

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 10-2011
Cape Elizabeth Town Hall
Monday, July 11, 2011
7:30 p.m.

Roll Call by the Town Clerk			Present	Absent	
David S. Sherman, Jr., Chair	Term Expires 12/2011	X			dsherman@dwmlaw.com
Frank J. Governali	Term Expires 12/2013	X			frank.governali@capeelizabeth.org
Caitlin R. Jordan	Term Expires 12/2013	X			caitlin.jordan@capeelizabeth.org
Sara W. Lennon	Term Expires 12/2012		X		slennon@maine.rr.com
Jessica L. Sullivan	Term Expires 12/2012	X			jsullivan08@maine.rr.com
Anne E. Swift-Kayatta	Term Expires 12/2011	X			aeskay@maine.rr.com
James T. Walsh	Term Expires 12/2012	X			jim.walsh@capeelizabeth.org
Michael K. McGovern, Town Manager			X		
Debra M. Lane, Town Clerk			X		

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Sullivan reviewed the concert series to be held evenings on the lawn of the Thomas Memorial Library sponsored by the Thomas Memorial Library Foundation. The series begins on Tuesday, July 12 at 6:30 p.m. featuring Tricky Britches.

Chair Sherman mentioned current and upcoming events in Cape Elizabeth including strawberry season and the Beach to Beacon 10K Road Race on Saturday, August 6.

Town Clerk Debra Lane announced the special election to fill the District #121 House of Representatives seat vacated by Cynthia Dill scheduled for Tuesday, August 16 at the Cape Elizabeth High School cafeteria. Absentee ballots will be available within a week or so.

Citizen Opportunity for Discussion of Items Not on the Agenda None

Town Manager’s Report

Town Manager McGovern remembered William (Bill) G. Wadman. Bill was born July 13, 1927 and died June 27, 2011. He served on the Town Council from 1969-1977; an important time when the Town Council determined that Fort Williams would be predominantly a park. Bill served on many boards and commissions and was a founder of the Conservation Commission. He is survived by his wife Norma of 60+ years, a long time librarian at the Thomas Memorial Library, three children and their families. The town thanks Bill for his service to the community.

Update on Maine PUC Decision on Smart Meters (Presentation available at www.capeelizabeth.com.)

Suzanne Foley-Ferguson presented an updated on the Maine PUC decision on Smart Meters. Ms. Foley-Ferguson is a member of the Smart Meter Safety Coalition. Other members present include Elisa Boxer-Cook. If Cape Elizabeth residents wish to opt out of the smart meter, they must contact Central Maine Power. The coalition has more information available at www.smartmetersafety.com.

**Page 2 Town Council Minutes
July 11, 2011**

Review of Minutes of June 13, 2011 Meeting

Moved by Jessica L. Sullivan and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council approves the minutes of Meeting #9-2011 held June 13, 2011 as presented.

(6 yes) (0 no)

Item # 102-2011 Councilor Swift-Kayatta has asked for reconsideration of Item #102-2011 Councilors Jordan, Sullivan and Walsh also signed the request.

Intro – Chair Sherman

Chair Sherman opened the item for public comments at 7:52 p.m.

Richard Berman, 58 Hannaford Cove Road

Mr. Berman is “against the purchase,” the taxpayers are “already supporting the purchase by the taxes coming off the tax rolls.”

Ted Darling, 35 McAuley Road, President Cape Elizabeth Land Trust

Mr. Darling reviewed meetings, workshops and votes of the council and CELT on this item. He asked the council to deny the request to reconsider.

Robert Barton, 8 Woods Knoll Drive

Mr. Barton shared “philosophical comments,” stating the town and CELT have their own missions, the town should not be bonding \$350,000, CELT and the town should continue to work together.

Julian Coles, 2 Autumn Tides Lane

Mr. Coles is “proud of the town’s effort to preserve land” and does not want to see the town and CELT “disagree,” “the town should live up to it’s obligation.”

Chris Franklin, Executive Director Cape Elizabeth Land Trust

Mr. Franklin stated “this purchase is a once in a lifetime opportunity.” The purchase of the land is a continuing effort between the town and CELT to preserve land which benefits the public.

