr. Dunton with the latest accident reports for those accidents specified in your letter.
3. Mr. Dunton will next review the reports to identify potential patterns.
4. Mr. Dunton will perform a site visit to identify any immediate mitigation to address accident patterns, such as improve sight distances and/or additional signage.
5. Mr. Dunton would then contact Mr. Ogdon to discuss his findings and review the requirements to perform a signal warrant analysis.


To perform a signal warrant analysis, 12 hours of turning movement counts are necessary. If the Town wants the Department to do the analysis, it could take up to a year. These are only done in non-winter times and the Town would be put on a prioritized list.

The Town can provide the volumes through a traffic engineer and Mr. Dunton could then do the analysis relatively quickly.

We estimate that it could take one to two weeks to review the accident reports and do the site review, and about a week to do the signal warrant analysis if the volumes were provided by the town.


Please advise as to how you wish to proceed on this matter.

Sincerely


Roger Gobeil, P.E.
Division Engineer

ROG/gh
Cc: Randy Dunton
file




PRINTED ON RECYCLED PAPER



Transportation Improvement Plan

Six Year
&
Biennial



Biennial Transportation Improvement Program 2002 - 2003

- Regional Program – Major Collector
 - Route 88 – Maintenance Paving
 - Kings Highway – Maintenance Paving
 - Tuttle Road - Maintenance Paving
 - Blackstrap Road – Maintenance Paving
 - Route 1 – Level 1 Highway Resurfacing
-



Six Year Plan 2002- 2007

*If not in 6yr Plan
won't get to 2yr Plan*

- Blanchard Road – RRI Minor Collector
 - Skillings Road – RRI Minor Collector
 - Tuttle Road – RRI Minor Collector
 - Kings Highway
 - Doughty Bridge – Rte 26/100 Replacement
-

BTIP Solicitation Package

2004 - 2005

- Highway Projects
- Traffic Improvements
- Bridge Improvements - *Full Rd, PL valley*
- Passenger & Freight Transportation Improvements (Other Modes – I.e. air, rail, bus, ferry services, intermodal facilities, terminals, airports, walking and biking trails)



BTIP Solicitation Package 2004 - 2005

- Passenger Transportation Improvements
 - Other Modes – I.e. air, rail, bus, ferry services, intermodal facilities, terminals, airports, walking and biking trails
-



BTIP Solicitation Package 2004 - 2005

- ✓ Freight Transportation Improvements
 - ✓ Truck Climbing Lanes
 - ✓ Intersection improvements
 - ✓ Maintenance Dredging Federal Channels
-



Transportation Enhancement Program

- Bicycle/Pedestrian
 - Scenic/Landscape/Historic
 - Environmental
- 



Small Harbor Improvement Program

\$1.5 million

- Promote Public Access along the Coast
 - Economic Development
 - Commitment to preserving infrastructure
 - Wharf Construction, Pier Rehabs, Float Construction, Pier Fendering, Commercial Boat Ramp, Shoreside Improvements (Parking), Land Purchases for Improved Public Access
-



Rural Road Initiative Program

- ✓ State Aid Minor Collectors
 - ✓ 33% Municipal Contribution
 - Blanchard Road
 - Skillings Road
 - Tuttle Road
 - \$450,000 committed
 - State has \$300,000 to add to, project Town needs to commit \$150,000
-



Town Road Improvement

- Prevent additional miles from deteriorating to poor condition will require more extensive, expensive treatment
 - Existing \$125,000 annual budget does not address needs
 - 10 year goal to stop additional roads from becoming poor and to eliminate existing poor mileage requires \$353,000 annually
-



2004-5 BTIP and Six Year Plan

- Describes how to apply the capitol funding
 - Projects Priorities
 - Make MDOT Aware of Community Transportation Needs
 - Submit Candidate Transportation Improvement Projects by March 1, 2002
-



Town Road Improvement

- ✓ Drainage
 - ✓ Deep Culverts require lining to prevent failure and costly excavation
 - ✓ Current Drainage Budget \$10,000
 - ✓ Middle Road, Val Halla Road, Mill Road, Lower Methodist, Blanchard Road, Harris Road, Range Road, Orchard Road, Greely Road, Pleasant Valley Road, Wildwood
 - ✓ Town Center needs storm drains throughout
-

Jensen Baird Gardner & Henry

WALTER E. WEBBER
KENNETH M. COLE III
NICHOLAS S. NADZO
FRANK H. FRYE
DAVID J. JONES
MICHAEL A. NELSON
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ANGELA G. CROCKER

ATTORNEYS AT LAW
TEN FREE STREET
P.O. BOX 4510
PORTLAND, MAINE 04112
(207) 775-7271

TELECOPIER (207) 775-7935

www.jbgh.com

RAYMOND E. JENSEN
M. DONALD GARDNER
MERTON G. HENRY
JAMES E. KAPLAN
OF COUNSEL

KENNETH BAIRD
(1914-1987)

YORK COUNTY
OFFICE
11 MAIN STREET, SUITE 4
KENNEBUNK, MAINE 04043
(207) 985-4676
TELECOPIER (207) 985-4932

December 13, 2001

Robert B. Benson, Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, ME 04021

RE: Federal copyright law: ASCAP license agreement

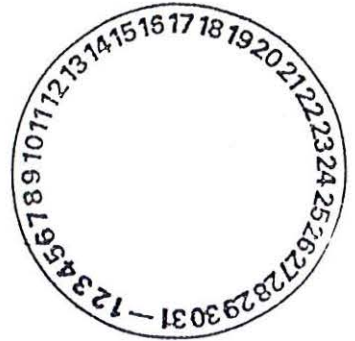
Dear Bob:

I am writing to inform the Town of a potential issue: possible liability for violations of federal copyright law for playing popular music at Town facilities or at Town events.

This past summer, the International Municipal Lawyers Association (IMLA) and the American Society of Composers, Authors and Publishers (ASCAP) negotiated a model license agreement for local governments. This agreement is a contract between individual municipalities and ASCAP to protect municipalities from violating federal copyright laws and to protect artists represented by ASCAP from having their work used without permission.

The copyright law of the United States, 17 U.S.C. §§ 101 to 1332, establishes property rights for the owners of "works of authorship" including literary works, musical works, dramatic works, pantomimes and choreographic works, pictorial, graphic and sculpture works, motion picture works, architectural works, and sound recordings. The property owners are given the exclusive right to perform or authorize the performance of their works publicly. The law defines public performance as a "perform[ance] or display [of the work] at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered. . . ." The penalties for an entity or individual who violate the federal copyright statute vary, but include fines ranging from \$750 to \$30,000 and an injunction to prevent further violations. In addition, the law provides for attorney fees and court costs.

Without being aware of the special status of copyrighted works, municipalities may violate copyright laws when they play music at sporting events, parades, festivals, community center activities, on school or public transit buses, aerobics classes, etc. In the past, municipalities have had to get permission from artists or artists' representatives to use their copyrighted music or dramatic works. The ASCAP agreement saves municipalities from having to navigate through that burdensome and complicated process and provides municipalities with affordable access to every variety of music.



December 13, 2001
Page 2

The Agreement covers almost all non-dramatic performances presented both on municipality property and at functions or events at other locations, including live performances, recorded performances (CDs, tapes, etc. over a loudspeaker) and music on hold. The Agreement does not cover dramatic performances. In return for the right to use musical performances licensed by ASCAP, municipalities must pay an annual base fee of \$250 per year. Municipalities which sponsor specific performances grossing over \$25,000 will have to pay an additional "special event fee" that is calculated at 1% of the gross revenue of the performance. The fees that are paid to ASCAP through this licensing agreement are paid, in part, to the artist-members of ASCAP and, in part, to the members of affiliated foreign societies.

It is important to note that ASCAP does not represent all artists or performances. Although the ASCAP agreement will give municipalities access to over 8 million works, other license holders, such as Broadcast Music Inc. (BMI), represent other artists and their works. IMLA is negotiating with BMI to create a similar agreement.

Recently, ASCAP added an incentive for municipalities to sign the agreement soon. In the attached letter and through oral representations, ASCAP has stated that every municipality that signs the agreement with ASCAP prior to January 15, 2002, will be forgiven any prior claims for copyright infringement by ASCAP. However, even if it is not practical for your municipality to get authorization to sign this agreement by January 15, we still recommend getting that authorization as soon as possible and then executing the agreement.

I have attached a copy of the ASCAP/IMLA letter, the License Agreement, the 2001-2002 rate schedule and the Report Form for Local Governments. If you would like assistance with these documents or further information, please call me.

Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kenneth M. Cole III", with a long horizontal stroke extending to the right.

Kenneth M. Cole III

KMC/yq
Enclosures



International Municipal
Lawyers Association

1110 Vermont Avenue, N.W., Suite 200
Washington, D.C. 20005

tel: 202.466.5424
fax: 202.785.0152
e-mail: info@imla.org
web: <http://www.imla.org>

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City Attorney
Denver, Colorado



ASCAP

American Society of
Composers, Authors, &
Publishers
Phone: 800.505.4052
Fax: 770.805.3475
E-Mail: info@ascap.com

November 6, 2001

Dear Colleague:

In August, the International Municipal Lawyers Association (IMLA), through its Model Licensing Agreement Committee, and the American Society of Composers, Authors and Publishers (ASCAP) announced the completion of negotiations on a new Model License Agreement for Local Governments. The announcement was followed by a presentation at the IMLA Annual Conference in September and an article in the most recent issue of *Municipal Lawyer*.

We understand that the announcement and license may have been placed aside, but we urge your immediate attention to this matter and encourage you to present it promptly to the appropriate officials in your jurisdiction for approval. As noted in the letter we previously sent to you, the negotiations were marked by a spirit of goodwill and the Agreement provides an efficient and affordable method for local governments to comply with the law while recognizing the rights of ASCAP's composers, lyricists, and publishers.

As part of the introduction of the agreement, for those who accept and return the license agreement by January 15, 2002, ASCAP has agreed to waive any claims for copyright infringement, on behalf of its members for unauthorized non-dramatic public performances of music in the ASCAP repertory for public performances that occurred prior to the effective date the License Agreement was offered. However, if your local government has any outstanding account balances under existing or prior license agreements with ASCAP for the period before the effective date of the new License Agreement, the balance must be brought current before the local government can enter the License Agreement.

We are enclosing another copy of the Agreement, report form and explanatory brochure with this letter. Please enter the name and address of the legal entity entering the agreement, complete the reporting form and return executed copies of both to ASCAP. ASCAP will provide an executed copy for your files. Please contact ASCAP at 800-505-4052 or municipal_licensing@ascap.com, if you have questions.

Your cooperation is essential to ensuring that your client is in compliance with the U.S. Copyright laws. Thank you.

Sincerely,

Henry Underhill

Henry Underhill
Executive Director & General Counsel
International Municipal Lawyers Association

BKing

Bonnie King
Vice President, Director of General Licensing
American Society of Composers, Authors & Publishers

Enclosures: License Agreement, Rate Schedule, Report Form
Brochure "An ASCAP License Is Just Sound Policy"



Account No.: _____

2001 - 2002
ASCAP REPORT FORM
FOR LOCAL GOVERNMENTAL ENTITIES

Licensee: _____ Report Completed By: _____

Title: _____ Date Completed: _____ Email Address: _____

Telephone No.: _____ Fax No.: _____ Web Site Address: _____

CERTIFICATE: I hereby certify that the data reported below is true and correct as of this _____ day of _____, 200_____.

SCHEDULE A - BASE LICENSE FEE (Due upon execution of Agreement and within 30 days of the Agreement's renewal date.)REPORT YEAR: _____ POPULATION: _____ BASE LICENSE FEE: \$ _____
(Per current U.S. Census Data) (Please refer to Rate Schedule)**SCHEDULE B - SPECIAL EVENTS*** (Report and payment due 90 days after the conclusion of each special event.)

EVENT DATE (MM/DD/YY) If More than 1 Event Per Day, Please Report as Separate Entries	PERFORMER(S) OR GROUP(S) APPEARING	GROSS REVENUE** OF EVENT (MUST EXCEED \$25,000)	% APPLIED TO GROSS REVENUE	EVENT FEE	IS A PROGRAM OF MUSICAL WORKS ATTACHED Yes or No	IF THE EVENT IS CO-SPONSORED Please identify the Co-sponsor name, address, phone number and ASCAP account number
			x .01	\$		Name: _____ Address: _____ Phone No.: _____ Account No.: _____
			x .01	\$		Name: _____ Address: _____ Phone No.: _____ Account No.: _____
			x .01	\$		Name: _____ Address: _____ Phone No.: _____ Account No.: _____
			x .01	\$		Name: _____ Address: _____ Phone No.: _____ Account No.: _____

*"Special Events" means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" of such Special Event exceeds \$25,000.

**"Gross Revenue" means all monies received by LICENSEE or on LICENSEE'S behalf from the sale of tickets for each Special Event. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from sponsors or other payments received by LICENSEE for each Special Event.

SCHEDULE C - STATE MUNICIPAL AND/OR COUNTY LEAGUES OR STATE ASSOCIATIONS OF ATTORNEYSREPORT YEAR: _____ ANNUAL LICENSE FEE: **\$250.00** (Due within 30 days of renewal date.)**Total Fees Reported From Any or All of Schedules A, B or C: \$** _____

ASCAP, 2690 Cumberland Parkway, Suite 490, Atlanta, GA 30339-3913 800.505.4052 770.805.3475

Email: municipal_licensing@ascap.com



**2001-2002 RATE SCHEDULE
FOR LOCAL GOVERNMENTS**

SCHEDULE A Base License Fee

1	-	50,000	.....	\$ 250
50,001	-	75,000	.....	500
75,001	-	100,000	.....	600
100,001	-	125,000	.....	800
125,001	-	150,000	.....	1,000
150,001	-	200,000	.....	1,300
200,001	-	250,000	.....	1,600
250,001	-	300,000	.....	1,900
300,001	-	350,000	.....	2,200
351,001	-	400,000	.....	2,500
400,001	-	450,000	.....	2,800
450,001	-	500,000	.....	3,100
500,001	-	plus	.....	3,800, plus \$500 for each 100,000 of population above 500,000 to a maximum fee of \$50,000

SCHEDULE B Special Events

The rate for Special Events shall be 1% of Gross Revenue.

"Special Events" means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" of such Special Event exceeds \$25,000.

"Gross Revenue" means all monies received by LICENSEE or on LICENSEE'S behalf from the sale of tickets for each Special Event. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from sponsors or other payments received by LICENSEE for each Special Event.

SCHEDULE C State Municipal and/or County Leagues or State Associations of Attorneys

The annual license fee for LICENSEES who are legally organized as state municipal and/or county leagues or state associations of municipal and/or county attorneys shall be \$250.

License Fee for Year 2003 and Thereafter

For each calendar year commencing 2003, all dollar figures set forth in Schedules A, B and C above (except for \$500 add-on for populations of 500,001 or more) shall be the license fee for the preceding calendar year, adjusted in accordance with the increase in the Consumer Price Index - All Urban Consumers (CPI-U) between the preceding October and the next preceding October. Any additional license fees due resulting from the CPI adjustment shall be payable upon billing by ASCAP.



LICENSE AGREEMENT LOCAL GOVERNMENTAL ENTITIES

AGREEMENT between the American Society of Composers, Authors and Publishers ("ASCAP") located at 2690 Cumberland Parkway, Suite 490, Atlanta, GA 30339-3913 and ("LICENSEE"), located at

1. Grant and Term of License

- (a) ASCAP grants and LICENSEE accepts a license to perform publicly on the "Premises" and at "Events" and "Functions," and not elsewhere or otherwise, non-dramatic renditions of the separate musical compositions in the "ASCAP repertory." The performances licensed under this Agreement may be by means of "Live Entertainment" or "Mechanical Music". For purposes of this Agreement,
- (i) "LICENSEE" shall include the named entity and any of its constituent bodies, departments, agencies or leagues.
 - (ii) "Mechanical Music" means music which is performed at the Premises by means other than by live musicians who are performing at the Premises, including, but not limited to (A) compact disc, audio record or audio tape players (but not including "jukeboxes"), (B) videotape, videodisc or DVD players; (C) the reception and communication at the premises of radio or television transmissions which originate outside the Premises; and which are not exempt under the Copyright Law; or (D) a music-on-hold telephone system operated by LICENSEE at the Premises.
 - (iii) "Live Entertainment" means music that is performed at the Premises by musicians, singers or other performers.
 - (iv) "Premises" means buildings, hospitals, airports, zoos, museums, athletic facilities, and recreational facilities, including, but not limited to, community centers, parks, swimming pools, and skating rinks owned or operated by LICENSEE and any site which has been engaged by LICENSEE for use by LICENSEE.
 - (v) "ASCAP repertory" means all copyrighted musical compositions written or published by ASCAP members or members of affiliated foreign performing rights societies, including compositions written or published during the term of this Agreement and of which ASCAP has the right to license non-dramatic public performances.
 - (vi) "Events" and "Functions" means any activity conducted, sponsored, or presented by or under the auspices of LICENSEE. Except as set forth in paragraph 2.(d) below, "Events" and "Functions" shall include, but are not limited to, aerobics and exercise classes, athletic events, dances and other social events, concerts, festivals, arts and crafts fairs, and parades held under the auspices of or sponsored or promoted by LICENSEE on the Premises.
 - (vii) "Special Events" means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" of such Special Event exceeds \$25,000 (as defined in paragraph 4.(d) below).
- (b) This Agreement shall be for an initial term of one year, commencing _____, which shall be considered the effective date of this Agreement, and continuing thereafter for additional terms of one year each. Either party may give notice of termination to the other no later than thirty (30) days prior to the end of the initial or any renewal term. If such notice is given, the agreement shall terminate on the last day of the term in which notice is given.

2. Limitations On License

- (a) This license is not assignable or transferable by operation of law or otherwise. This license does not authorize LICENSEE to grant to others any right to perform publicly in any manner any of the musical compositions licensed under this agreement, nor does it authorize any public performances at any of the Premises in any manner except as expressly herein provided.

(b) This license does not authorize (i) the broadcasting, telecasting or transmission or retransmission by wire, Internet, website or otherwise, of renditions of musical compositions in ASCAP's repertory to persons outside of the Premises, other than by means of a music-on-hold telephone system operated by LICENSEE at the Premises; and (ii) performances by means of background music (such as *Muzak*) or other services delivered to the Premises. Nothing in this paragraph shall be deemed to limit LICENSEE's right to transmit renditions of musical compositions in the ASCAP repertory to those who attend Events or Functions on the Premises by means of teleconferencing, videoconferencing or similar technology.

(c) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this agreement, a dramatic performance shall include, but not be limited to, the following:

- (i) performance of a "dramatico-musical work" (as hereinafter defined) in its entirety;
- (ii) performance of one or more musical compositions from a "dramatico-musical work" (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken;
- (iii) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual representation;
- (iv) performance of a concert version of a "dramatico-musical work" (as hereinafter defined).

The term "dramatico-musical work" as used in this Agreement, shall include, but not be limited to, a musical comedy, opera, play with music, revue, or ballet.

(d) This license does not authorize performances:

- (i) at any convention, exposition, trade show, conference, congress, industrial show or similar activity presented by LICENSEE or on the Premises unless it is presented or sponsored solely by and under the auspices of LICENSEE, is presented entirely on LICENSEE'S Premises, and is not open to the general public;
- (ii) by or at colleges and universities;
- (iii) at any professional sports event or game played on the Premises;
- (iv) at any permanently situated theme or amusement park owned or operated by LICENSEE;
- (v) by any symphony or community orchestra;
- (vi) by means of a coin operated phonorecord player (jukebox) for which a license is otherwise available from the Jukebox License Office.

3. License Fee

(a) In consideration of the license granted herein, LICENSEE agrees to pay ASCAP a license fee which includes the total of the "Base License Fee" and any applicable "Special Events License Fees", all of which shall be calculated in accordance with the Rate Schedule attached to and made part of this Agreement. For purposes of this Agreement,

- (i) "Base License Fee" means the annual fee due in accordance with Schedule A of the Rate Schedule and based on LICENSEE's population as established in the most recent published U.S. Census data. It does not include any fees due for Special Events.
- (ii) "Special Events License Fees" mean the amount due in accordance with Schedule B of the Rate Schedule when Special Events are presented by or on behalf of LICENSEE. It does not include any Base License Fees due.
- (iii) LICENSEES who are legally organized as state municipal and/or county leagues or state associations of municipal and/or county attorneys shall be required to pay only the fee under Schedule C of the Rate Schedule. Such leagues or associations are not subject to Schedule A or Schedule B of the Rate Schedule. Fees paid by such leagues or associations do not cover performances of the municipality, county or other local government entity represented by the league or association. Schedule C fees are not applicable to municipal, county or other local government entities.

(b) Unless otherwise limited by law, LICENSEE shall pay a finance charge of 1.5% per month from the due date, or the maximum amount permitted by law, whichever is less, on any required payment that it is not made within thirty days of its due date.

4. Reports and Payments

- (a) Upon the execution of this Agreement, LICENSEE shall submit:
 - (i) a report stating LICENSEE's population based on the most recent published U.S. Census data. The population set forth in the report shall be used to calculate the Base License Fee under this Agreement; and (ii) a report containing the information set forth in paragraph 4.(d) below for all Special Events that were presented between the effective date of this Agreement and the execution of this Agreement.
- (b) The Base License Fee for the first year of this Agreement and any license fees due for Special Events that were presented between the effective date of this Agreement and the execution of this Agreement shall be payable upon the execution of this Agreement.
- (c) Base License Fees for subsequent years shall be due and payable within 30 days of the renewal date of this Agreement and shall be accompanied by a statement confirming whether any Special Events were presented during the previous calendar year.
- (d) Ninety days after the conclusion of each Special Event, LICENSEE shall submit to ASCAP payment for such Special Event and a report in printed or computer readable form stating:
 - (i) the date presented;
 - (ii) the name of the attraction(s) appearing;
 - (iii) the "Gross Revenue" of the event. "Gross Revenue" means all monies received by LICENSEE or on LICENSEE'S behalf from the sale of tickets for each Special Event. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from sponsors or other payments received by LICENSEE for each Special Event;
 - (iv) the license fee due for each Special Event.
- (e) If LICENSEE presents, sponsors or promotes a Special Event that is reportable under Rate Schedule B with another person or entity licensed under an ASCAP License Agreement, LICENSEE shall indicate the name, address, phone number and ASCAP account number of the other person(s) or entity(ies) and the party responsible for payment for such Special Event. If the other party is not licensed by ASCAP, LICENSEE shall pay the license fee due hereunder, notwithstanding any agreement to the contrary between LICENSEE and the other party.
- (f) LICENSEE agrees to furnish to ASCAP, where available, copies of all programs of musical works performed, which are prepared for distribution to the audience or for the use or information of LICENSEE or any department thereof. The programs shall include all encores to the extent possible. LICENSEE shall be under no obligation to furnish programs when they have not been otherwise prepared.
- (g) ASCAP shall have the right to examine LICENSEE'S books and records at LICENSEE'S place of business during normal business hours to such extent as may be necessary to verify the reports required by paragraph 4.(d) above. ASCAP shall have the right to adjust LICENSEE'S Base License Fee based upon the most recently available revised population figures and Population Estimates Program provided by the U.S. Census Department.

5. Breach or Default

Upon any breach or default by LICENSEE of any term or condition herein contained, ASCAP may terminate this license by giving LICENSEE thirty days notice to cure such breach or default, and in the event that such breach or default has not been cured within said thirty days, this license shall terminate on the expiration of such thirty-day period without further notice from ASCAP. In the event of such termination, ASCAP shall refund on a pro-rata basis to LICENSEE any unearned license fees paid in advance.

6. Interference in Operations

ASCAP shall have the right to terminate this license upon thirty days written notice if there is any major interference with, or substantial increase in the cost of, ASCAP's operations as the result of any law in the state, territory, dependency, possession or political subdivision in which LICENSEE is located which is applicable to the licensing of performing rights. In the event of such termination, ASCAP shall refund to LICENSEE on a pro-rata basis any unearned license fees paid in advance.

7. Non-Discrimination

LICENSEE recognizes that ASCAP must license all similarly situated users on a non-discriminatory basis. LICENSEE agrees that any modifications to this Agreement by ASCAP, which are required by local, state or federal law for other municipalities, counties and other governmental entities shall not constitute discrimination between similarly situated users. Examples of such modifications are statements of equal employment opportunity or nondiscrimination on the basis of race, creed, color, sex or national origin.

8. Notices

ASCAP or LICENSEE may give any notice required by this Agreement by sending it by certified United States Mail, by generally recognized same-day or overnight delivery service or by electronic transmission (i.e., Mailgram, facsimile or similar transmission) to the appropriate person/office as listed herein. Each party agrees to notify the other of any change in contact information, such as change of address, change of person/office responsible, etc. within 30 days of such change.

IN WITNESS WHEREOF, this Agreement has been duly executed by ASCAP and LICENSEE, this _____ day of _____, 20____.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

LICENSEE

By: _____

By: _____

Title: _____

Title: _____

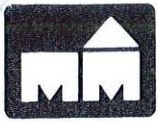
All required notices and reports are to be sent to:

Account Services Department
ASCAP
2690 Cumberland Parkway, Suite 490
Atlanta, GA 30339-3913
800-505-4052 (phone)

Name: _____
Title: _____
Address: _____

770-805-3475 (fax)
Email: municipal_licensing@ascap.com

Phone: _____
Fax: _____
Email: _____



Maine Municipal Association

60 COMMUNITY DRIVE
AUGUSTA, MAINE 04330-9486
(207) 623-8428
www.memun.org



To: MMA Executive Committee
MMA Legislative Policy Committee
MMA Key Municipal Officials

From: Christopher G. Lockwood, Executive Director

Date: January 29, 2002

Re: **Legislative Action Alert for Comprehensive Tax Reform**

We need your help!

We are writing this letter to urge you to work in support of LD 2086 and LD 2087. These proposals are the work of the Education Funding Reform Committee established by the Legislature last session to develop a comprehensive recommendation to reform Maine's tax code with three goals in mind:

- Property tax relief for residents, farmers and businesses;
- More financial support from the State of Maine to pay for K-12 education; and
- Improved balance in the overall reliance on income tax, sales tax and property tax to pay for governmental services.

Two-Pronged Process - The Legislature is not being asked to enact this tax reform directly. Instead, the Joint Standing Committee on Taxation is only being asked to make sure that all the details of the tax reform package are properly developed. The full Legislature will then be asked to send the tax reform package along to Maine voters as a referendum measure on the November 5, 2002 state ballot. *Because this recommendation would require changes to the State's Constitution, at least two-thirds of the membership of both the House and the Senate will have to approve sending this question to the voters in order for this recommendation to go forward.*

We need your help to move this issue to the forefront. If these two bills are to have any chance at success, we need to get municipal officials, citizens and civic leaders in our communities urging our legislators to support passage of this crucial legislation. For that reason, we have developed the attached grassroots action kit to provide you background information about the bills. It is vitally important that you take an active role urging legislators to support passage of this proposal for comprehensive tax reform to reduce the state's over-reliance on the property tax.

What are we asking you to do? Contact your local legislators and ask them to support LD 2086 & LD 2087. This can be done a number of ways:

- 1) Calling your legislators. (When the Legislature is in session, messages may be left at 1-800-423-6900 for Senate members and 1-800-423-2900 for House members);
- 2) Sending a letter to your legislators;
- 3) Emailing a short message to your legislators in Augusta. You can do this by going to www.state.me.us/legis/senate for members of the Senate or http://janus.state.me.us/house/e_mail.htm for members of the House;
- 4) Talking with your legislators when they return to their communities.

