



**CAPE ELIZABETH TOWN COUNCIL MINUTES**  
**Regular Meeting # 7-01-02**  
**Monday, December 10, 2001**  
**7:30 p.m.**

**Roll Call by the Town Clerk**

		<b>Present</b>		<b>Absent</b>
Anne E. Swift-Kayatta, Chairman	14 Stone Bridge Road	X	767-5754	6/2002
Henry N. Berry III	110 Two Lights Road	X	799-6500	6/2003
Penelope P. Carson	36 Trundy Road	X	799-8029	6/2003
Carolyn M. Fritz	1 Stirrup Road	X	767-3737	6/2003
Mary Ann Lynch	2 Olde Colony Lane	X	741-2709	6/2004
John W. McGinty	86 Brentwood Road	X	767-0139	6/2004
John E. "Jack" Roberts, Jr.	185 Fowler Road	X	767-4526	6/2002

**Student Representatives:**

**Julia Dunfey** X  
**Mariah Nelson** X

**Michael K. McGovern, Town Manager** X  
**Debra M. Lane, Town Clerk** X

**Pledge of Allegiance to the Flag**

**Reports and Correspondence**

Councilor McGinty – The Cumberland County Budget Advisory Committee finalized their recommendation last Wednesday - 19.1% increase. The County Commissions have indicated the increase will exceed the recommended budget increase.

Congratulations to Engine 1 Captain Jim Wilson and his wife on the birth of their baby boy.

Councilor Lynch recently attended the meeting of the Education Reform Funding Committee. It is unlikely that towns and cities will receive more local assistance this year, as funds are limited.

Chairman Swift-Kayatta welcomed the new Director at Portland Head Light, Jeanne P. Gross. Thanks to Henry Adams, Michael McGovern and Debra Lane for serving on the hiring committee.

### **Town Manager's Report**

Effective December 28, 2001, Sgt. Richard Lindsey will retire from the Cape Elizabeth Police Department after 30+ years of service. Congratulations Sgt. Lindsey.

### **Citizens' Discussion of Items Not on the Agenda**

Jonah Rosenfield, 243 Spurwink Avenue

Mr. Rosenfield expressed his opposition to the proposed 65-story tower (hotel complex) in South Portland. He said the project would "adversely impact" him as a Cape Elizabeth resident. The Town Council encouraged him to express his views to the municipal officials in South Portland.

### **Minutes of Meeting # 6-01-02 held November 14, 2001**

Moved by P. Carson and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council approves the minutes of Meeting #6-01-02 held November 14, 2001, as amended (confirming the vote 6 yes 0 no ITEM #45-01/02).  
(7 yes) (0 no)

### **Item # 61-01/02                      Historic Structures**

Intro – Councilor Lynch, Chairman Ordinance Committee

Chairman Swift-Kayatta opened the public hearing at 7:43PM.

Peter Montano, 20 Ocean View Road (resident since 1991 resident)

Mr. Montano's home is on the proposed list of 196. Mr. Montano asked whether his home should be on the list as he has made significant renovations to the home. He expressed his opposition to the list. Is the next step a revision of the ordinance to place additional restrictions on private property owners?

Paul Woods, Broad Cove Road

Mr. Woods home is not on the list. Mr. Woods asked if this is the beginning of further restrictions on private property owners. He encouraged the Town Council to reject the list.

Susan Payne, 72 Stonybrook

Ms Payne's home is on the proposed list of 196. Ms Payne supports the change.

John Greene, Manager of Sprague Property

Mr. Greene lives in an historic home. Mr. Greene encouraged the Town Council to reject the list, citing the list is "not historic its architectural." Should a home be on the list if the public can't see the home? The list is "inaccurate" as two of the structures on the proposed list no longer exist. Is there an ulterior motive for further restrictions?

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Peter Leslie – 7 Cragmoor

Mr. Leslie's home is on the list. Mr. Leslie opposes the list – the list is “not a historical list but a course in comparative architecture.” Town properties should be separated. Have special provision been considered for example handicap access. The list “perpetuates poor public policy which hasn't effectively accomplished anything. Mr. Leslie would not oppose an historic district by neighborhood, or an architectural board to review all changes.

Chris Bozek, 19 Ocean View Road

Mr. Bozek's home is on the list. There is a “gray area between historical and architectural distinctiveness.” Mr. Bozek is the only homeowner burdened, as the surrounding homes are not on the list. He supports a neighborhood concept. Where can this concept go – will further restrictions be placed?

Hillary Bassett – Greater Portland Landmarks, resident of Portland

The Greater Portland Landmarks commends the Town of Cape Elizabeth for engaging professionals to create the list. The list gives Cape Elizabeth “special identity.” Greater Portland Landmarks recommends approval. The 45-day waiting period should be applied to all to allow for public notice and comment. Landmarks offered their Peabody Research Library and other services for guidance to property owners. The town should look at an historic preservation ordinance.

Randy Blake, 2 Ivie Road – Represents owner of home on the original list. The home is located next to ERA on Ocean House Road.

Is this the beginning of more restrictions? Mr. Blake commented the list is a “demonstration of architecturally interesting properties, not historically significant.” The list is “inconsistent,” properties are scattered throughout town.

Richard Perkins, 39 Cottage Farms Road

Mr. Perkins home is proposed to be on the list. When does a change necessitate the 45-day waiting period? Leave the ordinance “as is.”

Sally Nason, 1 Surf Road

Ms Nason believes her home should be on the list on her say so. What does the ordinance mean? There should be a better definition.

Peter Eastman

Mr. Eastman doesn't intend on changing Turkey Hill Farm.

Randy Blake –

Before approving zoning changes, the town should consider how does it affect these properties.

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Peter Leslie provided photographs of his home, which can't be seen from Shore Road.

After hearing no further comments the hearing was closed 8:26PM

Moved by J. Roberts and Seconded by H. Berry

Ordered the Cape Elizabeth Town Council removes all properties listed on the current list of 89, and proposed 196 structures.

(2 yes) (5 no P. Carson, C. Fritz, M. Lynch, J. McGinty, A. Swift-Kayatta)

Moved by M. Lynch and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council removes all properties listed on the current list of 89, and proposed 196 structures, with the exception of state and town-owned property.

(4 yes) (3 no H. Berry, P. Carson, C. Fritz)

Clarification: The new list will include properties listed as historical from either the list of 89 or 196.

**Item # 62-01/02                      Earth Removal Permits**

Intro- Manager McGovern

Present – Maureen O'Meara

Moved by H. Berry and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council sets to public hearing on Monday, January 14, 2002 7:30PM at Town Hall a proposed amendment to the Zoning Ordinance 19-8-5 relating to the annual permits for the removal of earth materials.

(7 yes) (0 no)

**Item # 57-01/02                      Personnel Code Amendments (tabled 11/14/01)**

Moved by H. Berry and Seconded by M. Lynch

Ordered the Cape Elizabeth Town Council takes ITEM #57-01/02 off the table from November 14, 2001.

(7 yes) (0 no)

Moved by H. Berry and Seconded by P. Carson

Ordered the Cape Elizabeth Town Council approves the proposed amendments to the Personnel Code with the exception of 3-1-15.

(7 yes) (0 no)

See attachment.

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**Item # 63-01/02                      Sewer Connection Fee for Affordable Housing Units**

Intro – Manager McGovern

Moved by J. Roberts and Seconded by P. Carson

Ordered the Cape Elizabeth Town Council sets the sewer connection fee for structures built under the mandatory affordable housing provisions at \$1000.00 per unit.

(0 yes) (7 no)

Moved by M. Lynch and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council amends the sewer rate schedule effective December 11, 2001 the connection fee shall be \$1000 for all units built in conformance with the Mandatory Affordable Housing Provisions of the Zoning Ordinance for subdivisions approved after December 11, 2001.

(6 yes) (1 no C. Fritz)

See attachment.

**Item # 64-01/02                      Parking on Oakhurst Road Curve Near St. Alban's Church**

Present – Chief Williams

Moved by H. Berry and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council refers to the Ordinance Committee a proposal to prohibit parking on the northerly side of Oakhurst Road easterly 400 feet towards Shore Road.

(7 yes) (0 no)

**Item # 65-01/02                      Naming of "Tote Road"**

Present – Chief Williams

Intro – Manager McGovern

Moved by H. Berry and Seconded by P. Carson

Ordered the Cape Elizabeth Town Council approves the request of the Addressing Committee to designate a private driveway in the vicinity of 251 and 267 Spurwink Avenue as "Tote Road."

(7 yes) (0 no)

**Item # 66-01/02                      Inn by the Sea Annual Licenses**

Moved by P. Carson and Seconded by M. Lynch

Ordered the Cape Elizabeth Town Council approves the renewal malt, spirituous, vinous liquor license and special amusement permit for Lessees Susan Legge Events and Fort Fairfield Yacht Club at Inn By The Sea as presented.

(7 yes) (0 no)

**Item # 67-01/02                      Fort Williams Park Use: Family Fun Day**

Moved by P. Carson and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Advisory Commission to allow the Family Fun Day Committee to utilize Fort Williams Park for Family Fun Day on June 15, 2002, rain date of June 22, 2002.

(7 yes) (0 no)

**Item # 68-01/02                      Annual Acceptance of Donations**

Moved by P. Carson and Seconded by M. Lynch

Ordered the Cape Elizabeth Town Council accepts, with appreciation, the gifts and donations received December 1, 2000 – November 30, 2001 as presented.

(7 yes) (0 no)

**Item # 69-01/02                      Replacement of 1988 Transfer Trailer**

Intro – Manager McGovern

Moved by H. Berry and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council approves the purchase of a transfer trailer, to replace the 1988 transfer trailer, for an amount estimated at \$53,000. Said funds shall be appropriated from the cancellation of two capital items:

715-4022	Software for Town Maine Frame	\$24,200
715-4121	High School Driveway Paving	\$30,000

(7 yes) (0 no)

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### **Citizens Discussion of Items Not on the Agenda**

### **Adjournment**

Moved by H. Berry and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council adjourns at 9:48PM.

(7 yes) (0 no)

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Debra M. Lane, CMC  
Town Clerk

**Note:** The Town Council will be having a workshop meeting and a special Town Council meeting on Thursday, December 13, 2001. The agenda of the workshop will be to review plans for a new community center. This will include looking at revenue sources for the operation of the building.

The agenda for the Council meeting on December 13, 2001 will be to consider setting a public hearing for January 14, 2002 on a proposal for the new community center. There will also be an agenda item to receive and act upon a report from the Appointments Committee regarding vacancies on boards and commissions.