Bill Downes, 15 Olde Colony Lane

Mr. Downes “applauds the town and CELT in their missions.” The town shouldn’t provide the funding unless the town and CELT are “in sync.” Mr. Downes supports the reconsideration.

Tony Armstrong, 32 Lawson Road

Mr. Armstrong expressed concerns about the safety of the Shore Road path particularly in the section of the S curve. “The path is designed on the road frontage, stay with the way it is.”

After hearing no further comments, Chair Sherman closed the public comments at 8:09 p.m.

**Page 3 Town Council Minutes
July 11, 2011**

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

Ordered the Cape Elizabeth Town Council reconsiders Item #102-2011.

(3 yes) (3 no Councilors Governali, Jordan and Sherman)

Tie vote, motion fails.

Item # 111-2011 Aster Lane and Cottage Brook Phase 1A Acceptance

Moved by James T. Walsh and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council accepts as presented Phase IA of the Cottage Brook Subdivision, which includes a portion of Aster Lane and related open space, conditioned upon deeds acceptable to the Town Attorney for both the open space and the road and upon the installation of a light pole per the plans and receipt of the as-built drawings.

(6 yes) (0 no)



360.44.11

July 6, 2011

Michael McGovern, Town Manager
Town of Cape Elizabeth
P.O. Box 6260
Cape Elizabeth, Maine 04107

SUBJECT: Cottage Brook – Subdivision – Phase 1A

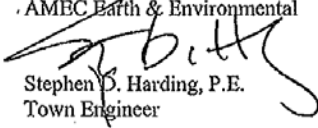
Dear Mike:

As you are aware, AMEC Earth & Environmental has monitored the construction of the subject project and its associated roadway since its commencement. Phase 1A included construction of +/- 250-feet of roadway from South Street connecting to Dermot Drive. The roadway also includes a turnaround. We last visited the site on June 21, 2011 with the Public Works Director and the contractor, Skip Murray of L.P. Murray & Sons, Inc. Please refer to our last field report #14 dated June 21, 2011 for a summary of our visit. Based on our observations at the site, the project's conformance with the approved plans, and our conversations with the Public Works Director, we recommend that the Town accept the roadway as constructed with the following conditions:

1. Installation of the light pole at intersection of Dermot Drive and Aster Lane
2. Sufficient establishment of grass growth within the esplanades
3. Submission of final as-built drawings

Please call should you have questions or comments regarding this issue.

