

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, August 27, 2012

7:00 p.m. Call to Order

Present: Chairman Moriarty, Councilors Turner, Storey-King, Copp, Perfetti, Gruber, & Stiles.

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Copp, to approve the August 13, 2012 minutes as presented.

VOTE: 6-0-1 (Perfetti abstained) MOTION PASSES

II. MANAGER'S REPORT

A resident, who was in Town Hall today paying his taxes, stopped in to talk to the Manager and requested that the Council consider crediting some interest back to residents who pay their taxes for the entire year during the first payment period (September). Currently, there is no incentive for residents to pay early and in full.

There is information in the packet this evening from the Town Clerk. A question was raised at the last workshop regarding the codification of Town ordinances and whether the Town has ownership of the materials that we send General Code to codify our ordinances, should they ever go out of business. General Code will send us a data CD every time we update or amend an ordinance and send it to them.

The Manager received a letter from Mike Edes and asked permission to read it this evening. It is very emotional and seems to be a common feeling that many residents have shared regarding the Veterans Monument:

Hi Bill, I just wanted to take a minute and thank you, the Town Council, and especially the Veterans Memorial Committee for all the work that went into making the Memorial a reality.

As expected, I ended up working most of Memorial weekend, and I was unable to attend the dedication of the Memorial. I had hoped to be there during the ceremony, but as we all know, that's the life of a policeman. I did finally make it over to see it and if you'd indulge me for a few minutes, I would like to share something with you. A few days after the dedication, I was out on my motorcycle, just trying to enjoy the nice spring weather and get a few miles under my belt. After driving around a few of the roads here in Cumberland, I decided to head over and take my first look at the now finished Memorial. I pulled into the entrance of Moss Side Cemetery, parked the bike, and then walked over to the panels of the Memorial. It's hard for me to put into words what I felt when I reached the panels, and especially when I saw my dad's name. Emotion filled my mind and my eyes, and to be quite frank, I was glad that I was alone.

My dad was typical of the greatest generation. As an 18-year old and having recently graduated high school, my dad immediately enlisted in the Army in order to serve his country during World War II. When he returned home after serving for 2 years in the European Theater, my dad did what every WWII Vet did, he just came home and went on with his life. Dad went to U-Maine on the G.I. Bill and immediately started a long and distinguished career as an accountant. Even though he had suffered severe trench foot while marching across Europe and had suffered stomach problems from the contaminated food that he had eaten in France, he didn't complain. He just went to work. As a kid growing up on Tuttle Road, I really didn't have a complete understanding of my dad's service. Like most Vets, my dad took his army trunk, containing all his photos, uniforms, and medals and put them away on the highest shelf in the back of the barn. In retrospect, I now believe that putting that trunk so far away in the back of the barn was his way of putting the war behind him.

I remember frequently climbing up the beams of the barn and crawling over to the trunk, going over every article and then would start playing army in my mind.

Whenever I would ask my dad what he did in the army, his standard reply was “not much, I was just a radio man”. One of my biggest regrets in life was not pressing him for more information, but even now, I’m not sure he would have given it to me. Dad died in September of 1985 at the early age of 59 from a severe heart attack. It wasn’t until after he passed that I found out more about my dad’s service to his country. Dad’s unit, battalion, and Division fought in one of the worst conflicts in the war, the Battle of the Bulge. His division suffered more casualties and wounded soldiers than any other division has ever experienced in the entire history of the U.S. Army. Dad fought in several long and bloody battles during the Battle of the Bulge and a lot of his Army buddies didn’t make it home. He was awarded several service awards for his service and was promoted to Sergeant before being discharged in 1946. I mention this to you because my dad never wanted any type of recognition for his service. He downplayed his service in the war and never wanted it to be the center of attention. Losing him at such a young age, I was never able to tell him thanks, tell him I understand, and to tell him how proud I was of his service. Not being able to do these things has always left a hole in my heart and one I never thought I would be able to fill. That was until I saw the Veterans Memorial this past May.

My dad’s name, Richard F. Edes, is now displayed alongside the hundreds of other Cumberland residents that have unselfishly served in defense of their country. This Memorial means a lot more to the Veteran’s and their families than any of us could put into words. For me, it means my dad has finally gotten the recognition he so rightfully deserves. It has also helped a son finally put away a young man’s guilt of not having the chance to say to his dad, “thank you”.

Thanks Bill for letting me share this with you. I appreciate all you and everyone else involved in the Memorial have done.

My best to you and your family,

*Sincerely,
Mike*

The Manager said that the Veterans Monument represents all that is great about Cumberland. It was made possible by the citizens of this community. He is very proud of the monument, what it represents, and its dedication to all those who have served.

III. PUBLIC DISCUSSION

None

IV. LEGISLATION AND POLICY

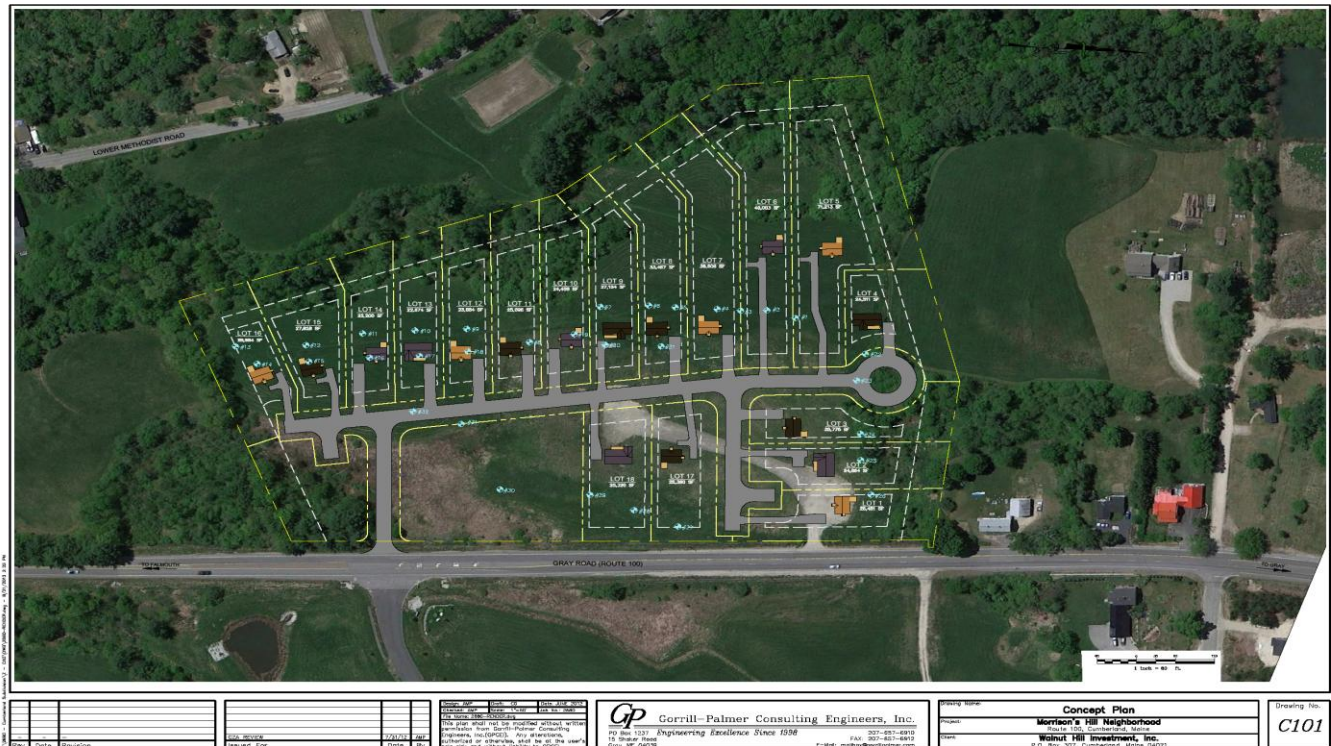
12 – 148 To hold a Public Hearing to consider and act on a Contract Zone Agreement request for Walnut Hill Investments, Inc. for an affordable housing project on Route 100, as recommend by the Planning Board.

Al Palmer of Gorrill-Palmer Consulting Engineers spoke on behalf of Walnut Hill Investments, Inc.

Mr. Palmer highlighted a few points in regard to the project:

- The property is located on Route 100
- The property is approximately 16.5 acres
- It is currently located in the Village Office Commercial I district
- The proposal is to develop the property into a single-family, residential subdivision under a Contract Zone Agreement with the Town

Mr. Palmer referred to the map below, which illustrates the proposed project.



