

**CAPE ELIZABETH TOWN COUNCIL MINUTES**  
**Regular Meeting # 8-2011**  
**Cape Elizabeth Town Hall**  
**Monday, May 9, 2011**  
**7:30 p.m.**

**Roll Call by the Town Clerk**

**Present    Absent**

<b>David S. Sherman, Jr., Chair</b>	<b>Term Expires 12/2011</b>	<b>X</b>		<a href="mailto:dsherman@dwmlaw.com">dsherman@dwmlaw.com</a>
<b>Frank J. Governali</b>	<b>Term Expires 12/2013</b>	<b>X</b>		<a href="mailto:frank.governali@capeelizabeth.org">frank.governali@capeelizabeth.org</a>
<b>Caitlin R. Jordan</b>	<b>Term Expires 12/2013</b>	<b>X</b>		<a href="mailto:caitlin.jordan@capeelizabeth.org">caitlin.jordan@capeelizabeth.org</a>
<b>Sara W. Lennon</b>	<b>Term Expires 12/2012</b>	<b>X</b>		<a href="mailto:slennon@maine.rr.com">slennon@maine.rr.com</a>
<b>Jessica L. Sullivan</b>	<b>Term Expires 12/2012</b>	<b>X</b>		<a href="mailto:jsullivan08@maine.rr.com">jsullivan08@maine.rr.com</a>
<b>Anne E. Swift-Kayatta</b>	<b>Term Expires 12/2011</b>		<b>X</b>	<a href="mailto:aeskay@maine.rr.com">aeskay@maine.rr.com</a>
<b>James T. Walsh</b>	<b>Term Expires 12/2012</b>	<b>X</b>		<a href="mailto:james.walsh@capeelizabeth.org">james.walsh@capeelizabeth.org</a>
<b>Michael K. McGovern, Town Manager</b>		<b>X</b>		
<b>Debra M. Lane, Town Clerk</b>		<b>X</b>		

**The Pledge of Allegiance to the Flag**

**Town Council Reports and Correspondence**

Councilor Sullivan reported on the Planning Board and Thomas Memorial Library Trustees vacancies. Interested residents may apply online at [www.capeelizabeth.com](http://www.capeelizabeth.com). The deadline to submit applications is Friday, May 13. The public is invited to a public forum on Thursday, May 26 at 7:00 p.m. in the chamber at Town Hall on the draft Open Space and Greenbelt Management plan.

Councilor Walsh reported that Ordinance Committee recommendations regarding growth areas will be presented to the council at the June 13 meeting.

Councilor Lennon reminded residents to vote on Tuesday, May 10 at the Cape Elizabeth High School gymnasium. Polls are open 7:00 a.m. – 8:00 p.m. The ballot includes the special election to fill the District 7 Senate seat, and the school budget validation vote.

Chair Sherman recognized two members of the community who recently passed away. Allen B. Rowe, Jr. was a community volunteer and Captain of Engine One and member of the Cape Elizabeth Fire Department. Mr. Rowe died on May 5, 2011 at the age of 86. He is the father of Jim Rowe, community volunteer and former member of the Town Council.

Thomas Victor Laprade, 44, passed away on April 29, 2011. Mr. Laprade was an active member of the community as Chair of the Zoning Board of Appeals, member of the Thomas Memorial Library Trustees and 14 years with the Cape Elizabeth Little League.

On behalf of the community, thoughts and prayers are with the Rowe and Laprade families.

**Citizen Opportunity for Discussion of Items Not on the Agenda**                      None

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**Town Manager's Report**

Manager McGovern provided an update of the New England Cottontail at Fort Williams Park.

Debra Lane, Town Clerk thanked staff who assisted in preparing for the May 10 election.

**Revaluation Update**

Town Assessor Matthew Sturgis gave an update on the revaluation.

**Review of Minutes of April 11 and April 25, 2011 Meetings**

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

Ordered the Cape Elizabeth Town Council approves the minutes of Meeting #6-2011 held April 11, 2011 as amended and approves the minutes of Special Meeting #7-2011 held April 25, 2011 as presented.

(6 yes) (0 no)

**Item# 88-2011          Shore Road Pathway**

Intro – Maureen O'Meara, Town Planner

Present – Robert Malley, Director of Public Works

SAFE = Safe Access for Everyone

8:05 p.m.

Chair Sherman provided an opportunity for public comment.

