

CAPE ELIZABETH TOWN COUNCIL MINUTES

Regular Meeting # 11-99-00

Wednesday, March 15, 2000

7:30 p.m.

Roll Call By The Town Clerk

Present Absent

Penelope P. Carson, Chairman	36 Trundy Road	799-8029	6/2000	X
Henry N. Berry III	110 Two Lights Rd.	799-6500	6/2000	X
Carolyn M. Fritz	9 Hunt Club Road	767-3737	6/2000	X
John W. McGinty	86 Brentwood Road	767-0139	6/2001	X
John E. "Jack" Roberts, Jr.	185 Fowler Road	767-4526	6/2002	X
Anne E. Swift-Kayatta	14 Stone Bridge Road	767-5754	6/2002	X
Ruth E. McCleery Watson	7 Winding Way	799-3559	6/2001	X

Student Representatives

Rebecca Boulos

X

Andrew Rowe

X

Pledge of Allegiance to the Flag

Reports and Correspondence

Councilor Roberts reported on the National League of Cities Conference held in Washington D.C. The discussions on e-commerce sales tax and funding for special education continue.

Councilor Swift-Kayatta attended the March 15, 2000 meeting of the GPCOG Executive Committee re: expanding aging population. Training for Planning Board and Zoning Board members will be held in March, sponsored by GPCOG.

Councilor Berry thanked the members of the CEFD for their efforts during the recent fire at the Berry residence. The Historic Preservation Study Committee will meet at 7Pm April 5 and April 19.

Councilor McGinty requested the Town Council Chairman send a letter, on behalf of the Town, to the State requesting level funding, in light of the State surplus.

Correspondence:

Judy Potter, Esquire Dated March 15, 2000 Re: Opposes the proposed tower overlay district at 351 Spurwink Avenue, and supports the one district at the alternative site.

Frank S. Strout, 1184 Shore Road, Dated March 11, 2000 Re: Consideration of street name change for E911 - Opposes Marr's Cove Road, supports Robinson Cove Road.

Town Manager's Report

Congratulations to Chief David W. Pickering for receiving Chief of the Year from the Maine Chief's of Police.

The Town Council was presented a summary of costs for the Donald Richards Pool.

Citizens' Discussion of Items Not on the Agenda

Minutes

Moved by H. Berry and Seconded by R. Watson

Ordered the Cape Elizabeth Town Council approves the Minutes of Meeting #10-99/00 held February 14, 2000 as amended.

ITEM #73-99/00 the final vote was (5 yes) (2 no C. Fritz and J. McGinty).

The draft minutes reflected a 6 – 1 (McGinty) vote.

(7 yes) (0 no)

Intro – Manager McGovern ITEM ##87 – 89

Item # 87-99/00 **Public Hearing – Sewer User Fees**

Chairman Carson opened the hearing to public comments at 7:50PM.

Arlan Davis, Woodland South Apartments – Supports the proposal.

After hearing no further comments, the hearing was closed at 7:52PM.

Moved by H. Berry and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the proposed amendment to the sewer user charge effective for the month beginning April 1, 2000 for all buildings within the Town of Cape Elizabeth which shall be connected to the public sanitary sewers of the Town on or before the last day of the month commencing February 1, 1996, and for each succeeding monthly period:

\$26.50 - Up to 100 cubic feet of monthly measured water usage

\$4.00 - Each Additional 100 cubic feet, or fraction thereof, of monthly measured usage

Said Sewer Service charge shall be applied directly for each water meter in place as of December 31, 1999 and for every structure thereafter attached to the municipal sewer.

(5 yes) (2 no C. Fritz, J. McGinty)

See attachment.

Item # 88-99/00 **Public Hearing – Sewer User Fees for Cape Elizabeth School Department**

Chairman Carson opened the hearing to public comments at 7:59PM.

After hearing no comments, the hearing was closed at 7:59PM.

Moved by A. Swift-Kayatta and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council approves the sewer bill for the Cape Elizabeth School Department school buildings, \$63,000 annually for the fiscal year beginning July 1, 1999, \$53,600 for the fiscal year beginning July 1, 2000, and thereafter the school department sewer bill shall be based upon metered water usage. Beginning on July 1, 2000, the Donald Richards Community Pool and fitness center shall pay 10% of the overall sewer bill for the school buildings. Beginning on July 1, 2001, the pool sewer bill shall be based upon a meter measuring the pool and pool locker area water usage.

(7 yes) (0 no)

See attachment.

Item # 89-99/00 **Public Hearing – Sewer Connection Fees**

Chairman Carson opened the hearing to public comments at 8:01PM.

Herbert Strout, 351 Spurwink Avenue – Mr. Strout inquired about the rationale for the increase.

After hearing no further comments, the hearing was closed at 8:02PM.

