

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 1 -2011
Cape Elizabeth Town Hall
Monday, December 13, 2010
7:30 p.m.

Oaths of Office Administered by the Town Clerk
 Officials Elected November 2, 2010
 for Three Year Terms to Expire on December 9, 2013

Cape Elizabeth School Board
Kimberly J. Monaghan-Derrig
Michael C. Moore

Cape Elizabeth Town Council
Frank J. Governali
Caitlin R. Jordan

Roll Call by the Town Clerk

Present Absent

Frank J. Governali	18 Old Ocean House Road	X	799-5842	12/2013
Caitlin R. Jordan	83 Old Ocean House Road	X	799-7743	12/2013
Sara W. Lennon	54 Cranbrook Drive	X	741-5139	12/2012
David S. Sherman, Jr.	74 Hunts Point Road	X	749-2668	12/2011
Jessica L. Sullivan	38 Cranbrook Drive	X	774-0115	12/2012
Anne E. Swift-Kayatta	14 Stone Bridge Road	X	767-5754	12/2011
James T. Walsh	23 Rock Crest Drive	X	799-6730	12/2012
Michael K. McGovern, Town Manager		X		
Debra M. Lane, Town Clerk		X		

The Pledge of Allegiance to the Flag

Presentation

Chair Anne Swift-Kayatta presented outgoing Town Councilor Penny Jordan a clock representing her term on the Town Council 2009 – 2010.

Town Council Reports and Correspondence

Councilor Sullivan reported on two events: 11/12/2010 Public Safety Appreciation Day held at the Town Center Fire Station sponsored by H.O.P.E. and 11/29/2010 Smartmeter Public Forum at the Scarborough Town Hall.

Town Manager's Report

Due to the length of the agenda, Manager McGovern passed.

Review Minutes of November 8, 2010 Meeting

Moved by David S. Sherman, Jr. and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council approves the minutes of Meeting #14-2010 held November 8, 2010 as amended.

(7 yes) (0 no)

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Citizen Opportunity for Discussion of Items Not on the Agenda None

Item# 1-2011 Election of a Town Council Chairman for Council Year 2011

Moved by Sara W. Lennon and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council elects David S. Sherman, Jr. to serve as Town Council Chair for Council Year 2011.

(7 yes) (0 no)

Item# 2-2011 Annual Adoption of Town Council Rules

Moved by Anne E. Swift-Kayatta and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council adopts the Town of Cape Elizabeth Town Council Rules 2011 as presented.

(7 yes) (0 no)

See attachment.

Moved by Anne E. Swift-Kayatta and Seconded by Caitlin R. Jordan to consider Item ##3-13 en bloc.

(7 yes) (0 no)

Moved by Anne E. Swift-Kayatta and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council approves the following appointments.

(7 yes) (0 no)

Item# 3-2011 Appointment of the Finance Committee

Sara W. Lennon as chairman and the Council as a whole to serve as the finance committee

Item# 4-2011 Appointment of an Ordinance Committee

James T. Walsh as chairman and Frank J. Governali and Anne E. Swift-Kayatta as members

Item# 5-2011 Appointment of an Appointments Committee

Jessica L. Sullivan as chairman and Caitlin R. Jordan and Sara W. Lennon as members

Item# 6-2011 Appointment of Representatives to ecomaine Board of Directors

Caitlin R. Jordan and Michael K. McGovern for terms to expire on December 31, 2013

Item# 7-2011 Appointment of Representative to Greater Portland Council of Governments Executive Committee

James T. Walsh

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- Item# 8-2011** **Appointment of Representative and Alternate to Greater Portland Council of Governments General Assembly**
Sara W. Lennon
Caitlin R. Jordan, Alternate
- Item# 9-2011** **Appointment of Representative to PACTS Policy Committee**
Michael K. McGovern
- Item# 10-2011** **Appointment of Representative to MMA Legislative Policy Committee and MMA Convention Delegate**
Anne E. Swift-Kayatta
- Item# 11-2011** **Appointment of Representative to Thomas Memorial Library Foundation**
Jessica L. Sullivan
- Item# 12-2011** **Appointment of Representative to Alternative Energy Committee**
Sara W. Lennon
- Item# 13-2011** **Appointment of Representative to Greater Portland Economic Development Corporation**
James T. Walsh
- Item# 14-2011** **Appointment of Citizens to Fill Vacant Position on Boards and Commissions**

Intro – Councilor Sullivan, Appointments Committee

Moved by Jessica L. Sullivan and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council approves the recommendations of the 2010 Appointments Committee to appoint the following residents to various town boards and Commissions. The terms are effective January 1, 2011 unless noted by an asterisk (*). The unexpired terms are effective immediately.

