

CAPE ELIZABETH TOWN COUNCIL MEETING
Regular Meeting # 6-04-05
Monday, November 8, 2004
7:30 p.m.

		Present	Absent	
Anne E. Swift-Kayatta, Chairman	14 Stone Bridge Road	X	767-5754	12/2005
David J. Backer	2 Rugosa Way	X	799-2397	12/2006
Carolyn M. Fritz	1 Stirrup Road	X	767-3737	12/2006
Mary Ann Lynch	2 Olde Colony Lane	X	767-5788	12/2007
Michael D. Mowles, Jr.	423 Ocean House Road	X*	741-2552	12/2006
John E. "Jack" Roberts, Jr.	185 Fowler Road	X	767-4526	12/2005

Manager Michael McGovern X
Town Clerk Deborah Cabana X
Roll Call by the Town Clerk
Pledge of Allegiance to the Flag

Reports and Correspondence

Councilor J. Roberts noted a recent article in the newspaper about a volunteer fire fighter who was injured on the job. He requested that the Town Manager report back to the Council with information about the benefits entitled to a fire fighter in Cape Elizabeth in the event of an injury on the job.

Councilor D. Backer recently attended a Planning Board meeting. He stated that he was impressed with the commitment of the members who serve on the various boards and committees for the town.

Councilor M. Lynch thanked the staff and volunteers involved with the recent Presidential Election.

Chairman A. Swift-Kayatta stated how grateful she was for the statewide defeat of the Palesky 1% tax cap citizen initiative. She thanked the citizens in Cape Elizabeth who served on the Tax Cap Task Force and the information they made available for the citizens to consider when voting on this question.

Town Manager's Report

Manager McGovern said he appreciated the citizens' vote on the local referendum question that approved existing and previously authorized municipal debt. Additionally, he recognized the participation of the various municipal departments that cooperatively administered the recent Presidential Election under the leadership of the Town Clerk.

Citizens' Discussion of Items not on the Agenda –

Eric Peterson (leader of a boy scouts group attending the meeting) inquired about the voter participation at the election. The Town Clerk responded that 6404 voters, representing 80.45% of the registered voters, participated in the Presidential Election.

* Councilor Mowles arrived at 7:35 p.m.

Minutes of Meeting #5-04-05 held October 13, 2004

Moved by D. Backer and Seconded by J. Roberts

Councilor D. Baker noted a couple of typographical errors to be corrected.

Ordered the Cape Elizabeth Town Council approve the minutes of meeting #5-04-05 held October 13, 2004.

(6 Yes)

Item # 65-04-05 Public Hearing and Action Re: Open Space Provisions

Town Planner Maureen O'Meara was available to explain this item and answer questions.

Councilor D. Backer requested that he be recused from voting on this item, as he has abstained from voting on this issue at previous Town Council and Ordinance Committee meetings.

Moved by J. Roberts and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council recuse Councilor D. Backer from voting on item #65-04-05.

(6 Yes)

The Public Hearing opened at 7:45 p.m.

John Mitchell of Mitchell Associates represented the Bothels. He stated that approval of the proposed amendment would allow the Bothels to finalize the master plan of their property.

The Public Hearing closed at 7:47 p.m.

Moved by M. Lynch and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council approve the proposed amendments to the Zoning Ordinance regarding open space provisions in phased developments.

(5 Yes)

Item # 66-04-05 Report from the Ordinance Committee

Moved by C. Fritz and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council schedule a public hearing for Monday, December 13, 2004, at 7:30 p.m. on proposed amendments to the Traffic Ordinance regarding penalties for traffic infractions including a recommendation to permit the use of immobilization devices (Denver boots)

(5 Yes) (1 No – M. Mowles)

Item # 64-04-05 (Tabled October 13, 2004)

Request to adopt a policy relating to the general fund undesignated fund balance

Moved by D. Backer and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council remove from item #64-04-05 from the table.

(5 Yes) (1 No – M. Lynch)

Moved by J. Roberts and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council shall seek to maintain a general fund undesignated fund balance of 8.33% of annual general fund operating revenues, which percentage is equivalent to revenues anticipated in an average one month period.

If the targeted undesignated fund balance is exceeded, 50% of any excess funds shall be used to reduce the tax commitment in the next budget to be considered by the town council. The remaining 50% shall be placed in a capital reserve fund to replace equipment and/or to undertake needed infrastructure improvements.

During any year when the undesignated fund balance is less than its target level, the town council shall attempt to increase, as a percentage of operating revenues, the undesignated fund balance. As long as the undesignated fund balance is below the target level, the undesignated fund balance shall not be used to support the annual budget or other capital needs if doing so will result in the undesignated fund balance being a lower percentage of operating revenues than in the previous year.

Moved by M. Mowles and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council to amend the motion so that the second paragraph reads:

If the targeted undesignated fund balance is exceeded, 100% of any excess funds shall be used to reduce the tax commitment in the next budget to be considered by the town council

(5 Yes) (1 No – J. Roberts)

Ordered the Cape Elizabeth Town Council approves the main motion as amended.

(4 Yes) (2 No – M. Mowles and M. Lynch)

Item # 67-04-05 BB Zone Front Setback

Town Planner Maureen O'Meara was available to explain this item and answer questions.

Moved by M. Lynch and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council schedule a public hearing for Monday, December 13, 2004, at 7:30 p.m. on proposed amendments to the Zoning Ordinance to reduce the front setback in the BB District from 100' to 50'.

(6 Yes)

Item # 68-04-05 Fort Williams Charitable Foundation Amendments

Moved by C. Fritz and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approve the proposed amendments to the Fort William Charitable Foundation as presented. (A copy of their proposal is attached to the official minutes.)

(6 Yes)

Item # 69-04-05 Ordinance Committee Chairman and Special Election

Moved by D. Backer and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council appoint John E. (Jack) Roberts as Chairman of the Town of Cape Elizabeth Ordinance Committee.

(6 yes)

Moved by M. Mowles and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council schedule a special municipal election on January 11, 2005 and reschedule the January 10, 2005 Town Council meeting to January 12, 2005.

(6 Yes)

Manager McGovern requested that the Town Council suspend the rules to take an item out of order. It has been requested that the 7th Annual Beach to Beacon Road Race be scheduled for Saturday, August 6, 2005.

Moved by M. Lynch and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council suspend the rules to take an item out of order.

(6 Yes)

Item # 70-0405 Request to schedule the 8th Annual Beach to Beacon Road Race

Moved by D. Backer and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council authorize the 8th annual Beach to Beacon Road Race to be scheduled for August 6, 2005.

(6 Yes)

Citizens' Discussion of Items not on the Agenda – None

Manager McGovern stated that he enjoyed working with Councilor John McGinty and appreciated that he always came to the town council meetings well prepared. He wished Mr. McGinty well.

Adjournment

Moved by J. Roberts and Seconded by D. Backer

Ordered the Cape Elizabeth Town Council adjourn at 9:15 p.m.

(6 Yes)

Respectfully submitted,

Deborah S. Cabana
Town Clerk