Moved by H. Berry and Seconded by R. Watson

Ordered the Cape Elizabeth Town Council approves effective April 1, 2000 and pursuant to Sec. 15-1-6 (b) and 15-1-6 (c) of the Town Ordinances, the connection fee, including inspection and start-up assessment, shall be as follows:

1. \$850.00 for each unit to be served by the municipal sewer system that paid from March 1, 1988, to January 31, 1996, an availability charge. (See B.2 for important information.)
2. \$3,000 effective April 1, 2000, for each unit to be served by the municipal sewer system that did not pay the availability charge from March 1, 1988, to January 31, 1996. Effective January 1, 2006, the connection fees shall no longer provide for any credit for having paid the availability charge.
3. Said fees shall be paid prior to any connection to said system.

(7 yes) (0 no)

See attachment.

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Item # 90-99/00 Intro – Maureen O’Meara, Town Planner

Chairman Carson opened the hearing to public comments at 8:10PM.

Hank Warren, 1 Pleasant Valley Avenue, Former ZBA member – Supports the amendment to allow flexibility for the Zoning Board when reviewing variance requests.

David Lourie, 189 Spurwink Avenue – Opposes the amendment. The standard could be added, but not replace the existing language.

Ann Elderkin, 12 Old Fort Road, Chairman ZBA – Ms Elderkin encouraged the Town Council to table the issue in order to address legal concerns raised by Mr. Lourie.

Jeff Stevenson, 8 Hampton Road – Mr. Stevenson presented the Town Council a document signed by 16 residents urging the Town Council to adopt the proposal.
(A copy of the Petition To The Cape Elizabeth Town Council is filed with the Town Clerk)

After hearing no further comments, the hearing was closed at 8:31PM.

Moved by J. Roberts and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council tables ITEM #90-99/00, proposed amendments to the Zoning Ordinance recommending changes to the variance standards that would replace the “undue hardship” standard with a “practical difficulty” standard for variances outside of the Shoreland Performance Overlay District and a recommendation that no variances be granted which reduce a setback to less than 10’ or the shortest nonconforming setback distance created by an existing building, to a future meeting, so that legal issues discussed during the public hearing can be addressed.

(5 yes) (2 no P. Carson, A. Swift-Kayatta)

Item # 91-99/00 **Public Hearing – Telecommunication Towers and Tower Overlay Districts**

Intro – Maureen O’Meara, Town Planner

Chairman Carson opened the hearing to public comments at 8:41PM.

Bob Danielson, 14 Reef Road, President Cape Elizabeth Land Trust – While it is understood that a wide, clear area is technically a good choice, it makes for an “ugly view.” Cape Elizabeth does not have an industrial zone, it is too bad to “stick towers on high spots.”

Paul Strout, Herbert Strout’s son(351 Spurwink Avenue) – Herbert Strout has been in the business 50 years. The Strout family hopes the Town doesn’t compete against them in the commercial market.

After hearing no further comments, the hearing was closed at 8:46PM.

Moved by A. Swift-Kayatta and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council approves the proposed amendments to the Comprehensive Plan, Zoning Ordinance and Zoning Map relating to telecommunication towers and tower overlay districts as presented with the exception of one amendment to the draft.

Telecommunications Amendment to the Comprehensive Plan, page 2, Background Information. The third paragraph to read:

The site at 351 Spurwink Avenue is expected to remain a desirable location for telecommunication towers due to its topography and elevation, its relative, central geographic location, and the buffering of the site by dense woods. The transfer station site located at 472 Spurwink Avenue has been evaluated by a consultant and also appears to be a site which could provide wide coverage of the town.

(6 yes) (1 no J. McGinty)

See attachment.

Item # 92-99/00 **Public Hearing – Group Use Policy For Fort Williams Park**

Intro – Paul Phillipps, 8 Littlejohn Road, Chairman Fort Williams Advisory Commission

Chairman Carson opened the hearing to public comments at 9:05PM.
After hearing no further comments, the hearing was closed at 9:05PM.

Moved by A. Swift-Kayatta and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves the recommendation from the Fort Williams Advisory Commission recommending a group use policy for Fort Williams Park as presented.

(7 yes) (0 no)

See attachment.

Item # 93-99/00 Intro – Manager McGovern

Moved by R. Watson and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves, with gratitude, the final acceptance of a parcel of land from the Cross Hill Development Corporation, and authorizes the Town Manager to execute all appropriate documents on behalf of the Town of Cape Elizabeth.

(7 yes) (0 no)

See attachment.

Item # 94-99/00 Intro – Manager McGovern
Present – Bob Danielson, President Cape Elizabeth Land Trust
Moved by H. Berry and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council approves the proposed conservation easement to the Cape Elizabeth Land Trust on the Town Farm on Spurwink Avenue as presented, and authorizes the Town Manager to execute the easement on behalf of the Town of Cape Elizabeth.

(6 yes) (1 no A. Swift-Kayatta)

See attachment.

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Item #95-99/00 Intro – Glenn Israel, Chairman Fort Williams Park Charitable Foundation Study Committee

Moved by R. Watson and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council acknowledges receipt of the Final Report of the Fort Williams Park Charitable Foundation Study Committee dated March 1, 2000.

(7 yes) (0 no)

A copy of the study is filed in the Office of the Town Clerk.

Moved by H. Berry and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council votes to combine ITEM ##96-102 relating to events at Fort Williams Park as one item.

(7 yes) (0 no)

Present – Robert Malley, Director Public Works

Moved by H. Berry and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Advisory Commission to approve the following events at Fort Williams Park:

Item #96-99/00 Downeast Foreign Car Show on September 10, 2000 with a rain date of September 17, 2000.

Item #97-99/00 Northern Sky Toyz kite events on April 22, April 23, June 18 and October 8, 2000. Note: The Chief of Police reports that calls have been received by the Police Department regarding concerns of kites plunging to the ground near people visiting the Park.

Item #98-99/00 Cape Elizabeth Little League from April 15, 2000 to July 27, 2000.

Item #99-99/00 Engine One Company's Annual Art Show on September 3, 2000 with a rain date of September 4, 2000.

Item #100-99/00 Cape Elizabeth Schools' Spring Field Days on May 30, May 31 and June 1 and June 2, 2000.

Item #101-99/00 Portland Symphony Orchestra Concert on June 29, 2000.

Item #102-99/00 Change of command ceremony on August 1 or August 8, 2000 for the Portland Military Entrance Processing Station. If an alternate date is requested, Town staff has the authorization to approve pending other events at the Fort.

Item #103-99/00 Present – Sandi Dunham – Owner of 1182 Shore Road
Frank and Nancy Strout – 1184 Shore Road

Moved by C. Fritz and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council refers this item back to the E911 Addressing Committee. The Committee is requested to present another recommendation to the Town Council at the April 10, 2000 Town Council Meeting. Said recommendation shall not include Robinson Cove Road or Marr's Cove Lane. It is the desire of the Town Council that the Committee present a recommendation that is agreeable to the property owners. The Committee is asked to review possible street names as suggested by Chairman Carson.

(7 yes) (0 no)

Item #104-99/00 Intro – Councilor Swift-Kayatta, Chairman Appointments Committee

Moved by A. Swift-Kayatta and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves the recommendation of the Appointments Committee to appoint Edward H. Robinson, 17 Trundy Road, to serve on the Recycling Committee for a term to expire January 1, 2002. Mr. Robinson replaces Mary Ann Leavitt. Family Fun Day also has an opening following the resignation of Kate Collins.

(7 yes) (0 no)

Item #105-99/00 Intro – Manager McGovern
Present – Robert Malley, Director of Public Works

Moved by H. Berry and Seconded by R. Watson

Ordered the Cape Elizabeth Town Council approves the expenditure of up to \$120,000 for the scope of services for repairs to Two Lights Road, including the shim and paving of the entire length, adding a three-foot shoulder aside the strawberry field for a distance of 1300 feet.

(3 yes) (4 no C. Fritz, J. McGinty, J. Roberts, A. Swift-Kayatta)

Moved by R. Watson and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council approves the expenditure of up to \$110,000 for the scope of services for repairs to Two Lights Road, including the shim and paving of the entire length.

(7 yes) (0 no)

Moved by A. Swift-Kayatta and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council reconsiders ITEM #103-99/00 voted on earlier in this meeting.

(7 yes) (0 no)

Intro – Frank Strout, and Sandi Dunham

Moved by A. Swift-Kayatta and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council approves the change in the name of Robinson Cove Lane to Becky's Cove Lane as recommended by the Strout and Dunham families, subject to review by the E911 Addressing Committee.

(7 yes) (0 no)

Item # 106-99/00 Intro – Manager McGovern

Moved by R. Watson and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council authorizes the request to design and permitting of new dugouts at Holman and Capano Fields.

(7 yes) (0 no)

Item #107-99/00 Intro – Manager McGovern
Present – Rescue Captain Evelyn Cox
Members: Jim Cox and Greg Toot

Moved by J. McGinty and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council acknowledges receipt of a report from the town manager recommending implementation strategies for the strategic direction of rescue services for the Town of Cape Elizabeth and refers the item to workshop.

(7 yes) (0 no)

Item #108-99/00 Moved by H. Berry and Seconded by J. McGinty
Ordered the Cape Elizabeth Town Council acknowledges receipt of the proposed municipal budget for Fiscal Year 2001 and refers the budget to the Finance Committee.

(7 yes) (0 no)

Item #109-99/00 Moved by J. McGinty and Seconded by A. Swift-Kayatta
Ordered the Cape Elizabeth Town Council acknowledges receipt of the proposed budgets for the Town's special funds for Fiscal Year 2001 and refers the budgets to the Finance Committee.

(7 yes) (0 no)

Item #110-99/00 Intro – Debra Lane, Town Clerk

Moved by R. Watson and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the Dog Warrant for 2000 as presented.

(7 yes) (0 no)

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Citizens' Discussion of Items Not on the Agenda

Town Councilor's are encouraged to submit specific questions regarding the budget to the Town Manager or Finance Chairman Watson by March 20, 2000.

Confirmation – April 3 and April 12 budget workshops.

Moved by R. Watson and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council adjourns at 10:53PM.

(7 yes) (0 no)

Debra M. Lane, Town Clerk