

# CAPE ELIZABETH TOWN COUNCIL MEETING

Regular Meeting # 11-04-05

Monday, February 14, 2005

7:30 p.m.

Present

Absent

|                                 |                      |   | Present          | Absent  |
|---------------------------------|----------------------|---|------------------|---------|
| Anne E. Swift-Kayatta, Chairman | 14 Stone Bridge Road | X | 767-5754         | 12/2005 |
| David J. Backer                 | 2 Rugosa Way         | X | 772-5845 ext 122 | 12/2006 |
| Carolyn M. Fritz                | 1 Stirrup Road       | X | 767-3737         | 12/2006 |
| Mary Ann Lynch                  | 2 Olde Colony Lane   | X | 232-1048         | 12/2007 |
| Paul J. McKenney                | 5 Katahdin Road      | X | 899-0045         | 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

*Chairman A. Swift-Kayatta* noted that the ceremony for the Pond Cove Kindergarten Wing Open House was held last weekend.

## Town Manager's Report

*Manager McGovern* commended the Public Works Department for their outstanding job this winter. He feels that Cape Elizabeth's roads are second to none in the state.

**Minutes of Meeting #9-04-05 held January 12, 2005 and #10-04-05 held January 24, 2005**

Moved by P. McKenney and Seconded by M. Lynch

**Ordered the Cape Elizabeth Town Council approve the minutes of meeting #9-04-05 held January 12, 2005 and #10-04-05 held January 24, 2005**

(7 Yes)

**Public Hearing: Malt and Vinous License for Two Lights Enterprises, Inc d/b/a Ocean House of Pizza at 337 Ocean House Road**

The public hearing opened at 7:35 p.m.

The public hearing closed at 7:35 p.m.

**Item # 97-04-05 Malt and Vinous License for Two Lights Enterprises**

Moved by J. Roberts and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council approve the malt and vinous license for Two Lights Enterprises d/b/a Ocean House of Pizza.**

(7 Yes)

**Item # 98-04-05 Transfer of Compost Operation**

Public Works Director Robert Malley explained that the last four years CE Compost has operated the compost operation at the Cape Elizabeth Recycling Center. It is proposed to transfer the compost operation to the management of William H. Jordan Farm, LLC.

Moved by P. McKenney and Seconded by J. Roberts

**Ordered the Cape Elizabeth Town Council transfer the compost operation to the management of William H. Jordan Farm, LLC.**

(7 Yes)

**Item # 99-04-05 Stretcher, Stair Chair and Radios for New Rescue**

Moved by M. Lynch and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council approve \$9,947 for a stretcher, a stair chair and radios related to the new rescue.**

(7 Yes)

**Item # 100-04-05 Alewife Fishing Rights for 2005**

Moved by P. McKenney and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council approve the alewife-harvesting plan with the same provisions as approved in 2004.** (A copy of the Alewife Regulations is attached to the official minutes.)

(7 Yes)

**Item # 101-04-05 Charge to New Comprehensive Planning Committee**

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 approve the Charge to the new Comprehensive Planning Committee substantially, as presented, with the exception of the membership of the Comprehensive Planning Committee to consist of 11 members by adding an additional Town Council member and an additional Planning Board member.**

(7 Yes)

**Item # 102-04-05 Spurwink Church Study Committee**

Moved by C. Fritz and Seconded by M. Lynch

**Ordered the Cape Elizabeth Town Council approve the draft charge for a proposed Spurwink Church Study Committee with an amendment to the first committee purpose to read: "Review all relevant material and seek advise from consultants, including those knowledgeable with historical preservation relating to the condition of the Spurwink Church."**

(7 Yes)

**Item # 103-04-05 Undersized Lots**

Moved by C. Fritz and Seconded by D. Backer

**Ordered the Cape Elizabeth Town Council refer Item #103-04-05 regarding undersized lots to a future council workshop.**

(7 Yes)

**Item # 104-04-05 BA District Wetlands Amendment**

Moved by J. Roberts and Seconded by M. Lynch

**Ordered the Cape Elizabeth Town Council refer Item #104-04-05 regarding BA District wetlands regulations to the Ordinance Committee.**

(6 Yes) (1 No – C. Fritz)

Moved by M. Mowles and Seconded by J. Roberts

**Ordered the Cape Elizabeth Town Council vote Items #105-04-05 through #112-04-05 en bloc.**

(7 Yes)

**Fort Williams Park Use Requests**

- Item # 105-04-05 Cape Elizabeth Little League
- Item # 106-04-05 Approval of MS Walk for April 10, 2005
- Item # 107-04-05 Approval of High School graduation on June 12, 2005
- Item # 108-04-05 Portland Amateur Wireless on June 25-26, 2005
- Item # 109-04-05 Portland Symphony Orchestra on July 2, 2005
- Item # 110-04-05 QVC on July 15, 2005 (Setup on July 14, 2005)
- Item # 111-04-05 Portland Yacht Club on August 13-14, 2005
- Item # 112-04-05 Engine One Art Show on September 4, 2005 (the 5<sup>th</sup> if rain)

Manager McGovern noted that the Chief of Police is on vacation and must approve the route for the M.S. Walk scheduled for April 10, 2005.

Moved by M. Mowles and Seconded by J. Roberts

**Ordered the Cape Elizabeth Town Council approve Items #105-04-05 through #112-04-05 en bloc.**

(7 Yes)

- Item # 113-04-05 Capital Improvement Plan for FY 2006-2010

Moved by M. Lynch and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council acknowledge receipt of the proposed Town of Cape Elizabeth Capital Improvement Plan for FY 2006-2010.**

(7 Yes)

- Item # 114-04-05 Cape Elizabeth Sanitary Sewer System Rehabilitation Plan

Moved by P. McKenney and Seconded by M. Lynch

**Ordered the Cape Elizabeth Town Council acknowledge receipt of the proposed Town of Cape Elizabeth Sanitary Sewer Rehabilitation Plan and refer the plan to the February 16, 2005 council workshop.**

(7 Yes)

- Item # 115-04-05 PACTS Funding of Shore Road/Route 77/Scott Dyer Road Intersection Pedestrian Improvements and Signalization

Moved by M. Lynch and Seconded by M. Mowles

**Ordered that the Cape Elizabeth Town Council indicate to PACTS its endorsement of the PACTS plan to commit \$297,500 in federal and state funds to pedestrian improvements and signalization of the Route 77/Shore Road/Scott Dyer Road intersection and to commit \$52,500 as the 15% local match from the Roadway Drainage account. (7154009)**

(6 Yes) (1 No – C. Fritz)

**Item # 116-04-05 PACTS Funding of Shore Road Shim and Overlay**

Moved by M. Lynch and Seconded by D. Backer

**Ordered that the Cape Elizabeth Town Council indicate to PACTS its endorsement of the PACTS plan to commit \$401,115 in federal and state funds to shim and overlay Shore Road from Fort Williams Park to Route 77 and to commit \$70,785 as the 15% local match from the Roadway Drainage account. (7154009)**

(7 Yes)

**Item # 117-04-05 PACTS Funding of Sawyer Road Shim and Overlay**

Moved by P. McKenney and Seconded by M. Lynch

**Ordered that the Cape Elizabeth Town Council indicate to PACTS its endorsement of the PACTS plan to commit \$145,860 in federal and state funds to shim and overlay Sawyer Road from Fickett Street to Eastman Road and to commit \$25,740 as the 15% local match from the Roadway Drainage account. (7154009)**

(7 Yes)

**Item # 118-04-05 PACTS Funding of Spurwink Avenue PACTS Project**

Moved by M. Mowles and Seconded by C. Fritz

**Ordered that the Cape Elizabeth Town Council indicate to PACTS its endorsement of the PACTS plan to commit \$753,100 in federal and state funds to provide a pm wrap (preventative maintenance overlay) and to commit \$132,900 as the 15% local match from the Roadway Drainage account. (7154009)**

(7 Yes)

**Item # 119-04-05 Approval of Allocation of Account 7154009**

Moved by M. Lynch and Seconded by M. Mowles

**Ordered that the Cape Elizabeth Town Council indicate to staff its approval of the allocation of previously appropriated funds amounting to \$70,960 for the regular paving program and for minor paving and drainage projects.**

(7 Yes)

**Item # 120-04-05 Budget Target**

Moved by D. Backer and Seconded by M. Lynch

**Ordered that the Cape Elizabeth Town Council endorse the recommendation of the Town Council Finance Committee to set the Fiscal Year 2006 budget target rate for an amount not to exceed the consumer price index of 3.3%, with the exception of voter approved debt and an allowance for additional school enrollment and population growth.**

(6 Yes) (1 No- J. Roberts)

**Item # 121-04-05 Sign Ordinance**

Moved by M. Mowles and Seconded by M. Lynch

**Ordered that the Cape Elizabeth Town Council refer Item 121-04-05 regarding the sign ordinance pertaining to language relating to political signs to the Ordinance Committee.**

(7 Yes)

**Item # 122-04-05 Paper Streets**

Moved by P. McKenney and Seconded by M. Mowles

**Ordered that the Cape Elizabeth Town Council authorize the town manager to work with the town attorney to prepare a draft council order to abandon paper streets on Ocean View Road between Lots U3-91 and U3-92 and on Stonybrook Road on both sides of Lot U3-125.**

(7 Yes)

*Councilor M. Mowles* requested that the Town Council suspend the rules to take an item out of order. He is asking the Town Council to consider authorizing \$10,000 from the proceeds of the sale of 316 Ocean House Road for Family Fun Day.

Moved by M Mowles and Seconded by P. McKenney

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

(6 Yes) (1 No – A. Swift Kayatta)

**Item #123-04-05 Request to authorize \$10,000 from the proceeds of the sale of 316 Ocean House Road for Family Fun Day**

Moved by M Mowles and Seconded by M Lynch

**Ordered the Cape Elizabeth Town Council authorize \$10,000 from the proceeds of the sale of 316 Ocean House Road for Family Fun Day.**

(4 Yes) (3 No – C. Fritz, D. Backer, A. Swift-Kayatta)

**Citizens Discussion of Items Not on the Agenda - None**

**Item # 123-04-05 Executive Session – 9:30 p.m.**

Moved by C. Fritz and Seconded D. Backer

**Ordered the Cape Elizabeth Town Council in accordance with 1 MRSA Sec. § 405 Paragraphs 6A, 6C and 6D enter into executive session to continue the annual evaluation of the town manager, to discuss upcoming negotiations with the Cape Elizabeth Police Benevolent Association and with Local 340 of the Teamsters and to discuss the disposition of publicly owned property said property being those properties discussed publicly at the December 13, 2004 town council meeting.**

(7 Yes)

Moved by M. Lynch and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council re-enter public session at 10:05 p.m.**

(7 Yes)

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council to authorize the Town Manager to put lot U32-12 on Mitchell Road up for sale and to authorize the Town Manager to work with a real estate broker on the sale.**

(7 Yes)

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council in accordance with 1 MRSA Sec. § 405 Paragraphs 6A and re-enter into executive session at 10:07 p.m. to continue the annual evaluation of the town manager.**

**(7 Yes)**

Moved by M. Lynch and Seconded by Mowles

**Ordered the Cape Elizabeth Town Council re-enter public session at 10:16 p.m.**

**(7 Yes)**

### **Adjournment**

Moved by M. Lynch and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council adjourn at 10:17 p.m.**

**(7 Yes)**

Respectfully submitted,

Deborah S. Cabana  
Town Clerk