(7 yes) (0 no)

Board	Recommended	Term Expires	Address
Board of Assessment Review	David B. Scheffler	12/31/2013	12 Pheasant Hill Road
Arts Commission	Genesta L. Berry	12/31/2013	3 Seal Cove Lane
Arts Commission	Julia Bassett Schwerin	12/31/2013	6 Cottage Lane #2
Arts Commission	Mary Beltrante	12/31/2013	2 Strout Road
Arts Commission	Sheila Casey	12/31/2012*	One Village Lane
Community Services Advisory Commission	Susan Haversat	12/31/2013	12 McAuley Road
Community Services Advisory Commission	Michael J. O'Connor	12/31/2013	4 Hemlock Hill Road
Conservation Commission	Zach Matzkin	12/31/2013	77 Scott Dyer Road
Conservation Commission	John S. Marchewka	12/31/2013	111 Old Ocean House RD
Fort Williams Advisory Commission	Frank Butterworth	12/31/2013	21 McAuley Road
Fort Williams Advisory Commission	Lise Pratt	12/31/2013	32 Wood Road
Personnel Appeals Board	Christopher Taintor	12/31/2013	6 Jordan Farm Road
Personnel Appeals Board	Dawn M. Harmon	12/31/2012*	9 Blueberry Road
Planning Board	Elaine S. Falender	12/31/2013	16 Mares Hollow Lane
Planning Board	Henry Steinberg	12/31/2013	13 Hunts Point Road
Recycling Committee	Patt Salve Bothel	12/31/2013	90 Ocean House Road

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Recycling Committee	Peter Frye	12/31/2013	28 Southwell Road
Recycling Committee	William H. Marshall	12/31/2013	10 Wildwood Drive
Riverside Memorial Cemetery Trustees	Beverly Brooking	12/31/2013	208 Two Lights Road
Thomas Memorial Library Trustees	RuthAnne Haley	12/31/2013	49 Brentwood Road
Thomas Memorial Library Trustees	Ken Piper	12/31/2013	3 Birch Knolls
Thomas Memorial Library Trustees	Molly MacAuslan	12/31/2013	37 Park Circle
Thomas Memorial Library Trustees	Stephen Owens	12/31/2012*	33 Crescent View Avenue
Zoning Board of Appeals	Jeffrey A. Schwartz	12/31/2013	12 Manter Street
Zoning Board of Appeals	Leonard M. Gulino	12/31/2013	5 Park Circle

**Item# 15-2011 Proposed PACE Ordinance
(Property Assessed Clean Energy)**

Intro – Councilor Sherman, 2010 Ordinance Committee Chair
Mr. Dana Fisher, Efficiency Maine Trust

Public Hearing Proposed PACE Ordinance

Chair Sherman opened the hearing to public comments at 7:52 p.m.
After hearing no comments, the public hearing was closed.

Moved by James T. Walsh and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the recommendation of the 2010 Ordinance Committee to establish Chapter 23 Property Assessed Clean Energy (Pace) Ordinance as presented. This ordinance will enable citizens to participate in a federal/state program administered by the Efficiency Maine Trust that will assist residents with receiving loans for energy efficiency improvements.

(7 yes) (0 no)

See attachment.

Item# 16-2011 Planning Board Revised Rules

Intro – Peter Hatem, Planning Board Chair

Chair Sherman opened the item for public comments.

David Plimpton, 1000 Shore Road

Mr. Plimpton said he has already submitted a letter but has not received a response from the Planning Board, Mr. Hatem or the Town Council.

Mary Esposito, 1000 Shore Road

Ms. Esposito shares the concerns of Mr. Plimpton. What is substantive review? What is the difference between the Planning Board talking to the applicant or talking to citizens at a workshop?

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Moved by Sara W. Lennon and Seconded by Caitlin R. Jordan

Ordered the Cape Elizabeth Town Council approves the new rules of procedure for the conduct of Planning Board meetings and requests the Planning Board to continue review of citizens input at workshops.

(6 yes) (1 no Swift-Kayatta)

This item was tabled at the November 8, 2010 meeting but has been assigned a new agenda item number, as it is a new Council year.

**CAPE ELIZABETH PLANNING BOARD
RULES AND REGULATIONS
(effective)**

Section 1 Organization of the Board

A. Board Membership

As stated in Article IV, Sec. 4-4-2 of the Town Code of Ordinances, the Planning Board shall consist of seven (7) members who shall be residents of the Town and who shall not be salaried officials of the Town. The members shall serve without pay and shall be appointed by the Town Council to serve for staggered three (3) year terms expiring on January 1.

B. Board Officers

1. A Chair and a Vice-Chair shall be elected annually by the Board members at the regular January meeting and shall assume their duties at said meeting.
2. In the absence of the Chair, the Vice-Chair shall assume the duties of the Chair.
3. Should both the Chair and the Vice-Chair be absent from a Board meeting, a temporary Chair shall be appointed by the Chair prior to the meeting or elected by a majority of the Board present at the meeting.

