



City of Caribou, Maine

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**CARIBOU PLANNING BOARD
Wednesday, March 5th, 2014
5:30 PM-Council Chambers**

AGENDA

I. Call Meeting to Order

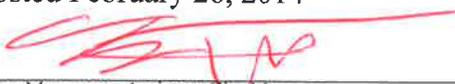
II. Minutes of February 5, 2014 meeting

III. New Business

A) Public Hearing on Nuisance Property Ordinance

IV. Adjournment

Posted February 26, 2014



Tony Mazzucco, Assistant City Manager



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Planning Board Meeting Minutes **Wednesday, February 5, 2014 @ 5:30 pm** **City Council Chambers**

In Attendance: Phil Cyr, Bob White, Todd Pelletier, Matt Hunter, Graham Freme and Jim Cerrato
Members Absent: Jeff Michaud

Others in Attendance: Tony Mazzucco, Assistant City Manager, Paul & Joan Theriault, Ken Murchison, Austin Bless, City Manager, Mayor Gary Aiken, Kathy Mazzuchelli, Superintendent of Parks & Recreation, Julie Daigle, Power of Prevention and Denise Lausier

- I. **Call Meeting to Order** –Phil Cyr called the meeting to order at 5:30 pm.
- II. **Minutes of Organizational Meeting** – Matt Hunter moved to accept the minutes as presented; seconded by Todd Pelletier, Vote was unanimous.
- III. **New Business** –
 - A. **Presentation of plaque to Jim Murphy for his service on the Planning Board** –Mayor Gary Aiken presented a plaque to Jim Murphy and thanked him for his years of service to the Planning Board.
 - B. **Presentation of Community Visioning Sessions/Community Vision** –Kathy Mazzuchelli presented a power point presentation on the Community Vision for the 2014 Comprehensive Plan. A copy of the draft Community Vision was given to the Planning Board. Bob White & Phil Cyr thanked the community and all who were involved in this process for their time and input. Bob White moved to accept the draft Community Vision for the 2014 Comprehensive Plan; seconded by Matt Hunter, Vote was unanimous.
 - C. **Comprehensive Plan Work** –The Planning Board reviewed the Housing Section of the Comprehensive Plan. Phil Cyr stated there was good data and information in the current plan, but they need updated information from Housing, for there has been much change in the past ten years. Phil recommended inviting the Housing Agency to the next meeting to help determine the unmet needs, adequate housing for future needs and to discuss shortcomings. Bob White commented on changes in heating technology and that heat pumps need to be included. Todd Pelletier mentioned that the data may not be available for it's fairly new, but Tony Mazzucco suggested it be included in the narrative even without data. Phil Cyr stated this is all useful information such as comparable rents, for those looking to build apartment housing. Phil would like to look at demographics, family homes versus senior apartments, etc. Ken Murchison brought up condominium houses and identifying the gaps such as healthcare facilities and assisted living facilities.
 - D. **Nuisance Property Ordinance** –The Board discussed some changes they would like made to the Ordinance regarding disorderly conduct. They also discussed repeated visits by emergency services to a property and the Police Chief's administrative discretion on these matters. Tony Mazzucco has forwarded the proposed ordinance to MMA Legal for

their review. Tony will make the Board's recommended changes, send the draft to the Planning Board and will have the City Attorney, Rick Solman review as well. If there is anything substantial from Rick Solman, it can be addressed at the Public Hearing. Jim Cerrato moved to send the proposed Nuisance Ordinance with the discussed changes to a Public Hearing at their next meeting in March, seconded by Todd Pelletier, Vote was unanimous.

- IV. **Other Business** – Julie Daigle was present from Cary Medical Center's Power of Prevention program to propose a Complete Streets Policy to be included in the updated Comprehensive Plan. This policy is a Statewide DOT policy. If Caribou adopts the Complete Streets Policy it will help our community in receiving State funding and it shows Caribou is interested. It includes making streets safer and more accessible for all users like bicyclists and pedestrians, making the community more useable and more attractive. There was discussion on the cost of building sidewalks, maintaining them in wintertime as well as drainage issues up by the Nursing Home & Cary Medical Center. Jim Cerrato suggested drawing a line on the road mapping the sidewalk which would be cheaper and easier to maintain. Kathy Mazzuchelli stated that pedestrian and bicycle friendly roads are in the proposed Community Vision.
- V. **Adjournment** – Jim Cerrato moved to adjourn the meeting at 6:30 pm; seconded by Todd Pelletier, Vote was unanimous.

Respectfully Submitted,

Bob White
Planning Board Secretary
City of Caribou

40. Nuisance Properties

A. Purpose; Findings.

The purpose of this Nuisance Property Ordinance is to protect the health, safety, and welfare of the residents of the City of Caribou by reducing the recurrence of Nuisance conduct in dwellings that disturbs the peace and tranquility of others. The City has a substantial and compelling interest in protecting neighborhoods affected by conduct that unlawfully disturbs the peace and/or constitutes a nuisance, because such conduct adversely affects the health, safety, and welfare of residents, and diminishes the quality of life in neighborhoods where it occurs. Such nuisance conduct, and its impact, should be abated. This Nuisance Property Ordinance is required because other prohibitions and penalties under state law and the City's code of ordinances have not adequately eliminated or controlled chronic, disorderly or nuisance activity in the City. The enactment of this ordinance and its occasional amendment is intended to alleviate the deleterious impact of chronic, unlawful or nuisance activity in dwelling places and neighborhoods by authorizing early and constructive intervention by the City's Police Department.

B. Definitions.

"Nuisance conduct" is any conduct that would have a tendency to disturb unreasonably the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: chronic nuisance activity, loud music, boisterous parties; sounds emanating from within the structure which are annoying outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; repeated visits by emergency services; other similar activities in the building or outside the building itself; or other conduct proscribed pursuant to 17-A M.R.S. § 501-A.

A "nuisance property" is any property on which there is located a building that houses one or more dwelling units, or any bed and breakfast establishment, hotel, motel, lodging or rooming house or other structure that provides residential accommodations, at which property the police have found to have occurred, on five (5) or more occasions in any sixty (60) day period, or ten (10) or more occasions in the preceding year, that the owner, a tenant, or a tenants' co-habitees, guests or invitees, or other occupants have engaged in nuisance conduct.

C. Nuisance Properties Prohibited.

1. The Police Chief, or his/her designee, shall have sole discretion in determining whether conduct is a nuisance for the purposes of this ordinance, and whether a building constitutes a nuisance property.

2. No person who has engaged in conduct that, in whole or in part, resulted in the Police Chief's designation of a property as a nuisance property shall continue to occupy as owner-occupant, or be allowed by the owner to occupy, such nuisance property.

D. Administration; Notice.

1. The Police Department shall document and monitor the occurrence of nuisance conduct at properties in the City. When an occurrence of nuisance conduct has taken place, it will be recorded and the owner notified in writing. The owner may appeal that determination to the police chief.

2. Whenever there have been three (3) or more occurrences of nuisance conduct at a residential property in any sixty (60) day period, or six (6) or more occurrences of nuisance conduct in the preceding year, the police chief may notify the property owner that their property is a nuisance property.

3. Whenever the Police Chief or his/her designee has declared a building and/or property to be a nuisance property, the City shall cause an owner of the property to be notified, in writing, of such declaration and of the events which form the basis for that designation. The notice shall require the owner to meet with representatives of the City, including the Police Chief or his designee(s) within ten (10) business days from the date of the written notification to identify ways in which the problems which have been identified will be eliminated.

4. The notice(s) authorized or required herein shall be effective and deemed delivered upon the date such notice(s) are either (A) placed in the U.S. Mail as registered mail, return receipt requested, or (B) served by a Caribou police officer or other person authorized to effect service of process, in conformance with the procedures for personal service set forth in Maine Rule of Civil Procedure 4(d). Service of notice on one owner shall be deemed to constitute notice to all owners.

5. At the time of the nuisance property meeting required under section D (3), the owner shall be obligated to provide to the city the following documentation:

- i. A copy of the names of all tenants or other persons authorized to reside or presently residing in the building(s) on the property' and the units they occupy;
- ii. Copies of all leases with tenants residing in the building(s) on the property; and
- iii. Contracts with any property manager or other person responsible for the orderly operation of the property;

In addition, the owner will agree to take effective measures to address the nuisance property, which measures shall be memorialized in a written agreement at the conclusion of the meeting with the City and shall be implemented within one (1) week of said meeting unless another date is agreed upon. Failure to enter into such an agreement at the conclusion of the meeting will be

deemed a violation of this code, and the City may file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

If the same property should be classified as a nuisance property on a subsequent occasion, then the city is under no obligation to meet with the owner but may post the building(s) on the property or any units therein prohibiting occupancy, and/or proceed directly with a complaint to the district court seeking all compensatory and equitable relief permitted by law.

E. Enforcement

If the owner (a) refuses to agree to take effective measures to address the nuisance property, (b) takes ineffective measures to address the nuisance property as determined by the City, (c) fails to implement the agreement reached with the City to address the nuisance property, or (d) if, in the discretion of the city, the nuisance property requires immediate posting, the City may post the building against occupancy, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws. The first violation of this ordinance will result in a \$250 fine being imposed against the owner. The second and all subsequent violations will result in a fine of \$500.

F. Cost of service for responses to nuisance properties

1. Whenever the police department is required to respond to a situation at a nuisance property under this ordinance the owner of the nuisance property shall pay the cost of service for each such response as follows: for each such response for service the owner shall pay seventy-five (\$75.00) dollars which shall be in addition to any penalty to which the owner may be subject. Charges which become payable hereunder shall be treated as liens on the property in question.

2. Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to a fine not less than seventy-five (\$75.00) dollars nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.