

TOWN OF CAPE ELIZABETH

**SPECIAL TOWN COUNCIL MEETING MINUTES MEETING #22-96/97
MAY 5, 1997
7:30 P.M.**

ROLL CALL BY THE TOWN CLERK PRESENT ABSENT

JANET L. MCLAUGHLIN, CHAIRMAN	X
PHYLLIS C. COGGESHALL	X
JOSEPH H. GROFF, III	X
WILLIAM H. JORDAN	X
WILLIAM S. LINNELL II	X
JOHN W. MCGINTY	X
ROSEMARY A. REID	X

PLEDGE OF ALLEGIANCE TO THE FLAG

On behalf of the Town Council and citizens of Cape Elizabeth, Councilor Groff thanked Janet McLaughlin and Phyllis Coggeshall for their nine years of service on the Cape Elizabeth Town Council. Debra Lane presented Chairman McLaughlin with a gavel representing her term as chairman during the 1996-1997 year.

REPORTS AND CORRESPONDENCE

Chairman McLaughlin thanked Reverend Feeney for his service to the community. Reverend Feeney is retiring from St. Bartholomew's Church.

Congratulations to Sgt. Donald Tubbs for being named State of Maine DARE Officer of the Year.

The Memorial Day Parade will be held on Monday, May 26, 1997 at 9:00 am. Memorial Exercises will follow at the War Veteran's Memorial. An Open House at the Public Safety Building will be held 10 am - 12 noon.

A site walk of the Cliff Walk will be held on Tuesday, May 6 at 5:30 pm.

Congratulations to Cynthia Mowles. Dr. Mowles has signed a two year contract as Superintendent of Schools.

The Municipal Election will be held on Tuesday, May 6, 1997 at the CEHS gym. Polls open from 7 am and close at 8 pm.

Moved by W. Linnell and Seconded by W. Jordan

Ordered the Cape Elizabeth Town Council approves the Minutes of Meeting #19-96/97 held April 14, 1997, Special Meeting #20-96/97 held April 17, 1997 and Special Meeting #21-96/97 held April 28, 1997 as written.

(7 yes) (0 no)

CITIZENS' DISCUSSION OF ITEMS NOT ON THE AGENDA

PUBLIC HEARING ON PROPOSED ADOPTION OF NEW ZONING ORDINANCE AND ZONING MAP

Present Mike Hill, Town Attorney
 Maureen O'Meara, Town Planner
 Mark Eyerman, Consultant

7:48 PM

Intro - Maureen O'Meara, Town Planner

Chairman McLaughlin opened the hearing for public comments.

Seth Sprague, Sprague Corporation- Mr. Sprague asked the Town Council to delete the entire section regarding the proposed overlay districts, or remove the Sprague Corp. from the district. The proposal is "insensitive to private property rights." Since these areas are already regulated, this is over regulation.

Jeannette Hagen, 107 Breakwater Farm Road, Sprague Corp. - Mrs. Hagen asked the Town Council to delete the section regarding the proposed overlay district. Mrs. Hagen stated that supporting the Conservation Commission and Land Trust is the proper vehicle to preserve views. She is "uncomfortable" that the regulations are voluntary.

Leland P. (Jim) Murray- Peabbles Cove Road - Mr. Murray asked the Town Council to table the proposed minimum lot sizes Sec. 19-6-4. Town Center District (Town Council) until he has an opportunity to review the proposal with Town Staff - what would be the effect on his property?

Martha Porch, Owner Lobster Shack - Mrs. Porch agrees with the statements made by representatives of the Sprague Corp. - over regulation. When will this not be voluntary?

Phineas Sprague, Sprague Corporation - Mr. Sprague stated that eventually the requirements would not be voluntary - ideas "snowball," it is hard to step back once this step has been made.

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Anne Schink, 18 Old Fort Road, Chairman Scenic Working Group - Ms Schink was present to answer questions and clarify recommendations made by the Working Group.

Carole Haas, 6 Locksley Road, Member of the Scenic Working Group - Ms Haas stated that the Working Group acknowledged that the public has an interest with what private property owners do, and that a request is made that the public's concerns be considered.

John Greene, Member of the Scenic Working Group - Mr. Greene stated that an important consensus of the Working Group was a recommendation that the Town Council establish a committee to develop long term protections. If the Town wishes to preserve views, the Town should obtain property by conservation easements, town purchase, or bonds - not through the regulation of private property owners.

After hearing no further comments, the hearing was closed at 8:11 PM

ITEM #186-96/97 Moved by R. Reid and Seconded by W. Linnell

Ordered the Cape Elizabeth Town Council deletes all references to the proposed scenic protection overlay districts including Section 19-6-10, 19-8-4, and Appendix A Scenic Overlay Maps as drafted in the Final Council Draft Chapter 19 Zoning Ordinance Town of Cape Elizabeth, Maine dated May 5, 1997.

Moved by P. Coggeshall and Seconded by J. McLaughlin

Ordered the Cape Elizabeth Town Council amends the main motion to retain the sections relating to scenic roads overlay district, as a guide for future decisions, including page 105 Purpose Statement Line ##4-10(amend statement to one district), page 105 19-6-10 (A)(1) Line ##12-17, 19-8-4 (C)(E)(F) including (A) Purpose and (B) Applicability statements page 174 with proper modifications to accurately reflect the intent of this amendment.

(2 yes)(5 no J. Groff, W. Jordan, W. Linnell, J. McGinty, R. Reid)

Original Motion: (5 yes) (2 no P. Coggeshall, J. McLaughlin)

Moved by P. Coggeshall and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council does hereby adopt a new Chapter 19, Zoning Ordinance, of the Revised Code of Ordinances, specifically adopting that draft dated May 5, 1997, as amended by the Town Attorney in his letter dated May 1, 1997, as amended on May 5, 1997 by the Town Council ITEM #186-96/97, having held public hearings on March 12, 1997 and May 5, 1997 with proper notice having been provided in accordance with 30A M.R.S.A. Sec. 4352. The Town Council also wishes to thank the Zoning Ordinance Rewrite Committee, the Planning Board, the Scenic Provisions Working Group, the Comprehensive Planning Committee, the Affordable Housing Study Committee, the Conservation Commission, the Zoning Board of Appeals, the Visual Access Working Group, the Pedals and Pedestrians Committee, and all other Town boards and committees whose contributions have led to the adoption of this new ordinance. We wish to also especially thank Town Planner Maureen O'Meara, Mark Eyeran of Planning Decisions, and Evan Richert, formerly of Market Decisions, for their invaluable assistance throughout the process.

Moved by J. McLaughlin and Seconded by R. Reid

Ordered the Cape Elizabeth Town Council amends the main motion as follows:

Sec. 19-6-4. Town Center District (T C)

D. Standards

2. The following Space and Bulk Standards shall apply:

MINIMUM LOT AREA

- | | |
|---|--|
| (1a) Single family dwelling unit | 80,000 sq.ft. |
| (1b) Single family dwelling unit in the Town
Center Core Subdistrict | 20,000 sq.ft. change to <u>10,000 sq.ft.</u> |
| (2) Multifamily dwelling unit | 7,500 sq.ft. |
| (3) Other uses | |

E. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to the issuance of any building permit, plumbing permit, or other permit.

1. Construction involving any permitted use other than farming and a single family dwelling, except that construction of or conversion to a single family dwelling in the Town Center Core Subdistrict shall be subject to site plan review by the Planning Board.

Moved by W. Linnell and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council tables the immediately preceding amendment proposed by Chairman McLaughlin and Seconded by Councilor Reid regarding Sec. 19-6-4. Town Center District which proposes to decrease the Town Center Core Subdistrict minimum lot size for single family dwellings to 10,000 sq. ft. and require Site Plan Review.

(3 yes) (4 no P. Coggeshall, J. Groff, J. McLaughlin, R. Reid)

Amendment: (4 yes) (3 no P. Coggeshall, W. Jordan, J. McGinty)

Main Motion as Amended: (4 yes) (3 no W. Jordan, W. Linnell, J. McGinty)

ITEM #187-96/97 Moved by P. Coggeshall and Seconded by J. McLaughlin

Ordered the Cape Elizabeth Town Council does hereby adopt as the Official Zoning Map for the Town of Cape Elizabeth, the Zoning Map dated May 5, 1997, as well as the Great Pond Watershed Map, and the TDR Map, prepared by the Greater Portland Council of Governments. We also wish to thank Kris Sommer at GPCOG for her assistance in preparing these maps.

(7 yes) (0 no)

ITEM #188-96/97 No action necessary. ITEM #186-96/97 final vote deleted the proposed scenic protection overlay districts.

Moved by P. Coggeshall and Seconded by W. Jordan

Ordered the Cape Elizabeth Town Council takes ITEM #204-96/97 out of order.

(7 yes) (0 no)

ITEM #204-96/97 Moved by P. Coggeshall and Seconded by J. Groff

Ordered the Cape Elizabeth Town Council does hereby amend the Town Fee Schedule to add the following fees which were previously listed in the Zoning Ordinance:

Building Permit Late Fee	\$35.00
Building Permit Penalty Fee	\$50.00
Zoning Ordinance Change (map or text)	\$100.00

(7 yes) (0 no)

ITEM #189-96/97 Intro - Manager McGovern

Moved by W. Jordan and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council does hereby request the Cape Elizabeth Planning Board to review issues relating to the siting of communication towers in Cape Elizabeth with a report back to the Town Council by December 31, 1997.

(7 yes) (0 no)

PUBLIC HEARINGS AND ACTION ON PROPOSED GENERAL FUND AND SPECIAL FUNDS BUDGETS

Present - Department Heads and members of the School Board and staff.

Chairman McLaughlin opened the hearing for public comments at 9:06 PM.

Beth Currier, School Board Chairman, 18 Belfield Road - Mrs. Currier urged the Town Council to accept the School Department as presented.

Glenn Kersteen, 3 Avon Road - Mr. Kersteen supports the School Board's FY '98 request and urged the Town Council to not reduce the fund balance.

Henry C. Adams, 3 Todd Road - Mr. Adams asked the Town Council to adopt the School and Town budgets as presented.

After hearing no further comments, the hearing was closed at 9:15 PM.

ITEM #190-96/97

A. Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Municipal Budget for Fiscal Year 1998 with gross expenditures of \$18,330,641 and gross revenues of \$5,461,297, and with the amount of \$12,869,344 to be raised by taxation, and does further fix Friday, October 3, 1997 and Friday, April 3, 1998, as the dates upon each of which one-half of such tax is due and payable, with interest to accrue upon taxes due and unpaid after each such date at the rate of ten percent (10%) per annum. In accordance with 36 M.R.S.A. Section 506, the Tax Collector and Town Treasurer are authorized to accept prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with 36 M.R.S.A. Section 506-A, a taxpayer who pays an amount in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the annual rate of 6.0% per annum.

B. Ordered, the following amounts are hereby fixed as the gross appropriation for each department and agency for Fiscal Year 1998:

Education	\$12,162,245
Community Services	540,714
Administration	356,218
Assessing	115,211
Codes	66,188
Planning	58,495
Town Council	21,687
Legal and Audit	62,000

Boards	32,965
Elections	7,024
Town Hall	20,600
Community Center	4,800
Weights & Measures	100
Police	745,545
Fire	175,162
WETeam	10,755
Dispatching	231,891
Fire/Police	750
Hydrants	83,226
Street Lights	69,000
Harbormaster	2,523
Animal Control	31,610
Public Safety Building	15,070
Engine One Station	4,684
Emergency Prep.	3,898
Public Works	714,868
Refuse Disposal	466,497
Parks	20,670
School Grounds	65,712
Fort Williams	77,999
Trees	16,465
Human Services	51,847
Library	327,579
Contributions	13,450
Cable TV	24,605
Insurance	47,000
Debt Service	281,955
Employee Benefits	35,700
Intergovernmental	22,000
Rental Units	4,000
Capital Projects	690,565
Rescue Unit	12,477
Community Liaison Exp.	1,850
Facilities Management	70,890
Total	18,330,641

C. Ordered, the Cape Elizabeth Town Council hereby accepts the categories of funds listed below as provided by the State of Maine:

Category	Estimated Amount
Revenue Sharing	570,000
General Assistance	4,000
Veterans Exemption Reimb.	6,500
Tree Growth Reimb.	3,000
Local Road Assistance	65,200
Library Per Capita Grant	1,470
Snowmobile Registration Funds	400
Other State Funds	?
Community Services Subsidy	24,415
State Education Subsidy	2,463,297
Chapter 1	33,815
Chapter II	7,223
Title II	3,673
Local Entitlement	63,945
Drug Free Grant	7,671

D. Ordered, the Cape Elizabeth Town Council hereby appropriates from the Foundation Allocation for school purposes the sum of \$7,532,481 and the Town of Cape Elizabeth raises as the local share of the Foundation Allocation the sum of \$5,122,272.89.

E. Ordered, the Cape Elizabeth Town Council hereby raises in additional local education funds under the provisions of 20-A M.R.S.A., Sec. 15614, the sum of \$4,426,339.11.

F. Ordered, the Cape Elizabeth Town Council hereby authorizes the expenditure for the Fiscal Year beginning July 1, 1997, and ending on June 30, 1998, from the Foundation Allocation, the Debt Service Allocation, unexpended balances, local appropriations, State Subsidy and other receipts for the support of schools the sum of \$12,162,245.

G. Ordered, the Cape Elizabeth Town Council hereby appropriates for Adult Education, the sum of \$127,593.91 and the Town of Cape Elizabeth raises as the local share the sum of \$47,593.94.

(5 yes) (2 no W. Jordan, J. McGinty)

Moved by J. McGinty and Seconded by P. Coggeshall

Ordered the Cape Elizabeth Town Council approves ITEM ##191-196-96/97 as presented.

ITEM #191-96/97 Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Fiscal Year 1998 Budget for the Sewer Fund with expenditures of \$1,395,796 and gross revenues of \$1,395,796.

ITEM #192-96/97 Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Fiscal Year 1998 Budget for the Riverside Cemetery Fund with expenditures of \$17,843 and gross revenues of \$29,000.

ITEM #193-96/97 Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Fiscal Year 1998 Budget for the Portland Head Light Fund with expenditures of \$286,670 and gross revenues of \$316,300.

ITEM #194-96/97 Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Fiscal Year 1998 Budget for the Spurwink Church Fund with expenditures of \$5,991 and gross revenues of \$10,000.

ITEM #195-96/97 Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Fiscal Year 1998 Budget for the Fort Williams Park Capital Fund with expenditures and revenues of \$34,980.

ITEM #196-96/97 Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 5, 1997, does hereby adopt the Fiscal Year 1998 Budget for the Thomas Jordan Trust with expenditures of \$36,000 and revenues of \$40,000.

(7 yes) (0 no)

OTHER ITEMS

ITEM #197-96/97 Moved by J. Groff and Seconded by P. Coggeshall

Ordered the Cape Elizabeth Town Council approves an amendment to the Cape Elizabeth Sewer Use Fee Schedule providing that the School Department and any private schools shall be billed an annual fee of \$318.00 for every 10 students, faculty and staff.

(7 yes) (0 no)

ITEM #198-96/97 Intro - Manager McGovern

Moved by P. Coggeshall and Seconded by W. Jordan

Ordered the Cape Elizabeth Town Council does hereby eliminate the annual \$25.00 alarm system monitoring fee.

(5 yes) (2 no W. Jordan, J. McGinty)

ITEM #199-96/97 Intro - Manager McGovern

Moved by J. McGinty and Seconded by R. Reid

Resolved the Cape Elizabeth Town Council does hereby give notice of the intent to withdraw from the Greater Portland Council of Governments effective June 30, 1998. The issue is to be reconsidered one year from now during the budget process for Fiscal Year 1999.

(6 yes) (1 no J. McLaughlin)

ITEM #200-96/97 Moved by P. Coggeshall and Seconded by J. McGinty

Resolved the Cape Elizabeth Town Council does hereby appoint Debra Lane to serve as Acting Town Manager from May 7, 1997 to June 3, 1997 with all responsibilities of said office. Ms. Lane shall also serve as Acting Town Manager at such other times as the Town Manager may be on vacation or otherwise unavailable.

(7 yes) (0 no)

ITEM #201-96/97 Moved by J. Groff and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council does hereby amend the charge of the Cape Elizabeth Pool Building Committee to provide for a total of ten members including 7 citizens appointed by the Town Council at the April 14, 1997 Town Council meeting.

(7 yes) (0 no)

ITEM #202-96/97 Moved by J. McGinty and Seconded by W. Jordan

Ordered the Cape Elizabeth Town Council authorizes the Town Manager to offer Stephen M. Murray a one year renewal of the lease of 314 Ocean House Road upon the same terms as the current lease. See attachment.

(7 yes) (0 no)

CITIZENS' DISCUSSION OF ITEMS NOT ON THE AGENDA

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ITEM #203-96/97 Moved by W. Linnell and Seconded by P. Coggeshall

Ordered the Cape Elizabeth Town Council enters into executive session at 9:50 pm to discuss land acquisition/disposition matters.

(7 yes) (0 no)

Moved by P. Coggeshall and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 10:22 pm.

(7 yes) (0 no)

Moved by R. Reid and Seconded by W. Linnell

Ordered the Cape Elizabeth Town Council rejects the offer for a donation of land and refers the owner to the Cape Elizabeth Land Trust and/or other interested parties.

(7 yes) (0 no)

Moved by J. Groff and Seconded by W. Jordan

Ordered the Cape Elizabeth Town Council adjourns at 10:23 pm.

(7 yes) (0 no)

Debra M. Lane, Town Clerk