



Cape Elizabeth Town Council

Minutes Monday, January 8, 2024

7:00 p.m.

Town Hall Council Chambers

Timothy S. Reiniger, Chair
Stephanie P. Anderson
Jeremy A. Gabrielson
Susan A. Gillis
Caitlin Jordan Harriman
Penelope A. Jordan
Timothy L. Thompson

The meeting was convened at 7:00 p.m. by Chair Timothy S. Reiniger.

Roll Call by the Town Clerk

All members of the Town Council were present except Councilor Susan Gillis.

Debra M. Lane, Assistant Town Clerk
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Penelope Jordan reported on the SBAC. Upcoming meetings include: 1/11 Finance subcommittee, 1/18 meeting with financial advisor, 2/1 Public forum, 4/4 Public forum. Harriman will be presenting 7 preliminary options. In April, the options will reduce to 3 and May reduced to a proposed option. Citizens are encouraged to look at the new website, follow the process and stay engaged.

Councilor Gabrielson reported on the 12/2023 meeting of ecomaine. The board will be voting on a bond for CIP. They also received an updated from DEP relating to rules that are currently in development regarding the producer responsibility law. The hope is this will result in payments to municipalities to offset the cost of recycling programs and disposal of packaging and create an incentive for producers to reduce packaging. The municipal solid waste stream may be impacted. Although changes won't take effective until 2026 the council may want to workshop the issue and refer to the Recycling Committee.

Finance Committee Report

Finance Chair Timothy Thompson

Citizens Opportunity for Discussion of Items Not on the Agenda

Carol Ann Jordan, 21 Wells Road
Mike Friedland, 287 Ocean House Road
Grace Nichols
Mark Mayon, 1095 Sawyer Road
Christina McAnuff, 65 Stonybrook Road
Tom Mikulka, 6 Arrow Point Road and member of Third Act Maine
Virginia Weiss, 12 Valley Road – submitted petition signed by Cape Elizabeth residents
John Voltz, 33 Philip Road

Page 2 Town Council Minutes
January 8, 2024

Town Manager's Report
Matthew E. Sturgis

As we enter a new year and clean up from the first snowstorm of 2024, I have one upcoming event to share and will follow that with our public safety statistics for 2023.

The Cape Elizabeth DEI Committee, in partnership with Best Buddies and Cape Arena, is hosting an Inclusion One Hour Skate with other activities beforehand at the Cape Arena on Saturday, February 3 from 10:00 am - 12:00 p.m. The event is for the Cape Elizabeth and South Portland Best Buddies chapters and their friends and family. The goal is to increase access to ice skating and winter activities for our community and to create opportunities for people with I.D.D. (Intellectual and Developmental Disabilities) to form friendships. The event will also include options of a CELT trail walk, quiet coloring, face painting, and a hot chocolate treat. Participants should bring their own skates, as well as any extra skates for others to borrow—however, you don't need skates to join us! A registration link will be posted on the Town website for anyone wishing to attend.

The Cape Elizabeth Fire Rescue Department responded to 1,447 calls for service during the calendar year 2023, compared to 1,134 in 2022, a 27.6 percent increase. The noticeable increase was most acute during the months of July and August. The majority of the calls, 943, or 65 percent, were EMS calls. Each call was answered with professionalism and commitment to customer service.

The Cape Elizabeth Police Department experienced a sharp increase in calls for service. In the year 2022, the department responded to 7,838 calls for service and in 2023 that number rose to 10,981. Those numbers represent a 40.1 percent increase in the number of calls officers responded to last year.

It should be noted that this was the first year in many years that the department was "fully staffed". Many of the increased calls were simply officer initiated calls like traffic stops, area checks and parking issues. The area of calls with the sharpest increase were mental health calls.

For reference or comparison, in 2021 there were 8,770 calls and in 2020 9,351 calls.

I am thankful for the dedicated service of our public safety personnel, and thought this call data would be helpful information for the council as we enter into a new year and the upcoming budget season.

Respectfully Submitted,
Matthew E. Sturgis, Town Manager

Review of Draft Minutes
December 11, 2023 Regular Meeting

Moved by Penelope A. Jordan and Seconded by Stephanie P. Anderson
ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on December 11, 2023 as written.
(5 yes) (0 no)

**Page 3 Town Council Minutes
January 8, 2024**

Consent Calendar Item #33-2024 – Item #35-2024

Public Comments

John Voltz, 33 Philip Road
Joy Engel, 43 Cranbrook Drive

Item #34-2024 was pulled from the Consent Calendar to be voted on individually.

Moved by Timothy L. Thompson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #33-2024 and Item #35-2024 as presented.

(5 yes) (0 no)

Item #33-2024 Recommendation of the Fort Williams Park Committee - South Portland/Cape Elizabeth Rotary Fireworks at Fort Williams Park on March 2, 2024

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee for use of Fort Williams Park for the South Portland/Cape Elizabeth "SpringFest" fireworks on Saturday, March 2, 2024 with a rain date of March 3, as presented.