Sincerely,
AMEC Earth & Environmental


Stephen B. Harding, P.E.
Town Engineer

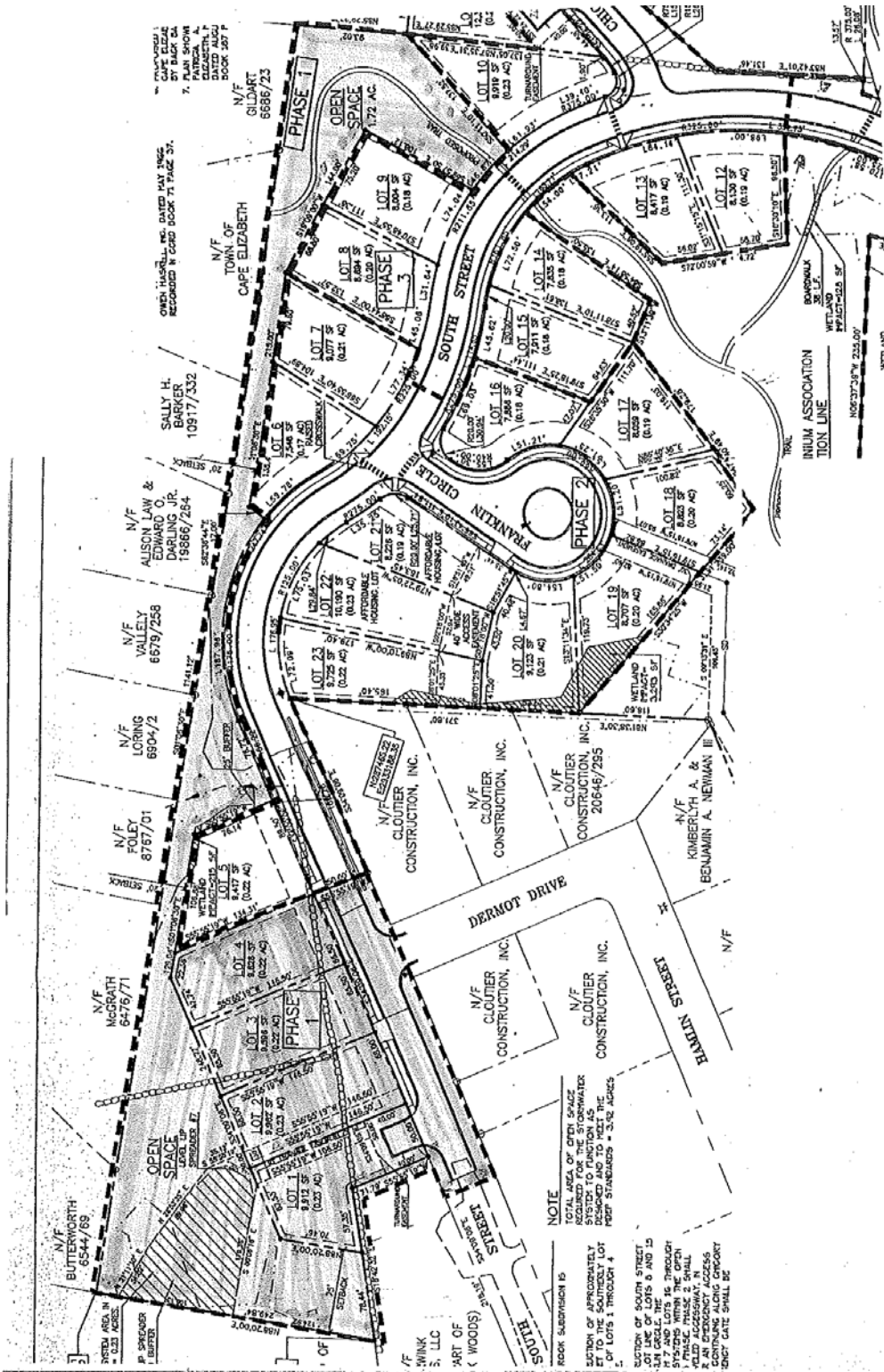
SDH:apm

Cc: Bob Malley, Public Works Director
Skip Murray, L.P. Murray & Sons, Inc.
Andrew Masella, AMEC Earth & Environmental
Todd Gammon, AMEC Earth & Environmental

S:\360 Town of Cape Elizabeth\360.44.11 - Spurwink Woods Construction Inspection\McGovern 070611.doc

AMEC Earth & Environmental, Inc.
343 Gorham Road
South Portland, Maine
USA 04106
Tel (207) 761-1770
Fax (207) 774-1246

www.amec.com



Item # 112-2011 Open Space Management Committee Deadline Extension

Intro – Councilor Sullivan

Moved by Jessica L. Sullivan and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council grants the Open Space and Greenbelt Management Committee an extension of time to submit the Management Report to September 30, 2011.
(6 yes) (0 no)

Item # 113-2011 Website Video Opportunity

Intro – Manager McGovern

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

Ordered the Cape Elizabeth authorizes the Town Manager to enter into an agreement with CGI Communications, Inc. (CGI) for an initial period of 3 years to provide professional quality videos for the town's website at no cost to the Town, the videos will be paid for by sponsors whose links show up as part of the frame of the videos.
(6 yes) (0 no)

Community Video Tour Book Agreement

CGI Communications, Inc. ("CGI")
130 East Main Street, 8th Floor
Rochester, NY 14604
(800) 398-3029 phone
(866) 429-8611 fax

Name: Mike McGovern
Title: Town Manager
Address: P.O. Box 6260
City, State, Zip: Cape Elizabeth, ME
Phone: 207-799-5251
Email: Cetm@maine.rr.com
Website: <http://www.capeelizabeth.com>

This agreement is between CGI and the Town of Cape Elizabeth ("Town") and shall remain in effect from the date it is signed by both until the third anniversary of the date that the completed and approved Community Video Program is made available for viewing via the <http://www.capeelizabeth.com> website homepage for viewer access. This Agreement shall automatically renew at the end of 1 a successive three (3) year period unless either party gives written notice of its intention to terminate at least sixty (60) days prior of the current term. Any termination or modification of this Agreement shall not take effect until the expiration of the current term.

