

**CAPE ELIZABETH TOWN COUNCIL MEETING**

**Regular Meeting # 1-2006**

**Monday, December 12, 2005 7:30 p.m.**

**Oaths of Office Administered by the Town Clerk**

**Cape Elizabeth School Board: Katharine N. Ray and Linda Winker**

**Cape Elizabeth Town Council: Cynthia Dill and Anne E. Swift-Kayatta**

		<b>Present</b>	<b>Absent</b>
<b>David J. Backer, Chairman</b>	<b>2 Rugosa Way</b>	<b>X</b>	<b>772-5845 ext 122 12/2006</b>
<b>Cynthia Dill</b>	<b>1227 Shore Road</b>	<b>X</b>	<b>767-7197 12/2008</b>
<b>Carolyn M. Fritz</b>	<b>1 Stirrup Road</b>	<b>X</b>	<b>767-3737 12/2006</b>
<b>Mary Ann Lynch</b>	<b>2 Olde Colony Lane</b>	<b>X</b>	<b>232-1048 12/2007</b>
<b>Paul J. McKenney</b>	<b>5 Katahdin Road</b>	<b>X</b>	<b>899-0045 12/2007</b>
<b>Michael D. Mowles, Jr.</b>	<b>423 Ocean House Road</b>	<b>X</b>	<b>741-2552 12/2006</b>
<b>Anne E. Swift-Kayatta</b>	<b>14 Stone Bridge Road</b>	<b>X</b>	<b>767-5754 12/2008</b>

**Manager Michael McGovern** X

**Town Clerk Deborah Cabana** X

**Roll Call by the Town Clerk**

**Pledge of Allegiance to the Flag**

**Minutes of Meeting # 26-04-05 held November 14, 2005**

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

**Ordered the Cape Elizabeth Town Council approve the minutes of meeting # 26-04-05 held November 14, 2005, as presented.**

(7 Yes)

**Reports and Correspondence**

*Councilor M. Mowles* – stated that the Cumberland County Budget hearing scheduled in Cape Elizabeth on December 1<sup>st</sup> has been cancelled.

**Town Manager's Report**

*Manager McGovern* – stated that Harry Dean of the Public Works Department would be retiring after nearly 25 years of service.

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

**Item# 1-2006 Election of a Town Council Chairman for Council Year 2006**

Moved by P. McKenney and Seconded by M.A. Lynch

**Ordered the Cape Elizabeth Town Council appoint David J. Backer as Chairman of the Cape Elizabeth Town Council for year 2006.**

(7 Yes)

Chairman David Backer made a presentation to outgoing Chairman Anne E. Swift-Kayatta, acknowledging her leadership and accomplishments during the last year.

**Item ## 2 through 11-2006**

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

**Ordered the Cape Elizabeth Town Council consider Item ## 2 through 11-2006 enbloc.**

**(7 Yes)**

Moved by M.A. Lynch and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council approve Item ## 2 through 11-2006 as set forth in the agenda.**

**Item# 2-2006            Adoption of Town Council Rules**

A few typographical corrections were made to the Town Council Rules. A copy will be attached to the official minutes.

**Item# 3-2006            Appointment of the Finance Committee**

Paul J. McKenney as Chairman and the Council as a whole to serve as the Finance Committee

**Item# 4-2006            Appointment of an Ordinance Committee**

Carol Fritz as Chairman and Cynthia Dill and Mary Ann Lynch as members

**Item# 5-2006            Appointment of an Appointments Committee**

Mary Ann Lynch as Chairman and Michael D. Mowles, Jr. and Anne E. Swift-Kayatta as members

**Item# 6-2006            Appointment of Representatives to RWS Board of Directors**

Carolyn M. Fritz and Michael K. McGovern

**Item# 7-2006            Appointment of Representative to Greater Portland Council of Governments Executive Committee**

Paul J. McKenney

**Item# 8-2006            Appointment of Representative and Alternate to Greater Portland Council of Governments General Assembly**

Michael D. Mowles, Jr.  
Cynthia Dill, Alternate

**Item# 9-2006            Appointment of Representative to PACTS Policy Committee**

Michael K. McGovern

**Item# 10-2006           Appointment of Representative to MMA Legislative Policy Committee**

Anne E. Swift-Kayatta

**Item# 11-2006           Appointment of Representative to Thomas Memorial Library Foundation**

David J. Backer

**(7 Yes)**

**Item# 12-2006 Inn by the Sea Annual Licenses**

Moved by M. Mowles and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council approve the request for the annual malt, spirituous and vinous license and for a Special Amusement Permit for dancing and entertainment for Susan T. Legge, Fort Fairfield Yacht Club d/b/a Susan Legge Events, Inc., Inn by the Sea, HMH Limited Partnership at 40 Bowery Beach Road.**

(7 Yes)

**Item# 13-2006 Nordic Ski Request**

Members from the Cape Nordic (Hillary Egan, Muzzy Barton, David Roberts, and Peter Dunfey) made a presentation to the Town Council, offering groomed cross country trails at Gull Crest.

Moved by A.E. Swift-Kayatta and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council refer the Nordic Ski Request to the Town Manager to report back to the Town Council at the February 13, 2006 meeting.**

(7 Yes)

**Item# 14-2006 Appointments Committee Report**

Councilor M. Mowles read the list of the individuals that the Appointments Committee is recommending for the various boards and commissions.

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

**Ordered the Cape Elizabeth Town Council approve the recommendations of the Appointments Committee, as presented.** (Copy of the list is attached to the official minutes.)

(7 Yes)

**Item# 15-2006 Winnick Woods Master Plan**

Moved by C. Fritz and Seconded by A.E. Swift-Kayatta

**Ordered the Cape Elizabeth Town Council schedule a public hearing on Monday, January 9, 2006 at 7:30 p.m. at the Town Hall regarding the proposed Winnick Woods master plan.**

(7 Yes)

**Item# 16-2006 DEP Modification Request**

Moved by A.E. Swift-Kayatta and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council authorize an application to the Maine Department of Environmental Protection to permit the temporary use of Jordan Farm Road for the duration of the 2006 construction project which will reconstruct and place new sewers in Winding Way and Running Tide Road. Four additional local restrictions to include: 1) allow construction vehicles only; and 2) permit use of residents on Running Tide Road, Winding Way, and Masefield Terrace only when Winding Way has significant construction activity; and 3) available for emergency vehicles only; and 4) not open at all on weekends except for emergency vehicles.**

(7 Yes)

**Item # 17-2006 Little League Lions Field Dugout Request**

Moved by M. Mowles and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council authorize the Town to apply to the Cape Elizabeth Planning Board for permits and approvals necessary to replace the dugouts at Lions Fields - permitting cost to be paid by the Town.**

(7 Yes)

**Item# 18-2006 Acceptance of Gifts**

Moved by A.E. Swift-Kayatta and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council accept the gifts and bequests donated to the various town departments.**

(7 Yes)

**Item ## 19 through 28-2006**

Moved by M. Mowles and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council consider Item ## 19 through 28-2006 enbloc.**

(7 Yes)

Moved by M. Mowles and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council accept Item ## 19 through 28-2006 as set forth in the agenda.**

**Item# 19-2006 Acceptance of Open Space at Autumn Tides Subdivision**

It is proposed to accept by warranty deed the gift of 1.01 acres of open space with conservation restrictions from Wyley Enterprises, LLC. The open space is part of the Autumn Tides Subdivision.

**Item# 20-2006 Acceptance of Autumn Tides Road**

It is proposed to accept by warranty deed the parcel of land known as Autumn Tides Road as drawn on a plan entitled “Final Subdivision Plan of Autumn Tides Subdivision” as recorded in the Cumberland County Registry of Deeds in Plan Book 205, Page 41.

**Item# 21-2006 Acceptance of Drainage Easement**

It is proposed to accept a drainage easement deed from Abram Wilmot as shown on the plan entitled “Grover Acres Subdivision Grover Road Cape Elizabeth Maine by Mitchell and Associates.” Said deed already recorded at Book 22466, Page 279-280 at the Cumberland County Registry of Deeds.

**Item# 22-2006 Acceptance of Drainage Easement**

It is proposed to accept a drainage easement deed from Stephen M. Murray as shown on the plan entitled “Grover Acres Subdivision Grover Road Cape Elizabeth Maine by Mitchell and Associates.” Said deed already recorded at Book 22466, Page 281-282 at the Cumberland County Registry of Deeds.

**Item# 23-2006            Acceptance of Drainage Easement**

It is proposed to accept a drainage easement deed from Leland P. Murray, III as shown on the plan entitled “Grover Acres Subdivision Grover Road Cape Elizabeth Maine by Mitchell and Associates.” Said deed already recorded at Book 22466, Page 283-284 at the Cumberland County Registry of Deeds.

**Item# 24-2006            Acceptance of Flowage Easement**

It is proposed to accept a flowage easement deed from Carol A. Murray as shown on the plan entitled “Grover Acres Subdivision Grover Road Cape Elizabeth Maine by Mitchell and Associates.” Said deed already recorded at Book 22552, Page 334 at the Cumberland County Registry of Deeds.

**Item# 25-2006            Acceptance of Deed for Grover Road Turnaround**

It is proposed to accept an easement deed from Stephen M. Murray as shown on the plan entitled “Grover Acres Subdivision Grover Road Cape Elizabeth Maine by Mitchell and Associates.” Said easement provides a turnaround on the southeasterly corner of Lot 11. Said deed already recorded in Book 22466, Pages 285-287 at the Cumberland County Registry of Deeds.

**Item# 26-2006            Acceptance of Grover Road- Extended Portion**

It is proposed to accept by quit claim deed from Stephen M. Murray, Leland P. Murray, III and Kristine G. Murray the parcel of land known as Grover Road as drawn on a plan entitled “Grover Acres Subdivision” as recorded in the Cumberland County Registry of Deeds in Plan Book 205, Page 307.

**Item# 27-2006            Acceptance of Hamlin Street Drainage Easement**

It is proposed to accept a drainage easement from Cloutier Construction adjacent to Hamlin Street as depicted on the approved Amended Subdivision Plan, Hamlin Street Subdivision dated 4/30/2004 as finally amended, by Pinkham and Greer for Cloutier Construction.

**Item# 28-2006            Acceptance of Hamlin Street and Dermot Drive**

It is proposed to accept by warranty deed that area shown as Hamlin Street and Dermot Drive as depicted on the approved Amended Subdivision Plan, Hamlin Street Subdivision dated 4/30/2004 as finally amended, by Pinkham and Greer for Cloutier Construction.

**(6 Yes) (1 No – C. Fritz)**

**Item# 29-2006            Acceptance of Portion of Stephenson Street**

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

**Ordered the Cape Elizabeth Town Council accept that portion of Stephenson Street extending from Spurwink Avenue to Hamlin Street.**

**(7 Yes)**

**Item# 30-2006 Personnel Code Amendments**

Assistant Town Manager Debra Lane was available to explain this item and answer questions.

Moved by M. Mowles and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council approve the amendment to Article 1 Section 3-1-1 (a) to read: “The Town shall employ, without discrimination as to race, color, creed, religion, sex, national origin, adult age, marital status, potential affiliation, *physical or mental disability, status as a whistleblower, sexual orientation or any . . .*”**

(7 Yes)

Moved by M. Mowles and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council approve the amendment to Article 1 Section 3-1-15 to read: “The Town provides optional payroll deductions for *banks and credit unions* and for an annual combined charitable appeal for *umbrella organizations* in accordance with a Town Council adopted policy. Direct deposit of payroll checks is also available. Payroll deductions *and* direct deposit shall be authorized in writing by each employee.”**

(7 Yes)

Moved by M.A. Lynch and Seconded by C. Fritz

**Ordered the Cape Elizabeth Town Council approve the amendment to Article II Section 3-2-6(b), third paragraph to read: “The Town may require medical certification to support a request for leave because of a serious health condition. *No more than 12 weeks of unpaid family leave shall be permitted in any rolling 12-month period.* The employee . . .”**

**A.E. Swift-Kayatta called the question**

(6 Yes) (1 No – M. Mowles)

**The main motion approved.**

(4 Yes) (3 No – M. Mowles, C. Dill & D. Backer)

Moved by M.A. Lynch and Seconded by P. McKenney

**Ordered the Cape Elizabeth Town Council approve the amendment to Article II Section 3-2-10(a), second paragraph to read: “The Town pays 100% of the cost of the premium for those with single coverage. *Effective July 1, 2007 the town will pay 90% of the cost of the premium for those with single coverage.* The Town pays . . .”**

(7 Yes)

Moved by C. Fritz and Seconded by M.A. Lynch

**Ordered, the Cape Elizabeth Town Council approve the amendments to Article II Section 3-2-10(b). to read: “The Town of Cape Elizabeth offers a Section 125 Plan reimbursement account through *Maine School Management Association.* The Town may choose another provider at its option. Medical expense reimbursement accounts are limited to *\$3,000* per year. Dependent care . . .”**

(7 Yes)

**Item# 31-2006          PACTS Reallocation**

Moved by P. McKenney and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council authorize the Town Manager to request PACTS to authorize a project to replace the paving surface on Spurwink Avenue from just northerly of the Spurwink Church to Deer Run Road. The new paving surface is to consist of a foam emulsion layer and a bituminous layer and is to include four-foot shoulders on both sides of the road. The funds for the project will require the de-allocation of a project to pave a portion of Shore Road.**

**(6 Yes) (1 No – C. Fritz)**

**Citizen’s Discussion of Items Not on the Agenda: - None**

**Adjournment:**

Moved by A.E. Swift-Kayatta and Seconded by M. Mowles

**Ordered the Cape Elizabeth Town Council adjourn at 10:26 p.m.**

**(7 Yes)**

Respectfully submitted,

Deborah S. Cabana  
Town Clerk