Mr. Palmer said that the development consists of 17 new lots with one lot being retained by the current property owner. The lots range in size from approximately 20,000 sf and up. The soils have tested and deemed suitable for septic systems.

Mr. Palmer highlighted some of the points of the Contract Zone Agreement:

- Maximum sale price of \$225,000
- The lot size standards would include a 75' lot frontage, front setback of 25', a side setback of 10', and a rear setback of 75'
- Along the perimeter boundary of the subdivision, there would be a 50' minimum, undisturbed buffer (except for the area along Route 100)
- The right of way width will be 50' and a 22' paved width with a 5' sidewalk on one side and a 4' esplanade on the sidewalk side

Mr. Palmer said that it was decided at the Planning Board to allow the side setbacks to be adjusted in any combination of no less than 8' on one side, and both sides have to equal 25'. This will allow more flexibility for the addition of a garage.

Mr. Palmer said that Mr. Grover is looking forward to meeting with abutters to discuss relocating the trails that currently run through the property.

Public discussion:

Tyler Nash of Wilson Road explained that he is a resident and a member of the snowmobile club. He is here this evening to see if public access to the walking and snowmobile trails can be maintained. He requested that the Council consider requiring the developer to incorporate the pedestrian and snowmobile trails.

Mr. Palmer responded that Mr. Grover is willing to meet with the abutters and the snowmobile club to address this.

Councilor Perfetti suggested adding the requirement that the trails be included in the project via the Contract Zone Agreement.

Councilor Copp said that wouldn't matter since one abutter could shut the snowmobile trail down if it encroaches onto their property.

Mr. Palmer reiterated that Mr. Grover would work with the snowmobile club and abutters to find a solution.

Chairman Moriarty closed the Public Hearing.

Chairman Moriarty pointed out that on page 2, paragraph 5, and page 3, III, of the Contract Zone Agreement it states "...*at least seventeen (17) lots of affordable single family housing...*" he believes it should say "*a maximum of 17 lots...*" since the intent for no more than 17 homes.

Mr. Palmer said that it is critical to this project moving forward that 17 lots, plus 1 reserved for the current owner (at a minimum), be maintained in the Agreement.

Councilor Perfetti made the following motion, seconded by Councilor Gruber: WHEREAS, the Town is authorized pursuant to 30-A M.R.S.A § 4352(8) and Section 606 of the Cumberland Zoning Ordinance to adopt zone changes through the adoption and enactment of contract zoning amendment; and

WHEREAS, Walnut Hill Investments, Inc. has requested that certain real estate located on Route 100, described in Exhibit A to the Contract Zoning Agreement by and between the Town of Cumberland and Walnut Hill Investments Relating to the Development of Single-Family Home Affordable Housing Units (the "Contract Zoning Agreement"), being further described on the Town's Tax Map U18 as Lot 6; and

WHEREAS, the Planning Board has conducted a public hearing on the proposed contract zoning amendment after providing the notice required by Section 606.3 of the Zoning Ordinance and 30-A M.R.S.A. § 4352(8); and

WHEREAS, the Town Council has determined that the proposed rezoning is consistent with the Town's Comprehensive Plan because:

1. The Town's Comprehensive Plan identifies the Route 100 Corridor as a Designated Growth Area;
2. The Town's Comprehensive Plan encourages the development of housing which provides for a mix of people from all income strata by providing incentives to developers for the construction of smaller, single family homes; and
3. The Town's Comprehensive Plan states that higher density development be allowed in areas served by public water and new public water mains will be installed to support the development; and

WHEREAS, the Town Council has determined that the Contract Zoning Agreement development; and the proposed contract zone abuts a residential zone (RR1) and that a higher density residential development is consistent with the existing and permitted uses in the area;

NOW, THEREFORE, it is hereby ordained by the Cumberland Town Council that the Cumberland Zoning Ordinance be and hereby is amended by adopting the Contract Zoning Agreement attached hereto; provided that:

1. The project will consist of seventeen (17) new lots plus one (1) lot retained by the current owner;
2. The developer shall make every effort to preserve pedestrian and snowmobile easements; and
3. The side setback shall be amended to 25' combined, with a minimum of 8'.

Chairman Moriarty wanted to state his view once again on this development. He sees the two projects as one development because the details are identical on both projects. He feels that it is simply too much concentration of development in one area, too quickly, in an area that as of right now, would not allow development of this type. Had this been approached from a more thorough land use planning perspective, we would not have

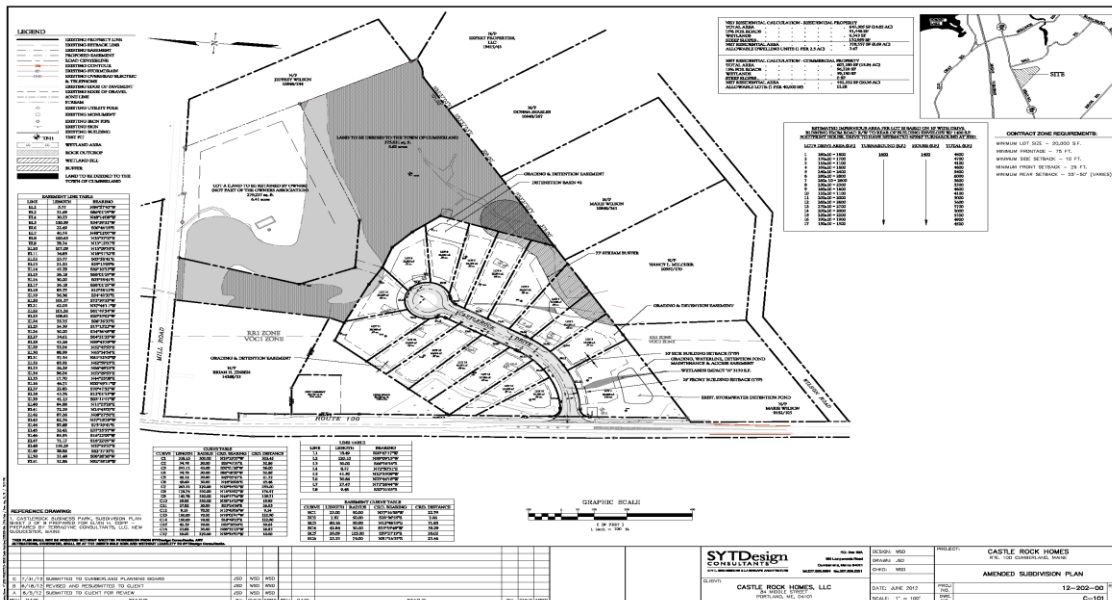
arrived at a position whereby these two parcels were singled out for a development of this type, this scale, or this density. Therefore, he is not in favor of the proposed motion.

VOTE: 5-1-1 (Moriarty opposed, Turner abstained) MOTION PASSES

12 – 149 To hold a Public Hearing to consider and act on a Contract Zone Agreement request for Telos Capital, LLC for an affordable housing project on Route 100, as recommend by the Planning Board.

Scott Lalumiere said that since this project is so similar to the previous project discussed, he would not go into a lot of detail. The highlights of the project are:

- 17 lot subdivision located on Route 100 and is currently zoned as Village Office Commercial I (VOC1)



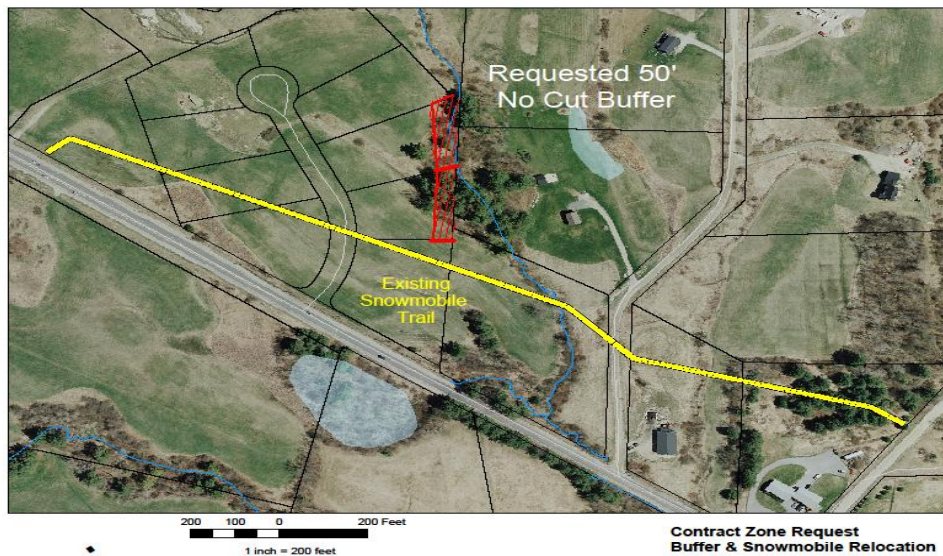
Public discussion:

Tyler Nash of Wilson Road said that he is a direct abutter to this project. Mr. Nash requested a 50' no cut buffer be considered in order to minimize impact on the wet area, the spring, and to maintain the natural scope of the property, and maintain privacy between his property and the proposed new homes (proposal in red on the map below).

Mr. Nash also requested (as a member of the snowmobile club) that the snowmobile trail be moved to continue to allow access (yellow line on map below).

Mr. Nash said the he is appreciative of the sidewalks proposed in both subdivisions. He would like to see sidewalks on Route 100 that lead north to the ball fields, etc.

Mr. Lalumiere said that he is willing to work with Mr. Nash regarding both concerns.



Chairman Moriarty closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to amend the Contract Zone Agreement for Telos Capital, LLC, Exhibit C (E) (4) to read: *A minimum 50' **no cut** buffer shall be maintained along the exterior of the VOC-I and abutting residential development as shown on the concept plan*".

VOTE: 5-0-2 (Copp & Turner abstained) MOTION PASSES

Councilor Storey-King made the following motion and Councilor Gruber seconded: WHEREAS, the Town is authorized pursuant to 30-A M.R.S.A § 4352(8) and Section 606 of the Cumberland Zoning Ordinance to adopt zone changes through the adoption and enactment of contract zoning amendment; and

WHEREAS, Telos Capital, LLC has requested that certain real estate located on Route 100, described in Exhibit A to the Contract Zoning Agreement by and between the Town of Cumberland and Telos Capital, LLC Relating to the development of up to 17 Single-Family Home Affordable Housing Units (the "Contract Zoning Agreement"), being further described on the Town's Tax Map R07C as Lots 1A-1, 1A-2, 1A-3, 1A-4, 1A-5, 1A-6, 1A-7, 1A-8, 1A-9 and Subdivision Open Space; and

WHEREAS, the Planning Board has conducted a public hearing on the proposed contract zoning amendment after providing the notice required by Section 606.3 of the Zoning Ordinance and 30-A M.R.S.A. § 4352(8); and

WHEREAS, the Town Council has determined that the proposed rezoning is consistent with the Town's Comprehensive Plan because:

1. The Town's Comprehensive Plan identifies the Route 100 Corridor as a Designated Growth Area;
2. The Town's Comprehensive Plan encourages the development of housing which provides for a mix of people from all income strata by providing incentives to developers for the construction of smaller, single family homes; and
3. The Town's Comprehensive Plan states that higher density development be allowed in areas served by public water and new public water mains will be installed to support the development; and

WHEREAS, the Town Council has determined that the Contract Zoning Agreement development; and the proposed contract zone abuts a residential zone (RR1) and that a higher density residential development is consistent with the existing and permitted uses in the area;

NOW, THEREFORE, it is hereby ordained by the Cumberland Town Council that the Cumberland Zoning Ordinance be and hereby is amended by adopting the Contract Zoning Agreement attached hereto; provided that:

1. The project will consist of seventeen (17) new lots;
2. The developer shall make every effort to preserve pedestrian and snowmobile access; and
3. The side setback shall be amended to 25' combined, with a minimum of 8'.

VOTE: 4-1-2 (Moriarty opposed, Turner & Copp abstained) MOTION PASSES

12 – 150 To consider and act on authorizing the Town Manager to accept delinquent taxes in the amount of \$16,518.51 and issue a quitclaim deed for property identified as Tax Map R07/Lot 89

Town Manager Shane explained that this vacant parcel is currently in foreclosure and the owner has come forward to pay all back taxes plus fees. Staff is recommending approval of acceptance of the payment. It is required by law that the Town Council take action on acceptance of taxes on any property in foreclosure.

Motion by Councilor Storey-King, seconded by Councilor Turner, to authorize the Town Manager to accept delinquent taxes in the amount of \$16,518.51 and issue a quitclaim deed for property identified as Tax Map R07/Lot 89.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 151 To hold a Public Hearing to consider and act on a Mass Gathering Permit for Maine's Ultimate Yard Sale to be held at the Cumberland Fairgrounds on Saturday, October 13, 2012 from 9:00 a.m. to 2:00 p.m.

Public discussion: None

Chairman Moriarty closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to authorize the Mass Gathering Permit for Maine's Ultimate Yard Sale to be held at the Cumberland Fairgrounds on Saturday, October 13, 2012 from 9:00 a.m. to 2:00 p.m.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 152 To consider and act on appointing the Town Manager as Public Access Officer to conform with the new State of Maine FOAA requirement.

Town Manager Shane explained that the State now requires that one individual be appointed as Public Access Officer.

Motion by Councilor Stiles, seconded by Councilor Gruber, to appoint the Town Manager as Public Access Officer to conform with the new State of Maine FOAA requirement.

VOTE: 7-0 UNANIMOUS PASSAGE

12 – 153 To set a Public Hearing date (September 10th) to consider and act on authorizing the Code Enforcement Officer to enter into a Consent Agreement with property owners located at 20 Labrador Lane.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to set a Public Hearing date of September 10th to consider and act on authorizing the Code Enforcement Officer to enter into a Consent Agreement with property owners located at 20 Labrador Lane.

VOTE: 7-0 UNANIMOUS PASSAGE

V. NEW BUSINESS

Councilor Turner – The sidewalks on Tuttle Road look great.

Councilor Copp – Thank you to Mike Edes for the letter regarding the Veterans Monument. He urged all residents to go to the monument and read the names. The monument is a great achievement by this community.

Councilor Storey-King – Two Greely graduates are in the military, Kevin Thibeault and Dana Rogers, are two fine young men who have made an outstanding commitment.

School starts on Tuesday so watch out for the little people walking to and from school.

Councilor Perfetti – None

Chairman Moriarty – None

Councilor Stiles – None

Councilor Gruber – Back on August 2nd there was a meeting at Town Hall with a group of college kids from all across the country, called the Climate Riders. They are a group who spend the summer riding bikes around to different communities. They spoke to some of the staff at Town Hall and the Chairman of the Cumberland Energy Advisory Committee about what the Town is doing for energy conservation efforts.

He was touched by Mr. Edes letter. He has been trying for years to get a Veterans Monument in Palmerton, Pennsylvania where his father was brought up. Palmerton is a very deprived town and they just do not have the money to spend on a monument. We did it here in Cumberland and that means a lot.

Town Manager Shane – The Town of Cumberland has been selected as a Certified Business Friendly Community by the Maine Department of Economic & Community Development. We are one of 12 towns in the State to be certified as business friendly. Staff has done a lot of hard work to get the Town certified, specifically, Bill Longley, Carla Nixon, Pam Bosarge, and Alyssa Tibbetts. Mr. Shane said he is very proud of staff and the certification.

VI. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(C) re: real property acquisition, and pursuant to Title 36 M.R.S.A., § 841 re: Hardship Abatement Request for property identified as Map U04/Lot 12D.

Motion by Councilor Stiles, seconded by Councilor Copp, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property acquisition, and Title 36 M.R.S.A., § 841 re: Hardship Abatement Request for property identified as Map U04/Lot 12D.

VOTE: 7-0 UNANIMOUS PASSAGE

TIME: 8:54 p.m.

Motion by Councilor Stiles, seconded by Councilor Turner, to return from Executive Session.

VOTE: 7-0 UNANIMOUS PASSAGE

TIME: 9:45 p.m.

Motion by Councilor Stiles, seconded by Councilor Copp, to approve the full amount of the Hardship Abatement Request for property identified as Map U04/Lot 12D.

VOTE: 7-0

UNANIMOUS PASSAGE

VII. ADJOURNMENT

Motion by Councilor Perfetti, seconded by Councilor Storey-King, to adjourn.

VOTE: 7-0

UNANIMOUS PASSAGE

TIME: 9:52 p.m.

Respectfully submitted by,

Brenda L. Moore
Council Secretary