Section 2 Meetings

- A. Regular - The regular meeting of the Planning Board shall be held at 7:00 p.m. on the third Tuesday of each month in the Town Hall or such other time and place that the Board may designate. The date, time and place of any regular meeting may be changed by an order passed at the previous meeting of the Board. The Board shall not begin to hear new agenda items commencing after 10:00 p.m., , unless the Board votes to suspend this rule. Items not heard will automatically be added to the agenda for the next regular meeting.
- B. Special - Special meetings may be called by the Chair or when requested by a majority of the Board. Whenever possible, a special meeting shall be announced at a prior regular meeting of the Board. The announcement of a special meeting shall set forth the matters to be acted upon by the Board.
- C. Workshop - Workshop meetings shall be held at the discretion of the Chair. Such workshops shall be held on the first Tuesday of each month whenever possible.
- D. Site Walks - Site walks as deemed necessary by the Board may be scheduled. Members of the public may attend site walks.

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E. Quorum - A quorum for a meeting shall consist of at least four (4) members of the Board.

Section 3 Conduct of Meetings

A. General

1. The Chair shall call the meeting to order at the appointed time. If a quorum is present, the Chair shall call for the approval of the minutes of the preceding meeting, and then proceed to business.
2. The Chair shall declare all votes. If any member doubts a vote, the Chair shall order a recount of the affirmative and negative votes without debate. The secretary shall record all votes.
3. In the conduct of its meetings, the Planning Board will be guided by the latest edition of Robert's Rules of Order, Newly Revised.
4. Prior to consideration of an agenda item before the Board, each Board member shall declare any potential conflict of interest to the Board with respect to that item. A Board member may voluntarily refrain from participation on an agenda item. If a question of a possible conflict of interest is raised and the Board member asserts that there is no conflict that will influence his or her conduct, the Board, after discussion, shall determine by a majority vote whether a conflict exists. A Planning Board member with a conflict of interest shall refrain from participating, influencing and voting on the agenda item that precipitated the conflict of interest.
5. A presentation by an applicant shall not exceed 15 minutes in length without the permission of the Chair.

B. Decorum and Order

The Chair shall preserve decorum and decide all questions of order and procedure. Persons may only address the Planning Board after being recognized by the Chair, and at regular meetings only at the lectern. Other than when recognized, persons present at Planning Board meetings shall not applaud or otherwise express approval or disapproval at any statements made or actions taken at such meeting.

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C. Public Comment

1. Workshop - Members of the public are strongly encouraged to submit written comments addressing workshop items. All written comments shall be submitted to the Town Planner for distribution to the Planning Board and placement in the public file.
2. Regular/Special meeting - In addition to written comments, members of the public may speak at a regular or special meeting.
 - a. The public hearing or public comment period will be opened after the applicant has made a presentation describing the project, or the Planning Board Chair has described the ordinance amendment or policy issue under consideration. When the Planning Board is considering the completeness of an application, public comments shall be limited to completeness and no comments on the merits of the application shall be made. If the Planning Board finds the application complete, the Planning Board may then open a second public comment period on the substance of the application and under the terms described below.
 - b. Members of the public wishing to address the Board concerning an agenda item shall wait until the Chair asks for public comment. When recognized by the Chair, the speaker shall state the speaker's name and address in an audible tone for the record. The speaker is strongly encouraged to focus his/her comments on the development standards of review, or, in the case of an ordinance amendment or policy discussion, the issue under discussion. Each member of the public shall be allowed three (3) minutes, and such time may be extended at the discretion of the Chair. The Chair may decline to recognize any person who has already spoken on the same agenda item. Once the public hearing or public comment period is closed and the Planning Board has begun its deliberations on an item, no member of the public shall be permitted to address the Planning Board. The public hearing or public comment period may be reopened at the discretion of the Chair.
3. Persons wishing to address the Board on an item not appearing on the agenda may do so only after disposition of all items appearing on the agenda, and only at the discretion of the Chair.

Section 4 Voting Procedures

- A. The Board shall act only by order. Each order shall be confined to one subject which shall be clearly expressed in the title of the order.
- B. All votes of command shall be expressed as orders. All orders shall take effect when passed unless otherwise provided.
- C. The votes for and against the passage of an order shall be entered in the proceedings of the Board recorded by the secretary. The affirmative vote of a simple majority of the members present and voting shall be required to approve a motion.
- D. The Planning Board may reconsider any order within thirty (30) days of the decision. A motion to reconsider may only be made by a member who voted in the majority on the previous vote.

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Section 5 Adoption and Amendments

No rule shall be amended or repealed without a recommendation from the Planning Board and approval by the Town Council.

Section 6 Procedures

A. Agendas

1. Fourteen copies of plans and materials shall be submitted by an applicant at least 18 calendar days before the Board meeting, unless otherwise specified at the previous meeting. Late submissions shall not be placed on a Board agenda. Applicants are encouraged to bring an electronic copy of appropriate plans to the regular meeting for projection during the presentation.
2. Prior to the meeting, the Town staff will make copies of the agenda available to the applicants. The first time that the item appears on a Planning Board agenda, appropriate notice shall be sent to all property owners within 500 feet of the property involved, or to the owners of the 25 properties situated nearest to it, whichever number is greater. A second notice shall be mailed to the same property owners at least 7 days before a scheduled public hearing.
3. A request to be on a workshop agenda shall be made at least seven days before the meeting. Every time a development proposal appears on a Planning Board workshop agenda, appropriate notices shall be sent to all property owners within 500 feet of the property involved. Materials for Planning Board discussion of a development project shall be provided by the applicant at the workshop. No vote or decision shall be made by the Planning Board at a workshop, and minutes of the meeting are not required.

B. Coordination with Others

In order to assure coordination between the Planning Board and other Town bodies regarding development review, as well as other matters before the Board, the Town Planner shall consult with other Town officials as necessary or desirable, including the Town Engineer, the Conservation Commission, the Code Enforcement Administrator, the Town Attorney, the Fire and Police Chiefs, the Director of Public Works, and the Town Manager, as well as those who may have a particular expertise or interest in a request for review.

Item# 17-2011 Driveway Entrance Permit Appeal – 6 Stonegate Road

Moved by Jessica L. Sullivan and Seconded by Sara W. Lennon to approve the request of Councilors Governali, Swift-Kayatta and Walsh to recuse themselves from discussion and voting on this item due to possible conflicts of interest. Councilor Governali and Walsh are property owners in the Stonegate development and Mr. Stier is a friend and partner at the same law firm as Councilor Swift-Kayatta's husband.

(4 yes) (3 recusals Councilors Governali, Swift-Kayatta and Walsh)

Present

Robert Malley, Director of Public Works
Patricia Dunn, Attorney Representing Mr. Malley
Thomas Leahy, Town Attorney Representing the Town Council
Robert H. Stier, Jr., 9 Rock Crest Drive, Appellant

Presentations

Thomas Leahy
Robert Stier
Patricia Dunn
Robert Malley

Chair Sherman opened the item for public comments.

Graham Pillsbury, Early Bird, LLC (1/2 owner)

Mr. Pillsbury asked for clarification of which document Robert Malley had for his review and to confirm the 25' setback is from the property line not from Stonegate Road.

Bill Orcutt, Property owner (since 1992) of the vacant lot adjacent to 6 Stonegate Road. Mr. Orcutt said he pays his taxes and dues to the Stonegate Association and "has to abide by their rules," however "the new owners will not have to but they will have access to their community." Mr. Orcutt asked the council to weigh his comments in their decision.

Moved by Sara W. Lennon and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council enters executive session in conformance with 1 M.R.S.A §405 to obtain advice from the Town Attorney at 10:08 p.m.
(4 yes) (3 recusals Councilors Governali, Swift-Kayatta and Walsh)

Chair Sherman called the meeting to order in public session at 10:26 p.m.

Moved by Sara W. Lennon and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council tables Item #17-2011 to the January 10, 2011 Town Council Meeting and requests Mr. Stier to provide a written argument within 10 days and for the Director of Public Works to respond through Attorney Patricia Dunn. The Appellant and the Director of Public Works written arguments will be available for consideration at the January meeting.
(4 yes) (3 recusals Councilors Governali, Swift-Kayatta and Walsh)

Moved by Anne E. Swift-Kayatta and Seconded by Caitlin R. Jordan to suspend the Town Council Rules 2011 to take up a new item after 10:30 p.m.

(7 yes) (0 no)

Item# 18-2011 Fort Williams Park Group Use and Commercial Fees (Proposal)

Present – Robert Malley, Director of Public Works

Intro – Manager McGovern

Moved by Anne E. Swift-Kayatta and Seconded by Caitlin R. Jordan

Ordered the Cape Elizabeth Town Council adopts the Fort Williams Advisory Commission’s recommended revisions to existing fees at Fort Williams Park as presented effective immediately. The proceeds are dedicated for the Fort Williams Park Capital Fund for improvements within Fort Williams Park.

(7 yes) (0 no)

**Fort Williams Park
 Reservation Fee Schedule - 2010/2011**

Picnic Shelter Rental Fee Schedule	Current Fee	Proposed Effective 12/14/10
Cape Elizabeth Residents		
Full Day (Non Business)	\$100.00	\$150.00
Half Day (Non Business) (AM or PM)	\$70.00	\$75.00
Half Day (Non Business) - PM After Labor Day	\$70.00	\$50.00
Security Deposit For All Bookings	\$50.00	\$50.00
Non Residents		
Full Day (Non Business)	\$360.00	\$300.00
Half Day (Non Business) (AM or PM)	\$240.00	\$150.00
Half Day (Non Business) - PM After Labor Day	\$150.00	\$125.00
Security Deposit For All Bookings	\$50.00	\$50.00
Businesses & Groups (For Profit)		
Full Day	\$360.00	\$400.00
Half Day (AM or PM)	\$240.00	\$200.00
Half Day - PM After Labor Day	\$150.00	\$175.00
Security Deposit For All Bookings	\$50.00	\$50.00
Non-Profit Organizations (501 C 3)		
Full Day	\$240.00	\$300.00
Half Day (AM or PM)	\$180.00	\$150.00
Half Day - PM After Labor Day	\$150.00	\$125.00
Security Deposit For All Bookings	\$50.00	\$50.00

Half Day Rentals - AM reservations start at sunrise with departure no later than 1:30 PM.

PM reservations start at 3:00 PM with departure no later than sunset*

*PM Reservations after Labor Day will be at a reduced rate due to the earlier sunset.

Bandstand & Stone Gazebo Rentals

(Time of use same as above for 1/2 day rentals)

Cape Elizabeth Residents

Per hour with a two hour minimum	\$15.00	\$15.00
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Non-Residents, Businesses & Groups

Per hour with a two hour minimum	\$20.00	\$20.00
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Security Deposit For All Bookings	\$50.00	\$50.00
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Area Fee

Applies to any activity that uses one of the major areas of the Park - Battery Knoll, the Meadow, Parade Grounds, etc.

Full Day	\$500.00	\$500.00
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Half Day	\$300.00	\$300.00
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Security Deposit For All Bookings	\$50.00	\$50.00
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Location Fee

Applies to the use of the Park as a site for commercial photography and/or filming

Maine-based Company	\$1,000.00	\$1,000.00
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Any other Company	\$2,500.00	\$2,500.00
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For any filming activity that has a significant impact on the public's enjoyment of the Park, a special fee must be negotiated with the Town Manager or his/her designee.

Wedding & Partnership Ceremonies	\$75.00	\$100.00
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If the Picnic Shelter is reserved in conjunction with a ceremony, there will be no ceremony fee.

Item# 19-2011 2011 Beach to Beacon Road Race Use of Fort Williams Park

Present – Robert Malley, Director of Public Works

David Weatherbie, President of the Beach to Beacon Road Race

Moved by Anne E. Swift-Kayatta and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council approves a proposal to set the group use fee for the 2011 Beach to Beacon Road Race at \$25,000 with the race to continue to pay all of the Town's out of pocket expenses. The proceeds are dedicated for the Fort Williams Park Capital Fund for improvements within Fort Williams Park.

(7 yes) (0 no)

Item # 20-2011 Purpoodock Club Annual Liquor Licenses

Councilors Sherman, Sullivan, Swift-Kayatta and Walsh are members of the Purpoodock Club. It was a consensus of the Town Council that there is no conflict of interest.

Moved by Sara W. Lennon and Seconded by Caitlin R. Jordan

Ordered the Cape Elizabeth Town Council approves the renewal malt, spirituous and vinous liquor license and Special Amusement Permit for the Purpoodock Club, 300 Spurwink Avenue. (7 yes) (0 no)

Item# 21-2011 Recycling Center Fees (Proposal)

Intro – Robert Malley, Director of Public Works

Moved by Sara W. Lennon and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council adopts the revised fees for use of the Recycling Center as proposed by the Director of Public Works. (7 yes) (0 no)

Town of Cape Elizabeth

Recycling Center Fee Schedule

Item	Current Fee	Proposed Effective 01/01/11
Residential Permit	No Charge	No Charge
Commercial Hauler Permit - CE Based	\$100.00/Year	\$100.00/Year
Commercial Hauler Permit - Non Resident	\$150.00/Year	\$150.00/Year
Household Refuse	No Charge	No Charge
Brush & Limbs:		
Autos	No Charge	No Charge
Minivans/SUV's	\$5.00/load	\$5.00/load
Pickups, Vans & Single Axle Trailers	\$15.00/load	\$15.00/load
Double Axle Trailers	\$20.00/load	\$20.00/load
Non CDL Req. Dumps and/or Rack Trucks	\$30.00/load	\$30.00/load
Amount in Excess of Normal Capacity	\$10.00/load extra	\$10.00/load extra
Leaf & Yard Waste (Contractors Only):		
Leaf & Yard Waste Sur. - CE Based	\$200.00/year	\$200.00/year
Leaf & Yard Waste Sur. - Non Res.	\$250.00/year	\$250.00/year

Woodwaste, Lumber

& Demo Wood:

Autos	No Charge	No Charge
Minivans/SUV's	\$5.00/load	\$5.00/load
Pickups, Vans & Single Axle Trailers	\$15.00/load	\$15.00/load
Double Axle Trailers	\$20.00/load	\$20.00/load
Non CDL Req. Dumps & and/or Rack Trucks	\$30.00/load	\$30.00/load
Amount in Excess of Normal Capacity	\$10.00/load extra	\$10.00/load extra

Asphalt Shingles, Roofing & Gypsum Board:

Autos	No Charge	No Charge
Minivans/SUV's	\$5.00/load	\$5.00/load
Pickups, Vans & Single Axle Trailers	\$30.00/load	\$30.00/load
Double Axle Trailers, Non CDL Req. Dump and/or Rack Vehicles	\$60.00/load	\$60.00/load
Amount in Excess of Normal Capacity	\$10.00/load extra	\$10.00/load extra

Concrete, Bricks & Masonry:

Autos	No Charge	No Charge
Minivans/SUV's	\$5.00/load	\$5.00/load
Pickups, Vans & Single Axle Trailers	\$10.00/load	\$10.00/load
Double Axle Trailers	\$20.00/load	\$20.00/load
Non CDL Req. Dump and/or Rack Trucks	\$20.00/load	\$20.00/load
Amount in Excess of Normal Capacity	\$10.00/load extra	\$10.00/load extra

Appliances:

Items With Freon - A/C Units & Dehumid. Refrigerators & Freezers	\$20.00/item	\$20.00/item
Washers (Dish & Cloths), Dryers, Stoves, Hot Water Tanks, Furnaces & Microwave Ovens	\$10.00/item	\$10.00/item

Universal Wastes:

Console TV's	Page 13	Town Council Minutes	\$15.00/each
Non-Console TV's		December 13, 2010	\$5.00/each

Computer Monitors (All Sizes)		\$3.00/item
CPU's & Laptops		\$3.00/item
Desktop Office Equipment		\$3.00/item

Furniture:

Mattresses, Futons & Box Springs	\$10.00/item	\$10.00/item
Sofas, Love Seats & Large Chairs	\$15.00/item	\$15.00/item
Sleep Sofas	\$20.00/item	\$20.00/item
Carpeting (Rolls)		\$15.00/roll

Propane Tanks - 20# Cyl.	\$2.00/tank	\$2.00/tank
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Tires:

Auto, Truck, Van up to 16"	\$5.00/each	\$5.00/each
Truck, 17" or larger	\$10.00/each	\$10.00/each

Item # 22-2011 MDOT Response on Route 77 Speed Limit Request

Moved by Anne E. Swift-Kayatta and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council receives the report from the Maine Department of Transportation's regarding the Town Council's request to review the speed limit on Route 77 near the intersection of Broad Cove Road and to request the staff to inform the Planning Board.
(7 yes) (0 no)

Item # 23-2011 Comprehensive Plan Implementation Follow-up

Moved by the Anne E. Swift-Kayatta and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council affirms the vision statement for the Comprehensive Plan.
(7 yes) (0 no)

The vision represented by this Comprehensive Plan is to preserve Cape Elizabeth as a highly desirable community in which to live by the following: expanding open spaces and accessible trails; encouraging the preservation of working farms; continuing the current slow pace and pattern of development; maintaining excellent educational and municipal services; cultivating the Town Center as a mixed use commercial area; supporting the high levels of citizen involvement in town activities; and balancing services and costs

Item # 24-2011 Comprehensive Plan Implementation Follow-up Re: Planning Board

Intro – Councilor Governali, 2010 Ordinance Committee

Moved by Frank J. Governali and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council forwards the following memo to the Planning Board.
(7 yes) (0 no)

At the December 13, 2010 meeting, the Cape Elizabeth Town Council voted to direct the Planning Board to stop working on implementation of the Comprehensive Plan as directed in the January 2008 memo from the Town Council.

The Town Council has decided to focus Comprehensive Plan implementation efforts on the Recreation and Open Space chapter of the Comprehensive Plan. The Town Council will be appointing a committee (see attached committee description) to take the lead on implementing open space recommendations and requests that the Planning Board choose a member of the Planning Board to be a representative on this committee.

The Planning Board may wish to note that the Town Council Ordinance Committee will be reviewing growth areas identified in the Comprehensive Plan. Any changes that will result in amendments to the Zoning Ordinance or Zoning Map will also be forwarded to the Planning Board in the future.

