

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

COMMISSIONERS' MEETING

MINUTES

August 11, 2008

The Board of Cumberland County Commissioners, Esther B. Clenott, Richard J. Feeney and Malory Shaughnessy convened a meeting at the Cumberland County Courthouse in the Peter J. Feeney Conference room.

Chairperson Clenott called the meeting to order at 5:30 PM and the following business was conducted.

Minutes of the Cumberland County Commissioners Regular Meeting of July 28, 2008 were read and were approved unanimously.

Comments from the Commissioners:

Commissioner Feeney:

Commissioner Feeney indicated he would yield his time because of the topics of the meeting.

Commissioner Shaughnessy

Commissioner Shaughnessy indicated she would also yield her comments at this time but wanted to go on record to say that she is glad to see so many people at the meeting exercising their rights in this country and it is an integral part of our society and glad to see what they are doing.

Chairperson Clenott:

Chairperson Clenott reported she will also waive her time.

Comments from the County Manager:

The County Manager deferred his comments until after the comments from the public.

Comments from the Public:

Chairperson Clenott asked if there were any comments from the public.

The Correction Officers were present and expressed their concerns over the pending contract. The following correction officers expressed concerns: Robert Ryder; Robert Ryder, Sr., Retired South Portland Police Department; Will Russell, Union President and Zack Matthews, Staff Representative of AFSCME. Pat Dunn, County Attorney replied to Will Russell's request to meet and negotiate tonight. She indicated that because the mediator is involved with all the various proposals it would be appropriate to bring him back in and find a mutually convenient time that the mediator can meet with us. She will assemble her team and they will meet. Will Russell indicated that would be fine and the AFSCME office will get in touch with Ms. Dunn's office and they will all negotiate in the near future.

Chairperson Clenott asked the County Manager for his comments.

The County Manager indicated that over the last 10 years, numerous decisions have been made by the Commissioners and the Sheriff in terms of the jail, with a number of improvements. The Commissioners certainly respect and value the work that you do. The way we negotiate is the management folks put together their proposals in terms of language changes just as the Union does. We look at what we have for fiscal constraints and we develop our proposal. He indicated he wanted to recognize Will Russell's acknowledgement of the 3% COLA at the last Commissioners meeting for 2008 because we have been hearing 10 cents for some time and he thanked Mr. Russell for this acknowledgement. The budget that we face in 2009 is a challenging budget and we are going to be addressing it over the next coming weeks. The jail's portion is going to be part of the States responsibility which as you know is part of the new jail legislation. In terms of the future process, we are open to sitting down with the Union and respect what you are doing each and every day.

Chairperson Clenott asked Sheriff Dion for his comments. Sheriff Dion addressed the Commissioners. He indicated he did research over the weekend regarding the law. The law indicates very clearly the rule to follow when it pertains to negotiations. The rule states it doesn't get done this way even though it looks good and creates solidarity, but it contradicts the intent in the letter of the law. The best place to advocate and make your case is at the negotiation table through our agents. The Sheriff's position is to follow the rule and be part of the team who acts in good faith.

Chairperson Clenott asked Commissioner Feeney to read the Scarborough Official 350th Anniversary Resolution. Commissioner Feeney indicated that he has been invited by the Town of Scarborough to make the presentation to the Town Council. The following resolution was read:

On the Occasion of the 350th Anniversary of the Town of Scarborough

Whereas, the Settlements of Black Point, Blue Point (now Pine Point) Dunstan and Stratton Island were incorporated into the Town of Scarborough by the Massachusetts General Court July 14, 1658;

and

Whereas, Scarborough is a place of natural beauty, with open fields and forested woodlands, its marshes and wetlands, its rivers and streams, and its wildlife habitats;

and

Whereas, Scarborough is home to Scarborough Beach State Park, Scarborough Marsh Audubon Center, Scarborough River Wildlife Sanctuary and notable sites of interest;

and

Whereas, Scarborough is home of Winslow Homer, artist, and William King, first Governor of Maine;

and

Whereas, Scarborough is a land incorporating many aspects of the early history of Cumberland County, from market, dairy farming, agricultural diversity, lobstering, clamming to ship building;

and

Whereas, Scarborough is valued as a community of historic traditions and engaged citizenry;

Now Therefore be it Resolved, by the Cumberland County Board of

Commissioners that it hereby expresses its sincere congratulations and best wishes

to the Town of Scarborough on the occasion of its 350th Anniversary.

Signed and sealed on this the 11th day of August in the year Two Thousand and Eight.

Chairperson Clenott indicated that the Commissioners are honored to read and sign this Resolution.

Commissioner Shaughnessy made a Motion to pass the Resolution. Commissioner Feeney seconded the Motion. All voted unanimously.

Chairperson Clenott asked that the Action Items be presented.

Action Items:

08 – 092 Approval, Cumberland County Sheriff's Office – Recognition of the Federal Bureau of Investigation (FBI) 100th Anniversary

Chairman Clenott asked Sheriff Mark Dion to present the item. The County Manager concurs with the recommendation.

Sheriff Dion reported on Saturday, July 26th, the Federal Bureau of Investigation will celebrate their 100th anniversary. The Cumberland County Sheriff's Office has long enjoyed a professional relationship with the Portland Regional Office of the FBI. The FBI assisted the Cumberland County Sheriff's Office with numerous bank robbery investigations, violent crimes investigations and white collar crimes, not to mention their new role as co-coordinating Homeland Security intelligence. Also on several occasions, instructors from the Boston FBI

office as well as instructors from the FBI Academy in Quantico, Virginia have traveled to Maine at the request of the Cumberland County Sheriff's Office to teach various law enforcement courses. The cost of the instructor's time, and all travel expenses have been borne on the FBI and have not cost the Sheriff's Office a "dime" for this training.

The Sheriff noted in the past 20 years or so, 5 deputies from the Cumberland County Sheriff's office have had the privilege to attend a 12-week executive management school called the FBI National Academy in Quantico, VA. The cost to the County of Cumberland was minimal, since the FBI picked up the cost of the attendance and travel to and from the Academy. To recognize this 100 year milestone, the Cumberland County Sheriff's Office has had a plaque made to honor this event. The Sheriff introduced FBI Supervisor - Senior Agent Todd DiFede and presented him with the plaque. Agent DiFede thanked the County and is pleased to serve Cumberland County. A discussion followed.

Commissioner Shaughnessy made a Motion to acknowledge the plaque is being awarded to the Supervisory Special Agent of the Portland Office of the FBI. Commissioner Feeney seconded the Motion. All voted unanimously.

08 – 093 Approval, Cumberland County Sheriff's Office – Emergency Services Unit (ESU) Cooperative Effort

Chairperson Clenott asked Sheriff Dion to present the staff report. The County Manager concurs with the recommendation.

Sheriff Dion indicated the Cumberland County Sheriff's Office Emergency Services Unit (ESU) has now been in existence for 15 years and during that time has experienced several changes. The ESU Team has increasingly become more effective through increased training and the purchase of updated and state of the art equipment. For the past few years, the Cumberland County Sheriff's Office has attempted to get other law enforcement agencies in Cumberland County involved in the ESU team. The fiscal impact to Cumberland County will be minimal, if any. Westbrook Police Department will absorb all overtime costs of their personnel. Furthermore, all equipment, training and other costs associated with their membership on the ESU team will be the responsibility of the Westbrook Police Department.

Sheriff Dion reported that over the last few months they have been negotiating with the City of Westbrook regarding their admission to our ESU. It is hoped with the admission of the City of Westbrook and successful participation with some of the other suburban police departments who do not have the financial where-with-all to have a tactical team will seek admission to the team and have their officer participate. Our goal was that when the team would be called out to a home community that has a member, than the Chief of Police in that municipality would retain his chiefdom and the Sheriff would become his deputy chief and execute his direction and policy in way there would be no way of invading their jurisdiction to carry out the tactical mission. We would be provided the hardware, the software and the human resources so that the police chief could carry out public safety how he or she saw fit. The Sheriff credited Chief Baker and Captain Roth for moving this policy initiative through the Westbrook City Council process and also Captain Davis and Chief Joyce for putting all the details together. The Sheriff introduced Captain Roth and he indicated an officer has been selected for the team

and the City of Westbrook appreciates the cooperation and looks forward to placing another officer on the team in the future. A discussion followed.

Commissioner Feeney made a Motion that the County Commissioners support this regional effort and sign the Memorandum of Understanding with the City of Westbrook. Commissioner Shaughnessy seconded the Motion. All voted unanimously.

08 -094 Approval, Appeal for a Tax Abatement Hearing for Robert Levesque/Casco Tax Fairness Association of Casco, Maine

Chairperson Clenott asked attorney John Wall of Monaghan & Leahy if it would be appropriate for each Commissioners to make a Motion. Mr. Wall indicated it would be appropriate. The County Manager concurs with the Motions.

Motion #1

Chairperson made a Motion to accept the following materials submitted by Robert D. Levesque, personally and on behalf of an organization called Casco Tax Fairness Association, in support of an appeal from the Town of Casco's refusal to grant requested abatements:

- 1. A July 10, 2008 letter from Mr. Levesque to the Cumberland County Commissioners and attached paperwork, which was received by the Cumberland County Commissioners on July 12, 2008;**
- 2. An application for abatement of property taxes submitted by Mr. Levesque on behalf of Casco Tax Fairness Association dated July 21, 2008 and filed with the Cumberland County Commissioners on August 5, 2008;**
- 3. A letter dated July 29, 2008 from Mr. Levesque on behalf the Casco Tax Fairness Association, with attached documentation, submitted in support of the application for abatement of property taxes;**
- 4. Copies of authorizations signed by property owners that pertain to Mr. Levesque's authority to represent the property owners' interests with regard to the tax abatement appeal; and**
- 5. Copies of tax abatement applications submitted to the Town of Casco and completed by property owners who have been identified as members of the Casco Tax Fairness Association.**

Chairperson Clenott made a Motion without prejudice to any objections the Town of Casco may have to the propriety of the appeal and without making any determination as to whether procedural requirements necessary for bringing the appeal have been met. Commissioner Feeney seconded the Motion. All voted unanimously.

Motion #2

Commissioner Feeney made a Motion to accept a letter from Casco Tax Assessor John E. O'Donnell, III to the Cumberland County Commissioners dated July 29, 2008, with attachments, which pertains to the appeal filed by Mr. Levesque on behalf of himself and the Casco Tax Fairness Association. Commissioner Shaughnessy seconded the Motion. All voted unanimously. All voted unanimously.

Motion #3

Commissioner Shaughnessy made a Motion that the materials accepted by the prior motions will be placed on file and that the deputy clerk be directed to send out all appropriate paperwork to obtain information necessary to evaluate whether the appeal is properly before the commissioners and to arrange for a hearing at a later date of those properties encompassed by the appeal that are properly before the commissioners. Commissioner Feeney seconded the Motion. All voted unanimously.

The County Manager asked John Wall for comments. Mr. Wall indicated with regard to the tax abatement appeal, Motion #3 authorizes the deputy clerk to send out requests for information to the property owners who are affected by the appeal and also requests additional information to the Town of Casco. The Town of Casco has raised certain procedural objections to the application that was filed and based upon the materials we have to date; he does not believe the Commissioners are in any position to make any decision. The first step would make the mailings by the deputy clerk and then a determination can be made in at least one or two methodologies. You can do a two stage hearing to determine procedural issues and then the substantive issues pertaining to those that are brought before the Commissioners or it can be done as one proceeding. He stated before the Commissioners can make any determination they need to gain more information. The property owners will have until September 5, 2008 to return their Application form and Extension of Time form. A discussion followed.

08 – 095 Approval, Cumberland County Agreement for 1000 Congress Street Lease

Chairperson Clenott asked Bruce Tarbox, Facilities Manager, to present the item. The County Manager concurs with the recommendation.

Mr. Tarbox reported to move forward to obtain the building located at 1000 Congress Street in Portland, which is adjacent to the County Jail property, the approval of the Commissioners and the Lease/Option to Purchase Agreement needs to be signed in order to proceed. The agreement was created by Bernstein Shur. Three studies of this property have been completed: Structural, ADA and Code Assessment. In addition, we did an Environmental Site Assessment, which we are waiting for survey results. The Lease will not take affect until we get a written environmental report that meets our satisfaction. The terms of this Lease shall be for approximately ten (10) years unless sooner terminated as commencing upon Tenant's notice of receipt of a Phase 1 Environmental Site Assessment report by a professional consultant of Tenant's choosing, which report shall be satisfactory to Tenant within Tenant's sole discretion and which shall qualify Tenant for so-called "innocent purchaser" status under applicable

environmental laws and regulations. In the event that Tenant does not notify Landlord of Tenant's receipt of the approved Phase I ESA by August 31, 2008, then the term shall not commence and the Tenant's rights in and to this Lease shall automatically expire without the creation of any leasehold interest whatsoever in Tenant, and the Landlord shall thereafter be free to lease the Premises to any party. Tenant shall have no interest in and to the Premises prior to the commencement of Term, and shall not be liable for rent of any other performance condition of this Lease. Once the foregoing condition as to the Phase I ESA has been satisfied and the Term commences, the Term shall then end on July 31, 2018.

The Lease and utilities costs have been establish into the Facilities 2009 Budget request along with the CIP requests for modifications of the building. Under the Lease, we will be obligated to lease this property until January 2012 at \$46,000 per year plus utilities and taxes. The Lease then provides us the ability to purchase the property at \$440,000. Attorney Peter Van Hemel reported in regard to the environmental issues and some unknowns of fuel tanks or dry well, the Lease states that you can sign the agreement today, but the Lease will not exist or be effective in any way until the County sends in paperwork stating they are okay with the environmental report. A discussion followed.

Commissioner Feeney made a Motion that the Commissioners approve moving forward with the Lease Agreement as presented, the Agreement needs to be signed but not effective until the satisfactory written environmental report is received. Commissioner Shaughnessy seconded the Motion. All voted unanimously.

08 – 096 Approval, Cumberland County Sheriff's Office – Request to Purchase Night Vision and Two (2) Mounting Rails for the Emergency Services Unit (ESU).

Chairperson Clenott asked Chief Deputy Kevin Joyce to present the item. The Assistant County Manager concurs with the recommendation.

Chief Joyce reported the ESU team can be called into service at any time, day or night. Currently, one area the team is deficient in is the ability to effectively see during low light or night time hours, since the team does not have adequate night vision equipment. This is mission critical for intelligence gathering, safety of team members and safety of the public. In researching alternatives for this specific type of night vision system we found that only one Vendor meets the specifications, Optical Systems Technology (Universal Night Sight). This specific night vision device is mounted to a Long Weapon issued to one of the team members. This gives the team member the ability to see in total darkness, providing valuable intelligence needed during these events, as well as the ability to use the weapon to save his life or the life of a third party. The total cost for the night vision and rail system is \$9,450.00. This is a sole source purchase with the monies to come out of the LEC Drug Asset Forfeiture Account, 31-231-6950. A discussion followed.

Commissioner Shaughnessy made a Motion that the Commissioners approve the authorized purchase the night vision and the mounting rails monies to be used would come out of the LEC Drug Asset Forfeiture Account 31-231-6950. Commissioner Feeney seconded the Motion. All voted unanimously.

**08 – 097 Approval, Cumberland County Sheriff’s Office Commissions – New,
Renewals and Revocations**

Chairperson Clenott asked for a Motion.

Commissioner Feeney made a Motion that the Commissioners accept the new, renewals and revocations as submitted by Sheriff Dion in his letter to us dated August 4, 2008. Commissioner Shaughnessy seconded the Motion. All voted unanimously.

There being no further business Commissioner Feeney made a MOTION to adjourn the meeting at 7:00 PM. Commissioner Shaughnessy seconded the MOTION. All voted unanimously.

ATTEST:

Barbara M. Buckley

Barbara M. Buckley
Deputy Clerk

The next regular Commissioners meeting will be held at 5:30 PM on Monday, August 25, 2008 in the Peter J. Feeney Conference Room, Cumberland County Courthouse Annex 1.