CGI Communications, Inc. and its eLocalLink division shall provide a Community Video Program as follows:

- Website Welcome video from your Mayor or other civic leader and an Education, Quality of Life, and Real Estate/Relocation (approx. 1 minute in duration)
- Up to 5 additional videos to showcase various aspects of your community and/or organization (providing a total of 5 minutes of highlight videos)
- Script writing and video content consultation
- A videographer will come to your location to film videos
- All aspects of video production and editing, from raw footage to final video including professional voiceovers and background
- Final draft of Community Video Program content subject to your approval
- Patented OneClick™ Technology and encoding of all videos into multiple streaming digital formats to play on all computer systems browsers, and Internet connection speeds; recognized player formats include WindowsMedia® and QuickTime®
- Store and stream all videos on CGI's dedicated server
- Business sponsors allowed on the perimeter of video panels
- Duration of sponsor participation will be one year and eLocalLink is solely responsible for annual sponsorship fulfillment including related aspects of marketing, production, printing, and distribution
- Viewer access of the Community Video Program from your website shall be facilitated by eLocalLink providing HTML source graphic link to be prominently displayed on the City website homepage as follows: "Coming Soon" graphic link designed to match with existing website color theme to be provided within 10 business days of execution of this agreement; "Video Tour Book" graphic to be provided to replace the "Coming Soon" link upon completion and approval of videos
- eLocalLink will own copyrights of the master Community Video Program
- City will assume no cost or liability for this project

Program Add-On if signed and received by July 15th, 2011:

- Encoding, hosting, and streaming of additional 5 minutes of video per month. Finished video content will be provided to CGI Town of Cape Elizabeth.
- SmartTrack™ measurement and tracking ability

The City shall provide or agree to the following:

- A letter of introduction for the program on City's letterhead
- Assistance with the content and script for the Community Video Program
- The right of eLocalLink to use City's name in connection with the preparation, production, and marketing of the program set forth in this Agreement
- The right to display the "Video Tour Book" link to be no less than 150 by 400 pixels prominently on the Town of Cape Elizabeth homepage for the term of this agreement
- In the event contract signatory changes, this Agreement shall remain valid until the agreed upon expiration/renewal date
- Exclusive streaming video rights for the program described herein only

This Agreement constitutes the entire agreement of the parties and supersedes any and all prior communications, understandings, agreements, whether oral or written. No modification or claimed waiver of any provision shall be valid except by written amendment by the parties herein.

We, the undersigned, understand the above information and have full authority to sign this agreement.

Town of Cape Elizabeth

CGI Communications, Inc.

Signature: _____

Signature: 

Item # 114-2011 Pole Location Permit on Spurwink Avenue

Intro – Manager McGovern

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

Ordered the Cape Elizabeth Town Council approves the request of FairPoint Communications for a new pole location on Spurwink Avenue, approximately 565' southerly of Starboard Drive as presented.

(6 yes) (0 no)

PERMIT FOR POLE LOCATIONS

To the Town Councilors
Cape Elizabeth, Maine

ORDERED: That NORTHERN NEW ENGLAND TELEPHONE OPERATIONS, LLC and CENTRAL MAINE POWER COMPANY be and are hereby authorized and permitted to erect and maintain poles and cables and wires to be placed thereon, together with such sustaining, supporting and protecting fixtures as said companies may deem requisite, in, along, upon and across the public streets and highways of said Town of Cape Elizabeth as hereinafter designated, as requested in application of said companies dated the 28th day of June, 2011.

