

Moved by Paul J. McKenney and Seconded by Anne E. Swift-Kayatta to move ITEM #135
Request for Abatement of Local Property Tax to the last item on the agenda.
(7 yes) (0 no)

Item# 130-2009 Liquor License Renewal – Rudy’s of the Cape

Public Comments: Liquor License Renewal

Applicant: Julie S. and Charles L. Barnes
Business: Rudy’s of the Cape
Address: 517 Ocean House Road
License: Restaurant Malt and Vinous
Current License Expires: October 1, 2009

Chairman Rowe opened the meeting to public comments at 7:49 p.m.
After hearing no comments, the public comment session was closed.

Moved by David S. Sherman, Jr. and Seconded by Paul J. McKenney
Ordered the Cape Elizabeth Town Council approves the renewal malt and vinous liquor
license for Julie S. and Charles L. Barnes at Rudy’s of the Cape, 517 Ocean House Road as
presented.
(7 yes) (0 no)

Item# 131-2009 Shoreland Zoning

**Public Hearing: Amendments to the Zoning Ordinance and the Zoning Map relating to
Shoreland Zoning**

Intro – Councilor Lennon, Ordinance Committee Chairman
Present – Maureen O’Meara, Town Planner

Chairman Rowe opened the public hearing at 8:03 p.m.

Jack Roberts, 185 Fowler Road Opposed to the amendments. Recommended a
study committee to review the entire shoreland zoning ordinance.

Christopher Straw, 597 Shore Road Questioned the decision-making process.
Encouraged the town council to reject the Olde Colony recommendations and return the issue
to the Planning Board.

Nelson Silva, 11 Olde Colony Lane Opposed to the amendments. Suggested the
council review the entire current ordinance, particularly as it relates to the restrictions on
building on Olde Colony Lane.

Mary Ann Lynch, 2 Olde Colony Lane Opposed to the amendments. “Dial back” and
submit a more reasonable approach to the restrictions on building in established
neighborhoods such as Olde Colony Lane.

Elizabeth Maher, 197 Fowler Road Opposed to the amendments. Agrees with the comments of Jack Roberts. Why is Cape Elizabeth more restrictive? Suggested a revisit of the proposed changes.

After hearing no further comments, the public hearing was closed at 8:14 p.m.

Moved by David S. Sherman, Jr. and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council hereby adopts the proposed amendments to the Zoning Ordinance in the August 10, 2009 draft set for public hearing this evening and we further adopt revisions to the Zoning Map as set for public hearing this evening and as advertised in the Portland Press Herald on August 17 and August 24, 2009.

(7 yes) (0 no)
See attachment.

Item# 132-2009 Goddard Mansion Ruins
Public Hearing: Goddard Mansion Ruins

Intro – Dan Chase, Fort Williams Advisory Commission Chairman
Present – Robert Malley, Director of Public Works

Chairman Rowe opened the public hearing at 8:57 p.m.

The following individuals support a financial commitment from the Town Council to maintain the Goddard Mansion as is. They are opposed to the Fort Williams Advisory Committee's recommendation to implement a long-term plan that will eventually reduce the height of the walls to seating or first floor windowsill height.

Nancy Ricker, 27 Surf Road Co-Chairman of Save the Goddard
Beth Wexler, 8 Surf Road
James Ricker, 27 Surf Road
Cynthia Morse, 14 Surf Road
Dan Levine (?), 1 Cottage Lane
Christopher Straw, 597 Shore Road
Carol Fritz, 1 Stirrup Road
Hillary Bassett, Greater Portland Landmarks
Richard Gilbane, 226 Bowery Beach Road
Anne Peabody, 9 Surf Road
Betty Crane, 9 Starboard Drive
Greg Altnauer, 25 Killdeer Road

After hearing no further comments, the public hearing was closed at 9:23 p.m.

Moved by David J. Backer and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council adopts the short-term recommendation of the Fort Williams Advisory Commission to expend \$6,000 from the Fort Williams Capital Fund to fence off the dangerous areas of the connecting walls and carriage house walls to protect the public.

(7 yes) (0 no)

Item# 133-2009 Shore Road Pathway Committee Report
Public Hearing: Shore Road Path Report

Intro – Manager McGovern

Chairman Rowe opened the public hearing at 9:37 p.m.

