

**CAPE ELIZABETH TOWN COUNCIL MEETING**  
**Regular Meeting # 3-04-05**  
**Monday, August 9, 2004**  
**7:30 p.m.**

		Present	Absent	
Anne E. Swift-Kayatta, Chairman	14 Stone Bridge Road	X	767-5754	6/2005
David J. Backer	2 Rugosa Way	X	799-2397	6/2006
Carolyn M. Fritz	1 Stirrup Road	X	767-3737	6/2006
Mary Ann Lynch	2 Olde Colony Lane	X	767-5788	6/2007
John W. McGinty	86 Brentwood Road	X	767-0139	6/2007
Michael D. Mowles, Jr.	423 Ocean House Road	X*	741-2552	6/2006
John E. "Jack" Roberts, Jr.	185 Fowler Road	X	767-4526	6/2005

**Manager Michael McGovern** X  
**Town Clerk Deborah Cabana** X

**Roll Call by the Town Clerk**

\* Councilor Mowles arrived at 7:43 p.m. during the public hearing for the Cellular Tower Overlay District.

**Pledge of Allegiance to the Flag**

**Reports and Correspondence:**

*Councilor M. Lynch* stated that the Police Department is wonderful about watching homes while residents are away on vacation. She especially encouraged parents to utilize the services of the Department to periodically check on young adults who might remain at home in order to work summer jobs.

**Town Manager's Report:**

*Manager Michael McGovern* thanked everyone who was involved with the annual Beach to Beacon road race.

*Town Clerk Deborah Cabana* stated that nomination papers for the Portland Water District Trustees will be available on August 11<sup>th</sup> and must be returned by September 20<sup>th</sup>. Candidates who are interested in the election must also file nomination papers with the City of South Portland. The election will be held at the same time as the General Election on November 2, 2004.

**Citizens' Discussion of Items not on the Agenda – None**

**Minutes of Meeting #2-04-05 held July 12, 2004**

Moved by C. Fritz and Seconded by J. Roberts

**Ordered the Cape Elizabeth Town Council approve the minutes of meeting #2-04-05, held July 12, 2004.**

(6 Yes)

**Public Hearing: Cellular Tower Overlay District**

Public Hearing opened at: 7:37 p.m.

- **Norman Gage** – 140 Two Lights Road – expressed concern for public safety and was in favor of this proposed location. It is not uncommon for people who are visiting the area to knock on his door and request to use his home phone.
- **Paul Woods** – 20 Running Tide Road – wanted full cell phone coverage for the entire town. He felt that cell phone access was not only for this year 2004 but encouraged that the Council look ahead to the future.
- **Shirley Findlay** – 230 Bowery Beach Road – was not totally satisfied with the new location. She is able to use her cell phone okay.
- \* Councilor Mowles arrived.
- **Susan Pierce** – 59 Hunts Point Road – felt this was a priority for safety of all the people in Cape Elizabeth. She read a letter from Richard Page who was not able to use his cell phone on August 4<sup>th</sup> to call in a house fire. Mr. Page felt that the town should continue to explore better cell phone coverage for all the residents of Cape Elizabeth.
- **Pamela Chalfant** – 12 Fenway Road – did not think that this proposed location was much different than previous proposals and did not feel that the cell tower belonged in this area of town. She and eight neighbors will be looking at the tower every day. Ms. Chalfant referenced a petition that she had submitted to the Council this evening, which had been signed by 47 voters who are opposed to the cell tower at this location.
- **James Hewes** – 10 Fenway Road – said that he would have to look at the tower every day. His Verizon phone works fine in his area. Mr. Hewes submitted a picture of his back yard and felt that the tower would permanently damage this “pristine” area. He suggested that the Council look at other locations.
- **Gregory Toot** – 4 Spoodrift Lane – is a volunteer for Fire and Rescue. He stated that there is a great value in being able to communicate and felt that there should be a plan to enhance communication throughout the town.
- **Eleanor Guare** – 301 Fowler Road – suggested that all options be exhausted before making a decision on this proposal.
- **Mark Parker** – 7 Cove View Road – has been frustrated on several occasions for not being able to use his cell phone. He was concerned that there be proper coverage for safety issues.
- **Michael Galvin** – 309 Fowler Road – was not against cell towers. He suggested that there had to be a better spot to maximize cell phone coverage. The Fowler Road area already has great coverage.

- **Seth Sprague** – Representing the Sprague Corporation – hopes that the Council approves this new tower overlay district. He felt this proposed location was the best site that could be found in Cape Elizabeth, where residents of only eight homes would view a tower. He also thought that this proposed tower was less visible than the two existing towers. Furthermore, Mr. Sprague pointed out that he and his family could have chosen to develop this property into a residential subdivision. The cell tower was, in his opinion, a much less visual impact. Locating a cell tower on this property was also a means in helping with the payment of property taxes for his family’s corporation.
- **George Foley** – 9 Pilot Point Road – wants a phone for safety purposes. He suggested an option might be to locate a tower on the existing water tower or a WWII cement tower.
- **Peter Eastman** – 24 Woodland Road – wondered if nearby properties would “de-value”. He also asked if the option of repeaters, similar to those in Falmouth, had been considered.
- **Marc Stanfield** – 329 Fowler Road – stated that there were still more unanswered questions than answered questions. He did not feel the town should sacrifice the aesthetic appearance of the area just to provide more cell phone coverage and “convenience” of those in the Board Cove area.
- **Gail Parker** – 317 Fowler Road – asked what the citizen’s role is with making these kinds of decisions. Even though this is in her neighborhood, this simply is not a NIMBY (not in my back yard) issue. She was not convinced, however, that the cell tower has to happen. She suggested that the Council consider their approach and determine whether this is a town problem that needs a solution. This is a community issue and people need to be informed, therefore, she asked that the Council offer educational sessions.

Public Hearing closed at: 8:29 p.m.

**Item# 33-04-05          Action on proposed cellular tower overlay district**

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council amend the zoning map to provide for a tower overlay district on Bowery Beach Road southeasterly of Fowler Road as depicted on the map provided, dated 8/2/04.** (map attached)

**(6 Yes) (1 No) – C. Fritz**

**Public Hearing: Paper Streets in Shore Acres**

Public Hearing opened at: 9:11 p.m.

- **Sheila Mayberry** – 30 Trundy Road – had received documents from Mr. Thelin that restrict the building envelopes and is prepared to sign them. She supported the street vacations.
- **Paul Thelin** – was representing Mr. Pinansky. He stated that the proper paperwork had been prepared and felt that everything was in order for the Council to approve this item.
- **James Morra** – 5 Waumbek Road – asked what happens to the property when paper streets are extinguished. He suggested that approval be contingent on a pedestrian walkway.

Public Hearing closed at: 9:30 p.m.

*Town Planner Maureen O'Meara* was available to explain the proposed paper street vacations. She noted that there is a concern that if the Town vacates paper streets where driveways currently exist, the owners of the driveways could be in a potential legal limbo situation. While this is a private property issue, Ms. O'Meara wanted the Council to be aware of future legal possibilities.

**Item# 34-04-05          Action related to paper streets in Shore Acres**

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council table item #34-04-05 until the September 13, 2004 Town Council meeting.**

(7 Yes)

**Public Hearing: Proposed Adjustments to Sewer Rates**

Public Hearing opened at: 9:40 p.m.

Public Hearing closed at: 9:40 p.m.

Item# 35-04-05      **Action on proposed changes in sewer rates:**  
Moved by M. Lynch and Seconded by C. Fritz

**Ordered, that the Cape Elizabeth Town, pursuant to Sec. 15-1-11 of the Town Ordinances, does hereby revise and adopt the following Sewer Service Charge and Schedule:**

**A. The following user charge shall be effective for the first bill issued after September 1, 2004 for all buildings within the Town of Cape Elizabeth connected to the public sanitary sewers of the Town:**

**\$31.50 - Up to 100 cubic feet of monthly measured water usage**

**\$4.12 - 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 and for every structure attached to the municipal sewer.**

**B. 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. \$1,150 effective September 1, 2004 for each unit to be served by the municipal sewer system that paid from March 1, 1988, to January 31, 1996, an availability charge.**
- 2. \$3,300 effective September 1, 2004 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.**

**C. ORDERED, in accordance with Sec. 15-1-11 (c) of the Sewage Ordinance, interest for past-due sewage charges shall be assessed beginning twenty-five (25) days after date of billing at the same interest rate as is charged for past due taxes.**

(6 Yes) (1 No) – J. McGinty

Moved by J. Roberts and Seconded by J. McGinty

**Ordered the Cape Elizabeth Town Council to consider item #41-04-05 out of order.**  
(7 Yes)

**Item# 41-04-05      Request to add the proposed Autumn Tides subdivision on Wells Road to the sewer service area map.**

Moved by J. Roberts and Seconded by M. Lynch

**Ordered the Cape Elizabeth Town Council approve the request to add the proposed Autumn Tides subdivision on Wells Road to the sewer service area map.**  
(6 Yes) (1 No) – C. Fritz

**Public Hearing: Amendment to Charter to Change Municipal Election Date to November**

Public Hearing opened at: 10:05 p.m.

Public Hearing closed at: 10:05 p.m.

**Item# 36-04-05      Action on proposed charter changes**

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council after required notice and public hearing, does hereby order that the proposed Charter Amendment to change: (a) the date of the regular election for members of the town council and school board from the first Tuesday in May to the first Tuesday after the first Monday in November of each year; (b) the swearing in of newly elected town council members and school board members from the second Monday in June to the second Monday in December following a municipal election; and (c) the deadline for filing nomination papers from the 45th day prior to election day to the 60th day prior to election day, be placed on the ballot for the election to be held November 2, 2004.**

(6 Yes) (1 No) – C. Fritz

**Item# 37-04-05      Possible Action on proposed Spurwink River/Gull Crest Trail Bridge**

Moved by M. Mowles and Seconded by J. Roberts

**Ordered the Cape Elizabeth Town Council to amend the DEP permit to provide a 25 foot buffer on both sides of the Spurwink River east of the Spurwink Avenue right of way and eastward to the limit of tidal influence. Within the buffer area, no alteration would be allowed except for maintenance and replacement of the existing utilities and of the proposed bridge and boardwalk.**

(7 Yes)

**Item# 38-04-05      New paper street request near 71 Stonybrook Road**

Moved by J. McGinty and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council to refer item #38-04-05 to the Council Workshop on August 11, 2004.**

**(7 Yes)**

**Item# 39-04-05      Recommendation from Planning Board regarding open space zoning**

*Councilor D. Backer* stated that his participation in this item could be a potential conflict of interest. Therefore, he would be abstaining from this vote and, if referred to the ordinance committee, he would abstain from that discussion also.

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council to refer item #39-04-05 to the Ordinance Committee for consideration.**

**(6 Yes) (1 Abstain) D. Backer**

**Item# 40-04-05      Council Goals**

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council to adopt the Town Council Goals for July 1, 2004 – June 30, 2005.**

**Cape Elizabeth Town Council Goals  
July 1, 2004—June 30, 2005**

- 1. Ensure that quality services and programs are maintained with as minimal impact as possible on the property tax rate.**
  - a. Continue quarterly reviews of expenditures and revenues by the Finance Committee.
  - b. Set targets for any adjustment in the FY 2006 tax rate prior to budget submissions.
  - c. Communicate to the Cumberland County commissioners, to state decision makers, and to other cities and towns the need to restrain future growth of the county budget.
  - d. Review and use as a resource an updated and expanded study, which benchmarks the costs of municipal and school services with other communities.
  - e. Meet with elected officials in surrounding communities to discuss opportunities for regional cooperation and possible expenditure savings.
  - f. Apply additional net state revenue resulting from Question 1 vote toward property tax relief.
  - g. Explore opportunities to raise additional revenue at Fort Williams Park.
  - h. Plan for possible impact of Palesky tax cap: citizen education and implementation plan.
  - i. Review all of the special funds to determine the adequacy of their revenue and their long-term expenditure needs.
- 2. Increase opportunities for interaction of the Town Council with boards and commissions.**
  - a. Conduct an annual orientation for all board and commission members.
  - b. Participate in a workshop with the Planning Board to review whether an update the comprehensive plan is needed, and if so, how.
  - c. Participate in a workshop with the Conservation Commission to review progress on the greenbelt and to discuss priorities.
  - d. Have a council member attend at least one meeting of each board and commission.
- 3. Continue implementation of the master plan for the Gull Crest trails.**
- 4. Explore ways to reduce long- and short-term waste handling costs in CE.**
  - a. Review restructuring/financial proposals for RWS.
  - b. Review waste handling processes.
- 5. Review list of town-owned properties for possible sales. Realize at least \$75,000 in revenue from the sale of town property.**

(7 Yes)



**Item# 42-04-05      Acceptance of GIS Grant**

Moved by J. Roberts and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council to accept the GIS Grant and to authorize the Town Manager to execute contracts as necessary with the State of Maine and our own contractor.**

(7 Yes)

**Item# 43-04-05      Recommendation from Planning Board regarding open space**

Moved by J. M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council to refer item #43-04-05 to the Council Workshop on August 11, 2004.**

(7 Yes)

**Item# 44-04-05      Request to partner with the Cape Elizabeth Land Trust**

Moved by M. Lynch and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council table item #44-04-05 until the September 13, 2004 Town Council Meeting.**

(7 Yes)

**Citizens' Discussion of Items not on the Agenda – None**

**Adjournment**

Moved by M. Mowles and Seconded by J. McGinty

**Ordered the Cape Elizabeth Town Council adjourn at 10:53 p.m.**

(7 Yes)

**Respectfully submitted,**

**Deborah S. Cabana  
Town Clerk**