All construction under this permit shall be in accordance with the following specifications:
The poles shall be located between the vehicular traveled section of the way and the limits of the highway shall be set firmly in the ground, substantially at locations indicated upon the plan marked FairPoint No. 245211 dated June 20, 2011 filed with said application, and shall be of wood or other suitable material, and the cables and wires shall be run at the height of not less than 18 feet from the ground at highway crossings and not less than 15 feet from the ground elsewhere for electric cables and wires and-or not less than 8 feet elsewhere for telephone cables and wires.

All cables and wires to be maintained in accordance with standards of the National Electrical Safety Code.

Following are the public streets and highways above referred to:

Spurwink Ave – From approximately 565' Southerly of Starboard Dr, one pole

THIS PERMIT IS BEING GRANTED WITHOUT PUBLIC NOTICE BY PUBLICATION

It is further adjudged and voted that satisfactory proof of validity of the applicant's notice or procedures required by statute has been given upon the application of said companies to erect poles with the cables and wires thereon in, along, upon and across the public streets and highways of Cape Elizabeth, Maine, designated by this permit.

Town Councilors

PERMIT GRANTED

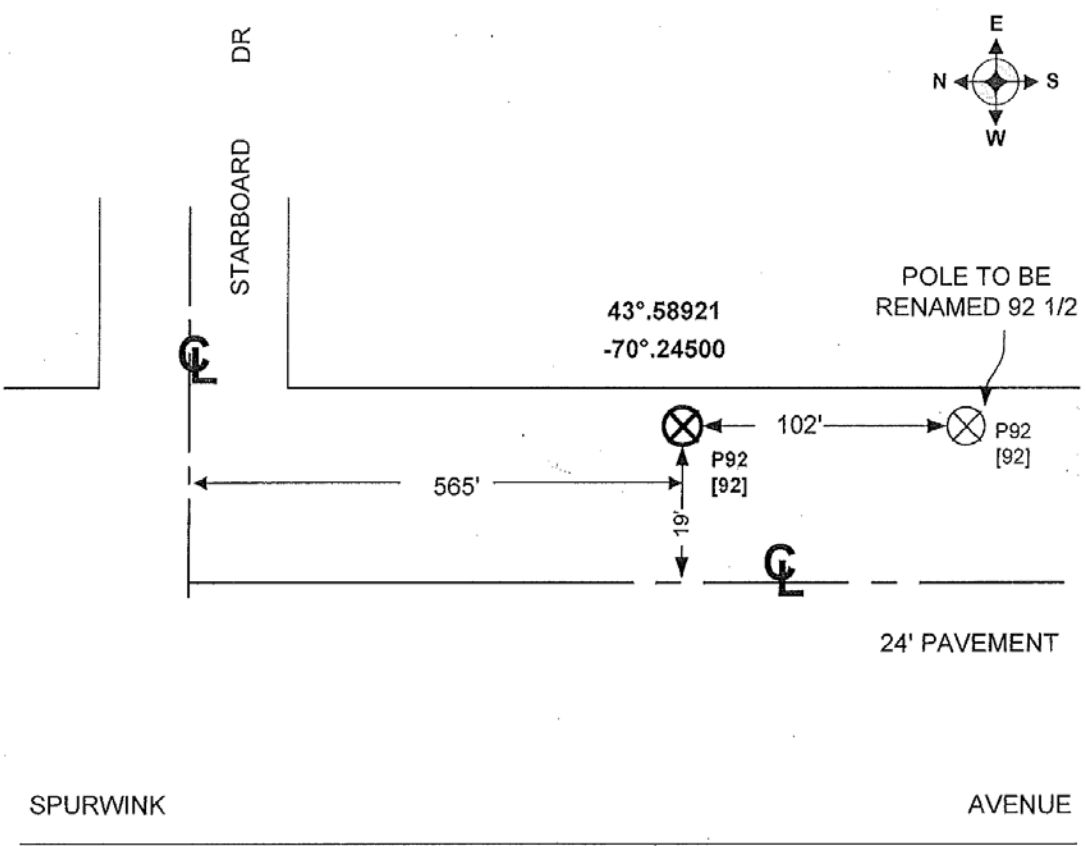
_____, 2011

This permit is recorded in the Records of the _____ of _____,
Book _____, Page _____.

City Clerk

FAIRPOINT No. 245211 MUNICIPALITY CAPE ELIZABETH date 6/20/11

PLAN FOR POLE LOCATION



ALL PLANT IS LOCATED WITHIN HIGHWAY LIMITS

LEGEND		NO SCALE
● = POLE LOCATION	⊗ = PEDISTAL POST LOCATION	DOT NO. _____
⊗ = POLE LOCATION-- JOINT WITH <u>CMP CO</u>	WS = WARNING SIGN LOCATION	NO. _____
X = _____ POLE	MH = MANHOLE LOCATION	PREPARED BY <u>TIM LAYTON</u>
⊕ = CENTER LINE	— = BURIED CABLE/CONDUIT LOCATION	CHECKED BY _____
INITIAL PROPOSED FACILITIES TO BE:		PUBLISH _____
POWER CO. = <u>7200</u> VOLTS <u>Single</u> PHASE. TEL. CO. = <u>3-CABLE</u>		NON-PUBLISH _____
DISTANCES SHOWN ARE APPROXIMATE AND ALL SPANS MEASURED ALONG APPLICANT'S CONSTRUCTION CENTERLINE		

PERMIT BY RULE

STATUTORY PROCEDURE

Item # 115-2011 374 Mitchell Road Driveway Easement Request

Present – Graham Pillsbury, Co-Owner Early Bird LLC

Moved by James T. Walsh and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council grants the request of Early Bird LLC for an easement deed to allow a portion of the driveway of 374 Mitchell Road to extend out to the right of way of Stonegate Road and authorizes the Town Manager to sign the easement deed as presented.

(6 yes) (0 no)

EASEMENT DEED

KNOW ALL BY THESE PRESENTS that the Town of Cape Elizabeth, Maine, a municipal corporation located in Cumberland County, State of Maine, for valuable consideration releases, without covenants, to Early Bird Group, LLC, whose mailing address is c/o David A. Lourie, Attorney at Law, 189 Spurwink Avenue, Cape Elizabeth, Maine 04107, a perpetual easement or right-of-way over the portion of land adjacent to the improved portion of Stonegate Road in the Town of Cape Elizabeth, Cumberland County, Maine, to construct and maintain a portion of the driveway originally constructed to access Stonegate Road, which was relocated to provide access to Mitchell Road, which encroaches upon the property of the Town, as more particularly shown on the sketch plan attached hereto as Schedule A.

Grantor has caused this deed to be signed by its Town Manager, being duly authorized by its Town Council and sealed this day of July, 2011.

WITNESS:

TOWN OF CAPE ELIZABETH

By Michael K. McGovern
Its Town Manager

STATE OF MAINE
CUMBERLAND, SS.

July , 2011

Personally appeared the above named Michael K. McGovern, Town Manager and acknowledged that the foregoing was his free act and deed in his said capacity.

Before me,

Notary Public/Maine Attorney at Law

Printed Name
My commission expires:

Citizen Opportunity for Discussion of Items Not on the AgendaNone

Manager McGovern updated the council that work is beginning on the Fort Williams Arboretum as discussed at the last workshop.

Item # 116-2011 Hardship Abatement Requests

Moved by Frank J. Governali and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council enters into executive session at 9:06 p.m. to discuss two applications for abatement of property taxes by reason of infirmity or poverty pursuant to 36 MRSA §841 2.G.

(6 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 9:17 p.m.

(6 yes) (0 no)

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

Ordered the Cape Elizabeth Town Council denies Application #1 because the law provides that an abatement only be granted for a primary residence.

(6 yes) (0 no)

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

Ordered the Cape Elizabeth Town Council denies Application #2 based upon a review of the circumstances described in the application including the interest of the mortgage holder in ensuring that the property is not foreclosed upon.

(6 yes) (0 no)

Adjournment

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

Ordered the Cape Elizabeth Town Council adjourns at 9:19 p.m.

(6 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk