

CAPE ELIZABETH TOWN COUNCIL MINUTES

Regular Meeting # 5-2006

Monday, March 13, 2006

		Present	Absent
David J. Backer, Chairman	2 Rugosa Way	X	772-5845 ext 122 12/2006
Cynthia Dill	1227 Shore Road	X	767-7197 12/2008
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
Anne E. Swift-Kayatta	14 Stone Bridge Road	X	767-5754 12/2008
Town Manager Michael McGovern		X	
Town Clerk Deborah Cabana		X	

Pledge of Allegiance to the Flag

Presentations: Nordic Ski Teams State Championships

Chairman D. Backer presented an award to the Cape Elizabeth Boys and Girls Nordic Ski Teams, recognizing their State Championships.

Charles Kennedy and Hagos Tsadik of P.R.O.P. – made a presentation to the Town of Cape Elizabeth, recognizing the **People’s Regional Opportunity Program’s** 40th anniversary, and their appreciation of Cape Elizabeth’s dedication to children, families and seniors of this community.

Nick Daly and Natasha Barritt, High School Representatives to the Town Council – expressed their concern with the proposed budget spending cap of 3.4% and the negative impact it would have for the high school students.

Reports and Correspondence

M. A. Lynch – noted that Cape Elizabeth hosted the Regional One-Act Play Festival. Cape Elizabeth was chosen to advance to the state finals.

Town Manager’s Report - None

Minutes of Meeting #4-2006 held February 13, 2006

Moved by P. McKenney and Seconded by C. Fritz

Ordered the Cape Elizabeth Town Council approve the minutes of meeting #4-2006 held February 13, 2006, as presented.

(7 Yes)

Citizens Discussion of Items Not on the Agenda -

Mary Townsend of 5 Pearl Street – spoke on behalf of a large group of citizens who were present at the meeting, who opposed the 3.4% budget spending cap. They felt the limit would have a negative impact on the Cape Elizabeth schools with the potential of depreciating property values. They asked that the Town Council consider revising their previous promise to limit spending to the inflation rate of 3.4%.

Bill DeSena of 11 Wainwright Drive - was concerned with the proposed 3.4% limit. He suggested alternative solutions to raising taxes, such as implementing fees at the Fort Williams Park. He thought this would provide for better schools and retain the value of homes.

Karen Abbott – first grade teacher at Pond Cove School – spoke of how the proposed budget limits would affect the schools and asked the Council to revoke the 3.4% spending cap.

David Weatherbie of 14 Stonegate – stated that the school budget has been continuously reduced over the last several years and could not be reduced any further. He stated that he and other concerned citizens would not be silent any longer. He requested that the Council reconsider the commitment of the 3.4% spending cap.

Public Hearing: Proposed Amendment to the Zoning Ordinance-Bisected Lots

The Public Hearing opened at 8:08 p.m.

Richard Bryant of 55 Spurwink Avenue – stated that the only reason this amendment was being considered was to make the Spurwink Woods development possible. He asserted that it was bad public policy and exacerbates the short-cut traffic issue.

Jim McFarlane of 4 Belfield Road – is the developer of Spurwink Woods. He stated that it did not matter to him which way the Town Council decided regarding this amendment.

Hank Andolsek of 7 Columbus Road – urged the Council to implement a six month “hold” on any further approval of this project because there were too many unresolved issues. He felt that consideration of adjacent property owners has been seriously missing in this subdivision process.

Paul Catsos of 33 Columbus Road – requested that the Town Council not accept the proposal.

Larry Sterne of 1 Columbus Road– remarked that the proposed development would have a massive effect on his property in that he would lose his front yard. He felt that this proposal had been rushed through with no consideration on how it would impact the neighbors.

Bill Bamford of 112 Spurwink Avenue – spoke in favor of the proposed amendment. This would give more options to consider for possible future development of Maxwell Farm.

The public hearing closed at 8:21 p.m.

Item# 64-2006 Proposed Amendment to the Zoning Ordinance-Bisected Lots

Town Planner Maureen O’Meara was present at the meeting to answer questions.

C. Fritz, C. Dill and M.A. Lynch (Ordinance Committee Members) recommended approval of this proposed amendment.

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

Ordered the Cape Elizabeth Town Council approve the adoption of the proposed amendment to the Zoning Ordinance regarding bisected lots.

(7 Yes)

Item# 65-2006 Citizen Petition Re: Short-Cuts

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

Ordered the Cape Elizabeth Town Council send the citizen petition regarding short-cuts, as modified by the Town Attorney in his March 3rd letter, for a public vote on June 13, 2006.

(7 Yes)

Moved by M. Mowles and Seconded by D. Backer

Ordered the Cape Elizabeth Town Council adopt the citizen petition regarding short-cuts, as modified by the Town Attorney in is his March 3rd letter.

(2 Yes – M. Mowles and C. Fritz) (5 No)

**Item# 66-2006 Conditional Municipal Acceptance
Spurwink Woods Roads, Open Space and Easements**

Town Planner Maureen O'Meara was present at the meeting to answer questions.

Richard Bryant of 55 Spurwink Avenue – felt that the Town Council should not grant conditional approval at this time.

Paul Driscoll, spoke on behalf of the developers of Spurwink Woods – explained that conditional municipal approval of the proposed extension of South Street, Franklin Circle and Chicory Way, the proposed acceptance of 10.48 acres of open space and various easements is being requested. The standard procedure is for the Town Council to consider the conditional approval at this time and final acceptance occurs after the Planning Board grants final approval and the roads, trails, drainage and sewer structures are completely built to municipal standards.

Moved by M. Mowles and Seconded by P. McKenney

Ordered the Cape Elizabeth Town Council adopt the conditional municipal acceptance of Spurwink Woods Road, Open Space and Easements.

(5 Yes) (2 No – C. Fritz and D. Backer)

Item# 67-2006 Proposed Amendment to the Subdivision Ordinance

Councilor M. A. Lynch explained this proposed amendment clarifying the Planning Board's discretionary authority relating to traffic calming measures and giving the Planning Board the right to narrow the current minimum width of streets from 22 feet to 20 feet.

Richard Bryant of 55 Spurwink Avenue – suggested adding a gate to this proposed amendment, as another means of calming traffic.

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

Ordered the Cape Elizabeth Town Council approve the proposed amendment to the Subdivision Ordinance, as follows:

Whereas, there are development proposals pending that have yet to receive final approval;

Whereas, such proposals will have an impact on traffic and traffic patterns;

Whereas, such impacts will affect the health and safety of town residents and those passing through town, including motorists, pedestrians, and cyclists;

Whereas, those traffic impacts will affect property values, unless mitigated;

Now, therefore, the Cape Elizabeth Town Council declares that the present situation constitutes an emergency, requiring that the Planning Board's powers to address traffic be clarified, NOW THEREFORE BE IT ENACTED, AS AN EMERGENCY ORDINANCE:

Amend 16-3-1 by adding the following at the end of the third sentence:

The Planning Board may require any reasonable means to discourage through traffic including stop signs, chicanes, sidewalks, landscaping, raised pedestrian crosswalks, roadways narrowed to 20 feet, esplanades, and any other reasonable method designed to calm traffic and discourage through traffic.

Applicability: Notwithstanding the provisions of 1 MRSA Sect. 302, this provision shall be applicable to any pending proceedings that have not received final approval at the time of enactment.

(6 Yes) (1 No – C. Fritz)

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

Ordered the Cape Elizabeth Town Council refer the approved emergency amendment of the Subdivision Ordinance to the Ordinance Committee.

(7 Yes)

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

Ordered the Cape Elizabeth Town Council approve suspending the Town Council Rules to discuss Item ## 69-2006, 70-2006 and 71-3006 out of order.

(7 Yes)

Item# 69-2006 Malt and Vinous License Renewal
Two Lights Enterprises, Inc, D/B/A Ocean House Pizza
337 Ocean House Road

Public Comment - None

Moved by M. Mowles and Seconded by P. McKenney

Ordered the Cape Elizabeth Town Council approve the Malt, and Vinous licenses renewal for Ocean House Pizza.

(7 Yes)

Item# 70-2006 Quit-Claim Deed Request

Moved by M. Mowles and Seconded by P. McKenney

Ordered the Cape Elizabeth Town Council approve the request to authorize the Town Manager to sign a Quitclaim Deed to Wilson A. Busby, 22 Eastman Road, Map U27 Lot 004.

(7 Yes)

Item# 71-2006 Quit-Claim Deed Request

Moved by M. Mowles and Seconded by C. Dill

Ordered the Cape Elizabeth Town Council approve the request to authorize the Town Manager to sign a Quitclaim Deed to Robert B. Farley, Jr. & Joan E. Leaman, 44 Ocean View Road, Map U03 Lot 088.

(7 Yes)

Item# 68-2006 Proposed Amendment to the Zoning Ordinance

Councilor C. Fritz explained this proposed amendment to the Zoning Ordinance.

Moved by C. Fritz and Seconded by C. Dill

Ordered the Cape Elizabeth Town Council refer the proposed amendment to the Zoning Ordinance which would prohibit “formula” (no more than 25 branches) fast food and restaurants in the Town Center District, and Business District A and the Business District B to the Planning Board.

Moved by M. Mowles to move the question

(4 Yes) (3 No – C. Dill, C. Fritz and M.A. Lynch)

Motion failed due to lack of 2/3 vote.

After continued discussion, the main motion failed.

(1 Yes – C. Fritz) (6 No)

Moved by C. Dill and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council refer the proposed amendment to the Zoning Ordinance which would prohibit “formula” (no more than 25 branches) fast food and restaurants in the Town Center District, and Business District A and the Business District B to the Comprehensive Planning Committee.

(7 Yes)

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

Ordered the Cape Elizabeth Town Council approve suspending the Town Council Rules to discuss Item ## 72-2006, 73-2006 and 74-2006 after 11:00 p. m.

(6 Yes) (1 –No – D. Backer)

Item# 72-2006 Proposed Amendments to the Personnel Code

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

Ordered the Cape Elizabeth Town Council adopt the proposed amendments to the Personnel Code. (copy attached to the official minutes)

(7 Yes)

Item# 73-2006 Proposed Municipal and Special Funds Budgets

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

Ordered the Cape Elizabeth Town Council acknowledge receipt of the proposed FY 2007 Municipal and Special Funds Budgets and refer the documents to the Finance Committee for a review and recommendation.

(7 Yes)

Item# 74-2006 Benchmarks

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

Ordered the Cape Elizabeth Town Council acknowledge receipt of the 2006 benchmark study.

(7 Yes)

Citizen's Discussion of Items Not on the Agenda -

Suzanne Murphy of 19 Olde Fort Road – stated that she did not mind an increase in taxes because she supported the schools and felt that the 3.4% budget spending cap was too restrictive.

Adjournment:

Moved by M. Mowles and Seconded by P. McKenney

Ordered the Cape Elizabeth Town Council adjourn at 11:15 p.m.

(7 Yes)

A True Copy Attest:

Deborah S. Cabana
Town Clerk

Minutes approved by the Cape Elizabeth Town Council on April 10, 2006