Item # 25-2011 Comprehensive Plan Implementation Follow-up Re: Proposed Future Open Space Preservation Committee

Intro – Councilor Walsh, 2010 Ordinance Committee

Moved by James T. Walsh and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council authorizes a new Future Open Space Preservation Committee and appropriates \$25,000 from the undesignated surplus for the committee's use, which includes the cost of a professionally administered public opinion survey as presented.
(7 yes) (0 no)

Future Open Space Preservation Committee (FOSP)

Introduction

The Cape Elizabeth Town Council has decided that the Recreation and Open Space chapter recommendations of the Comprehensive Plan should be implemented before further implementation of the Land Use Chapter. In order to implement these recommendations using a public process that (1) is consistent with the Town Council Communication Strategy, (2) incorporates the Cape Farm Alliance and the Cape Elizabeth Land Trust and (3) respects private property rights, the Town Council is creating the Future Open Space Preservation Committee (FOSP).

Committee Structure

The Future Open Space Preservation Committee (FOSP) shall consist of ten members. The Town Council, following a recommendation from the Appointments Committee, shall appoint three citizens that shall be broadly representative of the entire community. The Town Council shall designate two Town Councilors and a member of the Ordinance Committee to serve on the committee. The Conservation Commission and Planning Board shall each designate one person representative of their bodies to serve on the committee. The Town Council also requests the Cape Farm Alliance and Cape Elizabeth Land Trust to designate one representative from each of their organizations to serve on the committee. The committee shall appoint its own chair and secretary. The Town Manager shall designate a principal staff person for the committee. It is also anticipated that consultants specializing in public survey and open space funding will be retained by the Town for specific projects that will be used by the committee.

Committee Charge

1. FOSP shall coordinate with the Cape Farm Alliance (CFA) and the Cape Elizabeth Land Trust (CELT) and solicit from them any information, inventories, etc. regarding future open space preservation priorities.
2. FOSP shall supervise a professional, statistically relevant telephone survey of town residents identifying priorities for specific parcels for open space preservation and preferred methods of funding.
3. FOSP shall prepare for the Town Manager's approval a Request for Proposals (RFP) for a consultant to:

Conduct an analysis of the costs and benefits to the town budget of development versus retention of open space. The analysis should draw on state and national resources to conduct this study. The objective is to determine the cost and benefits to taxpayers of housing growth versus the preservation of undeveloped land.

FOSP shall then review and make recommendations regarding the consultant's report.
4. FOSP shall conduct a public workshop with the CFA and CELT focusing on actions that both protect open space and promote sustainable farming, without constraining farmers' opportunities and infringing on private property rights.
5. FOSP shall develop "rural areas" and "open space" definitions for the Town of Cape Elizabeth. The committee shall consider (1) state law, (2) farmers' flexibility in using land on a long term basis, (3) the impact on other significant land owners, and (4) residents' priority in protecting rural areas.
6. FOSP shall identify specific key parcels of land in town that are of the highest priority. A comprehensive review of vacant lands in Cape Elizabeth should be undertaken to determine which areas exhibit the most important habitat features, recreational opportunities and whose preservation would help to ensure the town retains its rural character, including large undeveloped areas, agricultural uses of the land and scenic vistas.
7. FOSP shall develop a range of tools and approaches to preserve/protect/enhance critical parcels. These tools should be expansive and include innovative approaches that have been successfully employed nationwide, including zoning, outright land purchases, elimination of incentives for development in critical parcels, methods by which land can be purchased in private/public partnerships, and any other creative approaches other towns have taken. At the same time, all of the approaches that are considered and recommended have to avoid infringement on personal property rights.

8. FOSP shall prepare, for Town Council discussion, an evaluation of the financial resources necessary to achieve the strategic conservation priorities identified. Financial resources may include, but are not limited to, funding by town taxpayers, individual donations (land or dollars), donations and grants through CELT as well as State and Federal conservation funding programs.
9. FOSP shall prepare a final report summarizing its work and submit it to the Town Council.

Resources

The Town Council authorizes funding of \$25,000 for the cost/benefit/funding consultant and other miscellaneous committee expenses including the cost of the public opinion survey

Completion of FOSP work

All work of the committee shall be completed within 12 months of the first meeting of the committee. A progress report shall be provided to the Town Council six months after the committee begins to meet. In addition, FOSP is encouraged to provide recommendations to the Town Council as individual items are completed.

Item # 26-2011 Comprehensive Plan Implementation Follow-up Re: Ordinance Committee to Review Growth Areas

Moved by Frank J. Governali and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council refers to the Ordinance Committee a review of the designated Growth Areas.

(7 yes) (0 no)

Item # 27-2011 Easement Relocation at 876 Shore Road

Moved by Anne E. Swift-Kayatta and Seconded by Jessica L. Sullivan to approve the request of Chair Sherman to recuse himself from discussion and voting on this item due to a possible conflict of interest as the applicant is Mr. Sherman's mother.

(6 yes) (1 recusal Sherman)

Councilor Lennon agreed to serve as chair pro tem for the item.

Present – Robert Malley, Director of Public Works

Moved by Anne E. Swift-Kayatta and Seconded by Caitlin R. Jordan

Ordered the Cape Elizabeth Town Council accepts an easement for the relocation of drainage infrastructure at 876 Shore Road. The easement is from Beverly M. Sherman and the Beverly M. Sherman Qualified Personal Residence Trust as presented.

(6 yes) (1 recusal Sherman)

Item # 28-2011 Annual Acceptance of Gifts

Moved by Jessica L. Sullivan and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council accepts with appreciation all gifts given to the Town of Cape Elizabeth in 2010.

(7 yes) (0 no)

Item # 29-2011 Community Center Space Lease

Intro – Manager McGovern

Moved by Anne E. Swift-Kayatta and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council authorizes the town manager to sign the Commercial Lease Agreement with Michael Moore for the final unoccupied space at the office building in front of the community center as negotiated by the school facilities director. The agreement is for 160 square feet, which adds \$3,000 annually to revenues for Community Services. The authorization is subject to confirming that the lease does not conflict with the lease with Edward Jones.

(7 yes) (0 no)

See attachment.

Item # 30-2011 Credit Card Payments for Tax Bills

Intro – Manager McGovern

Moved by Anne E. Swift-Kayatta and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council authorizes the town manager to enter into an agreement for the Town to begin to accept payments by credit and debit card for tax bills. Maine law permits municipalities to recover costs for use of cards and electronic funds transfers. The transaction fees, to be paid by users of the service, are as follows:

Electronic funds transfer with electronic check- 40 cents
Use of Credit Card: 2.95% of value of transaction
VISA Debit Card: \$3.95 per transaction.

(7 yes) (0 no)

Item # 31-2011 Riverside Cemetery Trustees Public Participation Process

Moved by James T. Walsh and Seconded by Caitlin R. Jordan

Ordered the Cape Elizabeth Town Council approves the recommendation of the Trustees of the Riverside Memorial Cemetery for rules relating to the participation of the public at their meetings.

(7 yes) (0 no)

**Riverside Cemetery Trustees
Public Participation at Meetings**

Persons wishing to address topics on the agenda may do so following introduction of the item by the chairman and prior to Trustee discussion. Any person wishing to address the Trustees shall signify by raising their hand. When recognized by the chairman the speaker shall give his or her name and/or affiliation. Comments shall be limited to three minutes per person. The time may be extended by a majority vote of the Trustees present.

Persons wishing to address topics not on the agenda may do so following the roll call and review of the agenda by the chairman. The chairman shall ask if there are any members of the public who wish to speak. Any person wishing to address the Trustees shall give his or her name and/or affiliation. Comments shall be limited to three minutes per person. The time may be extended by a majority vote of the Trustees present.

In the event there is a topic of interest to many persons or if the Trustees wish to solicit public comment on a particular issue a separate meeting or public forum may be scheduled. Rules of the meeting or forum will be discussed by the Trustees and published prior to the meeting or forum.

Decorum

Persons present shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Expressions of approval or disapproval may be intimidating to others who wish to speak.

Citizen Opportunity for Discussion of Items Not on the Agenda

Nelson Silva, 11 Olde Colony Lane

Mr. Silva asked about the progress of the Shore Road Pathway project and clarification of the funding.

The Town Council will hold a workshop on January 3, 2011 and the regular meeting on January 10.

Item # 32-2011 Property Tax Abatement Request Due to Infirmary or Poverty

Moved by James T. Walsh and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council enters into executive session at 11:06 p.m. in conformance with 1 M.R.S.A §405 6 F to review a request for a poverty abatement.

(7 yes) (0 no)

Moved by Anne E. Swift-Kayatta and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 11:16 p.m.

(7 yes) (0 no)

Moved by Anne E. Swift-Kayatta and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council approves the request for a poverty tax abatement for \$1530.75.

(7 yes) (0 no)

Adjournment

Moved by Sara W. Lennon and Seconded by James T. Walsh
Ordered the Cape Elizabeth Town Council adjourns at 11:17 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Upcoming Meetings

Museum at Portland Head Light Board is After December 13th Town Council Meeting
Portland Head Light Gift Shop Sales Information

Thomas Jordan Trustees Meeting Follows Portland Head Light Meeting - **Postponed**

Town Council Meetings in 2011	Workshop Meetings
January 10	January 3- Goals and Meeting with Legislators
February 14	February 7
March 14	Finance Committee- To be determined
April 11 and 25	Finance Committee- To be determined
May 9	May 2
June 13	June 6
July 11	
August 8	
September 12	September 6
October 12	October 3
November 14	November 7
December 12	December 5