

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 1-2009
Cape Elizabeth Town Hall
Monday, December 8, 2008
7:30 p.m.

Debra Lane, Assistant Town Manager/Town Clerk administered the following oaths of office:

Linda J. Winker: School board term to expire on December 13, 2010

Mary E. Townsend: School board term to expire on December 12, 2011

David S. Sherman, Jr.: Town council term to expire on December 12, 2011

Anne E. Swift-Kayatta: Town council term to expire on December 12, 2011

It was announced that Katherine Ray would be taking her oath at a later date for her school board term to expire on December 12, 2011.

After applause from the audience, Chairman Rowe convened the town council meeting.

Roll Call by the Town Clerk

		Present	Absent	
James S. Rowe	127 Oakhurst Road	X		799-5825 12/2009
David J. Backer	2 Rugosa Way	X		253-0529 12/2009
Sara W. Lennon	54 Cranbrook Drive	X		741-5139 12/2009
Paul J. McKenney	5 Katahdin Road	X		899-0045 12/2010
David S. Sherman, Jr.	74 Hunts Point Road	X		749-2668 12/2011
Anne E. Swift-Kayatta	14 Stone Bridge Road	X		767-5754 12/2011

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Swift-Kayatta reported on the progress of the Thomas Memorial Library Study Committee. The committee has visited several libraries and the telephone survey has been completed.

Councilor Lennon reported that the ordinance committee met December 4, 2008 to discuss bed and breakfast amendments. The next meeting of the committee is December 15, 2008 8:00 a.m. ACP conference room to discuss amendments to the BA District. The Cape Elizabeth Alternative Energy Committee continues its work and the goal is to present the report to the council at the January meeting.

Chairman Rowe reported on the Cumberland County Advisory Commission. The commission has completed its review of the county budget. A 2.65% budget increase is recommended to the county commissioners. The commissioners will deliberate on the budget during the next several weeks. December 6 was the ribbon cutting ceremony at the Great Pond boardwalk and bridge. Residents are encouraged to walk the site.

Citizen Opportunity for Discussion of Items Not on the Agenda

Ed Materson, 2 Charles Road Co-Chairman North Shore Neighborhood Association
Mr. Materson restated his opposition to the rezoning of 553 Shore Road from residential to business.

David Sanford, 1 Charles Road 26 year resident
Mr. Sanford is leaving for Florida until April and wanted to express his objection to the rezoning of 553 Shore Road. The Sanford residence directly abuts 553 Shore Road. "The homes are very close and this residence is the largest in the area." Mr. Sanford referenced the letter from Jane Waining Nicholas 551 Shore Road requesting her residence be rezoned from business to residential.

Emily Materson, 2 Charles Road
Mrs. Materson wants the council to know that the owner of 553 Shore Road advertised the property for rent on a website and described the residence "within a quiet neighborhood."

Harry Hardy, 6 Charles Road 36 year resident
Mr. Hardy will be leaving for Florida and wants to state is opposition to the rezoning of 553 Shore Road from residential to business.

Town Manager's Report

Manager McGovern presented a list of recent projects that are completed or ongoing. The projects are paid for by private donations or public/private partnerships with the town.

Review of Minutes of Meetings held on November 10, 2008 and November 20, 2008

Moved by Councilor Swift-Kayatta and Seconded by Councilor Backer

Ordered the Cape Elizabeth Town Council approves the minutes of the special meeting #19-2008 held November 20, 2008 as presented and the minutes of meeting #18-2008 held November 10, 2008 as amended.

(6 yes) (0 no)

Item# 1-2009 Election of a Town Council Chairman for Council Year 2009

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council elects James S. Rowe to serve as the town council chairman for council year 2009.

(6 yes) (0 no)

Item# 2-2009 Adoption of Town Council Rules

Moved by Councilor Backer and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council adopts the town council rules as presented.

(6 yes) (0 no)

See attachment.

Item# 3-2009 Appointment of the Finance Committee

Moved by Councilor Backer and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council appoints Anne E. Swift-Kayatta as chairman and the council as a whole to serve as the finance committee.

(6 yes) (0 no)

Item# 4-2009 Appointment of an Ordinance Committee

Moved by Councilor McKenney and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council appoints Sara W. Lennon as chairman and David J. Backer and David S. Sherman, Jr. as members of the ordinance committee.

(6 yes) (0 no)

Item# 5-2009 Appointment of an Appointments Committee

Moved by Councilor Swift-Kayatta and Seconded by Councilor Sherman

Ordered the Cape Elizabeth Town Council appoints Paul J. McKenney as chairman and Anne E. Swift-Kayatta as member with one additional member to be named in February 2009 as members of the appointments committee.

(6 yes) (0 no)

Moved by Councilor Swift-Kayatta and Seconded by Councilor Backer

Ordered the Cape Elizabeth Town Council votes to consider Item ##6 – 14 en bloc.

(6 yes) (0 no)

Moved by Councilor McKenney and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the following appointments.

(6 yes) (0 no)

Item# 6-2009 Appointment of Representatives to ecomaine Board of Directors

Michael K. McGovern and one representative to be named in February 2009.

Item# 7-2009 Appointment of Representative to Greater Portland Council of Governments Executive Committee

Paul J. McKenney

Item# 8-2009 Appointment of Representative and Alternate to Greater Portland Council of Governments General Assembly

James S. Rowe and David J. Backer, Alternate

Item# 9-2009 Appointment of Representative to PACTS Policy Committee

Michael K. McGovern

Item# 10-2009 Appointment of Representative to MMA Legislative Policy Committee

Anne E. Swift-Kayatta

Item# 11-2009 Appointment of Representative to Thomas Memorial Library Foundation

David J. Backer to serve until a replacement is chosen in February 2009.

**Item# 12-2009 Appointment of Representative to Thomas Memorial Library
Study Committee**

Anne E. Swift-Kayatta

Item# 13-2009 Appointment of Representative to Alternative Energy Committee

Sara W. Lennon

**Item# 14-2009 Appointment of Representative to Shore Road Pathway Study
Committee**

David J. Backer

Public Hearing: Amendments to the Town Ways Ordinance

Chairman Rowe opened the hearing at 8:04 p.m.
After hearing no comments, the public hearing was closed.

Item# 15-2009 Town Ways Ordinance

Present – Robert Malley, Director Public Works

Moved by Councilor Sherman and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council adopts the proposed amendments to Chapter 17
Town Ways ordinance as presented.

(6 yes) (0 no)

See attachment.

Item# 16-2009 Appointments Committee Recommendations

Intro – Councilor Swift-Kayatta, Immediate Past Chairman Appointments Committee

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council approves the recommendations of the
appointments committee to appoint town citizens to serve on municipal boards and
commissions as presented.

(6 yes) (0 no)

See attachment.

Item# 17-2009 Suggested Pedestrian Safety Measures in Town Center

Present - Robert Malley, Director Public Works
Neil Williams, Chief of Police

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council approves the following pedestrian safety
measures in the town center area.

(6 yes) (0 no)

1. Install a new signalized crosswalk across Route 77 at the high school driveway. This would be tied into the existing traffic light.
2. Install in road stanchions at the Key Bank crosswalk and at the town hall crosswalk. "State Law, Yield to Pedestrians Within Crosswalk" or same message partially with pictographs.
3. Provide a bucket of red flags at either side of the three crosswalks for individuals to carry from one side of the road to the other.
4. Enhance the painting of each crosswalk so that they are more prominent.
5. Install 6 signs indicating "No Passing in the Bike Lane."
6. Install signs at sides of each crosswalk indicating "Stop for Pedestrians in Crosswalks" or same message partially with pictographs.
7. Stronger enforcement of law requiring vehicles to stop for pedestrians in crosswalks.
8. Request the MDOT Commissioner to review the speed limit in the town center area.
9. Convene a working group of two town councilors, a school board member, the chief of police and myself to meet 4 times in 2009 to evaluate pedestrian issues in the town center, to review progress and to make additional recommendations.

Fiscal Impact

New CEHS Crosswalk	\$8,000
In Road Stanchions \$220 each	660
Red Flags Minimal Expense	40
Crosswalk Painting	\$1,500 To be done in spring of 2009
Various Signs	\$2,000
Total Expense	\$12,200

Proposed Funding Source

CEHS Crosswalk	2008 Approved Bond
Other Items	Sidewalk Maintenance Account

Item# 18-2009 Budget Status Update

Presentation – Manager McGovern

Moved by Councilor Swift-Kayatta and Seconded by Councilor Backer

Ordered the Cape Elizabeth Town Council approves the following recommendations of the town manager.

(6 yes) (0 no)

- a) Request the town manager to keep the town council updated on the impact of the economy on local revenues and expenditures.
- b) Request the council chairman and the finance committee chairman to meet with their counterparts on the school board to review the status of the state general purpose aid (GPA) proposed curtailment and to discuss how the town may cooperatively assist the school department should the proposed curtailment be implemented.
- c) Request an item on the January 12, 2009 town council agenda with a recommendation from the finance committee related to the proposed GPA curtailment for fiscal year 2009.
- d) Schedule a public forum, after the January 6, 2009 finance committee meeting, to obtain citizen comments, priorities and suggestions regarding the fiscal year 2010 budget.

Item# 19-2009 Recommendation from Recycling Working Group

Present – Robert Malley, Director Public Works
Intro – Councilor Swift-Kayatta

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council refers the recommendations from the recycling working group to the town council workshop on January 6, 2009, that the proposed ordinance amendment be referred to the ordinance committee and that proposed change in hours of the recycling center be the subject of a public hearing at the January 12, 2009 town council meeting at 7:30 p.m. at town hall. The proposed new hours are Monday 10-7, Wednesday, Friday and Saturday 8-5 Closed Sunday, Tuesday and Thursday.
(6 yes) (0 no)

The working group is recommending:

- a) An enhanced program of recycling education that will generate estimated long term savings of \$18,000 per year at present values.
- b) A change in recycling center hours that will immediately generate \$14,000 annually in net savings at present values.
- c) Amendments to the solid waste ordinance that will require recycling.

Item# 20-2009 Tiger Lily Lane

This item originally came to the town council in July 2008. The town council voted to table the item indefinitely. As it is a new council year, the issue may again be considered. Chairman Rowe is sponsoring this item so that the applicant Stephen Parkhurst may have a chance to be heard as he was not present in July.

Intro – Chairman Rowe

Present – Stephen Parkhurst, 21 Oakhurst Road Cross Hill LLC
Mr. Parkhurst gave an overview of his request.

Citizen Comment-

Penny Jordan - Representing the Jordan Family, abutters to Tiger Lily Lane
Ms. Jordan stated that the family, beginning with father Bill Jordan always tried to “balance the needs of the Jordan property with the needs of the town.” The siblings request the town council retain the town’s right of way. If the town relinquishes its right, there are 7 acres of Jordan property that will be landlocked. The family is looking to future generations and giving them flexibility to potentially develop the property.

Moved by Councilor Sherman and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council votes to maintain the town’s easement on Tiger Lily Lane as it now exists.
(6 yes) (0 no)

Item# 21-2009 Approval of Town Council Goals for 2009

Moved by Councilor Swift-Kayatta and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council approves the town council goals for 2009.

(6 yes) (0 no)

See attachment.

Item# 22-2009 Nordic Ski Trail-Phase II

Intro – Muzzy Barton, 3 Gordons Lane Representing Cape Nordic

Manager McGovern notes that part of the engineering services were provided by OEST Associates pro-bono. Thank you to Harvey Oest and Steve Harding for their generosity and assistance with this project.

Moved by Councilor McKenney and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council authorizes Cape Nordic to proceed with the expansion of the Phase 2 A ski trail on the Gull Crest property, a 1.25 km to the existing trails of 2.68 km, provided all funds for the permitting are privately funded and that no work occurs on site until the town council has approved of all permit conditions.

(6 yes) (0 no)

Item# 23-2009 Proposed Gift of Easement from Louise Sullivan

Councilors David Backer and David Sherman requested to recuse themselves from discussion and voting on this item as a partner at Drummond Woodsum is representing Dr. & Mrs. Sullivan in this matter.

The town council unanimously consented to accept the recusal.

Present - Louise Sullivan, 72 Two Lights Road

Moved by Councilor McKenney and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council accepts the conservation easement, on approximately 2 acres of the property abutting the town greenbelt pat, offered by Dr. Richard and Louise Sullivan of 72 Two Lights Road. The town manager is authorized to accept the gift of the easement provided the final easement language is approved by the conservation commission.

(4 yes) (0 no)

Item# 24-2009 Fort Williams Park Use Policy

Moved by Councilor Swift-Kayatta and Seconded by Councilor Sherman

Ordered the Cape Elizabeth Town Council approves the recommendations of the Fort Williams Advisory Commission to amend the Fort Williams Park group use policy regarding weddings and other ceremonies as presented.

(6 yes) (0 no)

See attachment.

Item# 25-2009 Acceptance of 2008 Gifts and Donations

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council gratefully accepts a number of gifts of money and donation of services received during 2008.

(6 yes) (0 no)

Item# 26-2009 Update from Town Manager on Allowing Citizen Credit Card Use

Intro – Manager McGovern

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council acknowledges receipt of the town manager's report on extending the availability of using credit cards to pay for municipal fees and services and defers further discussion until the fiscal year 2011 budget deliberations.

(6 yes) (0 no)

Item# 27-2009 Update from Town Manager on Disaster Recovery Plan

Intro – Manager McGovern

Moved by Councilor Sherman and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council acknowledges receipt of the town manager's report to the town council on disaster recovery plans for the municipal departments.

(6 yes) (0 no)

Citizen Opportunity for Discussion of Items Not on the Agenda

Adjournment

Moved by Councilor McKenney and Seconded by Councilor Sherman

Ordered the Cape Elizabeth Town Council adjourns at 9:40 p.m.

(6 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Future Meetings: Town Council Workshop & Finance Committee:
Tuesday, January 6, 2009 at 7:30 p.m.
Town Council Meeting: Monday, January 12, 2009