Please review the attached materials before contacting your legislators.

You will find the following information in this Action Kit:

- An overview of the proposals, together with a more detailed explanation of the two bills under consideration;
- An outline for your municipality to use to calculate the impacts of the proposed legislation on your municipality;
- A sample letter of support for LD 2086 & LD 2087;
- A sample resolution to be adopted by your board or council that once adopted might be sent to your legislators, Governor King and the local media;
- A list of the members and contact points for the Joint Standing Committee on Taxation.

If you have any questions or would like additional information, please feel free to contact Geoff Herman, Jeff Nevins, or me at the Maine Municipal Association. We can be reached at 1-800-452-8786 (Augusta area – 623 8428).

PLEASE NOTE: We have posted all the materials in this mailing (plus other background information) on MMA's website. You can go to www.memun.org and on MMA's homepage look for a box entitled "Comprehensive Tax Reform." You can use this information to "cut and paste" letters and other communication about this issue.

Thank you for your assistance with this important matter.

Comprehensive Tax Reform

An Overview

Prepared by the Maine Municipal Association
January, 2002

How the proposal was developed. The tax reform legislation submitted to the Legislature is the recommendation of the Education Funding Reform Commission (EFRC). The EFRC was a group of 14 legislators – seven Republicans and seven Democrats – assembled by the full Legislature and directed to meet during the fall of 2001 in order to develop a comprehensive recommendation to reform Maine's tax code with three goals in mind:

- Property tax relief for residents, farmers and businesses;
- More financial support from the State to pay for K-12 education; and
- Improved balance in overall reliance on the income tax, sales tax and property tax to pay for governmental services.

To be decided by the voters. On January 2, 2002, the EFRC put its final touches on the recommendation, which has now been printed and submitted to the Legislature as LD 2086 and LD 2087. The Legislature is not being asked to enact this tax reform directly. Instead, the Taxation Committee is only being asked to make sure that all the details of the tax reform package are properly developed, and then the full Legislature is being asked to send the package along to the voters as a referendum measure on the November 5, 2002 state ballot. *Because this recommendation would require changes to the State's Constitution, at least two-thirds of the membership of both the House and the Senate will have to approve sending this question to the voters in order for this recommendation to go forward.*

Maximum property tax rates for education. In summary, this package of tax reform legislation achieves its goals in two ways.

First, this legislation would establish a maximum property tax rate for the purpose of funding K-12 education. For most property in Maine (primary residential, commercial, agricultural, industrial and undeveloped property) that maximum mill rate for education would be 6 mills. The current average mill rate for education is nearly 12 mills. The maximum mill rate for education that could be applied against secondary residential property (camps, vacation homes) would be 12 mills.

The application of these maximum mill rates for education purposes would provide very substantial property tax relief. The remaining cost of K-12 education would become the responsibility of the State, up to the total budget for each school system calculated by the new "Essential Programs and Services" education funding model that has been developed by the State Board of Education, the Department of Education and the Legislature's Education Committee.

There is no part of this proposal that requires the application of a full 6 mills or 12 mills for education. Any municipality that can raise enough revenue to pay its education costs at lesser mill rates is entirely free to do so. The 6 mill/12 mill property tax rate schedule should be thought of as simply the maximum contribution to local education the local property taxpayers have to make.

Shifting the burden off the property tax. In round numbers, the maximum property tax rates for education would effectively shift \$300 million, or 20% of the total cost of public education, from the property tax to the State's tax system. Currently, the State pays 44% of the cost of education and the property tax pays 56%. If the EFRC recommendation is implemented, the State's share of education would be increased to 65% of the total and the property tax share would drop to 35%.

If the voters were to adopt this recommendation in November 2002, they would at the same time be directing the Legislature to amend its tax code in 2003 to provide the additional revenue necessary to support education. Without being told exactly how to do it, the directive to the Legislature suggests giving strong consideration to expanding the sales tax base so that many of the recreation, personal, business and professional services that are provided in today's marketplace would become subject to the sales tax.

Once the changes to the State's tax code are put into place, the tax and education funding reform package would be implemented in 2004.

Personal property taxation. The other half of the tax reform proposal would phase-in the conversion of Maine's system of personal property taxation to an excise tax system. The purpose of this part of the proposal is to create a uniform, competitive and stable approach to industrial taxation in Maine.

All personal property purchased or installed after April 1, 2003 would be subject to the new excise tax system. There are two essential differences between an excise tax and personal property "ad valorem" tax system. Under an excise tax, the value of the property subject to the tax remains constant. This removes the administrative requirement of annually adjusting the value of the personal property to determine its "just value". According to the EFRC recommendation, the taxable value of the newly installed personal property would be the original purchase price of the property.

The other essential difference is that the mill rate applied to the value of the taxable property is uniform throughout the state, rather than the particular mill rate that is in effect where the property happens to be located.

If the voters approve the EFRC recommendation at the November 5, 2002 referendum, they would at the same time be directing the Taxation Committee and the full Legislature to develop a mill rate schedule during the 2003 legislative session to be applied against the newly-installed personal property. The voters would be directing the Legislature to design the depreciating mill rate schedule in order to balance:

- The state's interest in establishing a uniform, stable and competitive industrial tax obligation compared to other states;
- The state's interest in removing disincentives to replace or modernize business machinery and equipment; and
- The municipal interest in obtaining revenues from the personal property tax base reasonably necessary to provide support services and a fair-share contribution for local public education.

MMA's support for the EFRC recommendation. Maine Municipal Association's 70-member Legislative Policy Committee (LPC) has voted its strong support for the EFRC recommendation. The LPC believes that with some more development these two bills should be sent to voters because this tax reform package would:

- Deliver significant property tax relief to Maine's residents, businesses and farmers;
- Put the overall demand on the property tax in its proper perspective and reduce the need for government-administered, welfare-style property tax relief or rebate programs;
- More equitably balance the state's three major taxes;
- Modernize the sales tax code, decrease sales tax volatility and improve state revenue dependability;
- Create perfect taxpayer equity with respect to educational funding;
- Compel the full implementation of the *Essential Programs and Services* education funding model that will match taxpayer equity with full student equity;
- Establish a clear local education funding obligation, to be distinguished from the current distribution formula (GPA) which is so complicated as to be practically incomprehensible and widely mistrusted in its application;
- Eliminate the elements of the current education subsidy system that make additions to municipal value a bad thing. The current system supports a perverse public policy that results in the sheltering of taxable value;
- Diminish sharp animosities within school districts over cost sharing equity;
- Remove structural disincentives to regional collaborations regarding educational services;
- Influence restraint in overall cost of education without eliminating local control;
- Remove the root cause of local resistances to certain types of development;
- Provide a financial incentive to keep undeveloped land undeveloped;
- Without disrupting existing economic development incentives, this legislation would establish within the structure of Maine's tax code a uniform and equitable industrial taxation policy that gradually replaces the Business Equipment Tax Reimbursement program (BETR). BETR is an annual appropriation that is plagued by perennial political battles and uncertainty.

ADDITIONAL DETAILS

More complete details of the proposal. This paper has attempted to provide an overview of the comprehensive tax and education funding reform recommendation of the Education Funding Reform Committee. What follows is a somewhat more detailed description of the two pieces of legislation (LD 2086 and LD 2087) that in combination contain the actual proposal. The reason the recommendation is in two bills is because the proposed changes to the State's Constitution that would have to be made to implement this recommendation must be submitted to the Legislature as a bill that is separate from the statutory changes that would also be necessary.

1. The state's Constitution would be amended to delete the obligation for equal apportionment and allow variable property tax rates for financing K-12 education to be applied to four separate categories of property – commercial-agricultural-industrial, primary residential, secondary residential, and undeveloped tracts.
2. Beginning with the assessment of April 1, 2004, there would be established property tax mill rate limits for education funding. Municipalities that do not need to raise the amount of educational revenue generated by the mill rate limits would not have to apply those maximum rates, but no municipality would have to raise more revenue for K-12 education than the amount generated by the maximum mill rates. 6 mills would be the maximum education mill rate applied to all primary residential property, all commercial, agricultural and industrial property, and all parcels over 10 acres that are entirely undeveloped but not enrolled in a current use program. 12 mills would be the maximum mill rate applied to all other property (i.e., secondary residential property).
3. The state's education subsidy formula would be redesigned in the context of the *Essential Programs and Services* model so that the total state-local allocation is sufficient to provide an adequate education in all school administrative units, and maintained to sustain that sufficiency over time.
4. The local legislative body would be permitted to exceed the 6-mill property tax limitation for education, but in all cases the appropriations that exceed the Essential Programs and Services funding model would be assessed only against primary residential property.
5. As a result of the maximum property tax rates for education purposes, the Homestead Exemption would be repealed and the appropriation for the circuit breaker tax relief program could be reduced to adjust for the diminished need. All revenues "saved" by the state because of the repeal or scaling back of these programs would be redirected to contribute to the state share of K-12 education.
6. As part of the approval of the tax reform package by the voters, the Taxation Committee would be charged with developing a recommended expansion of the sales tax, either by base or by rate or in combination, to the extent necessary to adequately finance the state share of the K-12 allocation. The Taxation Committee would also be charged with considering the conversion of the sales tax to a gross receipts tax. This work would be

accomplished during the first session of the 121st Legislature and could either be enacted directly by the Legislature or sent to the voters in November 2003. In addition, the Taxation Committee would be charged with designing an educational budget stabilization fund for the purpose of ensuring that an appropriate level of educational funding revenues are retained and protected during positive economic periods to ameliorate the volatility of sales tax revenue production.

7. The state constitution would also be amended to phase-in the repeal of the *ad valorem* personal property tax. Specifically, all personal property (over a per-unit threshold value) first owned or installed in the state after April 1, 2003 would no longer be subject to the *ad valorem* personal property tax. Instead, all post-03 personalty would subject to an excise tax. The fixed base of this excise tax would be the book value of the post-03 personalty when first installed, and the depreciating excise tax mill rate schedule would be developed by the Legislature. The calculation of the depreciating mill rate schedule would be designed to balance:

- The state's interest in establishing a uniform, stable and competitive industrial tax obligation compared to other states;
- The state's interest in removing disincentives to replace or modernize business machinery and equipment; and
- The municipal interest in obtaining revenues from the personal property tax base reasonably necessary to provide support services and a fair-share contribution for local public education.

Calculating Your Municipality's Savings Under LD 2086

If passed, the Education Tax Reform bill that is currently before the Legislature would limit the property taxes that your municipality would raise for education to 6 mills for businesses and primary residences and 12 mills for second home properties and "current use" property.

In a nutshell, this means that once your municipality has met these mill rate maximums, you will not have to tax your property owners any more for education purposes. The state will pick up education costs above these mill rate caps. [This legislation would have no effect on the amount to be raised through the local property tax for the few municipalities that currently raise less than 6 mills for education.]

A rough way of estimating your property tax savings under this proposal would be to take your current mill rate for education, adjust it to full value, subtract 6 mills from it, and multiply the remaining mill rate by your state valuation. This rough calculation assumes that your community has very little value from second homes or current use property.

The following process can be used to more precisely calculate your municipality's savings under the tax reform proposal:

- Separate your municipality's property valuation into two groups: **Class 1** -- primary residential and business; **Class 2** -- second home property and current use property (tree growth and farm & open space).
- Divide the valuation determined for the Class 1 and Class 2 property by the State Certified Ratio for your municipality (available from Kate Dufour at MMA). This will adjust the valuation in each Class to its full (or equalized) value.
- Apply the 6 mill tax rate to the Class 1 value and the 12 mill tax rate to the Class 2 value).
- Total the *maximum* property taxes that could be raised from Class 1 and Class 2 property.
- Subtract this maximum amount that your community is required to raise for education from your municipality's education expenditure last year to show savings.

If your *maximum amount* is more than last year's education expenditure, you will first assess 6 mills to all property (Classes 1 & 2) and then increase the mill rate on Class 2 property until you raise the amount you need for education. If 6 mills on all property generates more than your total education costs then Class 1 and Class 2 property would be assessed at the same mill rate (under 6 mills).

NOTE: The cost of Essential Programs and Services (EPS) will be established each year by the Maine Department of Education. A statewide, per pupil cost will be derived from this cost projection and the EPS cost will be calculated for each school unit based on the number of pupils in the unit. If your community is in a SAD or CSD, its share of the school district EPS cost will be determined by the local cost sharing agreement that you currently have in place. Your municipality will be responsible for meeting its share of the school district's EPS cost by assessing up to the 6 mill and 12 mill maximums.

Sample Letter

Supporting Comprehensive Tax Reform

Dear Representative/Senator:

We are writing this letter to urge you to work in support of LD 2086 and LD 2087. These proposals are the work of the Education Funding Reform Committee established by the Legislature last session to develop a comprehensive recommendation to reform Maine's tax code with three goals in mind:

- Property tax relief for residents, farmers and businesses;
- More financial support from the State to pay for K-12 education; and
- Improved balance in overall reliance on the income tax, sales tax and property tax to pay for governmental services.

The proposals formulated by this fourteen member legislative panel would accomplish these goals. The group's work is especially timely as Maine people focus on the need to reform the tax structure in our state. The Committee's recommendations have been forwarded to the Joint Standing Committee on Taxation for consideration during the coming weeks. If enacted by the Legislature, the final proposal will be sent to the voters in a referendum vote on November 5, 2002 to decide whether to approve the blueprint for comprehensive changes to reform Maine's tax structure.

[Optional – In *(name of your municipality)*, this proposal would cut property taxes from *(insert present mill rate)* per thousand dollars of value to about *(insert projected new mill rate from worksheet calculation)* for residents, farmers and businesses.]

In addition to addressing problems associated with Maine's tax structure, these proposals would tie-in with the implementation of the Essential Programs and Services education funding model to match taxpayer equity with full student equity. The proposals would also address a number of other important public policy issues, including the establishment of a uniform and equitable industrial taxation policy to gradually replace the Business Equipment Tax Reimbursement (BETR) program.

Now is the time for reform. We urge you to support LD 2086 and LD 2087.

Thank you for your support on this important matter.

Members of the House can be reached at: 2 State House Station
Augusta, Maine 04333
1-800-423-2900 or 207-287-1400
website: www.state.me.us/legis

Members of the Senate can be reached at: 3 State House Station
Augusta, Maine 04333
1-800-423-6900 or 207-287-1540
website: www.state.me.us/legis/senate

Sample Resolution Supporting Comprehensive Tax Reform

WHEREAS, it is vital to the common interests of the State of Maine, its 492 municipalities and all of its residents that there be a proportionate, fair and stable balance among the property tax, the sales tax and the income tax to generate the necessary revenues to support state and local governments; and

WHEREAS, historically the burden to fund education has rested disproportionately upon the property tax; and

WHEREAS, the extraordinary property tax burden facing the municipalities of this state results in a number of negative social, cultural, and economic consequences, including instances of extremely regressive tax incidence, foreclosure, dislocation, relocation, inefficient patterns of land use development, uneven and uncoordinated economic development opportunities, and deep-structure inequities in tax impact between and among the municipalities;

WHEREAS, changes in Maine's tax code should be implemented for the purposes of reducing the state's reliance on the property tax to fund K-12 education, reducing the volatility of Maine's tax code, establishing a uniform and predictable structure to the taxation of business equipment and machinery in the state, and bringing the three major sources of governmental revenue in Maine into a more equitable alignment; and

WHEREAS, the Legislature's Education Funding Reform Commission has developed LD 2086 & LD 2087 as a comprehensive proposal to reform Maine's tax code with three primary goals:

- Property tax relief for residents, farmers and businesses;
- More financial support from the State to pay for K-12 education; and
- Improved balance in overall reliance on the income tax, sales tax and property tax to pay for governmental services; and

WHEREAS, the Education Funding Reform Commission's proposal would provide Maine citizens the opportunity to ratify these proposed changes to Maine's tax structure.

NOW, THEREFORE BE IT RESOLVED: THAT the (name of municipality- Board of Selectmen/Town/City Council) strongly supports LD 2086 and LD 2087 and respectfully asks the Legislature to enact this legislation and forward these measures to the citizens for approval at the November 5, 2002 general election.

Signatures

Send to: State Senator
 State Representative
 Governor Angus King
 Local media

State of Maine
120th Legislature
Joint Standing Committee on Taxation

Senator Kenneth T. Gagnon
Senate Chair, Taxation Committee
3 State House Station
Augusta, ME 04333

Home Address:
1 Clearview Avenue
Waterville, ME 04901
207-872-2338

Senator Kenneth F. Lemont
Taxation Committee
3 State House Station
Augusta, ME 04333

Home Address:
154 Whipple Road
Kittery, ME 03904
207-439-3698

Senator Richard Kneeland
Taxation Committee
3 State House Station
Augusta, ME 04333

Home Address:
153 West Ridge Road
Easton, ME 04740
207-488-5311

Representative Bonnie Green
House Chair, Taxation Committee
2 State House Station – SEAT 77
Augusta, ME 04333

Home Address:
542 Ridge Road
Monmouth, ME 04259
207-933-9178

Representative Stephen S. Stanley
Taxation Committee
2 State House Station – SEAT 148
Augusta, ME 04333

Home Address:
HCR 69, Box 466
Medway, ME 04460
207-746-5371

Representative Rosita Gagne
Taxation Committee
2 State House Station – SEAT 11
Augusta, ME 04333

Home Address:
70 North Hill Road
Buckfield, ME 04220
207-336-2836

Representative Joseph C. Perry
Taxation Committee
2 State House Station – SEAT 144
Augusta, ME 04333

Home Address:
80 Elm Street
Bangor, ME 0440
207-942-2493

Representative Bernard E. McGowan
Taxation Committee
2 State House Station – SEAT 140
Augusta, ME 04333

Home Address:
15 Hamilton Drive
Pittsfield, ME 04967
207-487-2862

Representative Janet L. McLaughlin
Taxation Committee
2 State House Station – SEAT 75
Augusta, ME 04333

Home Address:
23 Old Colony Lane
Cape Elizabeth, ME 04107
207-799-6190

Representative Eleanor M. Murphy
Taxation Committee
2 State House Station – SEAT 132
Augusta, ME 04333

Home Address:
PO Box 345
Berwick, ME 03901
207-698-1355

Representative John T. Buck
Taxation Committee
2 State House Station – SEAT 43
Augusta, ME 04333

Home Address:
67 Hillside Street
Yarmouth, ME 04096
207-846-9366

Representative Randall L. Bumps
Taxation Committee
2 State House Station – SEAT 57
Augusta, ME 04333

Home Address:
RR 1, Box 1555
South China, ME 04358
207-968-3030

Representative David E. Bowles
Taxation Committee
2 State House Station – SEAT 41
Augusta, ME 04333

Home Address:
180 Westview Drive
Sanford, ME 04073
207-324-9325

Committee Clerk: Molly Barker

Analysts: Julie Jones (Office of Fiscal & Program Review)

Hearing Room: Room 127, State House - phone (207) 287-1552

Chairs' Office: Room 123, State House

Mailing Address:

Committee on Taxation
115 State House Station
Augusta, ME 04333-0115

To Contact Members of the Committee:

1-800-423-2900 (House members)
1-800-423-6900 (Senate members)

Mark This Date On Your Calendar!

Tuesday, March 19, 2002

Augusta Civic Center ~ Main Auditorium ~ Augusta, Maine

Plan to attend MMA's

2002 Technology in Local Government Conference

The program is planned with something for everyone – from the novice to the expert and with a lot in between. Learn about the most current technologies and how they impact local government. Find ways to do your job more effectively and efficiently. Visit with exhibitors and get a “hands-on” view of the newest innovations.

This daylong conference will also offer workshops on topics featuring presenters who will take the time to answer important questions on current issues.

Proposed workshop topics include:

- Paperless Packets,
- Procurement Cards for Municipalities,
- Going from Vertical (files) to Digital,
- Using GIS for Asset Management
- E-mail Policies and Related Issues,
- Online Services – banking, accepting payments, etc.,
- Wireless Communications,
- Implementing GIS Systems for Emergency Responses,
- Basic Computer Skills using Microsoft Office
(4 1-hour workshops - Basic Computer, Word, Excel, & E-mail),
- E-commerce Risk Issues,
- Ergonomics Training,
- And many more.

Watch for registration materials in the mail, in the *Maine Townsman*, or get current information or register on our web site at

www.memun.org.

Carla Nixon

From: Adam Ogden

Sent: Wednesday, February 06, 2002 3:13

To: Carla Nixon

Subject: Morrisons Hill Route 100

I spoke with Roger Gobeil, P.E., MDOT Division Engineer and asked him to review the treatment of this road during storms. He was not aware of the problem. He will talk to the district manager and, if necessary, meet with us to review the courses of action available to remedy the problem. The State is on a salt priority program but he said if they need to use sand then they will, the intent is not to make the road worse. He'll get back to me with how we want to proceed.

Adam

2/7/02

Carla Nixon

From: Adam Ogden
Sent: Wednesday, February 06, 2002 2:41
To: Carla Nixon
Subject: List

Crestwood Drive does not have an underdrain system as do most of the street in the town center. The road was designed with ditches back in the 1960's but they have all been filled in with lawns and the culverting has been removed. The sewer trench has some settlement. The possibility of extending a storm drain system from Pinewood Drive is possible. The length of piping would initially require at least 700 L.F. of 12" to 15" storm drain with 5 catch basins spaced as required along the road each costing \$2000. (\$10,000). The cost of a storm drain usually is estimated at \$45.00 per L.F. of pipe \$31,500. Then there would be the restoration and repaving approximately \$10,000. Grinding the road pavement into reclaim will cost around \$2,000.

The existing road is low and would require approximately a foot of gravel. New gravel base 518 cubic yards at per yard for a total of \$5,000.

The approximate cost to improve the drainage in this area would be \$58,500. This does not address the remaining road which is approximately 1,600 l.f.

This drainage problem area of Crestwood services three houses. There are similar problems all around the Town. The Department is particularly aware of this area and has reviewed several solutions regarding the drainage this past summer.

Carla Nixon

From: Adam Ogden

Sent: Thursday, February 07, 2002 7:40

To: Carla Nixon

Subject: Follow up to List Crestwood Icing

Crestwood, as most roads in the center and on the Foreside, have some icing develop during the winter. We monitor the situation and for the most part know where the problem areas are. Most roads that have tree cover that presents shading and, therefore, the pavements do not get heated by the limited sunlight which melts packing and icing areas. We typically wait for a warm day and then salt the problem area, wait for the salt to work and then cut the ice out.

We did this to Crestwood last, as well as other roads, on Wednesday the with the cutting occurring before the storm on Thursday morning. We removed 14 cubic yards of ice from the lower part of Crestwood and the road is fine. Also Crestwood and many many other roads in town lack a storm drain system and if the road is on a hill, like Crestwood, the water runs down the road and finds the low spot. Since there are snow banks the water gets trapped and can develop into ice pack. We also take the loader and push through the banks to get the water out of the roads. Again this is not an uncommon event, it is winter and it is Maine. Residents should call Public Works if they have concerns with road conditions, as most do and we will respond as appropriate.

2/7/02

Sally Stockwell
441 Range Road
Cumberland, Maine 04021

Steve Moriarty
Chair, Cumberland Town Council
290 Tuttle Road
Cumberland, Maine 04021

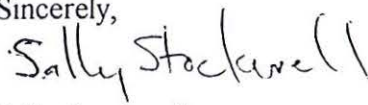
Dear Steve and members of the Cumberland Town Council,

At a recent meeting of the Cumberland Town Lands and Conservation Commission we reviewed a proposal from a teacher at the Drowne Road School to have students in her ecology class identify and mark shrubs and trees along the Town Forest nature trail.

This is something the Town Forest Board has been interested in for some time now, and we would like to endorse Mrs. Beaulier's attached proposal and encourage the Council to award the \$1000 she has requested to purchase identification guides, plaques and markers for the trees and shrubs, informational plaques that would depict the interactions of various plants and animals in the forest, and lumber to repair a bridge along the trail.

Previous students from Mrs. Beaulier's class created the plaques and benches that are now part of the Freedom Trail along the nature trail, and did an excellent job. I'm sure these students would do the same high caliber work that Mrs. Beaulier's students are well known for. This would be a community service project that would not only help the students learn about the ecology of the town forest, but add significantly to the educational value of the nature trail for others in the town and expose many new families to this community natural resource.

We hope you will agree to endorse this fine proposal and award Mrs. Beaulier's class the \$1000 requested for materials.

Sincerely,

Sally Stockwell

Cumberland Town Forest Grant

Teacher: Trina Beaulier

School: Drowne Road School

Ecology Unit

This ecology unit focuses on the attached benchmarks and outcomes which are defined by MSAD 51's Benchmarks and Outcomes and aligned with the State of Maine Learning Results. The Cumberland Town Forest provides an ideal spot, convenient to Drowne Road School, for my multiage class of fifth and sixth graders to explore and define the interactions and concepts of this unit. Funding would allow my class to achieve the following goals:

1. analyze how the resources of the Cumberland Town Forest limits the types and populations of organisms within its boundaries.
2. describe succession, cutting, and other ways the forest has changed over time.
3. generate ways that organisms in the forest interact.
4. describe various mechanisms found in the natural world for transporting living and non-living matter and the results of such movement.
5. identify and label trees, bushes, and herbaceous plant life found in the forest.
6. identify animal life found in the forest and create informational plaques showing how the organisms interact in order to meet survival needs.
7. make a lasting contribution to the Cumberland Town Forest that would enhance the educational value of the forest for the community.

This grant would provide funding for the following:

1. 12 copies of plant/tree identification guides and keys \$150.00
2. 12 copies of insect/bird identification guides \$150.00
3. Small brass plaques (engraved) for tree identification : \$75.00
4. Standing identification markers for bushes and other plant life: \$75.00
5. Informational plaques identifying insects/animals/birds of the forest and the interaction between each species and the forest: \$300.00
6. lumber to rebuild the bridge that leads to the railroad tracks which is in dangerous shape: \$250.00

Total: \$1,000.00



TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

February 11, 2002

Carl A. Croce
Director, Bureau of Planning
MDOT
16 State House Station
Augusta, ME 04333

Dear Mr. Croce:

Please accept this letter as an expression of the Cumberland Town Council's support of the Central Corridors Coalition's proposal to study transportation issues in this area. We understand that each of the seven local communities (Cumberland, Gray, New Gloucester, North Yarmouth, Pownal, Raymond, and Windham) must contribute cash as their local shares. Cumberland's share will be \$782 and will be submitted when required.

Thank you for your support of this project. We look forward to working with you.

Sincerely,

Stephen Moriarty
Town Council Chairman

Cc: Cumberland Town Council
Robert Benson, Town Manager
Greater Portland Council of Governments

Carla Nixon

From: Neal W. Allen [nallen@gpcog.eddmaine.org]
Sent: Monday, January 28, 2002 12:06 PM
To: SCOTT SEAVAR (E-mail); Carla Nixon
Subject: FW: 7 town concept paper



7towns.rtf

Scott & Carla: Good morning. The attached concept paper seeks MDOT funding to study a variety of transportation/land use issues in the "Central Corridor." This is a new a coalition borne initially from meetings between Gray & N. Gloucester, and modeled on the Coastal Corridor concept of which Cumberland is also a member. For purposes of the draft concept we have included Cumberland and N.Yarmouth. There is a modest local match requirement which you will find in the budget section of the concept paper. Please let me know if your respective Town's want to participate in this effort. We of course have not been assured of any funding support from MDOT at this time. MTA has pledged \$5,000. Thanks. Neal.

-----Original Message-----

From: David Willauer
Sent: Friday, January 25, 2002 4:36 PM
To: Neal Allen
Subject: 7 town concept paper

Neal:
Attached you will find the concept paper. Thanks again for your support this week with our various personnel issues.
David

Central Corridors Coalition

Cumberland, Gray, New Gloucester, North Yarmouth, Pownal, Raymond, Windham
January 11, 2002 Draft Concept Paper

CONCEPT

GPCOG is seeking funding from Maine Department of Transportation (MDOT), the Maine Turnpike Authority (MTA) and member municipalities to conduct a planning study. GPCOG and the towns of Cumberland, Gray, New Gloucester, North Yarmouth, Pownal, Raymond, Windham will form a Central Corridors Coalition to guide future development along significant transportation corridor in the central Cumberland County region. The primary goals of this coalition are to work together to identify regional goals and objectives, to inventory corridor elements, to prioritize capital projects, review land use policies pertaining to smart growth principles, and to develop short and long term recommendations for future infrastructure and coordinated corridor development.

TIMEFRAME

July, 2002 to June, 2004

TASKS

- Develop mission, goals and objectives
- Compile summary of related studies and plans (GPCOG, MDOT, MTA)
- Inventory elements along major corridors:
 - Proposed transportation improvement projects (GPCOG, MDOT)
 - High crash locations (MDOT)
 - Bicycle and pedestrian proposed projects (GPCOG, MDOT)
 - Truck Routes (MDOT, GPCOG, FHWA, MTA)
 - Commuter Bus/Rail routes (MDOT, GPCOG, MTA)
 - Intermodal facility siting options (Towns, MDOT, GPCOG, MTA)
 - Park and Ride Lots (MDOT, MTA, GPCOG)
- Identify opportunities for access management along major corridors (GPCOG, MDOT)
- Explore opportunities for street inter-connectivity where feasible
- Develop short and long term recommendations by element by town
- Work with towns on identified Speed Maintenance Access Management Arterials, Retrograde Arterials, and other roadways affected by recent Access Management Legislation (GPCOG, MDOT, Towns)
- Study existing land-use policies/controls along corridor and make recommendations

PRODUCTS

- Corridors Inventory Report including maps (June 2003)
- Prioritized short term projects for 2004-2005 BTIP (October 2002)
- Proposed elements for inclusion in MDOT Six Year Plan (ongoing)
- Final Report analyzing land use deficiencies and how policies compare between communities, with land-use policy recommendations (June 2004)

PUBLIC MEETINGS

- To be held during the study process as determined by the Coalition.

BUDGET

Task		Hours	Rate	Total
Labor	Project Manager ¹	100	\$66/hour	\$6,600
	Senior Planner	125	\$55/hour	6,875
	Planner	350	\$40/hour	\$14,000
	Support Staff	64	\$25	\$1,600
	Cartographer	160	\$32/hour	\$5,120
Materials	Maps, printing, reports			\$1,500
Postage	Meeting announcements, reports			\$600
Mileage	40 meetings and one trip between each, 30 miles/month			\$720
Total Budget				\$40,000

FUNDING SOURCES	MDOT RTAC Contract	100% (No match)	\$5,000
	Maine Turnpike	100% (No match)	\$5,000
	MDOT Planning Bureau:	80% (Fed amount)	\$23,000
	Municipal Match	20% (By town, below)	\$4,600

Town	2000 Population	Percent	Local Match
Cumberland	7,159	17%	\$782
Gray	6,820	16%	\$736
New Gloucester	4,803	11%	\$506
North Yarmouth	3,210	8%	\$368
Pownal	1,491	3%	\$138
Raymond	4,299	10%	\$460
Windham	14,904	35%	\$1,610
Totals	42,686	100%	\$4,600

PROPOSED STUDY ELEMENTS BY TOWN

Cumberland

- Route 100/26 Improvements and access management
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity
- Access to Maine Turnpike

Gray

- Route 100/26 Improvements and access management
- Route 202/4 Improvements
- Westerly Bypass from Route 202 to 26
- Village Master Planning
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity
- Access to Maine Turnpike

New Gloucester

- Route 100/26 Improvements and access management
- Routes 231 Improvements

¹ GPCOG Executive Director will also participate in this effort at no expense to the towns.

- Route 26 Bypass Sabbathday Lake/ Shaker Village
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity
- Pineland Center and commuter rail service

North Yarmouth

- Routes 231, 115 and 9 Improvements and access management
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity

Pownal

- Route 9 Improvements and access management
- Pineland Center and commuter rail service
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity

Raymond

- Route 302 Corridor Access Management
- Egypt and Raymond Road improvements
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity

Windham

- Route 302/202/4/115 Corridor Access Management
- Corridor pedestrian and bicycle connections
- Land use policies for access management and street interconnectivity
- Village Master Planning



TOWN OF CUMBERLAND, MAINE

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-5559 • Fax (207) 829-2214

January 24, 2002

Nathaniel Tupper, Town Manager
Yarmouth Town Office
79 Main Street
Yarmouth, ME 04096

Dear Nat:

At our meeting held several weeks ago, you requested some information concerning the level of barging operations conducted by the CTC in the Royal River in Yarmouth during the summer of 2001. I met recently with officials from the CTC, and can provide you with the following information. Each trip indicated below was made to Yankee Marina in Yarmouth.

Month	Number of trips
June	9
July	7
August	4
September	4
October	1
November	5

Needless to say, no barging operations are conducted during the winter months.

With this information in hand, I would like to pursue our discussions directed toward adoption of a Wharf Agreement between our two towns. Given the extensive effort at drafting that has already been made, I would suggest that we identify and focus upon whatever remaining areas of disagreement that may still exist.

Thanks very much for your assistance, and I will plan to contact you shortly.

Sincerely,

Stephen W. Moriarty
Chairman, Cumberland Town Council

SWM/dgp

cc: Robert Benson
Richard A. Spencer, Esquire
Donna Damon
Warren Turner, Esquire

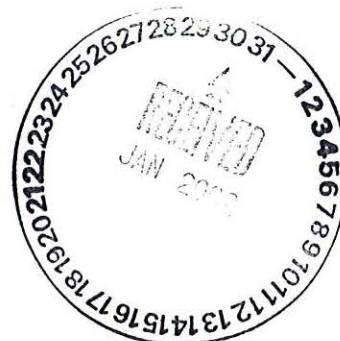
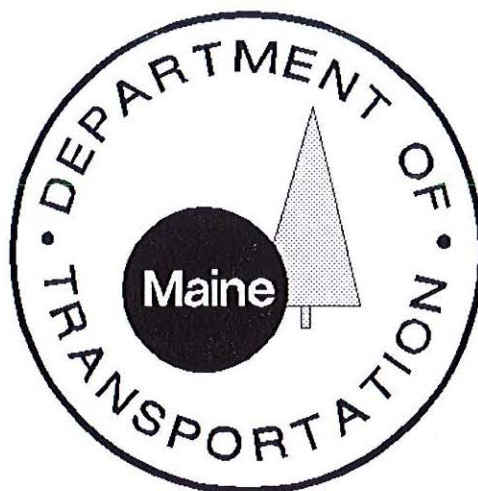


To: RTAC 1,2,3,4,5,6,7 Members and RPCs
From: MDOT Statewide Planning
Date: January 17, 2002
RE: February and March Meeting

To: RTAC 1,2,3,4,5,6,7 Members and RPCs
From: MDOT Statewide Planning
Date: January 17, 2002
RE: February and March Meeting

We hope to see as many of you as possible as this meeting will set the direction for the RTAC for the next year. Below are the time, dates and location for each RTAC region.

RTAC	DATE	TIME	LOCATION
RTAC 1	March 12	3:00-6:00pm	Caribou Inn Convention Center
RTAC 2	February 6	3:45-5:45pm	Cherryfield Town Hall
RTAC 3	February 14	2:30-4:30pm	EMDC Conference Room
RTAC 4	February 12	8:00-10:00am	MDOT Winthrop (Carleton Mill)
RTAC 5	February 13	2:00-5:00pm	Rockland Ferry Terminal
RTAC 6	March 26	5:30-7:30pm	Scarborough Municipal Building
RTAC 7	March 14	4:00-8:00pm	Livermore Falls Public Library





CUMBERLAND RESCUE DEPARTMENT

290 Tuttle Road

Cumberland Center, Maine 04021-9321

Telephone (207) 829-2213 • Fax (207) 829-4214

CHRISTOPHER J. BOLDUC

CHIEF



To: Carla Nixon, Assistant Town Manager
From: Christopher Bolduc, Rescue Chief *CB*
Re: Regionalization Efforts of the Rescue Department
Date: February 5, 2002

As you requested, I am providing you a brief synopsis of my regionalization efforts for the past year +. All this information has been provided to Mr. Benson and the Council has been briefed on the status.

One of the primary functions of emergency medical services that can be regionalized with other Towns in the immediate area is paramedic coverage.

Paramedics are very highly trained professionals with the capability of performing a variety of specialized life saving techniques.

Reasons why Paramedics can be shared:

Paramedics are only needed on about 40% of requests for assistance.

Paramedics are in low supply and high in demand.

Towns are close enough to each other so a paramedic can be on scene within minutes.

Towns can regionalize paramedics while still maintaining individual rescue departments with volunteer and per-diem EMT staff.

Regionalization Efforts:

In November of 2000, I met with representatives from Falmouth and North Yarmouth Rescue's to discuss regionalization of paramedics. Yarmouth was invited but refused to attend citing that they did not have a problem providing paramedics. After the meeting, North Yarmouth Officials decided they did not want to pursue regionalization. Falmouth officials liked the idea and the ball started rolling. After 5 months of research

and planning, Falmouth was presented with a proposal from Cumberland, at Falmouth's request, outlining a plan to share paramedic service. The Yarmouth Town Manager was contacted by the Cumberland Town manager regarding this proposal in hopes that Yarmouth would become involved with the process, but the Yarmouth Manager reiterated Yarmouth's lack of interest in regionalization at that time.

Results:

Yarmouth: After six months of overwhelmingly requesting mutual aid paramedic coverage from Cumberland and Freeport, Yarmouth hired paramedics to cover their calls. They still do periodically call Cumberland for assistance.

North Yarmouth: Has made no effort to provide paramedic coverage to their residents and consistently calls for aid from other towns when a paramedic is needed.

Falmouth: Falmouth received a letter from the Cumberland Council Chair requesting a response to the regionalization proposal that was submitted 6 months prior. Falmouth responded stating that they had opted to contract with a private ambulance service to provide paramedic coverage. The Falmouth dispatch center was advised by the Falmouth Rescue Chief to no longer call Cumberland for assistance unless absolutely necessary and to use a private ambulance service.

Continued Efforts:

I continue to meet with the Chiefs from the Towns of Yarmouth and Freeport with regards to developing a plan for a regionalization effort. I do not believe Falmouth will be revisiting the regionalization issue anytime soon.

With Bob Benson's authorization, I have drafted and will be sending a letter to area communities advising them that the Town of Cumberland will be billing them for the use of our paramedics. This is currently being done in other communities and is designed not as a deterrent but rather as a way to help offset the cost of the paramedic coverage. There has been several times when the Town of Cumberland had to pay overtime to a paramedic because they were out performing mutual aid for another town and stayed out passed their shifts end, the Town of Cumberland should not have to pay for this. Area Towns, with the exception of North Yarmouth, currently bill for ambulance service, we have been providing our paramedics to these towns at no cost, while they bill the patient for the paramedic care. Our billing of area Towns will not place a financial burden on the town because they are billing the patient for what we will be charging them. It is my hope that by billing area towns, the towns will see that sharing services works and would be more effective for them to be part of the program rather than just merely paying for the program.

Regionalism Meeting - General Assistance Administrators

January 30, 2002

Freeport

Present: Johanna Hanselman, Freeport; Pauline Langmaid, Yarmouth; Klara Norton, Cumberland; Kathleen Babeu, Falmouth; Scott Seaver was unable to attend

General Assistance Administrators met to discuss the potential for regionalizing general assistance services in the towns of Cumberland, Falmouth, Yarmouth, North Yarmouth and Freeport.

General Assistance Caseloads in the communities:

Falmouth - 4 cases over the past year that received financial assistance

Cumberland - 4-5 cases per quarter that received financial assistance

Yarmouth - 4-5 cases per quarter that received financial assistance

Freeport - 63 cases over the past year that received financial assistance

Most of the above communities do not have a knowledgeable "back-up" person to administer GA in the absence of the designated administrator.

Pros to Regionalizing:

1. For those communities with small caseloads having someone else oversee general assistance could provide more expertise and ensure municipalities are keeping up with regulations
2. Would increase awareness of regional resources available which *may* result in some cost savings (using other resources prior to GA)
3. Might avoid "giving away the farm" due to inexperience
4. Currently it is difficult for GA Administrators to make GA trainings and meetings when this job function is secondary to other job functions
5. GA is often times a time consuming task (application interview, verifying information, requiring documentation)

Cons to Regionalizing:

1. Town officials know their own local resources best
2. Town officials have relationships with other local officials & agencies which makes verification of information easier
3. Town officials know their own clients best
4. Additional travel requirement for client could be imposing for those with unreliable transportation (plus would impose a greater financial cost for gas - 20 minutes from Falmouth to Freeport, for instance)
5. Requiring the regional GA Administrator instead to travel to other communities increases time commitment and cost for the administrator.

6. Many clients are "walk-ins" and don't make appointments
7. Will continue to need a contact source in each municipality who can provide residents with resource information
8. No significant cost savings for communities anticipated

Communities level of interest in regionalizing:

North Yarmouth - Scott Seaver sent a fax expressing his desire to take a more regional approach to GA, stating North Yarmouth would be willing to pay a per case fee for some other town to handle their GA applications.

Falmouth and Cumberland - may be interested in regionalizing

Freeport and Yarmouth - willing to act as "back-up"

Freeport - willing to assist with regionalizing if cost-effective

Conclusions:

- ◆ Some cost savings may occur through an increased knowledge of available resources in the community. This would require that representatives from each community communicate their awareness of available resources on a regular basis whether or not services were regionalized.
- ◆ Regionalizing GA services may increase costs if it required a regional GA administrator to travel to neighboring communities (mileage and time costs) The issue of "walk-in" emergencies poses a difficult dilemma
- ◆ Most communities felt having another community serve as a "back-up" when they were on vacation would be beneficial (Yarmouth and Freeport state they would be available to act in this capacity)
- ◆ Regionalizing GA might reduce the local advantage the current process now allows (knowing the clients, knowing local resources, working with local officials).

RECOMMENDATIONS:

Although regionalizing GA services may ease the burden of administering this program for communities that have limited general assistance needs, the overall impact of regionalizing may incur additional costs and complications to verifying information.

- ◆ Instead, communities can realize some of the benefits that regionalizing can offer by meeting on a quarterly or semi-annual basis to discuss how GA is administered and by sharing information on available resources
- ◆ Communities can also rely upon other communities for "back-up" assistance when the GA administrator is on vacation, etc. and use each other as a resource when they have complicated GA cases.



M E M O R A N D U M

P L A N N I N G D E P A R T M E N T
T O W N O F C U M B E R L A N D , M A I N E

Date: 7 February 2002
To: Carla Nixon, Assistant Town Manager
Cc: Town Council
Phil Hunt, Planning Board Chairman
From: Andy Fillmore, Town Planner
Subject: Subdivision Types

Dear Carla,

I look forward to discussing the Subdivision Ordinance, as well as the various types of subdivisions it describes, with the Town Council on February 11. I understand that Phil Hunt, chairman of the Planning Board, will also be in attendance.

As background I have attached the following excerpts from the Town's ordinances:

1. Section 4 of the Subdivision Ordinance which describes the application and review process, as well as the mechanism for arriving at the "type" of subdivision to be built. (Please see pages 1-9 of attachment.)
2. Section 406 of the Zoning Ordinance which describes the three different "types" of subdivision (Traditional, Clustered and Dispersed), and their various requirements. (Please see pages 10-20 of attachment.)

Please do not hesitate to let me know if I can be of any further assistance. I look forward to seeing you on the eleventh.

Best regards,

Andy Fillmore, AICP
Cumberland Town Planner

Subdivision Review and Approval Procedures

SECTION 4 SUBDIVISION APPLICATION PROCEDURES

4.1 GENERAL PROCEDURES

Classification of a proposed project as either a minor or major subdivision shall be made by the Code Enforcement Officer, subject to Planning Board approval at the time of the initial application submission. Once the project is so classified, the applicant shall follow the applicable procedures in Section 4.3 or Sections 4.4. The pre-application conference step Section 4.2, is recommended but not mandatory for minor subdivisions. A copy of the required application form is included as Appendix A of this Ordinance. The Subdivision Review Fee Schedule is established by order of the Town Council. Outside consulting fees shall be charged in accordance with Section 608 of the Zoning Ordinance. Appendices C and D list the submission requirements for minor and major subdivision plans. Overall Subdivision Review sheets are included in Appendix E and Appendix F. Application checklists for both minor and major subdivision plans are included in Appendices G, H, and I. Appendix J contains an Application Completeness form and Appendix K contains a Notice of Decision form. In all instances throughout the subdivision review process, the burden of proof shall be upon the person or persons proposing the subdivision. [Amended, effective 3/25/87, amended, effective 8/10/98, amended, effective 4/12/99]

4.2 PRE-APPLICATION CONFERENCE PROCESS

A subdivider may meet with the Planning Board prior to formal submission of a plan to discuss his proposal. A sketch plan of the proposed subdivision and other relevant materials may be presented by the subdivider. The Planning Board may ask questions of the subdivider and make general comments about the proposal.

4.3 REVIEW AND APPROVAL OF PLAN FOR MINOR SUBDIVISION

A. General

The Planning Board may, where it deems it necessary for the protection of public health, safety and welfare, require that a Minor Subdivision comply with any or all of the requirements specified for Major Subdivisions.

B. Procedures

1. An application for final plan approval, a completed application checklist and ten (10) copies of the Final Plan and accompanying

Subdivision Review and Approval Procedures

materials shall be submitted to the Code Enforcement Officer at least 14 days prior to the meeting at which it is to be considered, and shall be accompanied by the fee established et forth in Appendix B of this Subdivision Ordinance.

2. The subdivider, or authorized representative, shall attend the Planning Board meeting to present and discuss the Final Plan.
3. At said meeting, a dated receipt shall be issued to the applicant. The Planning Board shall then determine whether the application is complete or incomplete and shall notify the applicant of the Board's determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Planning Board shall list in its written determination the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Planning Board shall notify the applicant and begin full evaluation of the proposed subdivision. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.
4. The Planning Board shall, within 45 days from the date that the application is determined to be complete, or within such other time that may be mutually agreed to by both the Planning Board and the applicant, approve, approve with conditions, or disapprove the Final Plan. The Planning Board shall specify in writing its decision and findings of fact regarding the decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Code Enforcement Officer's files.
5. The Planning Board, at its discretion, may hold a public hearing regarding any proposed minor subdivision within 30 days of the determination of application completeness.

C. Submission Requirements

Minor Subdivision plan submissions shall conform to the standards and requirements contained in Appendix C of this Ordinance.

D. Final Plan Approval & Filing

1. Upon completion of the requirements above and approval of the Final Plan, the Final Plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Cumberland County Registry of Deeds.

Subdivision Review and Approval Procedures

2. Approval of any subdivision plan not filed for recording within 90 days after Final Plan approval shall become null and void. A note referencing this time provision shall be placed upon the Final Plan. The developer shall provide the Code Enforcement Officer with the plan book number and page number, upon recording of the subdivision plan.

4.4 REVIEW AND APPROVAL OF PLAN FOR MAJOR SUBDIVISION

A. Sketch Plan [amended, effective 4/12/99]

1. The purpose of the sketch plan approval is for the applicant to submit concept plans for at least two of the following types of subdivisions -- clustered, dispersed, or traditional, and to receive the Board's decision as to which type of development is most appropriate for the site, based upon a consideration of all of the factors set forth in subsection 4.
2. The applicant shall present the sketch plans and make a verbal presentation regarding the site and the proposed development. The Board may ask questions and make suggestions to be incorporated by the developer into the application.
3. The sketch plan shall show, in simple form, the proposed layout of streets, lots, building envelopes, and proposed open spaces. The plan shall include a delineation of topography, wetlands, steep slopes, water bodies, adequate septic system locations, if applicable, and other known natural features.
4. The Board shall determine which type of subdivision best suits the property in relation to the natural features of the land, adjacent properties and neighborhoods, and the characteristics of open space to be maintained, if applicable.
5. The applicant shall be given a decision at the meeting what type of development is most appropriate, or be told what additional information is necessary for the Board to make a decision. The Board shall specify in writing its decision within 10 days of the meeting.
6. The type of subdivision development approved at the sketch plan meeting shall not be changed unless the Board finds that unforeseen circumstances require the decision to be altered.
7. The acceptance of a sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

Subdivision Review and Approval Procedures

8. Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions shall be maintained in the file.

B. Preliminary Plan Procedures

1. An application for preliminary plan approval, a completed application checklist and ten (10) copies of the Preliminary Plan and accompanying materials shall be submitted to the Code Enforcement Officer at least 14 days prior to the meeting at which it is to be considered, and shall be accompanied by the fee set forth in Appendix B of this Subdivision Ordinance.
2. The subdivider, or authorized representative, shall attend the Planning Board meeting to present and discuss the Preliminary Plan.
3. At said meeting, a dated receipt shall be issued to the applicant. The Planning Board shall then determine whether the application is complete or incomplete and shall notify the applicant of the Board's determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Planning Board shall list in its written determination the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Planning Board shall notify the applicant and begin full evaluation of the proposed subdivision. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.
4. A public hearing shall be scheduled within 30 days after the date that the application is determined to be complete, with written notice given to property owners within 500 feet of the proposed subdivision; and written notice to the general public in a newspaper of general circulation in the Town. The Planning Board may, at its discretion, hold any additional public hearings as it deems appropriate. Failure of any property owner or any member of the public to receive a notice of the public hearing shall not necessitate another public hearing and shall not invalidate the action of the Planning Board.
5. The Planning Board shall, within 30 days after the date of the last public hearing, approve, approve with conditions, or disapprove the Preliminary Plan. The Planning Board shall specify in writing its findings of fact and the Board's decision. A separate copy of the written decision and findings of fact shall be maintained apart

Subdivision Review and Approval Procedures

from the Planning Board minutes and stored in the Code Enforcement Officer's files. The Planning Board, at its discretion, may require annotations to be placed directly on the Preliminary Plan.

6. Preliminary Plan approval shall not constitute approval of the Final Plan, but rather shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to preparation of the Final Plan.

C. Preliminary Plan Submission

Preliminary Plan submissions shall conform to the standards and requirements contained in Appendix D of this Ordinance.

D. Final Plan Procedures

1. An application for Final Plan approval and a completed application checklist shall be submitted to the Code Enforcement Officer within 180 days after Preliminary Plan approval and at least 14 days prior to the meeting at which it is to be considered, along with ten (10) copies of the Final Plan and accompanying materials. The 180 day time limit may be extended by the Planning Board, at its discretion, if the subdivider makes a written request for such an extension to the Planning Board prior to the expiration of said 180 day time limit.
2. Prior to submission of the Final Plan application, the subdivider shall have fulfilled the following requirements:
 - (a) Written approval shall be secured by the Maine Department of Environmental Protection, if the proposed subdivision is subject to review by said Department;
 - (b) The proposed water supply system shall be approved in writing by the Water District if existing public water service is to be used, or by the Maine Department of Human Services if a central water supply system is proposed;
 - (c) Allocation of sewer user units by the appropriate municipal agency shall be secured if said units are required for the proposed subdivision, and the proposed sewage disposal system shall conform to Section 7.15 of the Subdivision Ordinance; and

Subdivision Review and Approval Procedures

- (d) A solid waste disposal plan shall be prepared, if deemed necessary by the Planning Board during the Preliminary Plan review process.
 - (e) The proposed surface drainage plan or stormwater management plan and the proposed soil erosion and sediment control plan shall be endorsed in writing by the Cumberland County Soil and Water Conservation District. The soils report shall also be reviewed in writing by the Cumberland County Soil and Water Conservation District. [Amended, effective, 11/2/86].
- 3. The subdivider, or authorized representative, shall attend the Planning Board meeting to present and discuss the Final Plan.
- 4. At said meeting, a dated receipt shall be issued to the applicant. The Planning Board shall then determine whether the application is complete or incomplete and shall notify the applicant of the Board's determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Planning Board shall list in its written determination the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Planning Board shall notify the applicant and begin full evaluation of the proposed subdivision.
- 5. A public hearing may be scheduled by the Planning Board within 30 days after the date of the Final Plan is determined to be complete, with adequate notice given to the general public.
- 6. Prior to the final plan approval, the Planning Board may grant approval to permit the Plan to be divided into two or more sections and may impose such conditions upon the phases as it deems necessary to insure the orderly development of the subdivision. Each phase shall be reviewed by the Planning Board, both as a potentially independent subdivision and as a section of the total subdivision. Each phase shall constitute at least 25% of the total number of lots contained in the approved final plan.
- 7. Prior to Final Plan approval, the Planning Board shall set the terms and conditions for a performance bond issued by a licensed bonding company or an irrevocable letter of credit to secure completion of all required public improvements, or restoration of the site as the Town deems appropriate, to be submitted by the subdivider and approved by the Planning Board. All irrevocable

Subdivision Review and Approval Procedures

letters of credit shall contain a provision requiring the issuer to notify the Town Manager in writing of the scheduled expiration date within three (3) months of such expiration date. The terms and conditions shall include a maximum 2 year time limit and an inflation clause. In the event that a Final Plan is to be divided into two or more phases, the Planning Board may require that the amount of the performance bond issued by a licensed bonding company or the irrevocable letter of credit be commensurate with the level of improvement to be undertaken in the section or sections to be filed with the Registry of Deeds and may defer the remaining required amount(s) until the remaining sections of the proposed subdivision are ready for filing with the Registry of Deeds. The terms and conditions of the performance guarantee for each phase shall include a maximum two year time limit and an inflation clause. [Amended. 11/27/89]

8. The Planning Board shall, within 60 days after the date that the Final Plan is determined to be complete, or within such other time limit that may be mutually agreed to by both the Planning Board and the applicant, approve, approve with conditions or disapprove the Final Plan. The Planning Board shall specify in writing its findings of fact and the Board's decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Code Enforcement Officer's files. The Planning Board at its discretion may require annotations to be placed directly on the Final Plan.
9. This 60 day time limit may be extended once by 30 days, by the Planning Board, if the Board determines that additional information needs to be secured by the subdivider or the Planning Board.

D. Final Plan Submission

Final Plan submissions shall conform to the standards and requirements contained in Appendix D of this Ordinance.

E. Final Plan Approval and Filing

1. Upon completion of the requirements above and approval of the Final Plan, the Final Plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Code Enforcement Officer.
2. The performance bond or irrevocable letter of credit, with the terms and conditions previously set by the Planning Board, shall

Subdivision Review and Approval Procedures

be filed with the Town Manager before the Final Plan is released for recording by the developer at his expense with the Cumberland County Registry of Deeds.

3. Approval of any subdivision plan not filed for recording within 90 days after Final Plan approval shall become null and void. A note referencing this time provision shall be placed upon the Final Plan. The developer shall provide the Code Enforcement Officer with the plan book number and page number, upon recording of the subdivision plan.

4.5 PLAN REVISIONS AFTER APPROVAL

- A. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Final Plan, unless said plan is first resubmitted and the Planning Board approves any modifications.
 - Any application for subdivision approval that constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. Approved changes shall be endorsed on the revised Final Plan by the Planning Board, and the Plan as modified should be recorded in the Cumberland County Registry of Deeds within sixty (60) days after such approval. The developer shall provide the Code Enforcement Officer with the plan book number and page number, upon recording of the revised subdivision plan. [Amended: effective, 11/2/86]

4.6 PUBLIC ACCEPTANCE OF STREETS, RECREATION AREAS

- A. When a street, easement, open space area, park, playground, or other recreation area is shown on the Final Plan, approval of the Plan shall not constitute an acceptance by the Town of such areas. All Plans shall be endorsed with the following note: "The approval of this Plan by the Planning Board does not constitute acceptance by the Town of any street, easement, open space area, park, playground, or other recreation area thereon." The Planning Board may also require the filing of a written agreement between the applicant and the Town Council covering future deed and title requirement, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such areas.

4.7 TIMES FOR COMMENCEMENT AND COMPLETION OF CONSTRUCTION; PRE-CONSTRUCTION CONFERENCE

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All improvements required by Section 6.1 and all quasi-public improvements required by the Planning Board for approval of the plan shall be completed no later than two (2) years after approval of the final plan (for phased plans, these time periods shall apply separately for each phase approved by the Planning Board); provided, however, the Planning Board may grant an extension for a period not to exceed six (6) months for good cause shown if such application is made prior to the two-year expiration date. Only one such extension may be granted.

Once commenced, all such improvements shall be prosecuted diligently to completion. Construction time shall not exceed six (6) months unless the Planning Board, upon written application and for good cause shown, shall extend the construction period. Prior to commencement of construction there shall be a mandatory pre-construction conference with the developer, his general contractor, the code enforcement officer, the Town planner and such other Town department heads as deemed appropriate by the Town planner to review the proposed construction activities to assure compliance with the requirements of the Ordinance and any special terms of the project's approval. Also, notwithstanding the provisions of Section 4.4 (C) (7) and (E) (2) to the contrary, the Planning Board at time of final approval may authorize a delay in the filing of an effective performance guarantee until the pre-construction conference provided satisfactory evidence of the developer's ability to obtain the same is submitted at time of final plan approval. [Effective 11/27/89]

Subdivision Review and Approval Procedures

Sec. 406 Clustered, Dispersed, and Traditional Residential Development [Amended, effective 4/12/99]

406.1 **GENERAL:** In reviewing applications for major subdivision approval involving a residential development consisting of four five or more single family residences and/or duplex dwellings in the Rural Residential 1, Rural Residential 2, Rural Industrial, Medium Density Residential, Low Density Residential, Island Residential and Island Business zoning districts, the Planning Board shall be authorized to require that the residential development be designed and constructed as a clustered residential development, a traditional residential development, or a dispersed residential development based on the standards and criteria set forth in this Section., except that developments with four or fewer lots may be designed as a clustered or dispersed development upon a positive finding by the Planning Board that the intent of the Ordinance listed below can be met. Such developments are subject to Section 4.4 or the Subdivision Ordinance. All such residential developments shall conform to the requirements of this Ordinance as well as the Subdivision Ordinance of the Town of Cumberland and all other applicable Ordinances of the Town of Cumberland and the Town of Cumberland Comprehensive Plan. The intention of this section of the Ordinance is to assure that residential developments are designed in such a way as to assure protection of wells and groundwater from contamination; prevent adverse impacts on existing wells on adjoining properties and on wells to be created within the new residential development; avoid septic contamination or interference within the new residential development and with respect to surrounding properties; minimize the cost of constructing and maintaining public utilities and improvements including streets, water lines, sewer lines, electric lines, gas lines, telephone lines, and other utilities; protect and preserve existing farms and farmland; protect areas in resource protection districts; protect, preserve and improve existing recreational areas and trails; protect and preserve sensitive wildlife habitats and other natural areas; and protect and preserve public access to water bodies.

406.2 **CLUSTERED RESIDENTIAL DEVELOPMENT:** Clustered residential developments are residential developments in which groups or clusters of dwelling units may be located on adjoining individual building lots which may be smaller than the required minimum lot size for the zoning district in which they are located but within which land is set aside as open space so long as the following requirements are satisfied:

- .1 **Minimum lot size:** If the lots are connected to the public water and sewer systems, the minimum lot size for each single family

Subdivision Review and Approval Procedures

dwelling shall be 30,000 square feet and for each duplex dwelling shall be 40,000 square feet. If the lots are connected to the public water system but not the public sewer system, the minimum lot size for each single family dwelling shall be 45,000 sq. ft. and 60,000 sq. ft. for each duplex. If the lots are not connected to the public water and sewer system, the minimum lot size for each single family dwelling shall be 60,000 square feet and for each duplex dwelling shall be 80,000 square feet.

- .2 Setback: Setback requirements for a clustered residential development shall be the same as those required in the zoning district in which the residential development is located.
- .3 Frontage: In the Rural Residential 1 and 2 districts, each lot shall have no less than 100 feet of lot frontage on a street. In all other districts each lot shall have no less than 75 feet of lot frontage on a street.
- .4 Buffering: A buffer area at least 75 feet in depth shall be established between the clustered residential development and abutting tracts or parcels of land and between the clustered residential development and existing streets and roads adjoining or abutting the clustered residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.
- .5 Open space. At least 25% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:
 - a. Active farmland or land adjoining active farmland.
 - b. An active trail system or which provides a link to an existing trail system.
 - c. Land which provides a buffer around a sensitive wildlife habitat or other natural area.
 - d. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream or brook.

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- e. Land which is in Resource Protection.
 - f. Land which is suitable for active recreation.
 - g. Land which abuts or adjoins and existing public open space.
- .6 Land set aside as open space may, be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:
- a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
 - b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
 - c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
 - d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.

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- .7 Some or all of the open space may be dedicated to the Town of Cumberland, subject to acceptance by the Town Council. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.
- .8 Some or all of the open space may be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

406.3 **TRADITIONAL RESIDENTIAL DEVELOPMENT:** Traditional residential developments are residential developments in which the dwelling units are located on individual building lots which conform with the minimum lot size for the zoning district in which they are located. A traditional residential development may but is not required to include land set aside as open space, as provided in Section 7.5 of the Subdivision Ordinance. -

406.4 **DISPERSED RESIDENTIAL DEVELOPMENT:** Dispersed residential developments are residential developments in which the dwelling units may be located on individual building lots which may be smaller than the required minimum lot size for the zoning district in which they are located but within which land is set aside as open space so long as the following requirements are satisfied:

- .1 Minimum lot size: The minimum lot size for each single family dwelling shall be 60,000 square feet and for each duplex dwelling shall be 80,000 square feet.
- .2 Setback: Setback requirements for a dispersed residential development shall be the same as those required in the zoning district in which the residential development is located.
- .3 Frontage: In the Rural Residential 1 and 2 districts, each lot shall have no less than 100 feet of lot frontage on a street. In all other districts each lot shall have no less than 75 feet of lot frontage on a street.
- .4 Buffering: A buffer area shall be established between the residential development and abutting tracts or parcels of land and between the residential development and existing streets and roads adjoining or abutting the residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a

Subdivision Review and Approval Procedures

combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.

- .5 Open space. At least 25% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:
 - a. Active farmland or land adjoining active farmland.
 - b. An active trail system or which provides a link to an existing trail system.
 - c. Land which preserves and provides a buffer around a sensitive wildlife habitat or other natural area.
 - d. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream or brook.
 - e. Land which is in Resource Protection.
 - f. Land which is suitable for active recreation.
 - g. Land which abuts or adjoins and existing public open space.
- .6 Land set aside as open space may, be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:
 - a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
 - b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common

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open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

- c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
- d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.

- .7 Some or all of the open space may be dedicated to the Town of Cumberland, subject to acceptance by the Town Council. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney
- .8 Some or all of the open space be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

406.5 **NET RESIDENTIAL DENSITY:** The maximum number of dwelling units permitted on the tract or parcel of land proposed for any type of residential development shall be determined by dividing the net residential acreage of the tract or parcel by the zoning district minimum lot size for the zone in which the project is located. In no event shall the number of residential units exceed the density requirement of the zoning district in which it is located.

406.6 **CRITERIA TO BE CONSIDERED:** In determining whether a proposed residential development shall be constructed as a clustered residential development, a traditional residential development, or a dispersed residential development, the Planning Board shall consider the following criteria as required by Title 30-A M.R.S.A. Section 4404 and the Cumberland Subdivision Ordinance:

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406.7 STANDARDS FOR REQUIRING CLUSTERED RESIDENTIAL DEVELOPMENT: The Planning Board shall require that a residential development be designed as a clustered residential development if the following standards are met:

- .1 The tract or parcel of land to be developed has a public water system or will be connected to the public water system or the Planning Board determines that adequate wells can be established for each residential unit without risk of contamination or interference with existing wells or groundwater on abutting properties and wells to be located within the proposed residential development.
- .2 The tract or parcel of land to be developed is connected to the public sewer system or will be connected to the public sewer system or the Planning Board determines that adequate on site septic systems can be established for each residential unit without risk of contamination or interference with existing wells, ground water and septic systems on abutting properties and within the proposed residential development.
- .3 The tract or parcel of land to be developed contains one or more of the following types of open space:
 - a. Land which is active farmland or which adjoins or abuts active farmland.
 - b. Land which contains an existing trail system used by the public or which can provide a link to existing trails.
 - c. Land which contains or adjoins a significant wildlife habitat or other rare and irreplaceable natural area as determined by the Department of Inland Fisheries and Wildlife or the Town of Cumberland.
 - d. Land which may provide physical or visual access to waterbodies including the ocean, lakes, ponds, rivers, streams, and brooks.
 - e. Land which contains or adjoins a Resource Protection district as shown on the official zoning map of the Town of Cumberland.
 - f. Land which adjoins or abuts an existing parcel of land which constitutes public open space.

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- g. Land which is suitable for active recreational activities.

406.8 STANDARDS FOR REQUIRING DISPERSED RESIDENTIAL DEVELOPMENT: The Planning Board shall require that a residential development be designed as a dispersed residential development if the following standards are met:

- .1 The Planning Board determines that adequate wells cannot be established for each residential unit in the proposed residential development without risk of contamination or interference with existing wells or wells to be established within the proposed residential development unless the wells are widely separated.
- .2 The Planning Board determines that due to the nature of soils and the configuration of the tract or parcel of land to be developed, on site septic systems must be widely separated in order to eliminate risk of contamination and interference with wells and septic systems on adjoining properties or within the proposed residential development.
- .3 The tract or parcel to be developed contains one or more of the following types of open space:
 - a. Land which is active farmland or which adjoins or abuts active farmland.
 - b. Land which contains an existing trail system used by the public or which can provide a link to existing trails.
 - c. Land which contains or adjoins a significant wildlife habitat or other rare and irreplaceable natural area as determined by the Department of Inland Fisheries and Wildlife or the Town of Cumberland.
 - d. Land which may provide physical or visual access to waterbodies including the ocean, lakes, ponds, rivers, streams, and brooks.
 - e. Land which contains or adjoins a Resource Protection district as shown on the official zoning map of the Town of Cumberland.
 - f. Land which adjoins or abuts an existing parcel of land which constitutes public open space.
 - g. Land which is suitable for active recreational activities.

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406.9 AFFORDABLE HOUSING DEVELOPMENTS: Notwithstanding the foregoing requirements of this section and the requirements applicable to the underlying zoning district, the Town Council may by contract zoning pursuant to Section 606 of this ordinance allow a clustered residential development of single family residential lots that is developed as an affordable housing development in any zoning district in which residential uses are permitted and which has access to public water and sewer subject to the following requirements:

- .1 "Affordable housing" shall mean residential dwelling units such that the persons eligible to purchase such residential dwellings shall have annual incomes which fall within income guidelines established by the Cumberland Town Council.
- .2 Minimum lot size: 10,000 square feet per single family dwelling unit.
- .3 Setback: Front: 25 feet
 Rear: 30 feet
 Side: 10 feet
- .4 Frontage: Each lot shall have no less than 100 feet of lot frontage on a street.
- .5 Buffering: A buffer area at least 75 feet in depth shall be established between the affordable residential development and abutting tracts or parcels of land and between the affordable residential development and existing streets and roads adjoining or abutting the affordable residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.
- .6 Open space. At least 25% but no more than 50% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:
 - a. Active farmland or land adjoining active farmland.

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- b. An active trail system or which provides a link to an existing trail system.
 - c. Land which provides a buffer around a sensitive wildlife habitat or other natural area
 - d. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream or brook.
 - e. Land which is in Resource Protection.
 - f. Land which is suitable for active recreation.
 - g. Land which abuts or adjoins and existing public open space.
- .7 Land set aside as open space may be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:
- a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
 - b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
 - c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal

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instrument binding upon the lot owner and running with the land.

- d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.
- .8 Some or all of the open space may be dedicated to the Town of Cumberland, subject to acceptance by the Town Council. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.
- .9 Some or all of the open space be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

**MAINE SCHOOL ADMINISTRATIVE DISTRICT #51
CUMBERLAND / NORTH YARMOUTH**

P. O. Box 6A

Cumberland Center, ME 04021

Web site: www.msad51.org - Phone: 829-4800

Board of Directors

Minutes

Monday

January 7, 2002

7:00 PM

Cumberland Town Hall

Council Chambers

1. Call To Order - by MSAD #51 Board of Directors Chairperson, Kim True 7:04 PM.

Attendance:

Board of Directors: John Aromando, Maryellen Fitzpatrick, Polly Haight Frawley, Henry Kennedy, Betts Gorsky, Audrey Lones, Kim True, Bob Vail,

Administrators: Brenda Breton, Becky Foley, Wayne Fordham, Suzanne Godin, Jack Hardy, Robert Hasson, Scott Poulin, Susie Robbins, Scott Smith, Penny Wheeler-Abbott

2. Approval of the Minutes – of the Board of Directors meetings held on December 17, 2001.

Motioned 2nd ed

Voted: To approve the minutes of the Board of Directors meeting held on December 17, 2001.

(Voted: 6-0, Aromando & Vail absent at time of vote)

3. Superintendent's Report

4. Presentations

- a) Girls Volleyball Presentation, Kelvin Hasch
- b) Senior Privileges
- c) Math Committee's Proposed Math Goal
- d) MEA's

5. Committee Report

- a) Finance Committee
- b) Negotiation Committee
- c) Design Team
- d) Steering Committee
- e) Policy Committee
- f) Performance Indicators
- g) Time Task Force
- h) Technology Task Force

6. Items for Action

a) Vote to approve coaching position recommendation

Motioned 2nd ed

Vote to approve coaching position recommendation. (Voted: 8-0)

GHS Lacrosse, JV – Jake Forgit

7. Communications

8. Adjourn Meeting 9:46 PM

Upcoming Meetings/Events

1/3/02 – First Practice – Jr. High School girls' Basketball (tentative)

1/3/02 – GHS : 4:00 PAC meeting

1/8/02 – Steering Committee, 7:00 PM MIW Library

1/9/02 – Design Team, GHS Library, 3:15 PM

1/9/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

1/10/02 – Grade 4 Family Math Night, NYMS. Snow date, if necessary, 1/17/01.

1/15/02 – Winter Concert, Grades 7- 12 Chorus

1/16/02 - Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

1/21/02 – Martin Luther King Day, No School

Jan. 22 through Jan. 25, 2002 – GHS Mid Year Exams

1/23/02 – Full Day of School

1/24/02 – NYMS/DRS Winter Band Concert

1/25/02 – End of Second Quarter

Jan. 25 through Jan. 26, 2002 – GHS District II music Festival

1/28/02 –Meeting of the Towns of Cumberland and North Yarmouth and MSAD #51 Board, at North Yarmouth Town Hall, 5:00 PM – 6:30 PM

1/30/02 - Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

1/31/02 – NYMS/DRS Winter Chorus Concert

Feb 1 through Feb. 2 – GHS District II Chorus Festival

2/6/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

Feb. 4 through Feb. 8 – Kindergarten Registration Week at Mabel I. Wilson School, 7:30 – 4:00 PM daily in the Main Office

2/6/02 – First Practice Jr. High Track and Swimming (Tentative)

2/12/02 – Lincoln's Birthday

2/13/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

2/14/02 – Valentine's Day

2/18/02 – Presidents' Day

Feb. 18 through Feb. 22 – No School, Mid-Winter Break

2/22/02 - Washington's Birthday

2/26/02 – Budget Overview to Board of Directors, 7:00 PM, Cumberland Town Hall Council Chambers

2/27/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

Next Meeting:

Monday, January 28, 2002 – Mabel I. Wilson School – Multipurpose Room



STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0038

ANGUS S. KING, JR.
GOVERNOR

EVAN D. RICHERT, AICP
DIRECTOR

January 30, 2002

Town of Cumberland Center
Attn: Board of Selectmen
290 Turtle Road
Cumberland Center, Maine 04021

RE: Land for Maine's Future consideration of farmland in your town.

The Land for Maine's Future Program (LMFP) was established in 1987 when Maine voters approved a \$35 million bond for purchasing lands of statewide significance for recreation and conservation and to provide public access. A board of six private citizens and five state natural resource agency commissioners including the Director of the State Planning Office manages the fund. In the fall of 1999, Maine citizens voted overwhelmingly in favor of a \$50 million dollar bond to continue the work of the LMFP.

The Land for Maine's Future Board has just announced the second selection round of finalist projects under the new land bond (please see the enclosed press release). The Board selected a total of 25 Conservation, Recreation and Farmland finalists. These projects now move to the next step in a process that will culminate in establishing protection and permanent public access. Some will be held by a State agency such as the Department of Conservation, Inland Fisheries and Wildlife, or in the case of farmland, the Department of Agriculture. In other instances, title will be held by towns or local land trusts.

This letter is to notify you that the Sunrise Farm parcel, located in Cumberland Center is one of the "finalists" referenced above. Sally Merrill has proposed this 148 acre farmland protection effort to the Land for Maine's Future Board. The project is sponsored and the easement on these lands will be held by the Maine Department of Agriculture. If you have any questions about this project or any of its details, please call me at 287-1487. You can learn more about the Land for Maine's Future Program and past projects by accessing our home page: www.state.me.us/spo/lmf.

Sincerely,

Tim Glidden, Director
Land for Maine's Future Program

Encl: Press Release



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PRESS RELEASE
For Immediate Release
January 28, 2002

Contact: Evan Richert, LMF Board Chair, 287-3261
Tim Glidden, LMF Staff Director 287-1487

**Land for Maine's Future Board Selects 25 Land Conservation
Finalists for Support in 2002**

*42,313 acres of Maine's best natural, recreational and farm resources identified
for future conservation*

The Land for Maine's Future Board today announced the selection of 25 land conservation projects as finalists for the 2002 round of funding under the \$50 Million Bond approved by Maine voters in 1999. As the Board allocated a total of \$11.3 million to support these finalists, Chairman Evan Richert said, "With this action, Maine has taken another important step to protect the access Maine citizens deserve and expect to their spectacular natural heritage."

Located in eleven counties throughout Maine, the finalists include eight farmland preservation projects along with seventeen conservation and recreation projects totaling over 42,000 acres of conserved lands. Approximately 18% of this total is proposed for fee acquisition and 82% for conservation and agricultural easements.

“The range of projects was particularly impressive this year”, said Tim Glidden, the LMF staff director. “There is a wonderful balance of projects with statewide impact along with those that will anchor the efforts of local groups to protect the character of their own towns.

With southern Maine recently identified as one of the nation’s “sprawl hot spots”, the selection of 12 projects from Harpswell south throughout the Sebago Lake region and York County is particularly noteworthy. “The Board was fortunate to be presented with a great portfolio of farm and conservation projects that can serve as important pieces of the larger effort to protect the character of this rapidly growing area without in any way diminishing its economic vitality,” said Richert.

Other noteworthy projects include the Headwaters project west of Long Lake in Bridgeton and Naples. Brought forward by the Loon Echo Land Trust, this project combines protection of a popular commercial apple orchard with the conservation of adjacent natural areas. Wetlands providing critical wildlife and fisheries habitat along the lower Kennebec River and Merrymeeting Bay were also selected for protection. Another significant project is the proposal to protect the shoreline of the Machias River from Third Machias Lake and Lower Sabao Lake to the Northfield town line including several of its headwater lakes and tributaries. The recreational value of this resource represents an important natural and economic asset to the future of this region.

The sharp increase in farmland protection projects was particularly striking. “Last year the Board selected only three farmland projects. The designation of eight finalists this year clearly marks a new chapter in the State’s efforts to preserve the viability of its agricultural economy,” said Glidden. “By selling the development rights to their farms, farmers can afford to continue their operations. They keep buying their local supplies, provide food locally in many cases, and contribute to the local agricultural economy while also maintaining the open space and landscape that defines the character of so many Maine communities.” This year’s farm projects are strategically located in or on the fringes of the rapidly growing areas of the state. “Each farm project selected this year is part of an effort to stabilize the local farm economy in their town or region,” said Glidden.

The Land for Maine’s Future Program was created in 1987 in response to concerns over the loss of critical natural areas and wildlife habitat along with traditional access to undeveloped lands for hunting, fishing, and outdoor recreation. To date, the Land for Maine’s Future Program has protected almost 100,000 acres of Maine’s best natural areas. The Program also seeks to protect farmlands through the purchase of development rights and public access to water for fishing boating and commercial marine activities. Working with other state agencies and numerous local governments and charitable nonprofit groups, the Land for Maine’s Future Board adheres to a “willing seller only” policy. A \$50 million bond issue approved by the Maine Legislature and Maine voters in 1999 provides funding for these projects. This is the second round of funding under this bond. Finalists selected for this round of funding will be further developed and finalized

over the next year. Program staff will carefully scrutinize each potential acquisition to ensure fair valuation and clear legal title along with other considerations required by the statutory mandate of the Program.

SOLID WASTE TO R.W.S.

YEAR MONTH	2001	2002	1997	1998	1999	2000
January	211.07	207.21	204.61	192.30	191.10	184.53
February	163.98		152.55	163.73	167.36	171.20
March	175.61		164.92	187.13	188.09	193.05
April	211.90		233.12*	179.17	190.87	181.92
May	331.97*		175.02	217.70*	277.75*	304.98*
June	228.57		201.01	229.98	222.10	229.93
July	248.17		223.52	224.88	212.91	223.73
August	244.76		175.55	194.03	251.36	267.61
September	217.00		247.89	245.27	229.28	225.17
October	277.72*		260.72*	273.00*	270.87*	267.31*
November	240.28		185.99	197.09	209.37	236.55
December	225.56		214.89	208.16	230.40	195.88
Total	2,776.59		2,439.79	2,512.44	2,641.46	2,681.86

NOTE: All Measurements in tons

* Bulky Waste Pick-up week included

STONE WHARF COMMITTEE MEETING....JANUARY 29,2002

The Stone Wharf committee met at the CIHCC, on Tuesday, January 29,2002 with the following members present: Chm Steve Moriarty, VChm. Michael Porter, Donna Damon, Peter Bingham, Tad Runge, David Stevens, Linden Smith, Sam Ballard, Wink Houghton, Alan Malony, Bob Libby and Martha Hamilton. Absent were: Mal Rice, Peter Rice, Ernie Burgess, Milt Calder and Ted Curtis. Adam Ogden , Town Public Works Dept.and Steve Ruell, a consulting structural engineer reported to the Committee. Non members attending were: Mark Dyer, Tom Calder and Jon KomLosy.

The meeting opened at 7 pm with a detailed report by Steve Ruell which included his assessment of the present conditions from his inspection of the site with Adam Ogden recently as well as previous visits and his acquaintance with similar structures of this type located along the Maine coast built pre 1900 with dry masonry and no pinning. He said the basic structural design is excellent and in good shape especially considering the traffic of 300,000 people landed there in 2001 but he had some concerns for evident safety issues which can be addressed particularly in the CTC landing area. He noted that there are no guard rails for pedestrians or cars. There is also some " failure" i.e. loss of stones on the Kendall cove side of the wharf now used as parking area which needs repair.

There was a long discussion in regard to the settlement of the inner core of the long end of the wharf, how and why it happens and is a tough problem to handle due to low elevation and the daily tides as well as storm wave action. Ruell described several solutions for this problem in maintaining wharfs of this type, however the amount of fill and the cost is unknown. He recommended that the problems in the Landing area take priority. Building a concrete safety curb of 1 foot or 14 inches high around the wharf perimeter and bolting the pilings would disburse the energy from the CTC boat mooring and landings which are now directed to individual granite blocks. The platform of the wharf and ramp safety issues should also be addressed. Certain areas used by fisherman for trap loading and unloading could be left open in the proposed safety curb.

The next topic was the suggested finger float extension out from the end of the wharf to accommodate small boat tie ups which become a summer problem. Ruell showed pictures of the extension to a wharf in Rockland similar to ours, a breakwater wall with a ramp and wrap around floats which can be extended. This one was a 200 ft. all timber extension. There was a brief mention of possible use of the end of the wharf for a ferry eventually but it would be at a cost of \$ 4 million or more on the island side with a similar cost on the mainland if a site were available. A general discussion followed with questions and answers in regard to different techniques described above, ways and means etc. to solve existing problems and initiate an ongoing maintenance /inspection system. Using dredged material as land fill was proposed and some questions in regard to building a retaining wall at the edge of high water mark in the Kendall side cove with this filling were discussed. This type of filling would have to dry out for 6-8 months before it could be paved to allow more parking space there. Donna again suggested that the feasibility of such a plan be explored with the DEP before too much planning is put into it.

Cost estimates and funding was questioned and it was agreed that a subcommittee

STONE WHARF COMMITTEE MEETING cont'd...1/29/02

be named to price out the different options presented by Steve Ruell and suggest priorities. A hydrographic survey is essential but if the records can be found for the survey done 15 years ago it would save time and money. Michael Porter said he had a copy of that report that Adam Ogden has been looking for. Ogden has also been doing deed searches and Donna said she could help with that research in regard to the Kendall lines, Golf Club and Town road right of way areas. Bingham urged narrowing the focus and action as soon as possible to avoid eventual delay caused by other Town commitments. It was agreed that the #1 priority is the CTC Landing area. There are no Federal funds available for this area.

Malony suggested that the subcommittee consist of Steve Moriarty, Donna Damon, Michael Porter, Lindy Smith, Wink Houghton and Adam Ogden.

The next meeting of the full SWC is scheduled for Thursday, February 28th at the Public Safety Building. Martha will check with Fire Chief Tom Calder. Meeting adjourned 8:30 pm.

Respectfully submitted,

Martha O. Hamilton, Rec. Sec.

Box 469 North Rd.
Chebeague Island, ME 04017
February 4, 2002

Steve Moriarty
40 Blanchard Rd.
Cumberland Center, Maine 04021

Dear Steve,

I was going to make the following the subject of a phone call, but I decided that for now I would like to put down my concerns and worries about property taxes in writing.

I am a resident of Chebeague Island and own 85' of shorefront property (part of which is a rather large gully). This property has been in my family for more than 150 years, and the house I live in was built in 1897 for some \$1,200. This was handed down through the family until it came into my possession. I consider neither the house nor the property to be an investment of any kind. My intention and my fervent wish is that this property be handed down through my family, and I never intend to sell it. In a very real sense this house is a member of my family. I realize that this is a difficult concept for those in different circumstances to totally understand, but that makes it no less true. We are soon to be revalued, and I fear the rise in taxes may put my ability to retain this house in some jeopardy.

I am a retired school teacher and school librarian. I^{am} sure you know that retired teachers in the state of Maine are not among the ranks of the wealthy. As things stand now, and probably into the future, money will determine who lives on Chebeague. The community as we know it will disappear. The word "value" itself has almost become a nonsense word when someone can come here and take out their checkbook and simply write out a check for whatever it takes to own a piece of the island. It seems to me that real "value" does not and should not come so easily. It is easy to say, "That's the way it goes." However, is that really the way that you and I and the town and the state believe that things should go? I would find that hard to believe even in this cynical world.

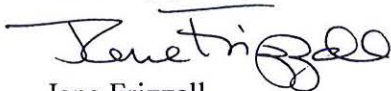
Something must be done and soon. Last year my income was just under the qualifying maximum for the state property tax rebate program. My taxes were more than 10% of my income so I received the maximum rebate. This was indeed very helpful. One problem with the program, however, is that the initial qualification is not based on what percentage of your income you pay in property taxes. In other words there is a very real chance the my property taxes may go well over 20% of my income; but if I earn even a few dollars over the maximum allowable income, I would receive no benefit from this program. The concept of this state program to help out with local property taxes is wonderful, but I think it will need some changes to help people such as myself. Perhaps it should be based more on a % of income rather than limited by an artificial maximum above which you do not qualify.

I am sure there are other ways to help out less wealthy property tax payers with this burden. An

increase in the homestead exemption would be simple and straight forward. The increase there would have to be rather large though if our taxes continue to mushroom. I hope that you will take these ideas and others into consideration and discuss them with your colleagues. I am not an anti-tax person, and I do believe in doing my part for the community as a whole. Property taxes, however, are inherently regressive and are not a good way to finance government. In the end if people's property and roots are taken from them for this reason, we have a real moral question to deal with.

I wish you good luck and more in solving this very difficult issue. Thank you for listening to my story. I hope it will help both you and me to deal with the problem. Please feel free to call me at 846-4937 if you would like more information.

Sincerely yours,



Jane Frizzell

P.S. Rumor has it on the island that some are asking for a car ferry service. I just want you to know that I am adamantly opposed to this idea. I suspect many others agree with me. I think those who are in favor of such a mode of transportation haven't really thought out the implications of how drastically the island would be changed. I don't intend to say so in public now as I understand the delicacy of our current situation. Just thought you ought to know that there would be some real objections if such a plan ever became feasible.



STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

ANGUS S. KING, JR.
GOVERNOR

RONALD B. LOVAGLIO
COMMISSIONER

To: Planning Board / Harbor Committee

From: Dan Prichard, Submerged Lands Program
Bureau of Parks and lands, Department of Conservation

Subject: Shore and Harbor Management Grant Program

Date: January 28, 2002

The Department of Conservation is currently developing a new grant program to support municipal harbor management and improvement initiatives. We hope to have the program up and running by the end of 2002. As part of that effort, we are seeking your thoughts on the type of projects you would like to pursue if funding assistance were available.

At this point, we are not seeking specific project proposals, but rather a range of likely project ideas and estimated costs to help us better design the program to help meet your needs. To help frame your discussions, we hope to be able to offer grants on an annual or biennial basis. If offered annually, current funding would support grants totaling \$85,000. At that level, it is unlikely that individual grants would exceed \$15,000 to \$20,000. At this point, we are also considering a 50% local match requirement.

The Shore and Harbor Management Fund was created by revenues generated from the leasing of publicly-owned submerged lands for private use for things such as piers, pipelines, and marinas, and most recently, a major expansion project at Bath Iron Works on the Kennebec River. Annual revenues collected above the operating expenses of the leasing program are deposited in the fund. These monies, together with annual interest, fund the grant program.

Thank you for your help. Should you have any questions, please contact me at 287-4919.

Please send any comments, project ideas, and estimate costs to:

Dan Prichard
Department of Conservation
Bureau of Parks and Lands
22 State House Station
Augusta, Maine 04333



MAINE DEVELOPMENT FOUNDATION

January 30, 2002

Robert B. Benson
Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland ME 04021-9321

Dear Bob:

I hope your New Year is off to a good start. I want to bring your attention to three upcoming MDF initiatives that are advancing our mission of long-term economic growth.

Leadership Maine, MDF's flagship program, is currently recruiting for its tenth class. I encourage you to contact the program's director, Cheryl Miller, to learn more about this enriching experience. If you do not have the time this year, it may be of interest to one of your colleagues. Over 350 business, government, education and non-profit leaders have benefited from this September-June program.

Next week, we are presenting the new Measures of Growth 2002 report to Governor King and the Legislative Leadership. MDF prepares this report for the Maine Economic Growth Council. *Measures of Growth* is widely used by legislators, government officials and business and community leaders to guide policy decisions and actions. As an MDF corporator, you will soon receive a complimentary copy of this report. Contact Darcy Rollins, the report's researcher and author, if you have questions or wish to attend one of our March briefings.

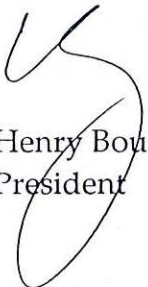
MDF's Maine Downtown Center just published its year-end report that chronicles 2001 accomplishments. This self-help program to revitalize downtowns was launched last year and has been eagerly received across the state. If you have an interest in revitalizing your downtown, contact Craig Freshley, the program's director for information on the Center or for a copy of the report.

Page Two
January 30, 2002

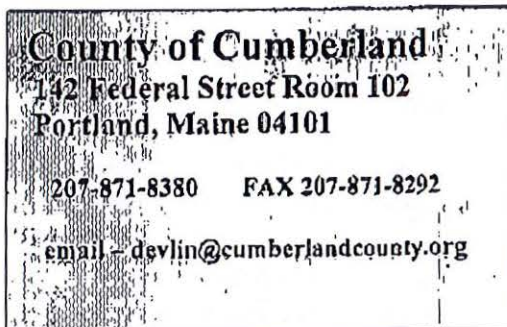
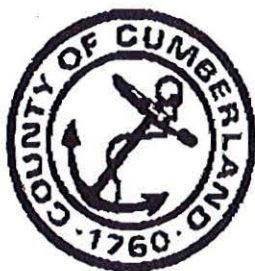
Finally, a note of thanks and congratulations. Last year, Bath Iron Works generously donated staff time to prepare a recruitment video for Leadership Maine. We just learned that BIW received the coveted Crystal Excellence Communicator Award for production of the video. MDF congratulates BIW for this award and is deeply appreciative of this in-kind contribution. Contact Cheryl Miller for a copy of the video.

We would be glad to arrange a briefing for your staff, board or association about any of these initiatives or our other programs: the Maine Health Care Performance Council; School Leadership Network; and Policy Leaders Academy. Please give us a call to arrange a briefing. Additional information on each program is available on our web site. www.mdf.org

Sincerely,



Henry Bourgeois
President



Memorandum

To: Town Managers and Chief Elected Officials

From: Robert G. Devlin, Deputy County Manager

Ref.: LD 1942

Date: Wednesday, January 30, 2002

cc.: County Manager, Commissioners, County Dept Heads



Enclosed is a legislative alert that outlines the county's position on LD 1942.

Cumberland County's elected and appointed officials are opposed to this legislation for the simple reasons that it will prevent the county from meeting the service demands of the citizens of Cumberland County.

Unlike municipal government, county government in Maine may only retain an undesignated fund balance that is a set percentage of the county's annual tax assessment on the property owners of the county. For many years, this was set at 10% but will rise to 15% this year, 18% next year, and remain capped at 20% in the following year.

A sampling of 16 municipalities in Cumberland County indicates our communities maintain a fund balance equal to approximately 30% of the annual tax assessment.

From these funds the county must fund its capital improvement program and meet any unanticipated expenses and maintain a fiscally prudent rainy day fund. All local governments maintain an undesignated fund balance as a "savings account" as a cushion against emergency needs. County government is no different.

Without these reserves, the county will be forced to add to the tax rate to meet these demands.

We have little choice !

In 2001 this fund enabled the county to meet an \$800,000 increase to the inmate medical contract at the jail (A MANDATE), pay for the emergency repairs to the civic center to

the tune of \$400,000 (ANOTHER MANDATE), and pay the town share of bridge repairs in Bridgeton and Scarborough (YET ANOTHER MANDATE).

At the public hearing on LD 1942 the only speakers in support of the bill were the City of Portland's Corporation Council and Portland Councilor Mavadones.

Several of the county's elected officials voiced their opposition as well as elected officials from Windham and Falmouth.

I have spoken with a number of town managers in the county who support the work we are doing to professionalize the fiscal and administrative management of Cumberland County.

I hope you agree.

If you do would you please call your State Representative and State Senator and tell them you OPPOSE LD 1942.



Cumberland County Government

Legislative Alert

Cumberland County's Board of Commissioners and the County Elected Officials

are **OPPOSED** to

LD 1942 An Act to Provide Property Tax Relief in Cumberland County

LD 1942 would decrease the amount of undesignated surplus the county may retain for unanticipated fiscal emergencies and capital needs.

All local governments have an undesignated surplus to meet unanticipated needs and stabilize the mill rate in tight economic times.

In Cumberland County the average municipality has a fund balance equal to 31% of their annual tax assessment. County government in Maine was permitted under statute to retain an undesignated fund balance of only 10% until last session when the State and Local Government Committee supported raising this limit to 20% in several steps.

This increase was in recognition of the increasing need of Maine's counties to meet the fiscal demands of operating county jails, providing law enforcement services in the rural communities, and advance the technology in the county registries.

The undesignated surplus in Cumberland County is funded by NON-TAX dollars. Surplus funds have come from higher than anticipated revenues from the county jail, Registry of Deeds and Registry of Probate.

LD 1942 would :

- ◆ Force the county to raise taxes to meet capital needs.
- ◆ Leave the county without an adequate "rainy day" fund.
- ◆ Single out Cumberland County for unfair treatment.

We urge the county delegation to OPPOSE LD 1942 in the State and Local Government Committee

The County of Cumberland is committed to providing quality services to all citizens equitably, in a responsive and caring manner.

COMMISSIONERS' MEETING

MINUTES

January 14, 2002

The Board of Cumberland County Commissioners, Esther B. Clenott, Gary E. Plummer, and Richard J. Feeney, convened a meeting in Courtroom 1 on the above date.

Commissioner Clenott called the meeting to order at 7:00 PM and the following business was conducted.

Commissioner Clenott opened the floor to nominations for Chairperson for 2002, thanking her fellow Commissioners for their support during a very interesting and challenging year as Chairperson in 2001. Motion by Commissioner Clenott to nominate Gary Plummer as Chairperson, second by Commissioner Feeney, so voted. Chairperson Plummer thanked them for their confidence and support, and stated that he looked forward to a similarly interesting and challenging year ahead.

Minutes of the regular meeting of December 17 and special meetings of December 17, 18 and 27, 2001 approved as written.

Peter Crichton, County Manager, expressed his appreciation for Commissioner Clenott's leadership during the past year. He noted that Bob Devlin, Deputy County Manager, was absent and attending a meeting in South Portland regarding legislative issues. He reported that he; Mr. Devlin; Vic Labrecque, Director of Budget & Planning; Commissioner Clenott; Tom Bartell and Ned Kitchel of the Budget Advisory Committee; Jack O'Brien, Register of Deeds; and Herb Adams, Register of Probate had attended a legislative hearing held earlier in Augusta to express their opposition to proposed legislation regarding Cumberland County. He also reported that he; Major Jeffery Newton, Jail Administrator; Commissioner Clenott; Mr. Labrecque and Mr. Devlin had attended a joint MMA/MCCA sponsored legislative meeting in Augusta last week regarding municipal and county issues.

Commissioner Clenott noted that she was very encouraged by the discussions of last week regarding municipal and county issues, and noted their appearance at the hearing of the State and local Government Committee meeting today to protest legislation which would prevent Cumberland County from increasing their allowed surplus to the same level as the other 15 counties in Maine. She also noted that they would be meeting with municipal officials on January 30 to discuss patrol overtime and the level of patrol services.

Commissioner Feeney noted the recent Portland Press Herald articles in support of Cumberland County Government, and stated that he felt that the Commissioners were doing a good job of

juggling many issues by working together as a team.

02-01 Authorization, Elevator Repair, Facilities

Bruce Tarbox, Facilities Manager, reported that the passenger elevator in the old section of the Courthouse required a fire service upgrade, which is needed for the 2002 State Elevator Inspection. The project would require substantial rewiring of the Otis Elevator equipment that is currently in place, and an order placed for a new fire service panel for the exact specifications of this elevator. He noted that Otis Elevator had done all the work on this elevator in the past, the County currently has a maintenance contract with them, and using Otis Elevator would avoid any confusion in the future over who has done any work on the elevator and who is responsible. The completed work would then also be covered under the maintenance agreement. He requested permission to use Otis Elevator as a "sole source", at a cost of \$12,650 for the code upgrade work. He noted that \$13,000 had been set aside in the FY2002 CIP for this project. Mr. Crichton concurred with the recommendation.

Motion by Commissioner Clenott to approve a contract with Otis Elevator to perform the needed code upgrades, at a cost of \$12,650 to be funded from the FY2002 CIP, noting that the reason for sole source was very satisfactory. Second by Commissioner Feeney, so voted.

02-02 Appointments, Civic Center Board of Trustees

Motion by Commissioner Clenott to appoint Ellyne Fleshner of Portland to complete the remaining two years of a vacated term for District #1; Neal Pratt of Scarborough to a three-year term for District #3; Re-appoint Thomas Bartell of Windham to a second three-year term for District #4; and re-appoint Anthony McDonald to a second three-year term for the At Large District. Second by Commissioner Feeney, so voted. The Commissioners noted the many qualified applicants this year, and the difficult decision they had in making the appointments.

02-03 Approval, Salary and Benefit Adjustment for County Manager

Commissioner Clenott praised the County Manager for his strides the past year, his efforts to promote regional cooperation, and his eloquent speech before legislators in Augusta earlier in the day. Chairperson Plummer reported that they had done a survey of municipalities around the State to compare salaries. Commissioner Feeney noted the many late hours the Manager works, and his dedication to Cumberland County Government.

Motion by Commissioner Clenott to set the Manager's salary for FY2002 at \$80,000 and to provide him with the use of a

vehicle. Second by Commissioner Feeney, so voted.

02-04 Approval, IRS Mileage Allowance Increase

Vic Labrecque, Director of Budget & Planning, reported that the IRS had increased the mileage allowance for 2002 to 36.5 cents per mile, up from 34.5 cents per mile in 2001. The County has traditionally allowed the employees traveling on County business the full IRS mileage allowance, and recommended the Commissioners approve the increase. He noted that the fiscal impact on each department's travel budget would be minimal. Mr. Crichton concurred with the recommendation.

Motion by Commissioner Feeney to increase mileage allowance to 36.5 cents per mile. Second by Commissioner Clenott, so voted. Chairperson Plummer noted that he did so reluctantly, and questioned the need to increase the amount just because we have historically allowed the maximum to be taken.

02-05 Authorization, Fees to Conduct Polygraphs for Outside Agencies

Richard Gagliano, Chief Deputy, reported that Detective Gerard Brady completed polygraph training in 2001. He now performs the pre-employment polygraphs for the Sheriff's Office, for which the County previously paid between \$200 and \$240 per exam. Currently, the Sheriff's Office receives requests for Detective Brady's services from other agencies, which are granted at no charge if he is free to do the polygraph exams. He recommended that the Sheriff's Office be allowed to charge \$125 per exam for pre-employment polygraphs performed for outside agencies by Detective Brady. The funds could be put into a dedicated account to be used for additional polygraph training and polygraph equipment upgrades, which would recoup some of our costs and alleviate funding in the budget currently used for this purpose.

Discussion ensued on the length of the tests, the use of a dedicated account, and the estimated costs and revenues regarding the polygraph exams performed for other agencies. Chairperson Plummer received clarification that this would not prevent Detective Brady from performing his duties, but would be a supplement to his duties. Chief Deputy Gagliano noted that the charge would only be for pre-employment polygraph exams, not criminal investigations. Mr. Crichton concurred with the recommendation to charge \$125 per pre-employment exam performed for an outside agency by Detective Brady.

Motion by Commissioner Feeney to authorize a fee of \$125 per polygraph exam for outside agencies, to create a dedicated account to be used for future training and equipment upgrades, and the Commissioners and County Manager are to receive a comprehensive review and report of the actual costs and revenues in six months. Second by Commissioner Clenott, so voted.

02-06 Authorization, Signature Requirements for SMRT Release

Chairperson Plummer reported that the release was regarding work done on the roof of the Pre-Release Center at the County Jail. The company that made the roofing tiles used on the roof has gone out of business. SMRT Inc., architects on the project, has agreed to pay Cumberland County \$9,300 upon receipt of the signed release, as a good will gesture to assist in replacement tile costs.

Motion by Commissioner Clenott to authorize the Chairperson to sign the release, and to accept \$9,300 from SMRT Inc. Second by Commissioner Feeney, so voted.

02-07 Bid Report, Vehicles, CCSO

Captain Kevin Joyce reported that a bid request had been issued by the Sheriff's Office for nine 2002 Ford Crown Victoria Interceptor police vehicles, and two bids had been received:

Augusta Ford	\$20,800 per vehicle
Casco Bay Ford	\$20,300 per vehicle

He reported that four vehicles were included in the Sheriff's budget; three were included in the CIP; and two were included in current police contracts for Standish and Harpswell. The Sheriff's Office recommended the low bid, and Mr. Crichton concurred with the recommendation.

Motion by Commissioner Feeney to award the bid to the low bidder, Casco Bay Ford, for a total of \$182,700 for nine vehicles at \$20,300 each. Second by Commissioner Clenott, so voted.

02-08 Request for Deputy Sheriff Commissions

The following request for deputy sheriff commissions was received from Sheriff Mark Dion: Edward Tolan, Falmouth PD; James Ambrose, Scott Jordan, Gary Punskey, Scott Secord, Ronald Shepard, and Alfred Winslow, CCSO; Susan Nourse and Michael Whitehouse, Freeport PD; Wayne Coffin, Wayne Drown, Lawrence Fearson, John Reed, and Christopher Sanborn, Gorham PD. So approved on the motion of Commissioner Feeney and the second of Commissioner Clenott.

No further business conducted; motion to adjourn at 7:52 PM.

ATTEST:



Timothy J. Jarvis
Deputy Clerk

Next regular meeting: Monday, January 28, 2002 at 7:00 PM.



TO: All Towns and Cities in Cumberland County

FROM: Steve Crane, General Manager

DATE: January 22, 2002

RE: Updated Board of Trustees List

Enclosed you will find an updated list of the Civic Center Board of Trustees. The list includes the district each member represents and a phone number where they can be reached with questions. A list of committee assignments is also included.

The Board of Trustees meets at the Civic Center the third Wednesday of each month at 8:00AM. We welcome anyone interested in attending these meetings.

SWC/ap

Cumberland County Civic Center

Civic Center Trustees

Name	Trustee District	Term Expires
Ellyne Fleshner Portland Bus. # 828-2063	District #1 – Portland	1 st Term 12/31/2003
Richard Ranaghan Jr. Portland Bus. # 761-8573	District #1 – Portland	1 st Term 12/31/2002
Jerre Bryant South Portland Bus. # 828-2060 Vice Chair	District #2 – South Portland, Cape Elizabeth	2 nd Term 12/31/2003
Neal Pratt Scarborough Bus. # 774-4000	District #3 – Falmouth, Scarborough, Westbrook	1 st Term 12/31/2004
Thomas Bartell Windham Bus. # 874-1140 Treasurer	District #4 – Gorham, Windham, Standish, Baldwin, Sebago	2 nd Term 12/31/2004
Dale Olmstead Jr. Freeport Bus. # 865-4743 Asst. Treasurer	District #5 – Pownal, Brunswick, Freeport, Harpswell, New Gloucester	2 nd Term 12/31/2003
William Whitten Yarmouth Bus. # 775-2224	District #6 – Yarmouth, Cumberland, North Yarmouth, Gray, Raymond, Casco, Naples, Harrison, Bridgton	1 st Term 12/31/2002
C. Anthony McDonald Freeport Bus. # 772-1333 Clerk	At Large	2 nd Term 12/31/2004
Linda Cohen South Portland Bus. # 874-8481 Chair	At Large	2 nd Term 12/31/2002



**CUMBERLAND COUNTY CIVIC CENTER
2002 COMMITTEE ASSIGNMENTS**

EXECUTIVE

Linda Cohen, Chair
Jerre Bryant, Vice Chair
Tom Bartell, Treasurer
Dale Olmstead, Asst. Treasurer
Tony McDonald, Clerk

LONG-RANGE PLANNING

Tony McDonald, Chair
Jerre Bryant
Bill Whitten
Ellyne Fleshner

MARKETING

Bill Whitten, Chair
Tony McDonald
Ellyne Fleshner

SPORTS

Dale Olmstead, Chair
Tom Bartell
Dick Ranaghan
Neal Pratt

FINANCE

Tom Bartell, Chair
Dale Olmstead
Dick Ranaghan
Neal Pratt

PERSONNEL

(Executive Committee)



ANGUS S. KING, JR.
GOVERNOR

STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0038

EVAN D. RICHERT, AICP
DIRECTOR

January 15, 2002

RE: Statewide contract approved for Universal Waste collection and recycling services

To all Public Officials and Employees:

All of us, state and municipal officials alike, are at the start of the process wherein we now must manage potentially hazardous unwanted items differently than we have in the past. These potentially hazardous items are known as Universal Wastes because they are hazardous wastes generated by all of us in our homes and places of work.

As part of its responsibility to assist the public sector with the recycling of Universal Wastes, the Maine State Planning Office has entered into a statewide service contract on behalf of eligible users for the collection, transportation, and recycling of certain cathode ray tube containing devices (CRTs). The Office conducted a bid process, with qualified vendors, for this service and a contract has been awarded to ElectroniCycle of Gardiner, MA. They shall supply all personnel, equipment and related services necessary to fulfill this contract.

The Office is currently reviewing bids received for a possible statewide contract for the proper management of all other Universal Wastes, including mercury-added products and fluorescent tubes. We intend to announce the result of this process before the end of January 2002.

In addition to this letter and its attachments, we have posted this information to our website including a summary of and the entire contract. If you wish to receive a hard copy of the entire contract, please contact Sam Morris at the address provided in the attachments.

As stated above, we are at the start of this process. Should you encounter difficulty with this system or if you have questions and concerns on the contract, please do not hesitate to contact us.

Sincerely,

George MacDonald
Program Manager
Waste Management and Recycling

Attachments



PRINTED ON RECYCLED PAPER

OFFICES LOCATED AT: 184 STATE STREET
Internet: www.state.me.us/spo

PHONE: (207) 287-3261

FAX: (207) 287-6489

A REVIEW OF THE CONTRACT AND HOW TO ACCESS IT

What is this contract for?

The Office has developed this contract in order to set a fixed price for these services that is attractive for its intended users, and that simplifies the contractor's efforts to provide these services.

The Office anticipates that the contract will allow agencies and other eligible users ready and easy access to recycling services for these universal wastes without having to seek these services on their own, and without having to design repetitive sets of specifications and requirements.

Who can use the contract?

This contract is available for the use by all governmental entities within the State of Maine, including: state agencies, departments, and authorities, municipalities, counties, and their departments, quasi municipal corporations, associations and commissions, solid waste disposal districts, and other service districts, and public primary and secondary schools.

Who pays for services provided under this contract?

Material management services provided under this contract shall be billed to and paid for by the Eligible User, i.e., the governmental entity hiring ElectroniCycle.

What items are covered under this contract?

Universal wastes covered by this contract include: devices that contain cathode ray tubes (CRTS) as found in television sets and computer monitors, as well as computer peripherals including central processing units (CPUs), keyboard, mouse, speakers, printers, scanners, etc.

ElectroniCycle will collect and provide for the processing of intact units generated by eligible users.

How long does the statewide contract last?

This contract shall be for twelve months, starting January 8, 2002, with the State of Maine retaining the option to renew the contract up to four times, with each renewal being twelve months.

Am I obligated to use this contract?

No. This is a nonexclusive contract. Eligible users may choose some other means to properly manage the Universal Waste items listed. The State of Maine has made no guarantee that any commodities or services would be purchased from this contract.

How does it work?

When you have sufficient materials to ship, which is either six (6) gaylords or once a year collection from your facility, you need to contact ElectroniCycle to generate a work order that sets up a date, time and place of the pick up. Once the items are removed from your location, they become the property of ElectroniCycle. They will provide you with certification and supporting documentation that all materials collected from your facility have been processed and recycled.

PRICING INFORMATION
{prices effective 1/8/2002 through 1/7/2003}

ALL PRICES INCLUDE PACKAGING, TRANSPORTATION, COLLECTION AND RECYCLING SERVICES		
FOR THE FOLLOWING ITEMS:	<u>UNIT</u>	<u>PRICE</u>
COMPUTER EQUIPMENT AND CRTs	pound	.21
Minimum order shall be 6 Gaylords of material or once a year (storage time limit)		
LOADS DELIVERED TO THE PROVIDER'S LOCATION BY ELIGIBLE ENTITY	pound	.15
FULL TRAILER LOADS ASSORTED ITEMS FROM SINGLE LOCATION	pound	.20
ADDITIONAL PICK UP TIME SPENT AT THE FACILITY TO BE BILLED AT A RATE OF	30 MIN. @	\$30.00
SHORT NOTICE OR EMERGENCY PICKUP TIME TO BE BILLED AT A RATE OF	1 HOUR@	\$75.00
The Provider has the right to refuse acceptance of any shipment of waste material that does not conform to the description provided by the entity ordering the service or if the waste materials do not meet the Provider's permit requirements.		

The Provider may offer additional services to any eligible user of the Contract such as but not limited to the collection, transport, and recycling of additional used unwanted electronic devices and alternative methods of consolidation and collection. All such additional services must conform to all applicable Maine statutes and regulations for recycling, solid waste, and universal wastes.

Emailed to
Council 2-4-02

**Town of Cumberland
Planning Board Meeting**

**February 5, 2002
Council Chambers of the Town Offices
290 Tuttle Road, Cumberland Center
7:00 PM**

**The Planning Board will hold a workshop on Tuesday,
February 5 at 7:00 p.m. in the Council Chambers of the Town
Offices, to discuss site planning issues for the new MSAD #51
middle school.**

Emailed
to
Council 2.4.02

**Town of Cumberland
Planning Board Meeting**

On Tuesday, February 19, 2002 at the Council Chambers of the Town Offices, 290 Tuttle Road, Cumberland Center, 7 pm, the Cumberland Planning Board will hold the following public hearings:

Public Hearing—To consider recommending to the Town Council a text amendment to Section 206 of the Zoning Ordinance of the Town of Cumberland, to Section 4 of the Subdivision Ordinance of the Town of Cumberland, and to Section 1 of the Cumberland Planning Board Administrative Procedures for Meetings. These amendments would change the application deadline for all Planning Board hearings from 14 days in advance of the hearing to 21 days in advance of the hearing, and would change the required number of copies of an application to be submitted from ten copies to fifteen copies. These proposed amendments are available for public review at the Town Offices.

Public Hearing—To consider recommending to the Town Council that a Fairground Overlay District be adopted for the Cumberland Fairgrounds in Cumberland. The purpose of the overlay district is to allow as permitted uses a diverse range of exhibitions, shows, fairs, entertainment programs, and similar events, of the type commonly and historically associated with the Cumberland Fairgrounds. This proposed overlay district is available for public review at the Town Offices.

Ad to run 2X on 2/05/02 and 2/11/02. Purchase Order # 5920T, any questions call Pam Bosarge at 829-2206.

BOARD OF ADJUSTMENT AND APPEALS

Municipal Center Council Chambers

290 Tuttle Road

Cumberland Maine 04021

(207) 829-2207

Public Hearing

Thursday, February 14, 2002

7:30 PM

David J. Small requests special exceptions for an accessory apartment and a home occupation with sign at 34 Maurice Way on Map R4B Lot 4 in the Rural Residential 1 (RR1) District.

Gerard Grondin requests reconsideration of denial for a variance of six (6) feet from the thirty (30) foot side setback requirement for an existing house at Sturdivant Island on Map I8 Lot 7 in the Island Residential/Limited Residential (IR/LR) District.

Frederick and Darleen Jensen request a special exception to construct seven (7) additional bedrooms and a variance of forty-five (45) feet from the seventy-five (75) foot side setback requirement for an addition to a residential care facility at 92 U.S. Route One on Map R1 Lot 13A in the Low Density Residential (LDR) District.

Michael J. Gartland requests variances of 10 feet from the 50 foot front setback requirement and 1 foot from the 30 foot side setback requirement for a garage addition at 244 Foreside Road on Map R2A Lot 7 in the Low Density Residential (LDR) District.

Charles H. Mitchell requests a special exception for a doctor's office home occupation at 49 Bruce Hill Road on Map R5 Lot 37 in the Rural Residential 2 (RR2) District.

ANYONE WISHING TO BE HEARD ON ANY MATTER CONCERNING THE ABOVE
REQUEST SHOULD BE PRESENT

George Turner, Chair

*Emailed to Council
2-4-02*

Emailed to
Council
2-4-02

**Planning Board Meeting
Council Chambers of the Town Offices
290 Tuttle Road, Cumberland Center
Tuesday, November 20, 2001
7:00 PM**

A. Call to order

The meeting was called to order at 7:00 p.m.

B. Roll Call

Present: Phil Hunt, Martha Porch, Stephen Sloan, Joseph Taylor, Terry Turner, Beth Howe

Absent: Tom Powers

Staff: Andy Fillmore, Town Planner, Pam Bosarge, Clerk

C. Minutes of Prior Meetings

Ms. Howe moved to approve the minutes of October 16, 2001 as presented.

Ms. Porch seconded.

VOTE: Unanimous

D. Consent Calendar

There were no consent calendar items.

E. Hearings and Presentations

1. Public Hearing – To consider amending a previous site plan approval to allow an auto mechanic operation at 7 Corey Road, Tax Assessor Map U07, Lot 3C, Highway Commercial Zone, William Ward, owner. This request was tabled at the Planning Board's October, 2001 hearing, pending a site walk and additional information.

Mr. Hunt stated the Board had done a site walk at the property. There has been an environmental assessment report presented to the board. The proposed use is an allowable use. The Code Enforcement Officer requested evidence of pumping of the septic tank, which has been provided.

Mr. Fillmore presented the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT

1. Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained

and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

From the perspective of this section the proposed amendment does not change the utilization of the site

Based on these facts the standards of this section have been met.

2. Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

The site has safe and ample vehicular access and parking for its use.

Based on these facts the standards of this section have been met.

3. Accessway Location and Spacing

Access must meet the specific ordinance requirements.

The site's private Accessway location is 50 feet away from the nearest unsignalized intersection.

Based on these facts the standards of this section have been met.

4. Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

The site features ample and safe internal circulation.

Based on these facts the standards of this section have been met.

5. Parking Layout and Design

Off street parking must conform to the specific standards.

The site features more than enough parking area, and these areas meet the lot line setbacks.

6. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

Pedestrian circulation will not be affected by this proposal.

Based on these facts the standards of this section have been met.

7. Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

Stormwater management will not be affected by this proposal.

Based on these facts the standards of this section have been met.

8. Erosion Control

1. All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

2. Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control

Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

Erosion control will not be affected by this proposal.

Based on these facts the standards of this section have been met.

9. Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

Water supply will not be affected by this proposal.

Based on these facts the standards of this section have been met.

10. Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

The site features a septic holding tank. The applicant has provided the required information regarding pumping.

Based on these facts the standards of this section have been met.

11. Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

Utilities will not be affected by this proposal.

Based on these facts the standards of this section have been met.

12. Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

The applicant's tenant has described how all hazardous materials are fully recycled or safely disposed of off-site

Based on these facts the standards of this section have been met.

13. Water Quality Protection

All aspects of the project must be designed so that:

.1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

.2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

The applicant's tenant has described how all hazardous materials are fully recycled or safely disposed of off-site

Based on these facts the standards of this section have been met.

14. Capacity of the Applicant

The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

The capacity of the applicant is not a factor as the use is in operation, and has been for several years.

Based on these facts the standards of this section have been met.

15. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

This standard does not apply to the application.

16. Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

Based on Flood Insurance Rate Map #230162 0015 B, dated May 19, 1981, the project area is not in a flood zone.

Based on these facts the standards of this section have been met.

17. Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

No change in lighting is proposed as part of this amendment.

Based on these facts the standards of this section have been met.

18. Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

The site features appropriate buffering, and is not affected by the proposed amendment.

Based on these facts the standards of this section have been met.

19. Noise

The development must control noise levels such that it will not create a nuisance for neighboring properties.

It is not anticipated that the proposed amendment will result in additional noise.

Based on these facts the standards of this section have been met.

20. Storage of Materials

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

3. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

The applicant has explained that used tires are removed from the site on a monthly basis, and that junk cars are not stored on the site. Also, all hazardous materials are either recycled or disposed of off-site.

Based on these facts the standards of this section have been met.

21. Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

No landscaping is proposed as part of this amendment.

Based on these facts the standards of this section have been met.

22. Building and Parking Placement

1. The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

2. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

The standards of this section do not apply to the application.

Based on these facts the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is located in the Aquifer Protection district. Due to the small size of the project and its intended use, no positive finding by the board is required.

The Public portion of the meeting was opened. There were no public comments.

Ms. Porch clarified that the Board was reviewing only the auto mechanic portion of the owner's request. She stated the environmental impact report recommended that the floor drain be plugged.

Mr. Ward, applicant stated the floor drain had been plugged.

Ms. Porch asked about the landscaping plan.

Mr. Fillmore stated the landscaping review would be deferred until the Board received the expansion request.

Mr. Turner moved to approve the proposed findings of fact.

Mr. Taylor seconded.

VOTE: Unanimous

Proposed Conditions of Approval

1. Liquid waste in 5-gallon buckets that are stored outside of the property should be removed and disposed of properly. There will be no outside storage of waste materials.
2. There is to be no outside washing of vehicles with solvents and chemicals.
3. The floor drain is to remain plugged.
4. There is to be no storage of junk vehicles on the property.
5. Inside materials be stored in accordance with the Phase I Environmental Assessment prepared by Acadia Environmental Technology, dated July 3, 2001.

Standard Conditions of Approval

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner, which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

Ms. Porch moved to approve the proposed conditions of approval.

Mr. Turner seconded.

VOTE: Unanimous

Mr. Turner moved to amend a previous site plan approval to allow an auto mechanic operation at 7 Corey Road, Tax Assessor Map U07, Lot 3C, Highway Commercial Zone, William Ward, owner. The approval is conditioned with the proposed conditions and standard conditions of approval.

Ms. Howe seconded.

VOTE: Unanimous

2. Public Hearing – To consider recommending to the Town Council a zoning text change to Section 204.8 of the Zoning Ordinance of the Town of Cumberland to allow the following uses in the southern Office Commercial district: Single-family, duplex and multiplex dwellings on 10,000 square foot lots with 75 feet of frontage, for persons 55 years of age and older, and; Communication towers in accordance with Section 433 as a Special Exception use.

Mr. Hunt presented background information as follows: At the October 16, 2001 Planning Board Hearing, the Board heard proposed amendments to the Office Commercial District that would allow single-family detached housing for persons fifty-five years of age and older in the southern OC district. At that time the board expressed its support for the intent of the amendments, and expressed its general support of Peter Kennedy's proposed development in the area. However, the Board had some concerns with the proposed language of the amendments. The request was tabled pending a rewrite of the amendments. Specifically the Board requested that the amendments clarify that:

Only age-restricted single-family, duplex and multiplex residential units be allowed in the southern OC, and further that these units be granted a density bonus (10,000 s.f. lots rather than 20,000 s.f. lots for non age-restricted lots).

Commercial uses shall be developed along the Route One frontage, thereby preserving the intent of the OC zone.

Developers shall be required to provide public amenities for residents of any proposed residential development.

Mr. Fillmore presented background information as follows:

The Town's attorney, Ken Cole, has advised the Planning Department that the Zoning Ordinance is not the correct vehicle for requiring builder-provided amenities. He states, *"The zoning ordinance cannot authorize a planning board or a zoning board of appeals to establish new standards as part of its review of a project,"* and recommends that such requirements be added to the Subdivision Ordinance for enforcement at Subdivision Review. At this time the proposed amendments still feature language that requires builder-provided amenities, as the Planning Board requested. The Board is certainly within its rights to recommend such language to the Town Council, however it is likely that the Council will strike that language on legal grounds, per Mr. Cole's advice. In addition to the amendments requested by the Planning Board, Mr. Kennedy has requested that three other changes be added. These are:

1. That communication Towers be added to the southern OC zone as a Special Exception Use, in accordance with Section 433, page 152. This would also require the addition of the southern OC zone to the list of zones that permit towers as described in Section 433.4(a), page 155. Ken Cole sees no barrier to allowing this.
2. That the minimum frontage for 10,000 s.f. age-restricted residential lots be reduced from 150 ft. to 75 ft. Frontage for commercial lots shall remain at 150 ft.
3. That the side and rear building setbacks for 10,000 s.f. age-restricted residential lots be reduced 15 ft. and 20 ft. respectively (from 20 ft. and 65 ft.). The front setback shall remain at 25 ft.

The Planning Department has reviewed both the Planning Board's, and Mr. Kennedy's proposed amendments with the Code Enforcement Officer, the Town Manager, and the Town's attorney, and all parties are in support of them.

With a favorable recommendation from the Planning Board, the Town Council is prepared to consider the amendments for adoption at their meeting on 10 December 2001.

Mr. Hunt stated he agreed with Mr. Cole, but thinks perhaps there should be a definition of minimum standards.

Ms. Porch asked if amenities would be reviewed in site plan review. She stated she did not feel comfortable sending the amendment to Council without a provision for amenities. She asked if there were model ordinances or performance standards to deal with Senior Housing Projects.

Mr. Fillmore stated they do exist, but generally are drafted by a consultant hired by the developer.

Ms. Porch stated she felt very strongly about the issue of amenities, but the Planning Board could not send language that could be determined illegal. There are two developers who want to build senior housing, and perhaps a moratorium should be enacted to give the Planning Board time to draft accurate language.

Mr. Turner stated he did not want to require amenities such as swimming pools, clubhouses etc. requiring amenities would generate an on-going cost to tenants.

Ms. Porch disagreed and said she had contacted many Senior Centers, which have rental units and found that many had on-site managers, all of the centers that had clubhouses stated they were used daily as a part of the social life of the community.

Mr. Turner stated there are churches, and schools in the community with rooms available.

Ms. Porch stated many of the residents didn't have vehicles, some of the residents were from 75 to 90 years of age, and the community center was used daily.

Mr. Turner asked if there was going to be a list of proposed amenities for seniors. He didn't agree that the Planning Board should determine amenities for seniors.

Mr. Hunt asked Ms. Porch if she felt it were mandatory for any senior housing project to contain a public meeting area.

Ms. Porch stated that was correct.

Mr. Hunt asked if she would insist upon a public meeting area for any project.

Ms. Porch stated yes, with no exceptions.

Mr. Hunt asked if there were any other items that would need to be included.

Ms. Porch stated it would be necessary to have good-lighted walkways, easy access for visits among the units.

Mr. Hunt asked if an on-site residential manager was necessary.

Ms. Porch stated about 50 percent of the facilities she surveyed had on site managers, which would be her preference.

Mr. Turner stated that an on site manager would be a business decision, and not for the Town to determine.

Mr. Hunt asked Ms. Porch what other items she felt ought to be provided.

Ms. Porch stated a clubhouse was the only mandatory requirement. The barest minimum that a complex should have is a public meeting area.

Ms. Howe stated the central difference in housing for people over 55 years of age is that more of the people are likely to be retired, in that respect they spend more time at home, than working people. In the sense that they are home more it is important to think of the activities that older people engage in. Obviously as they get significantly older they may less able to climb stairs, and need additional railings. She would like to see things such as lots with garden spots for community vegetable gardens and walking trails. Thornton Oaks in Brunswick has walking trails with exercise stations.

Ms. Porch stated that in her research the added expense to a Town would be increased rescue calls.

Ms. Howe stated the average age of people moving into senior complexes would be closer to 55 years than 85, people will age there

Ms. Porch stated she thought the average age moving into a senior unit was closer to 65 years.

Mr. Taylor stated he was uncomfortable with unfunded mandates, or dictating market conditions. There is a potential for two developments and price and amenities will determine desirability to the person paying the cost to reside in the community.

Mr. Sloan agreed with Mr. Taylor and Mr. Turner that the town should not mandate what developers provide for amenities.

Mr. Hunt stated, speaking for Ms. Porch, the reason senior projects were allowed and encouraged was because the Comprehensive Plan stated the need to promote housing for older citizens. The first phase of Cumberland Meadows has been very successful, and has demonstrated the demand for senior housing in the community. The town is looking for a quality project, developers are given the density bonus to encourage senior projects. He would prefer to address this project with a contract zoning approach. Which would allow the Town Council to address issues such as design. He agreed with Ken Cole's decision, and would be reluctant to micro-manage in advance what a senior project should be. A project should however, have sensitivity to senior needs.

Ms. Howe stated the by adopting these zoning regulations the Town is providing a considerable subsidy to developers of senior projects, and has the right expect good projects in return.

Ms. Porch stated units should be equipped with safety features, no steep slopes and at a minimum a clubhouse.

Mr. Turner agreed safety issues should be addressed, he didn't think the presence of absence of a clubhouse would determine the quality of the project.

Mr. Hunt asked about the Board's opinion of communication towers being allowed in the office commercial zone.

Ms. Howe stated she was uncomfortable considering a zoning change for one person. She would prefer to see the two OC zones the same.

Mr. Turner stated he preferred to use contract zoning for the parcel. He felt the wording of whenever possible to reserve land adjacent to Route One to be vague.

Mr. Fillmore stated the Town Council had considered contract zoning, but had requested the Planning Board consider a zoning amendment. The town seems to be hospitable to communication towers in the southern office commercial, nestled between two highways, he didn't think the communication tower would stall the process.

Mr. Hunt asked what was the difference between an antenna and a communication tower.

Mr. Fillmore stated an antenna could be on an existing structure. The terms are defined in the ordinance.

Mr. Sloan agreed there were places on Route 88 where there was no cell phone coverage, and either Mr. Kennedy or another developer would propose the issue.

Mr. Taylor stated he was not concerned with the tower, he asked for clarification on the reduced setbacks for 10,000 square foot lots. The setbacks would be changed from rear 65 feet to rear 20 feet; and side from 20 feet to 15 feet.

**The public portion of the meeting was opened. There were no public comments.
The public portion of the meeting was closed.**

Mr. Kennedy, applicant stated the only place on the site that would accommodate a proposed tower is next to the quarry.

Mr. Hunt asked if the location shown on the conceptual plan would work.

Mr. Kennedy stated that location does not work. There are two tower companies studying to see if a tower can reach Route 88. The ideal place is on top of the Cousin's Island power plant. On the amenities he agreed and would be happy to come up with a list of provided amenities.

Mr. Turner asked about the development and what phases would be built first.

Mr. Kennedy stated he has a great interest in building the residential component, but not the commercial. He has contacted several people regarding office buildings or light manufacturing for the commercial lots on Route One.

Mr. Turner asked if the site plan for the entire development would be reviewed at one time.

Mr. Kennedy stated he did not know what the mix would be, the commercial would be pretty cut and dry. It's the mix as to whether the housing becomes multiplex, duplex or single family detached. He is waiting for a 2-foot topography study to aid in planning roads.

Mr. Turner asked that if the zoning change were approved would Mr. Kennedy be ready to start a subdivision process for part of the site.

Mr. Kennedy stated yes, he has ordered the engineering from Pinkham and Greer and Owen Haskell is completing the surveying and topography study. The wetlands were re-done this past week. He is almost ready to put the entire package together for site plan review.

Mr. Turner asked if his package would include the residential and commercial aspects, and not the age restricted condos.

Mr. Kennedy stated that was correct.

Mr. Turner stated if contract zoning were used you could potentially come up with a master plan with the exception of the land reserved for the condominiums.

Mr. Kennedy stated he thought that was correct. However, he said requires a concrete plan for the entire use, with no flexibility to change with market trends. Mr. Kennedy stated condominiums cannot be changed, once the project is started it must be finished. He has no interest in building the condominiums.

Mr. Turner stated the contract zone could have the area for condominiums reserved and the actual layout could be presented at a later date.

Mr. Hunt asked if there was a building code applicable to structures for older citizens, such as door sizes, windows, ramps, handrails, grab bars, heights for cabinets etc.

Mr. Fillmore stated the 1993 Boca Code states the ADA (Americans with Disability Act) guidelines. In a project for senior housing a developer would be required to develop a certain percent of units to comply with the ADA guidelines, complete with ramps, grab bars etc.

Mr. Hunt asked if there was an existing code that could be adopted as a condition for these projects.

Mr. Fillmore stated yes.

Mr. Hunt stated a senior housing project would be required to conform to the ADA guidelines. He would like to see both of the districts treated the same with any changes made be applicable to the entire Office Commercial district. That the request for public amenities in the zoning amendment cannot stand as it has been proposed. He would like to see a standard that states all structures built for persons 55 years of age or older conform with the appropriate BOCA code. As a fifth condition he has no problem with the proposed reduced setbacks as long as the fire chief states that he can get between buildings, and the setbacks would not restrict him from getting fire and safety apparatus where needed, without any undue risks. He had no concerns regarding the back setbacks. No problem with the communication tower this is a commercial district, but should be treated equally in both districts.

Ms. Howe stated in relation to worries about communication towers, if there is currently one at Cole Hahn that would alleviate the concerns of an additional one being installed in the Northern Office Commercial.

Mr. Turner asked if he were proposing a change at a subsequent date, with a public hearing for changes to both zones.

Ms. Porch agreed, but stated the amenities issue was still not addressed. Mr. Kennedy stated he would do his part, but would Mr. Guidi do his part.

Mr. Guidi stated yes, and he would like to see both of the zones the same.

Mr. Turner asked if the language of lands adjacent to Route One whenever feasible was adequate.

Mr. Hunt stated if you go with a set distance of 250 feet of Route One it may unduly restrict the ability to design a project.

Mr. Turner agreed a line of demarcation would be difficult.

Mr. Turner stated vague language would give the Planning Board less latitude.

Mr. Hunt stated given the time constraints he stated the Board would need to hold an interim Planning Board meeting. The proposed amendments would be for age restrictions in both zones, adding the condition of the BOCA code. The Board voted to have a special Planning Board meeting on December 4, 2001 at 7:00 p.m.

Ms. Porch moved to table the request to consider recommendation to the Town Council for the amendments to the Office Commercial district.

Mr. Turner seconded.

VOTE: Unanimous

3. Pre-Application Conference – To hear preliminary details of a proposed 3-lot subdivision at 45 Longwoods Road, Tax Assessor Map R03, Lot 15, RR1m zone, Richard Meoli, owner, Michael Creamer, Preferred Homebuilders, applicant.

The applicant was not present.

Ms. Porch moved to table the request until the next regularly scheduled Planning Board meeting.

Mr. Turner seconded.

VOTE: Unanimous

4. Public Hearing – Preliminary Major Subdivision Review of 70 units of senior housing on Lots 11, 12, 13, 14 and 15 of the Cumberland Business Park, Route One, Tax Assessor Map R02D, Lot 1A, DST Realty owner, Scott Decker, SYTDesign applicant. The Planning Board tabled the request for approval at the January 2001 meeting, pending plan amendments by the applicant.

Mr. Fillmore presented background information as follows: The applicant currently has an open application before the planning board. This application was most recently before the Board at their 16 January 2001 hearing. At that time the Board tabled the request for Subdivision Review, and directed the applicant to make several modifications to the plan. The applicant is now before the Board and has addressed the comments the Board made.

PROJECT DESCRIPTION:

Applicant:	DST Realty (Jim Guidi), Scott Decker of SYTDesign representing.
Location:	Lots 11, 12, 13, 14 & 15 of Cumberland Business Park, Route One, Cumberland Maine.
Zoning:	Office Commercial
Project:	70 +/- units of duplex and multiplex housing, restricted to persons 55 years of age and older.
Setbacks:	Setbacks established at 1995 Cumberland Business Park Subdivision. The applicant is proposing to encroach upon the setback on Road 'C' by approximately 200', as depicted in the November '01 site plan, attached. The applicant has met with the abutters and they have agreed to his proposal. Their agreement is expressed in a letter written by Mr. Field Griffith, attached as "Exhibit #2."
Lot Frontage:	Proposal meets the 100' minimum required in a dispersed subdivision.
Sidewalks:	In response to the Planning Board's January 2001 request for sidewalks, the applicant is now proposing a curb separated sidewalk system.
Roadway:	The subdivision proposes two new roadways accessed off a turning circle at the end of Thomas Drive, and one new loop roadway, with a spur, accessed off Thomas Drive adjacent to the Toddle Inn Daycare site.

Water: Town water.
 Sewer: Town sewer.
 Electrical Utilities: Will be pole-mounted along Thomas Drive, thence underground along new roadways.
 Fire Protection: See Fire Chief Small's memo, attached.
 Amenities: The applicant is opposed to providing a "clubhouse," but is soliciting ideas from the Planning Board on what other kind of amenity might be appropriate.

IV. DEPARTMENT HEAD REVIEWS:

Andy Fillmore: See "Discussion" below.
 Barbara McPheters: See attached memo, "Exhibit #3."
 Adam Ogden: No comments at this time, awaiting a more detailed submittal.
 Rescue Chief Bolduc: No comments at this time, awaiting a more detailed submittal.
 Police Chief Charron: No comments at this time, awaiting a more detailed submittal.
 Fire Chief Small: See attached memo, "Exhibit #4."
 Al Palmer: See attached memo, "Exhibit #5."

V. DISCUSSION:

The applicant has made some very positive changes toward addressing the Planning Board's concerns as expressed in their January 2001 Notice of Decision. These changes are discussed in SYTDesign's letters of 6 November and 15 November 2001, (attached "Exhibit #6") and include:

- A reduction in the number of units from 76 to 70 +/-.
- A mixture of duplex and multiplex has been provided to provide visual variety and break up uniformity.
- The roadway has been revised to include curb-separated sidewalks and a closed drainage system.
- A less obtrusive lighting plan is in the design stages.

However there still appears to be room for improvement in a number of areas. Some of these improvements would represent a low cost to the applicant, but would return a high pay-off in terms of appearance and attractiveness to prospective buyers. The Planning Department is willing to work with the applicant or his designer to implement the following recommendations:

- Building Design: the functionality, appearance and quality of the units would be vastly improved if the services of a registered architect were enlisted. Rockwood will be a community where people live for many years and the importance of quality design cannot be over-emphasized, both for the quality of life of its residents, and for attracting potential buyers. As currently designed, there is room for improvement in the architectural massing and detailing.
- Variation of Building Footprints: While the site layout has been vastly improved with the addition of three- and four-plexes to the stock of duplexes, there remains a "barracks" feel to certain areas of the site. More variation in the plane of building

facades could remedy this. Also, straight shots of roadway, particularly Road 'A', would benefit from being curvilinear to break up the long perspectives of repeated building forms.

- Entry Experience: Road 'D' and the units served by it will serve as the entry point for the community. As currently drawn this experience is somewhat bland. If the locations of the roadway and the housing blocks were flipped, the units could form a crescent in the background with the roadway/parking/landscaping/amenities in the foreground, as viewed from an entering automobile.
- Flexibility of Unit Layout and Appearance: It is recommended that the applicant provide a variety of both unit layout options and exterior unit appearance (i.e., window types, roof lines, etc.) options. Specifically, the kitchen/dining/foyer layout is somewhat dated – people live in open-plan arrangements these days, and the structural ability for the buyer to remove or add walls to customize their homes is advisable, at the construction phase if possible. This points to a “kit of parts” approach for customization of units for each customer, while still maintaining overall design consistency.

VI. PLANNING BOARD REVIEW:

The Planning Board addressed the following issues in its review of the updated proposed site plan:

Project Amenities:

Previous plans for this subdivision have shown walking trails. The current plan makes no reference to trails. Is the applicant still proposing them? Where? How will they be maintained and marked?

The Planning Board has on several occasions requested that significant public amenities be provided on-site for the residents of this community. As referenced in SYTDesign's letter and Gorrill-Palmer's letter, the applicant had been considering providing a clubhouse, however this seems to be off the table at the moment, perhaps in favor of a gazebo in a garden-like setting.

Mr. Decker of STYDesign, stated with respect to the walking trails they were inadvertently left off the plan, there is no proposed change. There is an existing network of walking trails. There is also an area that could be used for a community garden off Road C, in the original subdivision plan that area was allowed to be open and used with no buildings. They are requesting that the subdivision plan be altered to allow buildings. A clubhouse has been given consideration. There is concern a clubhouse would be too costly for potential buyers. At completion if the owners desired a clubhouse, one could be built.

Ms. Porch asked if the proposal was for units to be sold and not rented, and what were the proposed amenities.

Mr. Decker stated yes, and the proposed amenities are walking trails and a community garden spot.

Mr. Decker stated an expansion of the trail system and an area for gardening.

Ms. Porch stated Mr. Guidi stated earlier in the meeting that he was willing to have a clubhouse.

Mr. Decker stated there is an area in Road D that could be used for a gazebo.

Public Utilities:

The applicant's previous proposal described shared water and sewer hook-ups for adjacent units. In response to Staff comments, the current proposal shows separate sewage and water hook-ups for each unit. Adam Ogden and Ralph Oulton must approve this design.

Mr. Decker stated the change in utility was proposed in the last submission, and there is no change, each unit will have its own water and sewer hook up.

Sidewalks/Drainage:

When the Board last reviewed this project, they gave clear direction that curb-separated sidewalks should be provided, and that a closed "urban" drainage system of catch-basins and closed pipe be provided. The applicant has complied with this direction. From the site plan drawing provided it is unclear whether the sidewalk is separated from the roadway by a planted strip (recommended) or merely by a curb (less desirable). Also, what curbing material would the Board recommend?

Mr. Decker stated there would be a 2-foot esplanade grassed area between the road and sidewalk. The developer is proposing bituminous curbing.

Lighting Plan

The Planning Board is required to approve light poles and luminaries. The previously reviewed plan showed light fixtures on each street however in some instances the 12' high fixtures were over 330' apart. This spacing may imply overly bright fixtures. Given that this is a residential development adjacent to other residential areas, it is extremely important that the site not be over-illuminated. The applicant has stated that a comprehensive lighting plan is currently under design, which will feature shorter poles with "full cut-off" non-glare fixtures. The abutters have also stated this as a concern in their attached letter. When available, the Planning Board should carefully review this plan.

Mr. Decker stated a lighting consultant has been retained and the developer understands the Board's concerns in this area.

Snow Removal/Emergency Vehicle Access:

As currently designed, the site plan doesn't appear to accommodate snow removal and storage to the appropriate extent, as noted in the Code Enforcement Officers attached memo. Fire Chief Small has also indicated concerns about emergency vehicle

turnarounds, as detailed in his attached memo. What direction would the Board like to offer at this time?

Mr. Decker stated the applicant would review the issues with Chief Small.

Grading/Backyards:

While the new placement and configuration of units somewhat lessens the problems of dangerous and unusable backyards, the problem persists. The applicant has indicated that where the grade allows, terraces of “pavers” will be provided outside the sunrooms of each unit. The Board should establish a standard defining what “where the grade allows” means. A situation of terraces adjacent to unadorned foundation walls should be avoided. Where the grade does not allow, the applicant should be required to provide an adequately sized deck.

Mr. Decker stated yes, they will be providing terraces where the grade will allow, there was a discussion of decks, which would be appropriate? Daylight basements with full foundations in areas of steep grades are being considered.

Mr. Turner stated in the past there were some pretty steep slopes, have they changed.

Mr. Decker stated there are some areas where there are some relatively steep grades. The terrain is such that on Road C there is a high point along the roadway then it drops off on both sides. To get units on both sides of the roads, there will be some drop off in the rear of the units. To the extent that those can be flattened out and minimize impact on the wetlands, that will be done.

Performance Bond/Letter of Credit:

The applicant is currently proposing development of the project in seven phases. It is appropriate for the Planning Board to require correspondingly phased performance bonds or letters of credit, rather than a single guarantee to cover the cost of the entire project. These phased guarantees must be sufficient to ensure the completion of each phase such that each phase could stand alone should the subsequent phases not be realized for any reason. Additionally, each phase must have the capacity (i.e., sewer and water pipes) to support full build-out of the subsequent phases.

Ms. Porch asked if there was a time limit on the building of phases?

Mr. Fillmore stated the Planning Board’s approval would lapse after a certain time.

Mr. Hunt stated the condominium language would have to be written by the Town Attorney. If things do draw on a long time, there may be issues of lapsed development rights etc.

Building Setbacks:

The current plan shows encroachment of the building setback line on Road ‘C’ by approximately 200 feet. This setback was established via a public process with the

abutters at the 1995 Cumberland Business Park Subdivision Approval. Now, the applicant has met with the abutters and has reached an agreement with them whereby they will not oppose the proposed encroachment in exchange for the design considerations outlined in abutter Field Griffith's attached letter. Various other more minor incidences of encroachment are outlined in Al Palmer's memo.

Mr. Decker stated they had addressed some of the encroachments last year. Because they were relatively minor in nature it was understood they were okay. These buffers were established in 1994 – 1995 when the abutters presumed the lots would be commercial. Some of the buffers are a little bit of overkill given the development will be residential.

Mr. Scott Lalumiere, of Pioneer Capital discussed items identified that may be of concern to the Board. Rockwood will be a substantial project costing approximately \$11 million. Analyzing size and cost is critical in senior projects to keep condo fees down. A clubhouse would add a monthly cost of \$30.00, and about \$2,000 per unit to build. The units are larger than previously proposed, which would give more room to entertain. Tenant profiles will determine amenity needs.

Mr. Decker stated most of the units will be single story units, but there is a possibility of some of the units on Road A having a dormer on the front for an upstairs bedroom. With respect to wetland impact the previous submission had zero impact. This submission will have some minor filling of wetlands, in four or five different locations. It will exceed the 4,300-sq. ft. threshold so a NERPA application will be filed with the DEP. Al Palmer the Town's peer reviewer brought up the issue of the DEP modification that will be re-applied for.

Mr. Hunt reviewed the outstanding issues.

1. Public Utilities - No issue
2. Sidewalks/ Drainage - The Board's preference is granite curbs.
3. Lighting Plan – To be submitted
4. Snow Removal / Emergency Vehicle Access – To be addressed
5. Grading / Backyards -

Mr. Taylor asked if there would be walk out basements.

Ms. Porch asked what the distance would be of the graded area.

Mr. Fillmore stated approximately eight feet and there would be a mix of pavers and decks.

Mr. Turner asked about the map contours.

Mr. Decker stated the 2-foot contours were not shown on the conceptual plan.

Mr. Turner asked if there were any codes on the allowable steepness of grade.

Mr. Fillmore stated zoning allows 20% or so to avoid adverse erosion.

Mr. Hunt stated the Board was conceptually comfortable with eight feet of relatively level yard.

6. Building Setbacks – The current plan shows encroachment of the building setback line on Road ‘C’ by approximately 200 feet. The setback was established via a public process with the abutters at the 1995 Cumberland Business Park Subdivision Approval. The applicant has reached an agreement with the abutters whereby they do not oppose the proposed encroachment.

Mr. Griffith stated that if there were other proposed encroachments they had only addressed the setback line in Phase 7.

Mr. Hunt stated the Board was not concerned with minor revisions.

7. Performance Bond / Letter of Credit –

Mr. Hunt stated the letter of credit would be approved by the Town attorney and will cover the concerns of finishing each phase to stand independently.

7. Building Design –

Mr. Hunt stated it is not traditionally the role of the Planning Board to review design, or critique the architecture of the buildings. The market will dictate design. Mr. Fillmore has offered design advice.

Ms. Porch and Mr. Turner stated they would like to have the ability to review design, but understand the Planning Board has no Ordinance to mandate building design.

Mr. Taylor stated the Board should only address the ADA safety codes.

The Board again discussed amenities.

Ms. Porch stated Mr. Decker’s letter of Nov. 6, 2001, stated there was a proposed clubhouse, now it appears there is no proposal for a clubhouse.

Mr. Decker stated there has been but at this time it appears there will be no clubhouse.

Ms. Porch stated she would contact the Cumberland Housing Authority for an opinion on amenities, and the possibilities of developing criteria.

Mr. Hunt stated amenities would be more of a concern if the units were rental and not individually owned. The ADA design guidelines must be met.

Mr. Guidi asked about the Board’s desire to have granite curbing.

Mr. Hunt stated the opinion of the Board tonight is 4 – 3 or 5 to 2 in favor of granite. There is a history of bituminous curbing failure.

F. Administrative - Mr. Fillmore provided the Board with a draft of the Route One guidelines. A workshop will be held on December 4, 2001 at 6:00 p.m. in the East Conference Room of the Cumberland Town Offices.

Mr. Turner moved to adjourn:

Ms. Porch seconded.

VOTE: Unanimous

Meeting Adjourned at 9:20 p.m.

A TRUE COPY ATTEST:

Philip Hunt, Board Chair

Pam Bosarge, Board Clerk

**MAINE SCHOOL ADMINISTRATIVE DISTRICT #51
CUMBERLAND / NORTH YARMOUTH**

P. O. Box 6A

Cumberland Center, ME 04021

Web site: www.msad51.org - Phone: 829-4800

Board of Directors

Agenda

Monday

January 28, 2002

7:00 PM

Mabel I. Wilson School

Multipurpose Room

- 1. Call To Order - by MSAD #51 Board of Directors Chairperson, Kim True.**
- 2. Approval of Minutes**
- 3. Superintendent's Report**
- 4. Presentations**
 - a) Math Curriculum Committee – Update
 - b) Chebeague Island School - Update
- 5. Committee Report**
 - a) Finance Committee
 - b) Negotiation Committee
 - c) Design Team
 - d) Steering Committee
 - e) Policy Committee
 - f) Performance Indicators
 - g) Time Task Force
 - h) Technology Task Force
- 6. Items for Action**
 - a) Vote to be adopted to authorize the lease purchase of computer equipment
 - b) Authorize superintendent to enter into lease purchase agreement for two school buses and one truck
 - c) Consideration and action to approve MSAD #51's portion (\$8,781) of the new PATHS Part II program and equipment budget for FY 2002-2003
 - d) Vote to approve girls volleyball
 - e) Vote to approve senior privileges
 - f) Executive Session – Negotiations
- 7. Communications**
- 8. Adjourn Meeting _____PM**



Emailed to Council

MSAD #51 Mission

The mission of MSAD #51 is to guide all students as they acquire enthusiasm for learning, assume responsibility for their education, achieve academic excellence, and discover and attain their personal bests.

To accomplish this mission, the MSAD #51 community will collaborate to:

- Use effective instructional practices and provide professional development to assure that all students meet or exceed the District's benchmarks and outcomes;
- Ensure a safe and respectful environment where all feel a sense of belonging; and
- Promote parental participation as fundamental to each student's success.

Board Goals for 2001-2002

- Support the District's work in curriculum, assessment, instruction and professional development through:
 - Promoting educational programming based on student learning needs;
 - Measuring the District's progress towards achieving our mission by 2003, including progress toward the certification that all students meet the State's Learning Results; and
 - Effectively communicating the results of our District's work.
- Execute the Resolution on Facilities Planning by ensuring the timely completion of the Charges made to the Building Committees to construct a new middle school and renovate Greely Junior High School into high school space, and support measures to relieve constraints due to conditions created by our current facilities.
- Promote sound resource management through:
 - Measuring progress towards structuring the school day and year to maximize student achievement;
 - Budgeting three-year resource needs;
 - Effectively communicating to the public the District's resource needs.

MSAD #51 Board of Directors

John Aromando, Vice Chair	829-6861	jaromando@pierceatwood.com
Maryellen Fitzpatrick	829-4657	efitzpa486@aol.com
Polly Haight Frawley	657-2373	PHFraw@aol.com
Betts Gorsky	781-2334	bjgorsky@hotmail.com
Audrey Lones	829-4171	audrey@alum.mit.edu
Henry Kennedy	829-6979	hrk@kieve.org
Kim True, Chair	829-3209	ktrue1@maine.rr.com
Bob Vail	829-5393	



Upcoming Meetings/Events

1/24/02 – Finance Committee Meeting, Central Office Conference Room, 3:00 PM
1/25/02 – Policy Committee Meeting, Central Office Conference Room, 7:30 AM
1/28/02 – Meeting of the Towns of Cumberland and North Yarmouth and MSAD #51 Board, at North Yarmouth Town Hall, 5:00 PM – 6:30 PM
1/30/02 - Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM
1/31/02 – NYMS/DRS Winter Chorus Concert
Feb 1 through Feb. 2 – GHS District II Chorus Festival
2/6/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM
Feb. 4 through Feb. 8 – Kindergarten Registration Week at Mabel I. Wilson School, 7:30 – 4:00 PM daily in the Main Office
2/6/02 – First Practice Jr. High Track and Swimming (Tentative)
2/12/02 – Lincoln's Birthday
2/12/02 – Steering Committee, MIW Library, 7:00 PM
2/13/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM
2/13/02 – Design Team, GHS Library, 3:15 PM
2/14/02 – Valentine's Day
2/15/02 – Performance Indicators Retreat, No. Yarmouth Town Office, 9:30 AM – 3:30 PM
2/18/02 – Presidents' Day
Feb. 18 through Feb. 22 – No School, Mid-Winter Break
2/22/02 - Washington's Birthday
2/26/02 – Budget Overview to Board of Directors, 7:00 PM, Cumberland Town Hall Council Chambers
2/27/02 – Early Release, Grades 7-12 @ 1:12 PM, Grades K-6 @ 12:15 PM

Next Meeting:

Monday, February 4, 2002 – Cumberland Town Hall Council Chambers

**TOWN OF CUMBERLAND
MEETING OF THE TOWN COUNCIL
MONDAY, FEBRUARY 11, 2002**

Present: Stephen Moriarty, Jeffrey Porter, Peter Bingham, Mark Kuntz; Harland Storey, and Donna Damon
Excused: Michael Savasuk

I. The meeting was called to order by Chairman Moriarty in the Council Chambers at Cumberland Town Hall at 7:04 PM.

II. **Manager's Report**

- Acting Town Manager Carla Nixon provided a status report on Brown Tail Moth. Her memo was handed out to the Council. The Town Council would like Dick Bradbury to attend the Council Meeting on February 25 to provide information to the public.
- The Land for Maine's Future program approved the proposal that was submitted by Sally Merrill for Sunrise Acres Farm.
- Assistant Town Manager Carla Nixon referred to memos submitted by Department Heads on regional sharing initiatives.

III. **Public Discussion**

None

IV. **Lesligation and Policy**

02-04. To Consider and Act on a Grant for Work in the Town Forest to be Conducted by Drowne Road School Students.

Molly Fitzpatrick stated that her class visited the Town Forest.

William Hebert stated that when his class visited the Town Forest, a classmate fell through a board on one of the bridges. Mr. Heberts stated that with the requested grant, the bridge would be repaired; identification books on plant and tree species would be purchased, and the various species of trees would be labelled.

Mr. Moriarty stated that the request for funding is \$1,000.00 to provide for a number of projects in the forest.

Councilor Bingham moved to grant \$1,000.00 from the Town Forest budget for work in the Town Forest to be conducted by Drowne Road School students.

Seconded by Councilor Kuntz.

VOTE: UNANIMOUS

02-05. To Hear Presentation from the Town Planner and Planning Board Chairman Regarding the Subdivision Ordinance and the Planning Review Process.

Chairman Moriarty stated that this item appears as a result of the last meeting during New Business and questions were raised about the subdivision planning process in general and in particular about the cluster zoning provision in the ordinance.

Planning Board Chairman Phil Hunt provided an explanation for the following:

Section 4 of the Subdivision Ordinance, which describes the application review process, as well as the mechanism for arriving at the "type" of subdivision to be built.
Section 406 of the Zoning Ordinance, which describes the three different "types" of subdivision, Traditional, Clustered and Dispersed, and their various requirements.

02-06. To Hear Presentation from the Public Works Director re: Transportation Issues and Funding Options.

Public Works Director Adam Ogden stated that the presentation was brought on because every two years the State of Maine asks for input for the Biennial Transportation Improvement Program. The program allows communities to provide input to the program to see if the Town can get funding for certain road projects or transportation projects. He reviewed the Transportation Improvement Plan that listed projects such as maintenance paving on Rte 88, Kings Highway and Tuttle Road. He stated that if projects are not in the six-year plan, they won't make it to the two-year plan. Reconstruction of Blanchard Road, Skillins Road, and Tuttle Road will take place only if the Town is willing to contribute one dollar for every two dollars received from State funding. To be considered for the Biennial Transportation Improvement Program for 2004-2005, the deadline for applying for funding for projects is March 1, 2002.

Councilor Bingham suggested that a capital plan be prepared.

Chairman Moriarty suggested applying for as many projects as possible.

02-07. To Consider and Act on the Expenditure of Funds for Traffic Study at the Intersection of Skillins/Blackstrap Road and Routes 26/100.

Chairman Moriarty referred to the letter from Roger Gobeil, P.E. from the Department of Transportation in response to a request for MDOT to investigate the need for a full traffic signal at the intersection of Skillins/Blackstrap Road and Route 26/100.

Public Works Director Adam Ogden stated that Gorrill-Palmer, a traffic-engineering firm would be able to do the movement counts for \$1,000. The counting would take 12 hours and involve two people. For an additional \$500, Gorrill-Palmer would be able to do the analysis.

Councilor Kuntz to approve up to \$1500 to perform a signal warrant analysis and a review of the data generated by the study.

Seconded by Councilor Bingham.

VOTE: UNANIMOUS

02-08. To Consider and Act on the Central Corridors Coalition Transportation Study.

Assistant Town Manager Carla Nixon described a proposal from the Greater Portland Council of Governments regarding a proposed regional transportation plan involving the communities of Cumberland, Gray, New Gloucester, North Yarmouth, Pownal, Raymond and Windham. Cumberland's cost share would be \$782 however, COG is not yet ready for the funds to be submitted; they are still awaiting approval from the other communities.

Councilor Porter stated that if the money was approved and the study did not go forward, the money would not be spent.

Chairman Moriarty stated that since North Yarmouth and Pownal were adding Route 9 to the study, Cumberland should add Rte 9 to its list.

Councilor Porter moved to accept the Central Corridors Coalition study and authorize the Town of Cumberland to pay \$782.00 to pay for the transportation study.

Seconded by Councilor Damon.

Discussion on the motion:

Councilor Kuntz moved to amend the motion to stipulate that the \$782.00 not be spend until other towns in the Central Corridor Coalition transportation study submit their payments.

VOTE: IN FAVOR (5)
OPPOSED (1) Storey

02-09. To Consider and Act on a Proposed Agreement with ASCAP for the Use of Copyrighted Works.

Councilor Moriarty stated that this item has to do with potential copyright violation if and when the town plays recorded music at events like exercise classes, functions at Val Halla, etc. An agreement has been worked out whereby towns can cover themselves by paying \$250 per year, which will give the town the right to use most copyrighted musical works without risk of liability or violation of the law.

Councilor Damon moved to accept the proposed agreement with ASCAP for the use of copyrighted works.

Seconded by Councilor Bingham.

VOTE: UNANIMOUS

V. Correspondence

- Parking Ordinance of the Town of Cumberland
- Status of the report of groundwater study
- Long range plan
- Bike path on Blanchard Road
- Memo from Department of Conservation concerning shore and harbor management grant program

VI. New Business

Councilor Damon:

- Stated that the Long Range Plan Committee will be setting up a schedule for bringing the Plan to the Planning Board and the Town Council.
- Requested a list concerning median income from the Census Bureau that details by zip code.

Councilor Porter:

- Regionalization status with other towns.
- Requested that the Recycling Committee examine options to for reducing solid waste cost. Council agreed.

Town Council
February 11, 2002

Councilor Moriarty:

- Nomination Committee interviewing applicants for the Revaluation Committee.
- Letter from Jane Frizzell concerning property taxes and impact of upcoming revaluation.

VII. Councilor Kuntz moved to adjourn the meeting at 9:40 PM.

Seconded by Councilor Damon.

VOTE: UNANIMOUS

Respectfully submitted,

Deborah Flanigan
Deputy Town Clerk

**SUMMARY OF
CHEBEAGUE ISLAND
2001 GROUNDWATER STUDY**

**TOWN OF
CUMBERLAND**

FEBRUARY 2002

SME

Sevee & Maher Engineers, Inc.
Waste Management and Hydrogeologic Consultants
Cumberland Center, Maine

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1.0 INTRODUCTION

All water users on Chebeague Island are dependent on individual wells for their water supply. The groundwater originates as precipitation that falls on the Island as either rain, snow or fog. Because there are no reasonable alternative water supplies, protection of groundwater resources is essential to the future of the Island. In 1992 Sevee & Maher Engineers, Inc. (SME) completed a study of the groundwater resources on Chebeague Island for the Town of Cumberland. The study determined that in 1992, the majority of the Island households (86 percent) relied on bedrock wells as their primary water supply. Limited water quality sampling conducted as part of the 1992 study indicated that approximately 25 percent of the wells tested positive for total coliform bacteria. Some of these positive bacteria tests may have been the result of septic system impacts on the groundwater quality. The 1992 groundwater study also determined that saltwater intrusion was occurring in a few locations along the shore of the Island.

In order to address the issues identified in the 1992 study, the Town of Cumberland requested that SME expand and update the existing data on the Island groundwater conditions. In the Spring of 2001, the Town requested that SME complete the following tasks:

1. Convert the existing 1991 database, which was developed by SME, into one which is compatible with the Town of Cumberland GIS system.
2. Update the existing database with recent information. Conduct a new survey on the Island to obtain additional data on water supplies and waste water treatment systems.
3. Collect site-specific data with respect to water quality with the intent of identifying areas where saltwater intrusion and septic tank problems may exist.
4. Identify areas where herbicide and pesticide use may be occurring. Enter this new information into the database. Enter this new information into the database.

5. Identify areas where large-scale irrigation is occurring.
6. In 1999 the MDEP visited the Island and determined that some home heating tanks were a significant threat to groundwater on the Island and that the Island would likely qualify for a subsidized tank replacement program. The Town submitted a request to the MDEP for funding in the year 2000. Investigate the status of this request with the MDEP.
7. Provide a septic system educational program to Island residents which emphasizes the importance of maintenance and proper operation.
8. Establish a system to continually update the existing database regarding new wells, new homes, and water quality testing results.

2.0 PROJECT TASKS

2.1 Task 1 - Database Conversion

In 1991 SME conducted a water supply survey of Island residents as part of an Island-wide groundwater study. As part of this study SME constructed a computerized database to manage and analyze various data related to the Island's water supplies. A total of 228 wells were included in the 1991 database. Wells were indexed by tax map and lot number. Details of the well characteristics including well type, depth, yield and qualitative water quality were compiled in the database.

The first task in the 2001 study was to convert the original 1991 database into a format that is compatible with the Town's Geographic Information System (GIS). The objective was to utilize the 1991 database information and to take advantage of advances in the GIS/database management systems that the Town is currently using. The initial database was converted from Progress to MS Access. The parcel table from the Town's GIS system was used in the new database and the existing well data was aligned with this parcel table using the tax map key field provided by the Town.

The database was expanded in several areas. A wastewater treatment section was added to compile data associated with the type, age and maintenance of septic systems. Water quality data obtained during the 2001 study was entered into the database to allow statistical and spatial analysis of the data. A user interface was developed to assist data analysis and specialized forms were developed for various data entry tasks. The 2001 Access database was also used to prepare for the August 2001 sampling program conducted as part of this study. The database was used to identify wells with potential water quality concerns and to sort well data spatially to ensure an even distribution of sampling points on the Island. The database also was used to generate sampling labels, field data sheets and sampling reports.

2.2. Task 2 - Update Existing Database and Conduct a Questionnaire Survey

As part of the 2001 study a comprehensive water supply and wastewater survey was conducted on the Island. The purpose of this survey was to obtain updated information on individual water supplies and collect detailed information on waste water treatment systems and maintenance practices. An updated survey questionnaire was designed. The Access database was utilized to generate the 2001 questionnaire. An Island-wide mailing list was generated from the Town GIS parcel table. Parcels with buildings values greater than \$5000 were included in the mailing list based on the assumption that these parcels may have water supplies. A total of 437 parcels met this criteria on the Island. Individual well survey forms were created from the database for each property and any existing well and wastewater data was printing on each form for the property owner to review.

In July 2001 a water supply and wastewater system survey was conducted for the Island. Individual questionnaires were mailed to property owners with an explanatory letter and a stamped return envelope. Forms were returned to SME's office in Cumberland and the survey data was entered into the database upon receipt at SME. The database was checked for accuracy once all the data had been compiled. A total of 270 surveys were returned from the 393 surveys mailed, representing a response of approximately 70 percent. A copy of a typical survey form and the letter is presented in Appendix A.

2.3 Task 3 - Water Quality Sampling

In August 2001, SME conducted a comprehensive water sampling program on the Island. The purpose of the sampling program was to determine the current water quality conditions on the Island and to evaluate the impact of development on the groundwater quality. We were particularly interested in water quality impacts related to septic systems and saltwater intrusion and we designed our testing program to evaluate those impacts. Water samples were analyzed for pH, specific conductance, iron, chloride, nitrate, total coliform bacteria and E. coli bacteria.

Specific conductance and pH are used as an overall indicator of water quality. Iron was measured because it is often present in the Island groundwater in moderate to high concentrations which may require treatment. In the groundwater on Chebeague, high levels of chloride may be related to saltwater intrusion, septic systems or road salt. Nitrates are used as an indicator of water quality impacts from either septic systems or fertilizers. Bacterial tests, in particular E. coli, were done to evaluate septic systems impacts on the groundwater that may present a health concern.

A field testing lab was set up at the Public Safety Building on the Island to analyze the water samples. Samples were collected from the household tap, if possible after purging the system for approximately 10 minutes. Water treatment systems were by-passed in order to obtain samples representative of actual, untreated water quality. Water samples were collected in 500 ml plastic bottles for inorganic analysis and in sterile bottles supplied by the lab for bacterial analysis. Specific conductance and pH measurements were measured at the time of sample collection using field probes. Nitrate, chloride and iron concentrations were measured at the field lab with colorimetric chemical test kits designed for groundwater analysis. Samples were delivered daily to Wright-Pierce Laboratories in Topsham, Maine for bacterial analysis. Bacterial analysis consisted of a presence/absence test for Total Coliform and E. Coliform bacteria using Test Method 9223B, Standard Methods for the Examination of Water and Wastewater. Duplicate samples were collected at a rate of approximately 10 percent to evaluate the reproducibility of the field and lab tests.

Water samples were collected from 102 water supplies on the Island. All water samples were collected by SME personnel. All community or public water supplies were included in the sampling program. Sampling personnel visited each home and, if possible, verified the water supply information printed on the field form from the 2001 database. The sampling took approximately 12 days to complete and Island residents were very cooperative.

2.4 Task 4 - Pesticide and Herbicide Use

Information on pesticide and herbicide use was requested on selected questionnaires such as the Chebeague Island Inn, the golf course, and the baseball field. We received no information on the use of these chemicals in the questionnaire survey responses. We contacted several property owners or managers by telephone, but they were unable to provide us with any useful data on herbicide or pesticide use.

2.5 Task 5 - Irrigation Systems

The questionnaire requested information on any irrigation systems attached to Island water supplies.

2.6 Task 6 – Petroleum Tank Replacement Program

The 1991 groundwater Study identified leaks associated with petroleum tanks as a significant threat to groundwater quality on the Island. The Maine Department of Environmental Protection (MDEP) has focused their tank replacement efforts on Maine islands because of the importance and vulnerability of these groundwater resources. Chebeague Island, through the Town, was invited to participate in a home heating oil tank replacement program sponsored by the MDEP. In April 2001 representatives from the Town, SME and the Island met with the MDEP to discuss the proposed project. As the result of discussions at that meeting the MDEP appropriated \$50,000 for a tank replacement program on the Island.

SME organized an informational meeting with the MDEP to discuss the purpose and criteria of the tank replacement program. The meeting was held on June 28, 2001 at the Chebeague Island Hall and was open to the public. All Island residents were notified of the meeting by mail. The MDEP presented information about the risks and costs associated with leaking tanks and answered questions from the public. Representatives from the Town and SME also attended the meeting.

2.7 Task 7 – Septic System Education Program

As part of this study SME organized an educational program on septic systems. An informational program on septic systems was presented on July 18, 2001 at the Parish hall. All Island residents were notified by post card about the topic and date of the meeting. Al Frick, of Albert Frick and Associates in Gorham, Maine was the invited speaker. He presented information explaining how septic systems work, important aspects of operation and maintenance, impacts of malfunctioning septic systems and new technologies in wastewater treatment. At the end of the session Al answered numerous questions from islanders about their systems.

2.8 Task 8 – Establish System to Update Database With New Well and Wastewater Data

New data can now be added to the database on an annual basis to ensure that the database accurately reflects the Island conditions. Well data could be submitted as part of the building permit process or it could be obtained directly from the well driller.

3.0 RESULTS OF THE 2001 GROUNDWATER STUDY

3.1 Summary of the Water Supply and Wastewater Survey

There are a total of 410 water supply records in the current Access database. These data represent a combination of the 2001 survey results and data compiled previously in the 1991 database. Additional well data supplied by Bev Johnson, the Island plumber, Hansen Well Drilling and a variety of other sources was also incorporated into the new database. Based on the 2001 survey results the distribution of the system types is as follows:

Type of Water Supply	Number Reported	Percent
Drilled Wells	321	80
Dug Wells	73	18
Springs	6	2
Other	3	
No water supply	7	

3.1.1 Drilled Wells. We have compiled records on a total of 321 drilled wells on the Island. Similar to the 1991 survey, drilled wells comprise about 80 percent of the total reported wells on the Island. Reported drilled well depths ranged from 4 to 420 feet in the 2001 survey data. Reported well yields ranged from 0.3 gallons per minute (gpm) to 100 gpm with the median well yield of 5 gpm. Casing lengths, a rough indication of overburden thickness, ranged from 1 to 208 feet in length. Approximately 4 percent of the individuals responding reported problems with their drilled wells going dry.

3.1.2 Dug Wells. A total of 73 dug wells are included in the 2001 database representing approximately 18 percent of the total water supplies on the Island. According to data obtained during the 2001 survey, well yields in dug wells ranged from 1 to 20 gpm. With a medium yield of 5 gpm. Reported depth for dug wells ranged from 5 to 21 feet deep. Approximately 25 percent of the respondents reported problems with their dug wells going dry.

3.1.3 Springs. A total of 6 property owners, representing 2 percent of the respondents, reported that springs served as their primary water supply on the Island. Based on the survey response it appears springs serve as water supplies for seasonal residents only.

3.1.4 Regulated Water Supplies. State and Federal regulations require that wells that serve a community or the public register with the Drinking Water Program at the Department of Human Services (DHS). Wells are classified and regulated according to the period of operation and the type of populations they serve. The DHS requires periodic water quality testing of these supplies to ensure that water is safe to drink.

According to records at the DHS, there are three wells on the Island that are registered with the Public Water Supply Program: the well at the Island school, the Chebeague Island Inn and the Chebeague Golf Club. The well serving the Chebeague Island School is classified as a Non-transient non-community water supply, and both the Chebeague Inn and Chebeague Golf Club are classified as transient water supplies.

In our review of the data collected during the well survey we identified several other wells on the Island that may fit the criteria of regulated wells under the DHS program. Three wells on the Island that serve the public include the Chebeague Island Community Center and Library, the Historical Society Museum, and the Chebeague Recreation Center. The Historical Society is in the process of preparing their application to the DHS to register their new water supply. The privately-owned and operated "Crestwell" water supply, located near the Chebeague Island Inn, reportedly serves 17 households on the Island and likely qualifies as a non-transient community water supply.

3.1.5 Wastewater Systems. A total of 270 individuals responded to the wastewater treatment questions in the survey. Based on the 2001 survey results the distribution of the system types is as follows:

Type of System	Number Reported	Percent
Septic systems	212	78
Cesspools	37	14
Outhouses	4	1
Other	10	4
No wastewater treatment	7	3

According to the survey approximately 50 percent of the septic systems have been installed since 1976, and are less than 25 years old. The response to the survey indicated that at least 20 percent of the septic systems on the Island were installed before 1976 and are older than 25 years. Approximately 30 percent of the respondents did not indicate the age of their system. A total of 44 households indicated that they used a garbage disposal connected to their wastewater system. This is significant because a garbage disposal can significantly affect the maintenance requirements and longevity of a septic system. A total of 14 households indicated that they had a separate graywater system for their non - septic related wastewater. According to the survey, 21 households have septic tanks that are less than 1000 gallons in size.

3.1.6 Septic System Maintenance. Approximately 100 households, about 50 percent of the respondents with septic systems, answered the survey questions related to septic system maintenance. Approximately 20 percent of these respondents reported that their septic system had never been pumped. Ten households reported that their tank had not been pumped in the last 10 years (since 1991). Four households reported that they had pumped their tanks sometime between 1991 and 1996. The majority of the homeowners responding, approximately 66 percent, reported that they had pumped their systems within the last 5 years.

3.1.7 Regulated Overboard Discharge Systems. According to the Maine Department of Environmental Protection there is one permitted overboard discharge system on the Island registered to Gerald Colbeth located near the Casco Bay Landing at Chandlers Cove. This system consists of a sand filter and was constructed in compliance with state regulations.

3.2 Results of the 2001 Water Quality Sampling Program

In August 2001, SME collected water samples from 102 wells on the Island to evaluate the general conditions of the groundwater on Chebeague. The testing program was specifically designed to evaluate water quality impacts related to septic systems and saltwater intrusion. A summary of the results are presented below:

3.2.1 Conductivity. Conductivity is the numerical expression of the ability of a solution to carry an electrical current. Groundwater conductance is expressed in the peculiar units of micromhos per centimeter ($\mu\text{mhos/cm}$). In the study of water we use conductance as a rough indicator of water quality. The measured conductance value depends on the concentration of ions in a solution. In general, water with high levels of conductance has elevated levels of dissolved ions, such as iron or chloride. The source of these ions may be naturally occurring, such as iron dissolving out of the minerals in the rock. There are also many human activities that can result in high levels of dissolved ions and elevated conductance such as road salt contamination, pollution from landfill leachate and even septic systems. In general, human activities that cause an increase in groundwater conductance result in degraded water quality.

Distilled water has a conductivity of 0.5 to 2.0 $\mu\text{mhos/cm}$. Although there is no drinking water standard for conductance, an acceptable range for potable (drinkable) waters is about 50 to 1000 $\mu\text{mhos/cm}$. In August 2001 we measured conductance values in samples collected from Chebeague ranging from 60 to 4360 $\mu\text{mhos/cm}$. Only 4 percent of the wells had conductance values that exceeded 1000 $\mu\text{mhos/cm}$; these were all related to impacts from saltwater intrusion. Several samples with moderately elevated levels of conductance appear to be related to high levels of chloride or iron in the water.

3.2.2 pH. The pH of a water sample indicates its acidity. pH values range from 0 (very acid) to 14 (very basic); 7.0 indicates water that is neutral (neither acid nor basic). Most natural groundwaters have pH values ranging from about 5.5 to slightly over 8. A water sample having a pH less than 7.0 tends to be corrosive and it may dissolve some minerals, and metals (lead, copper, cadmium, and zinc) from pipes and iron from well casing, pump, and piping.

The acceptable range of pH for drinking water is considered to be 6.5 to 8.5 units. This is a secondary water quality standard that has been established for aesthetic reasons, rather than health reasons. In the August 2001 sampling program, pH values ranging from 5.7 to 9.6 pH units were recorded for the water samples collected on Chebeague. Approximately 20 percent of the wells has measured conductivity values outside of the acceptable range. The majority represented pH values between the range of 6.0 and 6.5 units and are likely the result of naturally-occurring, slightly acidic groundwater.

3.2.3 Iron. Iron is one of the most abundant metallic minerals in the earth's crust. Consumption of some iron is essential to human health, but excess amounts in drinking water can cause discolored water, rusty-brown stains or black specs on fixtures and laundry. Excess amounts of iron may also affect the taste of beverages and cause a build up of deposits in pipes, heaters or pressure tanks.

In some places iron occurs in high concentrations naturally because of the type of rocks and soils the water comes in contact with. This is true on Chebeague where the metamorphic rocks contain large amounts of iron-rich minerals which leach iron into the groundwater. If the water is acidic, ground water can also pick up additional iron from contact with well casing, pump, and piping. The more acidic the water, the more it will dissolve metal from the surface it contacts. Pollution from landfill leachate or a leaking petroleum tank also can cause elevated levels of iron in the groundwater.

A secondary drinking water standard of 0.3 milligram per liter for iron has been set to indicate problems of taste, staining, and cloudiness. In August 2001 we measured iron concentrations in samples collected from Chebeague wells ranging from 0 to 10 mg/L for untreated groundwater. Because we are interested in the natural groundwater quality we collected our samples before treatment. Approximately one-third of all the water samples exceeded the secondary standard for iron. Many homes on the Island have installed water treatment systems to remove iron.

3.2.4 Chloride. Chloride, a common element, dissolves very easily in water. Chloride amounts of a few milligrams per liter occur naturally in most ground water from small amounts which dissolve out of minerals in the soil and rocks. High levels of chloride are usually associated with contamination from salt water intrusion (ocean water mixing with groundwater), septic tanks, and road salt.

Consuming drinking water containing chloride is not considered harmful to health. High amounts of chloride can give a salty taste to water and can corrode pipes, pumps and plumbing fixtures. Therefore, the secondary drinking water standard of 250 milligrams per liter is set to indicate water quality problems and not health effects. High levels of sodium often occur in association with water with high levels of chloride. The Primary Drinking Water Standard for sodium is 20 mg/L. Individuals on a low sodium diet due to high blood pressure or other health problems may be restricted to water within or below the 20 milligrams per liter standard.

Water samples collected during August 2001 had chloride concentrations ranging from 15 to greater than 350 mg/L. Chloride concentrations of 20 to 30 mg/L are typical for groundwater samples on Chebeague. A total of 4 percent of the wells tested exceed the 250 mg/L standard for chloride. Laboratory analysis of water samples from wells on Roses Point confirmed chloride concentrations in excess of 1800 mg/L. Approximately 15 percent of the wells had chloride concentrations that exceeded typical background levels of 20-30 mg/L, the majority of which appear to be associated with problems of saltwater intrusion.

3.2.5 Nitrates. Nitrates are naturally occurring substances found in soils, plants and water. In uncontaminated groundwater, nitrate is commonly found in only very small amounts, usually less than 1 mg/L or less. Nitrates can be introduced into the groundwater through a number of human activities including septic systems, manure spreading and storage, and the heavy use of fertilizers. The combined presence of high concentrations of nitrates and bacteria in a water sample may be an indication that the water supply is contaminated by septic or animal wastes.

The Primary Drinking Water Standard set by U.S.EPA and adopted by the State of Maine is 10 mg/L for nitrate. The standard has been set due to the potential health affects of nitrates on

children. Generally adults can consume higher concentrations of nitrates without serious health risk. Many towns in Maine, including Cumberland, use a standard of 5 mg/L as a desirable upper limit for nitrates in groundwater.

Nitrate concentrations ranged from 0 to 6.6 mg/L in the water samples tested as part of the August 2001 sampling program on Chebeague. Only 3 percent of the water samples exceeded the 5 mg/L nitrate limit.

3.2.6 Bacteria. In the Chebeague groundwater study we tested all the water samples for both Total Coliform and E. coliform bacteria.

Coliform bacteria are organisms which live in the intestines of humans and animals. They also can be found in plants, soils and surface water. Presence of these bacteria in groundwater may indicate that other harmful organisms are present in the water, including bacteria and viruses. Since testing for a specific disease-causing organisms is difficult, the coliform bacteria test is considered a reasonable way to determine whether or not a water supply is safe from bacterial contamination.

E. coli bacteria (*Escherichia coli*) is a specific type of coliform bacteria commonly found in the intestines of animals and humans. The presence of E. coli in water is a strong indication that the water has been recently contaminated by sewage or animal waste. Some strains of E. coli bacteria can cause serious illness, particularly in young children, the elderly and individuals with weakened immune systems.

In Maine, the Primary Drinking water standard for total coliform and E. coli is zero (absent) colonies per 100 ml. A positive test for total coliform may indicate that other harmful organisms are present in the water due to some type of contamination. In some cases, a positive total coliform test may be the result of a few stray organisms present in the water that are of no concern. Unfortunately, there is no way to tell from the presence/absence total coliform screening test and positive results are considered unacceptable.

In the 2001 Chebeague groundwater study, total coliform bacteria was identified in a 56 percent of water samples collected. Five water supply samples from Chebeague tested positive for E. coli bacteria. In this case, it is very likely that the water supply has been contaminated by septic system waste. Carol White met with all property owners who had a positive E. coli test to review the results and discuss appropriate action. Several of the homeowners reported symptoms of gastrointestinal illness that may be related to their contaminated water supplies. One homeowner with a contaminated dug well located downgradient of their septic system opted to install a new drilled well upgradient of the septic system.

Copies of their individual test results with an explanation of the various sample parameters was mailed to all property owners that participated in the sampling program. Information obtained from the DHS was provided on how to address problems of bacterial contamination. The Department of Human Services at the State of Maine recommends that water testing positive for total coliform and E. coli should not be used for drinking or cooking unless it is boiled for 5 minutes. Well disinfection procedures recommended by the DHS were included with wells testing positive for bacteria. A copy of the typical water quality report and accompanying information is presented in Appendix A.

3.2.7 Qualitative Water Quality Problems Reported on the Questionnaire. According to the survey results 91 drilled well owners and 24 dug well owners report no perceived problems with their water quality. As expected, excess iron is the most widespread water quality problem with 82 drilled well and 13 dug well owners reporting problems with excess iron. The survey results indicate that water treatment systems have been installed on 47 drilled wells and 1 dug well to remove excess iron from the groundwater. Thirty-seven respondents reported problems with sulfur in their drilled wells and treatment systems have been installed on 11 of these wells to remove sulfur. The results of the 2001 survey indicated that 6 drilled well owners had water quality impacted by saltwater intrusion. Treatment systems have been installed on at least 3 of these wells to remove the excess ions. Five drilled wells and 4 dug wells indicated previous problems with bacterial contamination. Bacterial treatment systems have been installed on 2 of the dug wells to remove the contaminants. Owners of an additional 18 drilled wells reported

other water quality problems including elevated levels of copper, manganese and hardness; tannins; particulates; turbidity and taste.

3.3 Interpretation of Water Quality Test Results

3.3.1 Iron. The results of the well survey and the sampling program indicate that iron is a widespread naturally-occurring water quality problem. Although it is an aesthetic and taste concern, rather than a health concern, many homeowners have installed water treatment systems to remove iron.

3.3.2 Saltwater Intrusion. Saltwater intrusion, indicated by elevated levels of specific conductance and chloride, is impacting the groundwater quality in at least four locations on the Island: Rose's Point, Division Point, Deer Point and just south of Central landing. Four drilled wells on Rose's Point, two wells at Division Point, and one well on Deer Point and one well near Central Landing had significantly elevated levels of chloride indicative of saltwater intrusion. Concentrations of chloride in excess of 1800 mg/L were reported for a well from the Roses Point area. There were many wells that we did not sample along the shore so the extent of this problem cannot be completely determined with these data.

3.3.3 Septic System Impacts. Five well samples tested positive for E. coli bacteria during the 2001 sampling program. Malfunctioning or poorly constructed septic systems are the most likely source of this bacterial contamination. In addition, over half of the water samples tested positive for total coliform bacteria. It is not known how many of these are the result of septic-related contamination. If bacterial contamination persists in individual water supplies, potential problems with septic impacts may need to be evaluated. Nitrates showed a strong correlation with total coliform. Total coliform bacteria was detected in 12 of the 14 wells with detectable levels of nitrates. E. coli was also detected in two of the water supplies with detectable levels of nitrate. Based on our knowledge of the Island geology problems with septic contamination appear especially prevalent in areas of shallow bedrock near Deer Point and along South Road.

3.4 Other Study Results

3.4.1 Pesticides and Herbicides. No information was provided by property owners on herbicide or pesticide use on the Island. Aerial spraying of pesticides for browntail moth has not occurred on the Island since 1999.

3.4.2 Irrigation Systems. We received only one response to the irrigation question on the questionnaire. Irrigation systems are a relatively new phenomenon on the Island. Large-scale irrigation systems were installed at the golf course and the new baseball field at the school in 2000. At least three household irrigation systems have been constructed between Roses Point and Central Landing at seasonal residences. No information was provided on pumping rates or total water usage for any of these systems.

3.4.3 MDEP Tank Replacement Program. In June 2001, MDEP conducted a preliminary tank survey of the Island and provided training on the aspects of tank inspection to Town personnel and Beth Howe. To date, Beth Howe has completed inspections on 104 tanks. Approximately 36 tanks have been identified for replacement and an additional 13 need further evaluation. At least 6 tanks were found to be leaking during the tank survey. The Town is in the process of hiring a contractor to perform the tank replacements in the spring and summer of 2002.

4.0 SUMMARY OF FINDINGS AND RECOMMENDATIONS

4.1 Summary of Findings

The 1991 database was successfully converted to an Access database that is compatible with the Town's GIS system. The database was expanded to incorporate wastewater treatment system information.

The update of the existing database and the compilation of the 2001 questionnaire information increased the number of wells in the database from 288 to 410. There was an excellent response to the survey questionnaire with approximately 70 percent of the property owners responding.

SME sampled 102 water supplies on the Island. Water samples were analyzed for pH conductivity, iron, nitrate, chloride and bacteria. The results of the sampling indicate that iron is present in excess concentrations in about one third of the samples tested. Although iron is not a health concern at these concentrations, many homeowners choose to install iron treatment systems for aesthetic reasons.

Saltwater intrusion problems were identified at Rose's Point, Division Point, Deer point and south of Central Landing. Chloride concentrations exceeded 1800 mg/L in a well sample from a well on Roses Point. Continued development and increasing water consumption in shoreland homes may result in an increase in the severity and extent of this problem on the Island.

Over one half of the wells sampled tested positive for total coliform bacteria. Five wells tested positive for E. coli bacteria, a serious health concern. Several residents with positive E. coli test reported symptoms of illness that may be related to their water contamination. It is likely that the E. coli contamination is the result of septic system effluent impacting the groundwater. It is difficult to determine the number of positive total coliform tests that may be related to septic system impacts, but if water supplies continue to exhibit positive tests, potential septic effluent sources should be investigated. Nitrates correlated with total coliform bacteria, with 12 of the 14 wells (86 percent) with detectable levels of nitrates also testing positive for total coliform.

The survey results indicate that about 66 percent of the respondents perform regular maintenance on their septic system; the actual Island-wide percentage is probably somewhat less. The survey also indicates that many old systems are present on the Island that may have a negative impact on the groundwater quality. Several homeowners report the use of garbage disposals. These devices are not recommended for use with septic systems and can severely shorten the life of a system. The questions from the general public at the septic system workshop suggest that many homeowners are unaware of the requirements of proper operation and maintenance of septic systems. The difficulty and expense of getting a pumping truck to the Island was also discussed.

Large-scale irrigation systems have been installed at the Golf Club and the MSAD-51 baseball field. We do not know of any problems associated with the operation of these systems, but we have no data on pumping rates or hours of operation. Small-scale homeowner irrigation seems to be on the increase along the shore. This may be a concern since the risk of saltwater intrusion increases with increased groundwater withdrawal.

No useful information was obtained on pesticide or herbicide use on the Island as part of our survey. There are no significant agricultural operations on the Island and it is likely that this issue is not a significant concern at this time.

4.2 Recommendations

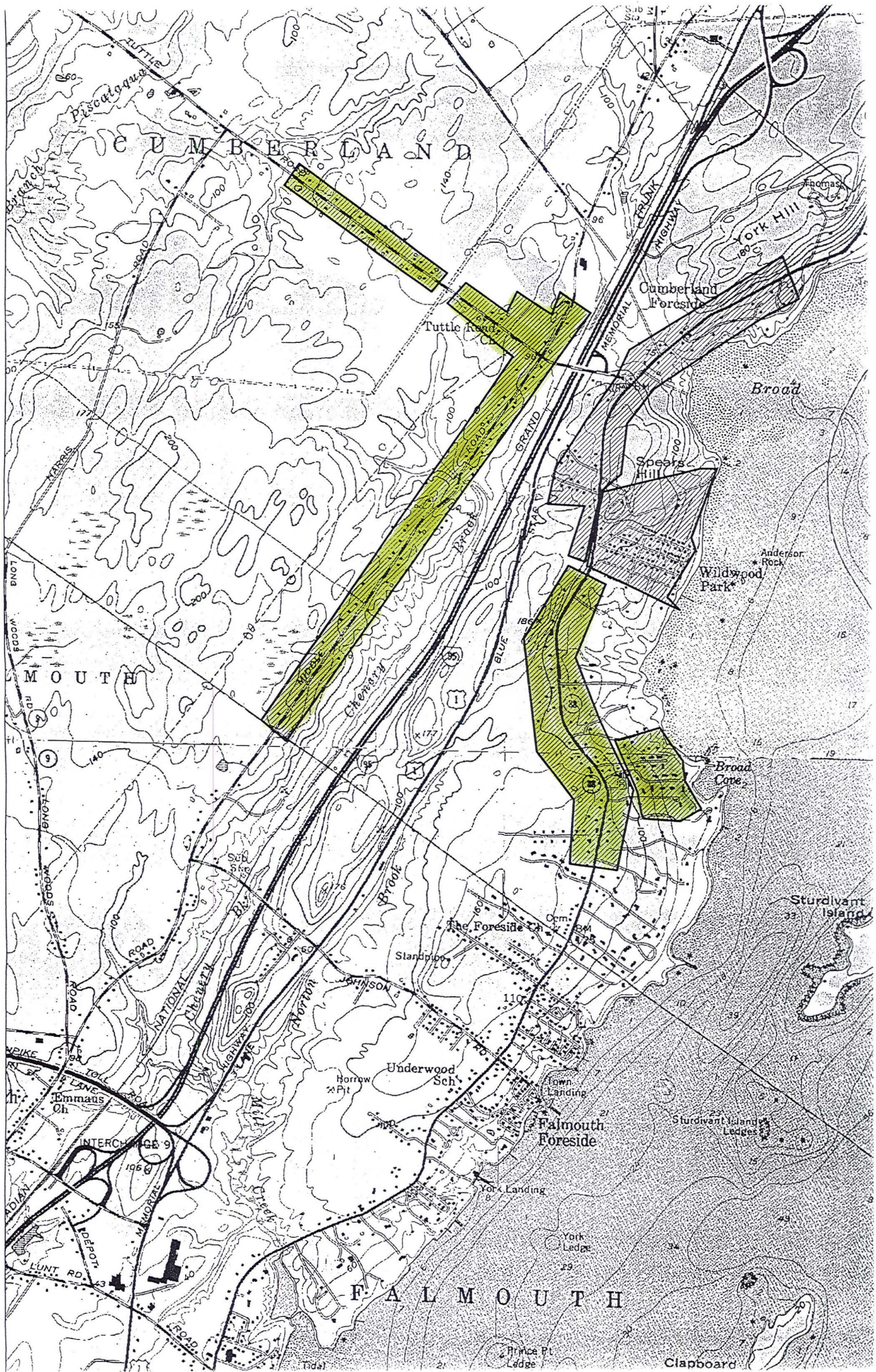
Locate all the existing wells on the Island using a handheld GPS and incorporate the data into the current GIS system. This would allow the well and water quality data to be analyzed regionally and to aid in planning efforts. Vulnerable areas of shallow bedrock could be estimated from casing length data. Relationships between water quality data and land use could be analyzed more effectively with the GIS graphical tools.

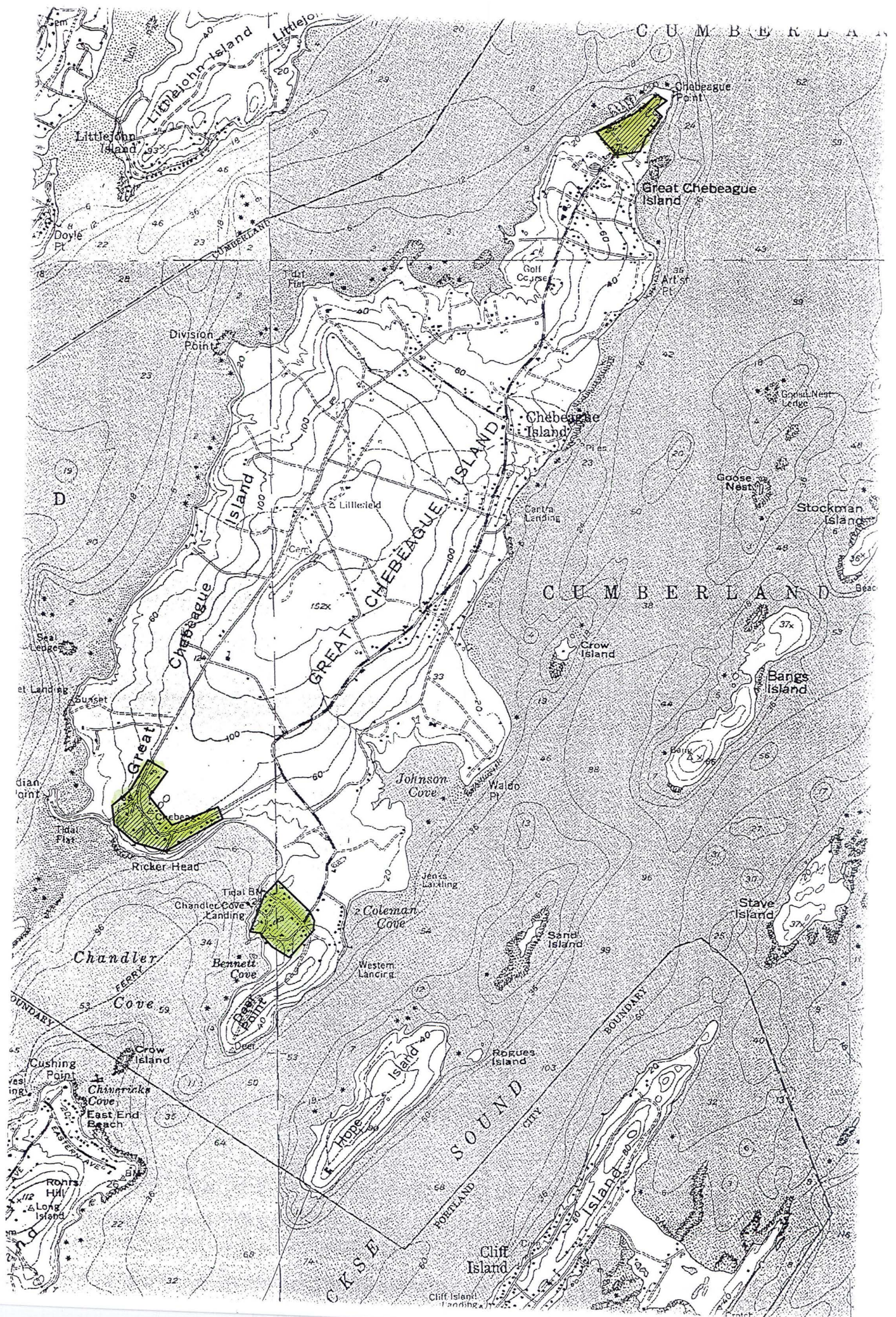
Further evaluate problems with saltwater intrusion along the shore with an expanded testing program. In general, elevated chloride appears to correlate with elevated conductance. A low-

cost screening program could be designed that uses specific conductance to identify problem areas and samples could be collected from only those wells where there is a potential concern.

There should be follow up on the bacterial water quality problems identified as part of this study. Many homeowners plan to disinfect and retest their wells in the spring. It would be worthwhile to coordinate this testing, even if its done at the homeowners expense, and compile data on the bacterial retest results. This approach may assist in identifying areas were septic systems are degrading the groundwater.

A brochure or pamphlet addressing septic operation and maintenance should be developed and distributed to all Island property owners.





The MFS tries to spray at high tide to make use of the dilution factor should any of the product get into the water, monitoring caged lobsters away from the shoreline does not apply to the juveniles. Considering it is not known for sure that the “monitored” lobsters even come in contact with the pesticides.

Confirm (Mimic) the product used in 1999 and 2000 did not perform well in controlling the Browntail but it also was supposed to be safe to spray to the waters edge even though it is toxic to aquatic invertebrates (and toxic to honeybees and earthworms etc.) and could be used to the water's edge. A study in 1997 showed that Confirm limited the growth in oysters but no one at the Maine Board of Pesticide Control had bothered to read the study.

MFS Switched to Confirm at the request of the DMR because of the data gap with Dimilin – the data gap is still there.

The homeowner that contracts with a private company for ground spraying of their property needs to be controlled and educated also. Private companies are supposed to be Certified Applicators and supervise persons working for them. In the past private property was observed here in Harpswell being sprayed – with the spray going through the trees, to the waters edge and directly into the water. Aerial spraying was also observed here as being sprayed directly into the water.

The rash from the Browntail is touted as a serious health hazard but the Maine Board of Health does not track cases of Browntail. (Pressure from other sources is the reason for spraying?) The spraying only controls the Browntail population anyone who gets the rash is still going to have a reaction.

Sincerely,

Dee Williamson

(One of the people covered with the Browntail rash. Who chooses to clip nests, use Cortaid and not risk further damage to the environment with chemicals.)