Item #35-2024 Proposed Conservation Ordinance Events Amendment

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, February 12, 2024 at 7:00 p.m. at the Cape Elizabeth Town Hall amendments to Chapter 18 Conservation Ordinance relating to event amendments that require only Conservation Committee review and allow revenue from some events as recommended by the Ordinance Committee.

Item #34-2023 Consider Referral to the Ordinance Committee Relating to Information Governance Goals

Moved by Penelope A. Jordan and Seconded by Stephanie P. Anderson

ORDERED, the Cape Elizabeth Town Council refers to workshop consideration of 1) Create a citizen surveillance technology review committee 2) Regulation of surveillance technology in public places (going beyond facial recognition technology) 3) Ensuring privacy protections in the use of digital identity wallets.

(5 yes) (0 no)

Motion to Take Off the Table from December 11, 2023 – Public Hearing and Item #28-2024 Proposed Amendments to Chapter 19 Zoning Ordinance Relating to Home Business

Moved by Penelope A. Jordan and Seconded by Stephanie P. Anderson

ORDERED, the Cape Elizabeth Town Council takes the Public Hearing and Item #28-2024 off the table from December 11, 2023 on proposed amendments to Chapter 19 Zoning Ordinance relating to Home Business amendments.

(5 yes) (0 no)

Page 4 Town Council Minutes
January 8, 2024

Public Hearing - Proposed Amendments to Chapter 19 Zoning Ordinance Relating to Home Business Amendments

Chair Reiniger opened the public hearing at 7:55 p.m.

Stefan Rurak, 11 Spruce Lane

After hearing no further comments, the hearing was closed at 7:57 p.m.

Item #28-2024 Proposed Amendments to Chapter 19 Zoning Ordinance Relating to Home Business Amendments

Moved by Penelope A. Jordan and Seconded by Timothy L. Thompson

ORDERED, the Cape Elizabeth Town Council following a public hearing on January 8, 2024 does hereby approve the proposed amendments to Chapter 19 Zoning Ordinance relating to Home Business amendments as recommended by the Planning Board.

(5 yes) (0 no)

Item #36-2024 Property Tax Assistance Program Report

Public Comment

Eliza Matheson, 270 Fowler Road

Town Assessor Clinton Swett presented the report.

Moved by Penelope A. Jordan and Seconded by Stephanie P. Anderson

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the Town Assessor relating to the 2024 property tax assistance program as required by Chapter 27 Property Tax Assistance Ordinance Sec. 9 Annual Report to the Town Council.

(5 yes) (0 no)

Item #37-2024 Acknowledge Receipt of the Report from the Ad-Hoc Housing Diversity Study Committee

Public Comment

Kevin Justh, 9 Spruce Lane and Chair of the Ad-Hoc Housing Diversity Study Committee

Moved by Stephanie P. Anderson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council acknowledges receipt and refers to workshop the Ad-Hoc Housing Diversity Study Committee Final Report 2023 with appreciation to the committee members for their work.

(5 yes) (0 no)

Page 5 Town Council Minutes
January 8, 2024

Item #38-2024 Consideration of a Resolution to Join the Community Resilience Partnership

Introduction – Vince Faherty, 10 Whale Back Way, Member of the Energy Committee

Moved by Jeremy A. Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the resolution to join the Community Resilience Partnership.

(5 yes) (0 no)

See attachment.

Item #39-2024 Enter into Executive Session to Begin Discussion of the Town Manager's Annual Evaluation

Moved by Jeremy A. Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council enters into executive session at 8:26 p.m. pursuant to 1 M.R.S. §405 6. A. to begin discussions of the Town Manager's annual evaluation.

(5 yes) (0 no)

Councilor Harriman arrived at 8:48 p.m.

Moved by Penelope A. Jordan and Seconded by Caitlin J. Harriman

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 9:05 p.m.

(5 yes) (0 no)

Moved by Penelope A. Jordan and Seconded by Caitlin J. Harriman

ORDERED, the Cape Elizabeth Town Council adjourns at 9:05 p.m.

(5 yes) (0 no)

Citizens may at this point in the meeting raise any topic that is not on the agenda that pertains to Cape Elizabeth local government.

None

Respectfully Submitted,

Debra M. Lane, Assistant Town Clerk

Attachment Item #2-2024 December 11, 2023

Approved by the Cape Elizabeth Town Council January 8, 2024

TOWN OF CAPE ELIZABETH RESOLUTION

Join Community Resilience Partnership

WHEREAS, in the July 8, 2019, Comprehensive Plan, the Town of Cape Elizabeth committed to addressing climate change and its effects on the town's physical infrastructure, natural assets, and native species;

WHEREAS, the Cape Elizabeth Town Council included the creation of climate action goals in its 2023 Goals & Objectives;

WHEREAS, on May 8, 2023, the Cape Elizabeth Town Council unanimously approved a contract to hire the Greater Portland Council of Governments (GPCOG) to support the development of a climate action planning process for the impacts of climate change;

WHEREAS, a part of the Climate Action Planning process is to identify funding opportunities to implement actions that mitigate the impacts of climate change; and

WHEREAS, the State of Maine Governor's Office of Policy Innovation and the Future has established a Community Resilience Partnership that provides grants to municipalities and Tribal Governments for activities that lower energy expenses, reduce greenhouse gas emissions, and increase community resilience in alignment with the state's climate action plan and goals; and

WHEREAS, the Town of Cape Elizabeth is eligible to apply for a Community Action Grant administered through the Community Resilience Partnership and

WHEREAS, the Town of Cape Elizabeth has completed the Community Resilience Partnership's Community Resilience Self-Assessment and List of Community Actions, and held a community workshop on November 30, 2023, which prioritized the following action areas:

- Participate in the transition to Electric Vehicles (EVs)
- Upgrade energy efficiencies for municipal operations
- Improve biking infrastructure
- Assistance with home heating improvements for the elderly and those most in need
- Increase capacity for implementing projects

WHEREAS, joining the Community Resilience Partnership requires the Town Council to pass the following resolution:

BE IT RESOLVED, the Town of Cape Elizabeth commits to participating in the Community Resilience Partnership, which supports community leadership in reducing greenhouse gas emissions and increasing resiliency to extreme weather and climate change impacts;

BE IT FURTHER RESOLVED, the Town of Cape Elizabeth designates the Cape Elizabeth Energy Committee to coordinate the planning, implementation, and monitoring of energy and resilience projects and to be the primary point of contact for the Community Resilience Partnership.

Home Business Amendments
Zoning Ordinance (10-3-2023)

SEC. 19-1-3. DEFINITIONS

Accessory Building or Structure: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land and which is located on the same lot as the principal building or use. Any accessory building or structure that has plumbing shall not be used for overnight accommodation. For residential uses, accessory buildings and structures shall include, but not be limited to, the following:

1. garage
2. gazebo
3. greenhouse
4. home workshop, as defined below
5. recreational facilities for the use of occupants of the residence, such as a swimming pool or tennis court, and related structures
6. Agricultural or aquacultural buildings or other structures (Effective June 10, 2010)
7. wharf, dock, landing, or boathouse (Effective November 5, 2016)
8. Emergency power generators not exceeding 30KW. (Effective June 8, 2022)

Home Business: A business or professional use that is more intensive than a home occupation and which is conducted within or from a dwelling unit or accessory structure by an occupant of the dwelling unit. ~~The use may also be conducted within an accessory structure which existed as of April 1, 1988.~~ The business or professional use shall be accessory to the primary residential use. A home business shall comply with all of the following criteria:

1. Not more than two (2) full-time or equivalent ~~one (1) employees person~~ who are is not a resident of the dwelling unit shall be involved or employed on the premises on a regular basis in the business or professional use;
2. The nature of the business or professional use shall not increase vehicular traffic on the street by more than two percent (2%) of the current average annual daily traffic (ADDT) or 10 trips a day, whichever is larger; (Effective December 10, 2003)
3. The business or professional use shall not produce any odors, fumes, dust, glare, noise, discharge of fluids, or electrical interference in excess of that produced by normal residential use;
4. Any external alteration of the building or site, including the provision of parking in accordance with Sec. 19-7-8, Off-Street Parking, shall not detract from the residential character of the neighborhood;
5. The home business shall be operated on property which is the business owner's residence for the majority of the calendar year;
- ~~4. 5. The square footage occupied by the business or professional use shall occupy an area no greater than twenty percent (20%) of the floor area of the structure (as defined above) of the dwelling unit; (Effective August 11, 1999)~~

~~5-6.~~ All signs shall comply with ~~the~~ Chapter 21, Sign Ordinance; and

~~6-7. O~~~~There shall be no o~~ outdoor storage of equipment or materials shall be screened.

Home Occupations: A business or professional use that is conducted within a dwelling until or accessory structure by an occupant of the dwelling unit. ~~The use may also be conducted within an accessory structure which existed as of April 1, 1998.~~ The business or professional use shall be accessory and incidental to the primary residential use. A home occupation shall comply with all of the following criteria: (Effective August 11, 1999)

1. No more than one (1) full-time or equivalent employee ~~one~~ who is not a resident of the dwelling unit shall be involved or employed on the premises on a regular basis in the business or professional use;
2. The nature of the business or professional use shall not require clients, or service or delivery vehicles, to regularly visit the premises;
3. The business or professional use shall not produce any odors, fumes, dust, glare, noise or electrical interference in excess of that produced by normal residential use;
4. There shall be no external alteration of the building or site that changes its residential character including the creation of a separate “business” entrance;
5. The square footage occupied by the business or professional use shall occupy an area no greater than ~~forty~~twenty percent (~~40~~20%) of the floor area of the structure (as defined above) of the dwelling unit; (Effective August 11, 1999)
6. All signs shall comply with ~~the~~ Chapter 21, Sign Ordinance; and
7. There shall be no outdoor storage of equipment or materials.

Home Workshop or Workroom: A workshop, located within a principal building or within an accessory building, which is used primarily by the occupants of the dwelling unit for personal use and not a commercial use. (Effective August 11, 1999)