Hannah Dineen, Lawson Road	Supports the Path
Caroline Mahoney, Lawson Road	Supports the Path
Piper Strunk, Tides Edge Road	Supports the Path
Paul Brown, 32 Starboard Drive	Opposes the Path
Christopher Straw, 597 Shore Road	Did not speak for or against, encouraged the council to send the issue to the voters.
Bear Huffard, 3 Oakhurst Road	Supports the Path
Gail Atkins, 1189 Shore Road	Opposes the Path
Maura Robinson (?), 1134 Shore Road	Opposes the Path
Tom Kinley, 1159 Shore Road	Opposes the Path
Tracy Sesselberg, 21 Stonybrook Road	Supports the Path
Richard Gilbane, 226 Bowery Beach Road	Opposes the Path
Christopher Wellins, 6 Stonybrook Road	Supports the Path
Nancy Jordan, 6 Robinhood Road	Read a letter from her son supporting the path.
Mark Mersereau, 17 Charles Road	Supports the Path
Mary Ann Lynch, 2 Olde Colony Lane	Supports the Path
Sarah MacColl, 4 Avon Road	Supports the Path
Amy Lombardo, 11 Leighton Farm Road	Supports the Path
Mike Mahoney, 13 Lawson Road	Supports the Path
Terri Patterson, 15 Surf Road	Supports the Path
Jon Vanhoogenstyn, 965 Shore Road	Opposes the Path
Bill Riley, 5 Cedar Ledge Road	Supports the Path
Betty Crane, 9 Starboard Drive	Opposes the Path
James Tasse, 30 Cliff Avenue	Supports the Path
Harvey Rosenfeld, 9 Glen Avenue	Supports the Path
Heather Altenburg, 31 Olde Colony Lane	Supports the Path
Susan Mitchell, 8 Smugglers Cove Road	Supports the Path
Ogden Williams, 5 Beach Bluff Terrace	Supports the Path
Lisa Hansen, 7 Cragmoor	Supports the Path
Jessica Sullivan, 38 Cranbrook Drive	Opposes the Path
Dean Dadmun, 602 Preble Street	Supports the Path
Brywyn Huffard, 3 Oakhurst Road	Supports the Path
Howard Littlefield, 6 Lawson Road	Supports the Path
Dale Moreau, 4 Iron Clad Road	Opposes the Path
Paul Bulger, 8 Lydon Lane	The path will not be used by kids, only those who already use Shore Road. How can the path be constructed without temporary grading easements and rights of way agreements? This is a question of “good government.” More information is needed to make a decision.

After hearing no further comments, the public hearing was closed at 10:58 p.m.

Moved by Paul J. McKenney and Seconded by Anne E. Swift-Kayatta to suspend the Town Council Rules to take up a new item after 10:30 p.m.
(7 yes) (0 no)

Moved by David J. Backer and Seconded by Paul J. McKenney
Ordered the Cape Elizabeth Town Council endorses the concept plan of the Shore Road Pathway Committee as outlined in the April 9, 2009 Final Report.
(6 yes) (1 no Councilor Jordan)

Moved by Anne E. Swift-Kayatta and Seconded by David S. Sherman, Jr.
Ordered the Cape Elizabeth Town Council adopts the path purpose statement.

Path Purpose Statement

The purpose of the Shore Road Path is to provide an off road opportunity for pedestrians and casual bikers to safely traverse the Shore Road corridor between Fort Williams Park and the town center.

(6 yes) (1 no Councilor Jordan)

Moved by Anne E. Swift-Kayatta and Seconded by Paul J. McKenney
Ordered the Cape Elizabeth Town Council supports the Shore Road Path Committee's recommended "Principles of Path Design."

Principles of Path Design
(approved by the Shore Road Path Committee 8/20/08)

The Shore Road Path Committee is charged with studying the potential for creating an off road path adjacent to Shore Road that should be designed with sensitivity to the character of Shore Road and in collaboration with property owners abutting Shore Road. In developing a concept plan for a path, the committee has agreed on the following guiding principles.

