

CAPE ELIZABETH TOWN COUNCIL MINUTES

Regular Meeting # 18-2008
Cape Elizabeth Town Hall
Monday, November 10, 2008
7:30 p.m.

Roll Call by the Town Clerk

		Present	Absent	
James S. Rowe, Chairman	127 Oakhurst Road	X	799-5825	12/2009
David J. Backer	2 Rugosa Way	X	253-0529	12/2009
Cynthia Dill	1227 Shore Road	X	767-7197	12/2008
Sara W. Lennon	54 Cranbrook Drive	X	741-5139	12/2009
Paul J. McKenney	5 Katahdin Road	X	899-0045	12/2010
Anne E. Swift-Kayatta	14 Stone Bridge Road	X	767-5754	12/2008
Michael K. McGovern, Town Manager		X		
Debra M. Lane, Town Clerk		X		

The Pledge of Allegiance to the Flag

Minutes of Meeting: October 15, 2008

Councilor Swift-Kayatta abstained from voting as she was not present at the October 15 meeting.

Moved by Councilor Backer and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council approves the minutes of the October 15, 2008 meeting as presented.

(5 yes) (0 no) (1 abstention Councilor Swift-Kayatta)

Reports and Correspondence

Chairman Rowe thanked the election staff and citizens of Cape Elizabeth for their participation during the recent General/Municipal elections. He also congratulated all of the local and state candidates.

The town council remembered in a moment of silence Lt. Col. E. Irving Chappell. Irv served the town for many years in various capacities including town council and director of emergency preparedness. Irv will be missed. December 25, 1919 – November 8, 2008.

Councilor Backer reminded residents of the November 19, 2008 Shore Road Pathway Study Committee public forum. The forum will be held in the council chambers at town hall beginning at 7:00 p.m.

Councilor Swift-Kayatta reported on the subcommittee for recycling. The committee has met twice and continues to review recycling efforts and potential ways to encourage recycling. The application deadline for boards and commissions vacancies has been extended to November 12, 2008. Interested residents are encouraged to apply.

The Cumberland County Advisory Commission will conduct a public hearing on the county budget at Scarborough Town Hall on November 25, 2008 6:00-8:00 p.m.

Councilor Dill thanked the town council and residents of Cape Elizabeth for her tenure on the town council. She looks forward to continuing to work with everyone as she represents the community in the state house of representatives.

Town Manager's Report: Progress on 2008 Bond Issue and Update on Indebtedness

Citizens' Discussion of Items Not on the Agenda

Williams Downes, 15 Olde Colony Lane

Mr. Downes commented on the town manager's report on the town's indebtedness. He said "the town's bond ratings are worth nothing. You can throw the ratings out the door." He continued to state that the Shore Road Pathway Study Committee was "not diligent" in their reports, surveys, use and safety of Shore Road. The council should "table the current committee, start over and determine if the path is needed."

David Freeman, 3 Charles Road

Mr. Freeman opposes the rezoning of 553 Shore Road to business.

Emily Materson, 2 Charles Road

Mrs. Materson asked when would be the appropriate time to discuss the zoning change of 553 Shore Road. It was determined that Item #141-2008 relates to this issue and citizens will be provided an opportunity to comment then.

Public Hearing General Assistance Ordinance Appendices

Chairman Rowe opened the public hearing at 8:10 p.m.
After hearing no comments the public hearing was closed.

Intro – Manager McGovern

Item # 138-2008

Moved by Councilor Swift-Kayatta and Seconded by Councilor Dill

Ordered the Cape Elizabeth Town Council adopts the General Assistance Appendices as presented by the Maine Department of Health and Human Services in cooperation with the Maine Municipal Association.
(6 yes) (0 no)

Public Hearing Liquor License Renewal/Transfer for Rudys of the Cape

Chairman Rowe opened the public hearing at 8:13 p.m.

Morris Kreitz, 524 Ocean House Road Opposes.

Mr. Kreitz stated there is "disruptive behavior at closing. Neighborhood business districts have no business in Cape Elizabeth.

Pat Salve Bothel, 90 Ocean House Road Supports.

Mrs. Bothel is a friend of the applicant and frequent customer. "Rudy's is not a bar, it's a place to drink and eat - a restaurant."

Maggie Waugh, 224 Fowler Road Supports.

Ms. Waugh is a friend of the applicant and is a frequent customer on Friday nights. The average age of the customers is 50, at least on Friday evenings. "No one is out of control."

Carl Pearson, 27 Fowler Road Supports.

Mr. Pearson and his wife frequent Rudy's, at different times of the day and week. The application should be approved and problems between the business and neighbors should be resolved between the two. Business owners in Cape Elizabeth are trying to keep their businesses viable.

Joe Foley, 511 Ocean House Road Opposes.

Mr. Foley lives next door. He has observed and reported disturbances. The closing hours are not observed.

Laurel Grassin-Drake, 9 Wainwright Drive Supports.

Ms. Grassin-Drake does not know the applicant. She describes Rudy's as a "pub-like feeling, filled with middle-aged Cape Elizabeth people. A place to socialize."

Gail Schmader, 511 Ocean House Road Opposes.

Ms. Schmader does not know the applicant. "Restrictions and parameters are needed." There are loud noises after 8:00 p.m., squealing tires, loud children etc.

Mary Page, Owner of Rudy's 517 Ocean House Road Supports.

Ms. Pages leases the property to the applicant. This is a "gathering place" to eat and drink.

Gentleman, 142 Two Lights Road Supports.

Rudy's is a place "for neighbors to gather and is not rowdy."

Nancy Sears, 17 Linwood Street Supports.

Ms. Sears stated she has been to Rudy's once for dinner. "It's a nice place and the people are well-behaved."

Julie Barnes, 84 Ocean House Road Applicant

Mrs. Barnes stated her husband Chuck has been in the restaurant business all of his life. They want to be "a community venue."

Richard Lemieux, 10 Wabun Road Supports.

Mr. Lemieux frequents Rudy's 4-5 days per week. "Never have seen unruly behavior."

Penny Jordan, 349 Fowler Road Supports.

Ms. Jordan frequents Rudy's. "This is a gathering spot and the town should support Cape Elizabeth businesses."

Dan Fishbein, 19 Salt Spray Lane

Mr. Fishbein supports Rudy's as a restaurant however has concerns "as a bar." The current use is "technically a change of use, in a restricted wetland." The council should consider restrictions such as a drink limit, not serve if the customer is standing, and serve alcohol only with dinner.

After hearing no further comments the hearing was closed at 8:40 p.m.

Clarification by the Town Manager. According to the Code Enforcement Officer there has not been a change of use.

Item # 139-2008

Moved by Councilor Dill and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council approves the new malt and vinous restaurant license for Julie S. Barnes and Charles L. Barnes at Rudy's of the Cape at 517 Ocean House Road.

(6 yes) (0 no)

Public Hearing Town Center Intersection

Intro – Manager McGovern

Chairman Rowe opened the public hearing at 9:05 p.m.

Gwen Maguire, 6 Olde Colony Lane

Supports.

Ms. Maguire supports the project as Cape Elizabeth has grown and it's a safety concern for pedestrians, bicyclists and vehicular traffic.

Laurel Grassin-Drake, 9 Wainwright Drive

Opposes.

Ms. Grassin-Drake stated that a light may cause more accidents at the intersection. "The number and type of accidents don't warrant it."

Julie Armstrong, 32 Lawson Road

Supports.

Mrs. Armstrong has lived here 12 years and the traffic is "worse over time."

Linda Jacobs, 1203 Shore Road

Opposes.

Mrs. Jacob, a 20 year resident, recommends the hiring of a crossing guard during the morning back up before school opens.

Robert Tripler, 10 Trundy Road

Opposes.

Gail Atkins, 1189 Shore Road

Opposes.

Mrs. Atkins a resident since 1988 stated that traffic "was never a problem until the high school traffic light was installed."

Alastair MacVicar, 15 Tall Pine Road

Opposes.

Mr. MacVicar feels "the pedestrian light will back up traffic."

Carol Fritz, 1 Stirrup Road Opposes.
Mrs. Fritz “has never been convinced the light is needed.” “Accidents have not increased.”
The light will “stop cars during the day using unnecessary fuel and creating pollution.”

David Sherman, 74 Hunts Point Road Opposes.
Mr. Sherman recommended a no vote or tabling motion. “Cheaper alternatives” should be considered.

After hearing no further comments, the public hearing was closed at 9:59 p.m.

Item # 140-2008 Town Center Intersection

Moved by Councilor Backer and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council requests the town manager to notify the Maine Department of Transportation that the Town of Cape Elizabeth wishes to terminate design of proposed improvements to the intersection at the center of town.

The Cape Elizabeth Town Council further requests the town manager to notify PACTS that the Town of Cape Elizabeth declines the PACTS authorized grant of \$363,566 for improvements to the town center intersection.

The Cape Elizabeth Town Council further authorizes the town manager to expend not to exceed \$30,000 from the 2008 bond issue to reimburse MDOT for design costs to date as the Town is 100% responsible for design costs for MDOT projects that are terminated by municipalities.

Following council discussion, in lieu of acting on the above, the following motion was made.

Moved by Chairman Rowe and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council tables discussion of the town center intersection project until the end of May 2009 and requests the town manager to review other potential alternatives.

(6 yes) (0 no)

Item # 141-2008 Amendments to Zoning Ordinance re: the BA District

Chairman Rowe provided the public with an opportunity to comment at 10:20 p.m.

Emily Materson, 2 Charles Road
Mrs. Materson is against the rezoning of 553 Shore Road. “This section of town is neighborhood not a business area.”

Marguerite Prentice, 18 Ocean Avenue
Ms. Prentice is interested in following proposed bed and breakfast amendments.

Ed Materson, 2 Charles Road
Mr. Materson is against the rezoning of 553 Shore Road. “The proposed rezoning is flawed and inconsistent.”

Leah Hobson, 20 Charles Road
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Ms. Hobson is a 17 year resident. She said “the rezoning is not a benefit and is not safe, even if it’s only one home. This is not a benefit to Cape Elizabeth.”

Hughes Kraft, 41 Warren Avenue

Mr. Kraft expressed concern about “the quality of life” in the neighborhood with additional business.

Joyce Wilson, 1 Charles Road
Ms. Wilson opposes the rezoning of 553 Shore Road.

Stephen Popp, 10 Woodland Road
Mr. Popp was “insulted by the Planning Board.” He stated the board should have listened to the opposition of the residents to rezone 553 Shore Road and not make a recommendation. He asked the town council to listen to the neighbors.

Moved by Councilor Swift-Kayatta and Seconded by Councilor Lennon
Ordered the Cape Elizabeth Town Council thanks the planning board for their report and acknowledges receipt of the recommended set of ordinance amendments relating to permitted activities in the BA district and refers the proposed amendments to the ordinance committee.
(6 yes) (0 no)

Item # 142-2008 Proposed Amendments to Ordinances regarding Farming

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney
Ordered the Cape Elizabeth Town Council acknowledges receipt from the Cape Elizabeth Farm Committee, as outlined in an April 2008 progress report, a recommended set of amendments to the zoning ordinance and refers the proposed amendments to the planning board for work on this proposal after it completes its review of the shoreland zoning provisions.
(6 yes) (0 no)

Item # 143-2008 Fixed Asset Policy

Moved by Councilor McKenney and Seconded by Councilor Lennon
Ordered the Cape Elizabeth Town Council approves the fixed asset policy as presented.
(6 yes) (0 no)
See attachment.

Item # 144-2008 Library Study Committee

Moved by Councilor McKenney and Seconded by Councilor Swift-Kayatta
Ordered the Cape Elizabeth Town Council amends the committee charge for the Thomas Memorial Library Study Committee to permit Thomas Memorial Library Trustees whose terms are expiring as Trustees to continue on the ad hoc committee.
(6 yes) (0 no)
See attachment.

Item # 145-2008 Town Ways Ordinance

Intro – Councilor Dill, Ordinance Committee Chairman

Present – Robert Malley, Director of Public Works

Moved by Councilor Dill and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council sets for public hearing proposed amendments to the Town Ways Ordinance for Monday, December 8, 2008 at 7:30 p.m. at the Cape Elizabeth Town Hall.

(6 yes) (0 no)

Citizens Discussion of Items not on the Agenda

Peter Eastman, 24 Woodland Road

Mr. Eastman stated that the sound system in the chamber needs to be addressed as the audience is unable to hear from about mid-way to the back of the room. He requested an update of whether the Swap Shop will continue at the Recycling Center.

Adjournment

Moved by Councilor McKenney and Seconded by Councilor Dill

Ordered the Cape Elizabeth Town Council adjourns at 10:55 p.m.

(6 yes) (0 no)

Future Meetings:

Town Council Workshop: November 20, 2008

Town Council Meeting: December 8, 2008 (First meeting of new council year)

Respectfully Submitted,

Debra M. Lane, Town Clerk