

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 5-2009
Cape Elizabeth Town Hall
Monday, March 9, 2009
7:30 p.m.

Roll Call by the Town Clerk

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

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Chairman Rowe reported on the February 25, 2009 joint meeting with local and state officials from Cape Elizabeth, South Portland and Scarborough. The meeting, hosted by Cape Elizabeth, is an avenue to open communications, share insights and work collaboratively on issues.

Councilor McKenney announced the 2nd annual Greater Portland Council of Governments forum on building a sustainable economy. The all-day session will be held on March 27, 2009.

Citizen Opportunity for Discussion of Items Not on the Agenda - None

Town Manager's Report - None

Review of Minutes of Meeting held February 9, 2009

Moved by Councilor Backer and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council approves the minutes of meeting #4-2009 held February 9, 2009 as presented.

(6 yes) (0 no)

Item# 62-2009 BA Zone Amendments

Moved by Chairman Rowe and Seconded by Councilor McKenney to table this item until the planning board considers 551 Shore Road.

(3 yes) (3 no Councilors Jordan, Lennon and Sherman)

Chairman Rowe provided members of the public an opportunity for brief comments.

Ed Materson, 2 Charles Road

Mr. Materson "clarified statements" that have been mentioned surrounding this issue. He also stated that if it is a benefit to have a BA district for local business adjacent to residential neighborhoods, it is not fair that other neighborhoods in Cape Elizabeth do not have the same benefit.

Emily Materson, 2 Charles Road

Mrs. Materson stated "a mistake has been made on the zoning map." 551 Shore Road "has always been residential."

Jane Waning Nicholas, 551 Shore Road

Ms. Waning Nicholas stated "I bought the property residential and at the time the zoning map said the property was residential."

Stephen Popp, 14 Woodland Road

Mr. Popp is opposed to the rezoning of 553 Shore Road.

Manager McGovern provided a brief overview of the status of 551 Shore Road. Staff recommended Ms. Waning Nicholas' property be considered with the other BA zoning amendments. However she has asked for a separate review which requires the matter to be returned to the planning board.

Moved by Councilor Sherman and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council approves the recommendation of the ordinance committee to set for public hearing recommended amendments to the Zoning Ordinance and the Zoning Map relating to the BA Zone for Monday, May 11, 2009 at 7:30 p.m. at the Cape Elizabeth Town Hall.

(6 yes) (0 no)

Item# 63-2009 Fiscal Year 2010 Budget

Intro – Michael McGovern, Town Manager

Moved by Councilor McKenney and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council refers to the finance committee the town manager's proposed FY 2010 municipal and special funds budgets and refers the school board's recommended budget to the finance committee upon receipt of said budget.

(6 yes) (0 no)

Item# 64-2009 Thomas Memorial Library By-laws

Moved by Sherman and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council approves the by-laws of the Trustees of the Thomas Memorial Library as recommended by the Trustees at their February 19, 2009 meeting.

(6 yes) (0 no)

See attachment.

Item# 65-2009 Riverside Cemetery Fees

Moved by Councilor Backer and Seconded by Councilor Sherman

Ordered the Cape Elizabeth Town Council maintains the 2008 fees for the Riverside Memorial Cemetery to continue through 2009 and until revised as follows:

Internments: \$600.00 Full size burial
\$425.00 Cremation burial
\$150.00 Additional fee charged for Saturday and Holidays

Disinterment: \$1300.00 Full size internal relocation
\$650.00 Full size disinterment with relocation to another cemetery
\$875.00 Cremation internal relocation
\$450.00 Cremation disinterment with relocation to another cemetery

Foundation Placement: \$.80 per square inch.

Lots: \$650.00 Full size lot
\$300.00 Cremation lot

(6 yes) (0 no)

Item# 66-2009 Recycling Center Fees

Present – Robert Malley, Director of Public Works
Mary Page, Recycling Center Attendant

Moved by Councilor McKenney and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council approves new fees for the recycling center effective May 1, 2009 as presented.

(6 yes) (0 no)

See attachment.

Citizen Opportunity for Discussion of Items Not on the Agenda - None

Item# 67-2009 Request for Executive Session

Moved by Councilor Backer and Seconded by Councilor Jordan

Ordered the Cape Elizabeth Town Council enters into executive session at 8:25 p.m. in accordance with 1 MRSA §405 6 A, C, D and F to continue the annual evaluation of the town manager, to review the status of collective bargaining agreements, to discuss the potential acquisition of an easement for the greenbelt and to review a request for a property tax hardship abatement. The property acquisition matter relates to the potential acquisition of an easement, in cooperation with the Cape Elizabeth Land Trust, with funds that have previously been set aside for land acquisition. The land area involved abuts Great Pond and would provide legal access along the shoreline on dry land owned by Jodie Jordan.

The council will exit executive session and reenter public session to vote on the request for a property tax hardship abatement and acquisition of an easement. No vote is anticipated on the remaining two items.

(6 yes) (0 no)

Moved by Councilor McKenney and Seconded by Councilor Lennon

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 8:46 p.m.

(6 yes) (0 no)

Moved by Councilor Sherman and Seconded by Councilor Backer

Ordered the Cape Elizabeth Town Council denies the request for a property tax hardship abatement as the applicant does not satisfy the requirements in Title 36 M.R.S.A. Section 841.

(6 yes) (0 no)

Moved by Councilor Backer and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council authorizes the Town Manager to acquire an easement from Jodie Jordan, Patricia Jordan and the heirs of Alvin Jordan upon a strip of land near Great Pond which is approximately 1,334 feet in length and 15 feet wide. The Town Manager may accept the easement with such language as is approved by the Town Attorney and the language shall be substantially the same as in the draft purchase and sale agreement provided for the March 9, 2009 Town Council meeting. The purchase price of the easement is \$53,970 with a donation toward the purchase amounting to \$25,000 to be received from the Cape Elizabeth Land Trust. The \$25,000 donation is hereby accepted and shall be credited to the Cape Elizabeth Land Acquisition Fund. The Town Manager, upon receipt of the CELT donation, may expend from the Land Acquisition Fund up to \$53,970 for the purchase of the easement and not to exceed \$3,000 for the Town's legal fees and other expenses. The net cost to the Land Acquisition Fund is therefore not to exceed \$31,970 leaving a remaining balance in the Land Acquisition Fund of approximately \$175,000.

(6 yes) (0 no)

Moved by Councilor Jordan and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council reenters executive session at 8:50 p.m.
(6 yes) (0 no)

Moved by Councilor Jordan and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session
at 9:20 p.m.
(6 yes) (0no)

Adjournment

Moved by Councilor Jordan and Seconded by Councilor McKenney

Ordered the Cape Elizabeth Town Council adjourns at 9:20 p.m.
(6 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Future Meetings

Finance Committee: March 19, 23, 26 and 30 and potentially on April 1st.

Town Council: April 13, 2009. Agenda will include public hearing on the annual budget.

Town Council: April 30, 2009. Special meeting to adopt annual budget.

Town Council: May 11, 2009

Citizen School Budget Validation Vote: Scheduled for May 12, 2009.