Mary Ann Lynch, 2 Olde Colony Lane

Ms. Lynch is an abutter of the project and urged the council to approve the funding.

Bill Downes, 15 Olde Colony Lane

Mr. Downes asked when the funds will be available and if ADA guidelines will be followed.

Nelson Silva, 11 Olde Colony Lane

Mr. Silva asked if it is possible to give SAFE until 10/ 2011 to raise \$100,000 for a total donation of \$200,000 (the original target).

Heather Altenburg, 31 Olde Colony Lane

Ms. Altenburg favors the project for a "more active, unified community."

Miss Piper Strunk and Miss Caroline Mahoney spoke in favor the project, "to keep kids safe."

Jim Kerney, 1015 Shore Road, Co-Chairman & Treasurer of SAFE

Mr. Kerney announced the fundraising efforts of SAFE will offer \$100,000 to the project.

Karen Holmes, 27 Olde Colony Lane

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Ms. Homes asked “What is a safe age to go along the path on Shore Road?” Her family uses Robinson Woods. Will Shore Road ever be safe?

Jim Tasse, 30 Cliff Avenue, Member of SAFE

Mr. Tasse stated “a road is safer where there is a side path.” He supports the project.

Miss Salvador, 24 Wood Road spoke in favor of the project.

Dr. Thomas McInerney, 29 Old Fort Road

Dr. McInerney supports the project which will help him keep his patients healthier.

Terri Patterson and Master Patterson, 15 Surf Road spoke in favor of the project.

8:21 p.m.

After hearing no further public comments, Chair Sherman asked for council deliberation.

Moved by Sara W. Lennon and Seconded by Frank J. Governali

Ordered: The Town Council hereby accepts the \$729,000 Maine Department of Transportation grant for the Shore Road Pathway and gratefully acknowledges and accepts the donation of \$100,000 in private donations collected by Safe Access for Everyone and approves the project funding as follows:

MDOT Grant	\$729,000
Town Center Sidewalk Account	60,000
Balance Remaining of July 2010 Funding	26,000
PACTS Credit Program	40,000
Projected Local Donations from SAFE	100,000
Infrastructure Improvement Fund	<u>75,000</u>
Subtotal	\$1,030,000

The Council hereby appropriates \$75,000 from the Infrastructure Improvement Fund to be credited to the project account. Any local balance left in the fund that is not needed for the project or for the project match shall revert after project closeout to the Infrastructure Improvement Fund. The Town Manager is authorized to locally administer the project working with the Maine Department of Transportation including all acts necessary to complete the project within the total authorized amount.

(6 yes) (0 no)

**Item# 89-2011 Inn by the Sea Liquor License and Special Amusement Permit**

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

Ordered the Cape Elizabeth Town Council approves the renewal of the annual malt, vinous and spirituous license for the Inn by The Sea at 40 Bowery Beach Road and also the special amusement permit for dancing and entertainment.

(6 yes) (0 no)



**CENTRAL MAINE POWER COMPANY – INFORMATION WORKSHEET**

*The information requested below will be used to prepare an Easement to CMP for new electric/communication service. All the information can be found on your deed.*

BRING COMPLETED WORKSHEET TO YOUR CMP APPOINTMENT, OR RETURN IT IN THE ENVELOPE PROVIDED! IF YOU HAVE QUESTIONS, CALL 1-800-750-4000.

\*\*\*\*\*PLEASE PRINT CLEARLY\*\*\*\*\*

**RESIDENTIAL PROPERTY OWNERS - Complete Numbers 1, 2, 3, 9, 10 and 11:**

1. Your Name(s) as it appears on your Deed

_____	_____	_____
First	Middle	Last
_____	_____	_____
First	Middle	Last

2. Mailing Address: \_\_\_\_\_  
City/State/Zip Code

3. Telephone Number: \_\_\_\_\_

**COMMERCIAL PROPERTY OWNERS - Complete Numbers 4 thru 11:**

4. TOWN OF CAPE ELIZABETH  
Full Name of Company, Corporation, LLC, LP, Estate or Trust – as appears on deed

5. State in which Company, Corporation, LLC, LP, etc. was formed: Maine

6. Person having signature authority: Name Michael K. McGovern Title Town Manager

7. Mailing Address: 320 Ocean House Road, P.O. Box 6260, Cape Elizabeth, Maine 04107  
City/State/Zip Code

8. Telephone Number: (207) 799-5251

**YOUR DEED INFORMATION:**

9. Full name of person(s) you bought property from – as appears on your deed: \_\_\_\_\_  
Town of Cape Elizabeth, as Trustee under the Will of Thomas Jordan

10. Date your deed was recorded: August 24, 1994

11. County your deed was recorded in: Cumberland County, Book# 11599, Page# 046

**FOR CMP USE ONLY**

NOTIFICATION # _____	<b><u>TYPE OF EASEMENT:</u></b>
W/O# _____	Standard <input type="checkbox"/>
Road _____	Corporate <input type="checkbox"/>
Road Alias _____	Estate <input type="checkbox"/>
Town _____	Trustee <input type="checkbox"/>
Commencing Pole/Pad #(s) _____	<b><u>TYPE OF WORK</u></b>
To Include Pole/Pad #(s) _____	Overhead/Combo <input type="checkbox"/>
Telephone Company _____	Underground <input type="checkbox"/>
Description _____	Aerial <input type="checkbox"/>
_____	Guying <input type="checkbox"/>

Field Planner Name: \_\_\_\_\_ Fax# \_\_\_\_\_

52871

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SHORT FORM QUITCLAIM DEED

The Town of Cape Elizabeth, a body corporate and politic, located at Cape Elizabeth, Cumberland County, State of Maine, in its capacity as Trustee under the Will of Thomas Jordan, for consideration paid, grants to the Town of Cape Elizabeth, a body corporate and politic, with a mailing address of 320 Ocean House Road, P.O. Box 6260, Cape Elizabeth, Maine 04107, the following described premises:

Two certain lots or parcels of land one on each side of Spurwink Avenue in the Town of Cape Elizabeth, County of Cumberland and State of Maine and being all of the premises known as the Thomas Jordan property which was conveyed to the Town of Cape Elizabeth, in trust, by the Will of Thomas Jordan dated in 1825, subject to the following easements and encumbrances:

1. A 30' wide easement conveyed by the Town of Cape Elizabeth to Nellie Dyer Cooper by deed dated September 26, 1977 and recorded in the Cumberland County Registry of Deeds in Book 4109, Page 312 for the purpose of constructing and maintaining a domestic water service line;

2. A sewer easement conveyed by the Town of Cape Elizabeth to Portland Water District by deed dated January 28, 1986 and recorded in said Registry of Deeds in Book 7060, Page 58;

3. A lease from the Town of Cape Elizabeth to Portland Water District, a memorandum of which is dated March 31, 1986 and recorded in said Registry in Book 7126, Page 70.

The premises being conveyed herein are believed to be described as follows:

Parcel One

A certain lot or parcel of land located on the Easterly side of Spurwink Avenue and bounded as follows: On the west by Spurwink Avenue; on the south by land now or formerly of Carrol B. Fleming et al by deed recorded in the Cumberland County Registry of Deeds in Book 9567, Page 123; on the southeast by land now or formerly of Lee R. and Avis C. Leavitt, as conveyed to them by deed recorded in the Cumberland County Registry of Deeds in Book 4901, Page 234, and on the north by land now or formerly of the Town of Cape Elizabeth as conveyed by deed recorded in said Registry in Book 2789, Page 153, by marsh formerly of Clement Jordan and by the east branch of the Spurwink River.

Parcel Two

Also, a certain lot or parcel of land located on the Westerly side of Spurwink Avenue and bounded as follows: Easterly by Spurwink Avenue; southerly and southeasterly by land now or formerly of Dorie S. Barber as conveyed by deed recorded in said Registry in Book 10805, Page 142; westerly by the west

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branch of the Spurwink River and Sawyer Road; northerly by the rear line of several parcels of land which have frontage on Wells Road to the westerly sideline of land now or formerly of Ralph E. Leighton and Alice C. Leighton as conveyed by deed recorded in said Registry in Book 3519, Page 66; easterly by the westerly sideline of said Leighton land; northerly by the east branch of the Spurwink River.

WITNESS:

TOWN OF CAPE ELIZABETH, TRUSTEE  
U/W/O Thomas Jordan

Barbara B. Roy

Michael K. McGovern  
By Michael K. McGovern  
Its Town Manager

STATE OF MAINE  
CUMBERLAND, SS.

August 15, 1994

Then personally appeared the above named Michael K. McGovern and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said body corporate, in its capacity as Trustee.

Before me,

RECEIVED  
REGISTERED REGISTRY OF DEEDS  
94 AUG 24 PM 2:25  
CUMBERLAND COUNTY  
John B. Brown

Barbara B. Roy  
Notary Public/Attorney at Law

Barbara B. Roy  
Printed Name

SEAL

My Commission Expires Aug. 21, 1995

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**Standard Easement Deed**

\_\_\_\_\_ with a mailing address of \_\_\_\_\_, ME,  
 ('Grantor(s)'), for consideration given, grants to **CENTRAL MAINE POWER COMPANY**, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336, and **VERIZON NEW ENGLAND INC.**, a New York corporation with a mailing address of 125 High Street, Boston, Massachusetts, 02110, and their respective successors and assigns (collectively 'Grantees'), with warranty covenants, the right and easement to erect, bury, maintain, rebuild, respace, patrol, operate, and remove and do all other actions involving electric and communication distribution equipment and facilities, consisting of wires, cables, anchors, guywires or pushbraces, together with all necessary fixtures and appurtenances over, across and under the surface of the land of the Grantor(s) in the City/Town of \_\_\_\_\_, \_\_\_\_\_ County, Maine. The said equipment and facilities are attached to a line commencing at Pole(s)/Pad(s) \_\_\_\_\_, \_\_\_\_\_ (Street), \_\_\_\_\_ (Town), and extending to include Pole(s)/Pad(s) \_\_\_\_\_ to serve Grantor(s) and others. This easement affects land or rights conveyed to the Grantor(s) in a deed from \_\_\_\_\_, dated \_\_\_\_\_, and recorded in the \_\_\_\_\_ County Registry of Deeds in Book \_\_\_\_\_ Page \_\_\_\_\_. The rights granted herein include the right to cut down and trim trees and other vegetation and to use formulations registered with the Environmental Protection Agency or its successor to eliminate vegetation, and modify the growth of trees, which vegetation or growth, in the judgement of Grantees, may interfere with the operation and maintenance of its equipment or facilities; and the right to restrict the construction of buildings, structures and improvements within 15 feet of its equipment and facilities; and the right to keep the surface of ground above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

WITNESS the hand(s) and seal(s) of Grantor(s) on \_\_\_\_\_, 200\_\_.

Signed, Sealed and Delivered in the presence of:

Witness(es) \_\_\_\_\_

Grantor(s) Signature(s) \_\_\_\_\_

Witness \_\_\_\_\_

Printed: \_\_\_\_\_

Witness \_\_\_\_\_

Printed: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

The above-named \_\_\_\_\_, personally appeared before me on \_\_\_\_\_, 200\_\_ and acknowledged the foregoing instrument to be his/her/their free act and deed.

WR#  
Acct#

\_\_\_\_\_  
Notary Public/Attorney  
Printed Name:  
My Commission Expires:

**Item# 94-2011          Community Services Advisory Commission Work Plan**

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

Ordered the Cape Elizabeth Town Council acknowledges receipt of the 2011 work plan for the Community Services Advisory Commission.

(6 yes) (0 no)

**2011 Goals for the Community Services Advisory Commission**

**Evaluation:**

Evaluate the Community Services programs on an on-going basis to determine how best to meet the needs in the community.

**Marketing:**

Develop a comprehensive marketing program that effectively promotes the benefits of Community Services classes to the community or to the appropriate identified audience.

**Communication:**

Develop and enhance a communication infrastructure that provides increased interactive outreach, timely and relevant information, sharing targeted marketing and consistent evaluation.

**Staffing:**

Advise Director on staffing and resource allocation in an effort to provide gap analysis and identity plans to fill identified gaps.

**Youth Sports:**

Identify benchmarks and standards for youth sports within Community Services.

**Citizen Opportunity for Discussion of Items Not on the Agenda          None**

**Item # 95-2011          Executive Session Request**

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

Ordered the Cape Elizabeth Town Council, in conformance with 1MRSA §405 6 C, enters executive session to discuss land acquisition/disposition issues at 8:43 p.m.

(6 yes) (0 no)

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

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 9:20 p.m.

(6 yes) (0 no)

**Adjournment**

Moved by Jessica L. Sullivan and Seconded by James T. Walsh  
Ordered the Cape Elizabeth Town Council adjourns at 9:22 p.m.  
(6 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk