

**CAPE ELIZABETH TOWN COUNCIL MINUTES**

**Regular Meeting # 4-2009  
Cape Elizabeth Town Hall  
Monday, February 9, 2009  
7:30 p.m.**

**Roll Call by the Town Clerk**

		<b>Present</b>	<b>Absent</b>	
<b>James S. Rowe, Chairman</b>	<b>127 Oakhurst Road</b>	<b>X</b>	<b>799-5825</b>	<b>12/2009</b>
<b>David J. Backer</b>	<b>2 Rugosa Way</b>	<b>X</b>	<b>253-0529</b>	<b>12/2009</b>
<b>Penelope A. Jordan</b>	<b>349 Fowler Road</b>	<b>X</b>	<b>671-5341</b>	<b>12/2010</b>
<b>Sara W. Lennon</b>	<b>54 Cranbrook Drive</b>	<b>X</b>	<b>741-5139</b>	<b>12/2009</b>
<b>Paul J. McKenney</b>	<b>5 Katahdin Road</b>	<b>X</b>	<b>899-0045</b>	<b>12/2010</b>
<b>David S. Sherman, Jr.</b>	<b>74 Hunts Point Road</b>	<b>X</b>	<b>749-2668</b>	<b>12/2011</b>
<b>Anne E. Swift-Kayatta</b>	<b>14 Stone Bridge Road</b>	<b>X</b>	<b>767-5754</b>	<b>12/2011</b>
<b>Michael K. McGovern, Town Manager</b>		<b>X</b>		
<b>Debra M. Lane, Town Clerk</b>		<b>X</b>		

**Ceremonial Oath of Councilor Penelope A. Jordan**

Chairman Rowe welcomed Councilor Jordan and wished her well during her tenure as councilor.

**The Pledge of Allegiance to the Flag**

**Town Council Reports and Correspondence**

Chairman Rowe thanked Jim Walsh and Penny Jordan for running in the special election for town council on January 27, 2009 and Mark Duval for running for the open seat on the Portland Water District Trustees Board of Directors. Congratulations to Penny and Mark.

The town council took a moment to remember Natalie B. Libby (August 22, 1920 – February 6, 2009). Natalie was deputy town clerk under the town’s first town manager Allen M. Marks, then she became town clerk and served for 26 years until her retirement in 1986.

Chairman Rowe recently attended a meeting of Sports Done Right, an organization promoting wholesome and fun endeavors for youth sports in Cape Elizabeth. The group is moving toward accreditation.

Councilor McKenney will be attending the Maine Street Market Place meeting on February 10, 2009 at USM. An organization is forming a regional farm alliance, similar to the farm alliance formed in Cape Elizabeth which Penny Jordan has been instrumental in forming.

Cape Elizabeth will be hosting a joint meeting of the local and legislative delegations from Cape Elizabeth, South Portland and Scarborough. The meeting is to share interests, ideas and concerns to the legislative delegation in hopes a collective voice will be stronger in Augusta. The meeting will be held on Wednesday, February 25, 2009 at 7:00 p.m. in the Cape Elizabeth Town Council Chamber.

### **Citizen Opportunity for Discussion of Items Not on the Agenda**

Carl Pearson, 27 Fowler Road

Mr. Pearson encouraged residents to utilize email to contact councilors with comments and suggestions for the upcoming budget hearings. He proposes a “5% cut across the board,” in order that all departments share in the reductions and hopes that revenues “will come in better.”

### **Town Manager’s Report**

Manager McGovern also remembered Natalie Libby. Natalie was a mentor to many clerks. She was a wonderful lady and served the town and various organizations very well. She will be missed.

### **Review of Minutes of Meeting held on December 8, 2008 and January 12 and February 2, 2009**

It was a consensus to consider the minutes en bloc.

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council approves the minutes of meetings held on December 8, 2008, January 12, 2009 and special meeting February 2, 2009 as presented. (7 yes) (0 no)

### **Item# 50-2009      Bed and Breakfasts**

Present – Maureen O’Meara, Town Planner

Chairman Rowe opened the public hearing at 7:43 p.m.

James Bucknam, 8 Old Fort Road

Mr. Bucknam expressed his concern that if the ordinance is passed the property that abuts his at 997 Shore Road will be allowed to open and bed and breakfast. He is opposed to the ordinance.

Carl Pearson, 27 Fowler Road

Mr. Pearson stated the proposal is “too restrictive” and that “other locations in town” should be allowed to open bed and breakfasts. Local revenue could be raised with a local option tax. This proposal is not within the “entrepreneurial spirit.”

Mark Pendarvis, 19 Kettle Cove Road and owner of Kettle Cove Take Out at  
2 Bowery Beach Road

Mr. Pendarvis is in favor of the ordinance. “Generally owners of bed and breakfasts enhance the buildings.”

Mary Jane Mork, 4 Ocean Avenue

Ms. Mork is opposed to the ordinance. What are the limitations? It is unclear what the conditions are for parking, proximity to abutters etc.

Shawn Tamir, 1 Crescent View Avenue

Mr. Tamir favors the ordinance. "It will be valuable to residents." Approximately 350 signatures have been gathered in support of the ordinance. Although Mr. Tamir's property will not qualify under this proposal, he would like the opportunity to open a bed and breakfast. He invites neighbors to discuss the issue with him.

Catherine Miller, 7 Crescent View Avenue

Ms. Miller is opposed to the ordinance. "We buy and establish our families in a neighborhood." Bed and breakfasts "invite strangers" in the neighborhood.

Shawn Tamir – Commented on remarks by his neighbor, Catherine Miller.

Carl Pearson – Requested a summary or bullet points of the differences in requirements between the districts if a similar proposal is offered in the future.

After hearing no further comments the public hearing was closed at 8:03 p.m.

Present – Maureen O'Meara, Town Planner

Moved by Councilor Swift-Kayatta and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council approves the recommendations of the ordinance committee amending the zoning ordinance relating to bed and breakfasts as presented.

(7 yes) (0 no)

See attachment.

### **Item# 51-2009      Recycling Center Issues**

Present – Robert Malley, Director of Public Works

Intro – Councilor Swift-Kayatta, Member Recycling Working Group

Chairman Rowe opened the public hearing at 8:23 p.m.

Carl Dittrich, 500 Ocean House Road

Mr. Dittrich asked how the town can police what goes into the hopper. There needs to be "a financial burden or penalty" to encourage recycling.

Peter Eastman, 24 Woodland Road and Turkey Hill Farm

Mr. Eastman stated "the inventory at the swap shop is not good." What is going to happen?

Richard Dunham, 30 Ocean View Road

Mr. Dunham is not opposed to the recycling position if there is a clear job description and continued education to encourage or require recycling.

After hearing no further comments the hearing was closed at 8:30 p.m.

Moved by Councilor McKenney and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council refers the model ecomaine ordinance to the ordinance committee and further requests review of the solid waste ordinance that will require recycling.

(7 yes) (0 no)

Moved by Councilor Swift-Kayatta and Seconded by Chairman Rowe

Ordered the Cape Elizabeth Town Council adopts the remaining working group recommendations and requests the town manager to include in the fiscal year 2010 proposed budget a plan to implement an enhanced program of recycling education at the recycling center and recommendations for staff to monitor commercial haulers utilizing the recycling center who use non-mechanized equipment.

(7 yes) (0 no)

**Item# 52-2009 Malt, Vinous and Spirituous License Renewal-Purpoodock Club**

Chairman Rowe provided an opportunity for public comments. After hearing no comments the public comment period was closed.

Present – Dan Levesque, Purpoodock Club Manager

Councilors Rowe, Sherman and Swift-Kayatta stated they are shareholders (members) of the Purpoodock Club. There was a consensus of the remaining councilors that it is not necessary for these councilors to recuse themselves from discussion and voting on this item.

Moved by Councilor McKenney and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council approves the renewal application of the Purpoodock Club at 300 Spurwink Avenue for a malt, vinous and spirituous liquor license and special amusement permit.