1. Right-of-way. The path should be located within the right-of-way of Shore Rd. If the path is to be located outside the right-of-way, it would be located on adjacent private property only with the willing support of the property owner.
2. Physical features. The path should be located to avoid significant trees, stone walls and other significant features whenever possible.
3. Separation. The path should be separated from the traveled way, while avoiding features (#2), to enhance the safety and comfort of path users.
4. Wetland Impacts. Wetland alterations should be minimized by moving the path close to Shore Rd. The path can be moved away from the traveled way where no substantial increase in wetland impact will occur.
5. Tree condition. Some trees may need to be removed and the committee will consider the health of the tree in making this recommendation.
6. Shore Rd crossings. The number of times that the path will cross Shore Rd will be minimized to enhance pedestrian safety.

It is noted that the original principles statement in a Point 7 provided the committee was leaning towards recommending a path on the land side of Shore Road. The committee ultimately recommended a concept predominantly on the land side except near the town center and within and adjacent to Fort Williams Park.

(6 yes) (1 no Councilor Jordan)

Moved by Anne E. Swift-Kayatta and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council agrees that the Shore Road Path may be constructed in phases and that such phases are contingent upon funding.
(6 yes) (1 no Councilor Jordan)

Moved by Anne E. Swift-Kayatta and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council authorizes the Town Manager to proceed with permitting, survey and final design of the Shore Road Path but not to include construction contingent upon funding.
(6 yes) (1 no Councilor Jordan)

Moved by David S. Sherman, Jr. and Seconded by Paul J. McKenney

Ordered the Cape Elizabeth Town Council authorizes the expenditure of \$36,000 from sidewalk funds from the 2008 Bond and an additional \$74,000 from the 2008 Bond for the permitting, survey and final design of the Shore Road Path for a total of \$110,000. The total estimated cost of this project is \$979,052.
(4 yes) (3 no Councilor Backer, Councilor Jordan and Chairman Rowe)

Moved by David S. Sherman, Jr. and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council authorizes private fundraising for the Shore Road Path and to further authorize town staff to explore the possibility of grants provided that applications for specific grants are authorized by the Town Council.
(6 yes) (1 no Councilor Jordan)

Item# 134-2009 Fire Alarm Cable

Intro- Manager McGovern

Moved by Anne E. Swift-Kayatta and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council allocates \$20,000 from the 2008 municipal bond investment proceeds to restore the fire alarm cable extending from the Engine One Fire Station to the Town Center Fire Station
(7 yes) (0 no)

Item# 136-2009 MMA Convention

Moved by Paul J. McKenney and Seconded by David J. Backer

Ordered the Cape Elizabeth Town Council appoints Councilor Swift-Kayatta to serve as Cape Elizabeth's voting delegate to the MMA annual business meeting on October 7, 2009 in Augusta.
(7 yes) (0 no)

Citizen Opportunity for Discussion of Items Not on the Agenda

Peter Eastman, 24 Woodland Road

Mr. Eastman expressed concern about groups of bicyclists cycling in the roadway, and suggested an ordinance to require bicycle groups to get a permit and be advised about safety.

Item# 135-2009 Request for Abatement of Local Property Tax

Moved by David J. Backer and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council enters into executive session at 11:40 p.m. pursuant to 36 M.R.S.A §841 2.G to consider a request for abatement of local property tax.
(7 yes) (0 no)

Moved by Paul J. McKenney and Seconded by David J. Backer

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 11:59 p.m.
(7 yes) (0 no)

Moved by Paul J. McKenney and Seconded by David J. Backer

Ordered the Cape Elizabeth Town Council approves a request for abatement of local property tax in the amount of \$905.30 plus interest \$159.63 and fees \$85.28.
(4 yes) (3 no Councilor Jordan, Councilor Sherman and Councilor Swift-Kayatta)

Adjournment

Moved by Paul J. McKenney and Seconded by David J. Backer

Ordered the Cape Elizabeth Town Council adjourns at 12:00 a.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Future Meetings: See the calendar at www.capeelizabeth.com for updates.

Municipal Operations Review Committee: September 15, 2009 at 7:30 p.m.

Town Council Ordinance Committee: September 17, 2009 at 8:00 a.m.

Health Insurance Review Committee: September 17, 2009 at 7:00 p.m.

Health Insurance Review Committee: October 1, 2009 at 7:00 p.m.

Town Council Meeting: Wednesday, October 14, 2009 at 7:30 p.m.

Town Council Workshop and Finance Committee: Thursday, October 15, 2009 at 7:30 p.m.