(7 yes) (0 no)

**Item# 53-2009 Malt and Vinous License for Ocean House Pizza**

Moved by Councilor Swift-Kayatta and Seconded by Councilor Backer

Ordered the Cape Elizabeth Town Council approves the renewal application of Ocean House Pizza at 337 Ocean House Road for a malt and vinous liquor license.

(7 yes) (0 no)

**Item# 54-2009 Bothel Subdivision Pedestrian Easement**

Moved by Councilor Swift-Kayatta and Seconded by Councilor Lennon to allow Councilors Backer and Sherman to recuse themselves from discussion and voting on this item as their law firm represents the Bothel family and Councilor McKenney as he has a professional relationship with the family.

(7 yes) (0 no)

Present – Maureen O’Meara, Town Planner

Moved by Councilor Swift-Kayatta and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council accepts with appreciation a proposed pedestrian easement to the Town of Cape Elizabeth from Robert W. Bothel and Stephen R. Bothel as presented. Said easement will not become active until the future phase of the subdivision is developed.

(7 yes) (0 no)

See attachment.

**Item# 55-2009          Cottage Brook Sidewalk Easement**

Moved by Councilor Swift-Kayatta and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council accepts an easement on Lot 11 of the Cottage Brook subdivision for the construction of a sidewalk as presented.

(7 yes) (0 no)

See attachment.

**Item# 56-2009          Cool Communities**

Presentation – Carol Hubbard, 14 Valley Road Member of Cool Cape  
Ann Burke and Joan Sax, Members Cool Communities

Cool Cape is a citizen-initiated energy-efficiency group formed in Cape Elizabeth to help combat global warming at the local level. Cool Cape is a part of the larger Cool Communities group across Maine and the U.S.

Moved by Councilor Swift-Kayatta and Seconded by Chairman Rowe

Ordered the Cape Elizabeth Town Council refers the request to endorse the US Mayors Climate Protection Agreement to workshop in conjunction with the workshop with the alternative energy committee.

(7 yes) (0 no)

**Item# 57-2009          Appointments Committee Recommendation**

Intro – Councilor McKenney, Appointments Committee Chairman

Moved by Councilor Swift-Kayatta and Seconded by Chairman Rowe

Ordered the Cape Elizabeth Town Council approves the recommendation of the appointments committee to appoint Mary Brock, 60 Eastman Road to the recycling committee to serve the unexpired term of Geraldine Davis until December 31, 2009.

(7 yes) (0 no)

**Item# 58-2009      Town Council Appointments**

Moved by Councilor Sherman and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council appoints Councilor Jordan to serve on the Appointments Committee, the ecomaine Board of Directors and as the Town Council Representative to the Thomas Memorial Library Foundation.

(7 yes) (0 no)

**Item# 59-2009      Alewife Fishing Rights**

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council renews its alewife fishing regulations as presented.

(7 yes) (0 no)

See attachment.

**Item# 60-2009      Quit Claim Deed**

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council authorizes the Town Manager to execute a quit-claim deed to Robert B. Farley, Jr. & Joan E. Leaman for property at 44 Ocean View Road.

(7 yes) (0 no)

See attachment.

**Citizen Opportunity for Discussion of Items Not on the Agenda – None**

**Upcoming Meetings:**

February 25, 2009	7:00 p.m.	Cape Elizabeth, South Portland, Scarborough Local officials and legislative delegation joint meeting Cape Elizabeth Town Council Chamber
March 2, 2009	7:00 p.m.	Thomas Memorial Library Study Committee Findings Presentation Town Council Chamber
March 9, 2009	7:30 p.m.	Regular Town Council Meeting Town Council Chamber

**Item# 61-2009      Annual Evaluation of the Town Manager**

Moved by Councilor McKenney and Seconded by Councilor Swift-Kayatta

Ordered the Cape Elizabeth Town Council enters into executive session in accordance with 1 MRSA §405 6 A to continue the annual evaluation of the town manager at 9:17 p.m.

(7 yes) (0 no)

Following a short break, Chairman Rowe convened the executive session at 9:22 p.m.

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 10:15 p.m.

(7 yes) (0 no)

**Adjournment**

Moved by Councilor Swift-Kayatta and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council adjourns at 10:15 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk