



Cape Elizabeth Town Council

Minutes Monday, January 9, 2023

7:00 p.m.

Town Hall Council Chambers

Jeremy A. Gabrielson, Chair
Nicole Boucher
Susan A. Gillis
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan
Timothy S. Reiniger

The meeting was convened at 7:00 p.m. by Chair Jeremy A. Gabrielson.

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk

Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Penelope Jordan attended the open skate at the temporary rink on Friday, January 6 at Gull Crest. What a nice sight to see.

Finance Committee Report

Finance Chair Boucher reviewed the dashboard ending 12/31/2022. She asked Mr. Sturgis to comment on anticipated spring building permits.

Citizen Opportunity for Discussion of Items Not on the Agenda

Peter Dixon, 29 Westminster Terrace asked about the agricultural easement with Maxwell Woods. Who is responsible to monitor the easement?

John Voltz, 33 Philip Road thanked the town manager for posting the manager's report in advance of the meeting. What are the damages from the recent storm to the Portland Head Light and Community Services?

Town Manager's Monthly Report

Matthew E. Sturgis, Town Manager

As the calendar has turned to welcome 2023, a new year with many opportunities begins.

At last month's council meeting, the council approved the manager to sign the amended energy contract with encore renewables for the solar installation at the recycling facility. With the assistance of Attorney David Littell on the amendments, encore agreed to the revisions to the amendments and the document was completed on December 13. On January 3, the project was presented by encore renewables to the Planning Board. The next step for the project will be to begin its review at the February regular Planning Board meeting on February 21, 2023.

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Sad news to report on the passing of former Deputy Town Clerk Jackie Coy. Jackie also served as Town Clerk and Tax Clerk for more than 20 years. Her husband Peter lives in Cape Elizabeth. Jeremiah Newbury the father of former Town Council and School Board member Kathy Ray also passed way. Mr. Newbury was a former Cape Elizabeth resident and prominent attorney in Portland. Thoughts and prayers are passed along to their families.

On the Thursday before Christmas the museum at Portland Head Light and the keeper's quarters sustained damages due to wind driven waves, heavy winds and rain. The strength of the storm and the damages required us to close the park to the public for the remainder of the day. Damages to the museum and the keeper's quarters were to the interior carpeting, windows, a door, the bell structure, and some hardscaping installed over the past two years. The damages have been assessed by our insurance provider and our claim is currently in process. Additionally, for the items not covered by our insurance provider, we are prepared to pursue FEMA funding in the event that a disaster is declared. Our plan is to have the repairs of the museum and keeper's quarters completed by the start of the season.

As you are also aware, during Christmas weekend the Community Services building sustained a significant amount of water damage due to a ruptured heating element. Again, we are working with our insurance company on the claim, and the demolition work is completed and plans are underway for the repairs. It is anticipated that the facility will be out of service for the next sixty days, while the section housing our offices and Cape Care preschool are unharmed. A majority of the programming has relocated to other municipal facilities so that may continue.

Finally, all departments are working on the Fiscal Year 2024 operational budgets in alignment with the annual process detailed in December.

Review of Draft Minutes December 12, 2022

Moved by Penelope A. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on December 12, 2022 as written.

(7 yes) (0 no)

Item# 27-2023 School Building Advisory Committee Draft Charge

Public Comment

Mary Ann Lynch, 2 Olde Colony Lane ensure there is a fresh start, new committee, new design team and new options. Suggests amendment to the draft Scope of Work #3 to add new design team.

Tom Dunham, 11 Becky's Cove Lane involved in the no vote. Reach out to all segments of the community to see what they want. The project is a cost issue – families must be struggling. The project should be broken down into phases.

John Voltz, 33 Philip Road move ahead with the charge however if there are any changes, send them back through the same process.

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Moved by Nicole Boucher and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council approves the ad-hoc School Building Advisory Committee charge as presented in Draft #5 following the Town Council and School Board discussion on January 3, 2023.

Moved by Timothy S. Reiniger and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council amends the motion as follows in the **bold text**:

"Committee Created: There is hereby created a School Building Advisory Committee (SBAC) to consist of nine members. The Committee shall be a joint ad hoc advisory committee of the School Board and Town Council, assisting them in their respective responsibilities for development of a school building project and funding which meets, **but does not exceed, state standards and guidelines, including: 1) the Department of Education guidelines for major capital school construction projects, 2) the Public School Standards and Guidelines for New School Construction & Major Renovation Projects, and 3) the "Space Allocation Guidelines" and submit to the Town voters.** And, to the extent such project plans exceed state standards and guidelines, those project plans will not be paid for by tax dollars.

(3 yes) (4 no Councilors Boucher, Gabrielson, Caitlin Jordan and Noonan)

Moved by Timothy S. Reiniger and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council amends the motion as follows in the **bold text**:

"Committee Created: There is hereby created a School Building Advisory Committee (SBAC) to consist of nine members. The Committee shall be a joint ad hoc advisory committee of the School Board and Town Council, assisting them in their respective responsibilities for development of a school building project and funding which meets all the Department of Education guidelines for major capital school construction projects and submit to the Town voters.

(2 yes) (5 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan and Noonan)

Original Motion: (6 yes) (1 no Councilor Reiniger)

Item #28-2023 Appointment of Town Council Members to the School Building Advisory Committee

Public Comment

Mary Ann Lynch, 2 Olde Colony Lane consider the 62% vote against the project. Need a fresh look for a new project.

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council nominates Penelope A. Jordan to serve as a member and co-chair of the School Building Advisory Committee.

(7 yes) (0 no)

Moved by Penelope A. Jordan and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council nominates Gretchen R. Noonan to serve as a member of the School Building Advisory Committee.

(7 yes) (0 no)

Item #29-2023 Property Tax Assistance Program Report

Town Assessor Clinton Swett provided an overview of the property tax assistance program, property tax stabilization program and update on the revaluation.

Public Comment

John Voltz, 33 Philip Road said the Assessor's office should be providing the public with the information regarding the Thomas Jordan Trust and other programs available to those who qualify to assist with property taxes.

Tom Dunham, 11 Becky's Cove Lane the town is fortunate to have Clinton as the assessor.

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the Tax Assessor relating to the 2023 property tax assistance program as required by Chapter 27 Property Tax Assistance Ordinance Sec. 9 Annual Report to the Town Council.

(7 yes) (0 no)

Item #30-2023 Request for Zoning Amendment

Public Comment

Stefan Rurak, 11 Spruce Lane requesting the zoning amendment to work at home creating art. Nothing sold on site – work from home.

Moved by Timothy S. Reiniger and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council refers to the Ordinance Committee a request for a zoning amendment to allow an artist studio as an approved use in the RA District.

(7 yes) (0 no)

Item #31-2023 Remote Participation Policy

Public Comment

John Voltz, 33 Philip Road do not bind boards and committees to this policy. Should the state law change to allow for fully remote meetings, the boards wouldn't be bound by the council's policy.

Moved by Penelope A. Jordan and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, February 13, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall recommended changes to the Remote Participation Policy.

(7 yes) (0 no)

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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

Item #32-2023 Continue the Annual Evaluation of the Town Manager and Employment Contract

Moved by Susan A. Gillis and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council enters into executive session pursuant to 1 M.R.S. §405 6. A. at 8:43 p.m. to continue discussions of the Town Manager's annual evaluation, and the Employment contract which runs through January 29, 2023.

(7 yes) (0 no)

Moved by Susan A. Gillis and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 9:14 p.m.

(7 yes) (0 no)

Adjournment

Moved by Susan A. Gillis and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council adjourns at 9:14 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

School Building Advisory Committee

Approved by the Town Council 1/9/2023

Approved by the School Board 1/10/2023

Committee Created: There is hereby created a School Building Advisory Committee (SBAC) to consist of nine members. The Committee shall be a joint ad hoc advisory committee of the School Board and Town Council, assisting them in their respective responsibilities for development of a school building project and funding which meets the Department of Education guidelines for major capital school construction projects and submit to the Town voters.

Committee Charge: The Committee shall work with professionals to assess the previous school building referendum proposal and to advise the School Board and the Town Council on a Building Plan and funding to address our school building needs. The work should develop the project concept sufficiently to propose the general project(s) solution and estimate the cost for referendum purposes. This work will include but is not limited to the following:

- 1) Recommending a budget for this committee's work to the Town Manager;
- 2) Recommending a project plan and scope to address the school building needs to the School Board and Town Council;
- 3) Recommending a target referendum dollar range to the Town Council and School Board;
- 4) Conducting public outreach and engagement; and
- 5) Recommending a target referendum date and timeline for deliverables to meet that deadline, and report deliverable timeline back to the school board and town council.

The Committee shall consult with both bodies regarding its work and recommendations. Final approval of any Building Plan, and of building design and construction decisions, including award of project contracts, shall be by the School Board and final approval of any referendum amount, and bond sale matters and other bond-related financial decisions shall be by Town Council. Further, approval of construction funding is subject to a referendum vote of the citizens of Cape Elizabeth.

Scope of Work: The Committee shall:

- Issue a Request for Qualifications (RFQ) for a third-party owner's representative (Owner's Rep) for the Project, including the activities of this Committee, interview interested firms, and make a recommendation for selection of the Owner's Rep.
- Assess previously completed building needs work.
- Recommend the design team based on assessment of completed work for all three schools
- Develop a range of options for the Building Plan, including analysis of the financial impact and benefit of each Building Plan option.
- Seek public input throughout the process, and educate and inform the public throughout the process.
- Engage a consultant to create and conduct a community survey(s).
- Explore funding options and alternative funding sources.

With feedback from the Town financial team and community, make a Building Plan recommendation for selection, further development, and referendum submission.

Voting Members: The Committee shall have co-chairs, with one chairperson being a School Board member and one being a Town Council member. Two members, including the co-chair, will be from the membership of the Cape Elizabeth School Board and shall be appointed by the School Board Chair. Two members, including the co-chair, will be from among the membership of the Cape Elizabeth Town Council and shall be appointed by the Town Council.

Five public members shall be recommended by a joint appointments committee consisting of three members of the Town Council Appointments Committee and three members of the School Board, selected by the School Board Chair, with appointment confirmation votes by the School Board and Town Council affirming.

Non-Voting Members and Advisers: The Superintendent of Schools and the Town Manager shall be non-voting ex-officio members and shall serve as the staff liaisons to the Committee. The Facilities Manager, the school Business Manager, and town Finance Director shall be invited to participate in Committee meetings to serve as a non-voting staff resource.

The Owner's Rep will participate in meetings in a non-voting capacity.

The Superintendent of Schools shall be invited to designate school staff members as needed to advise the Committee on opportunities and issues arising from the current school facilities and how to address those issues with any future building design.

The Town Manager shall be invited to designate finance staff and the Town's financial advisor as needed to advise the Committee on funding sources and debt structure, financial costs and impacts, and mitigation of budgetary impacts.

The Architectural Design Team will also be invited to meetings as warranted to update the Committee.

The Committee shall also establish subcommittees as deemed necessary to advise the Committee such as but not limited to school design, finance, and communication.

Other third-party consultants such as Financial Advisors, Survey Firms and Communications Specialists may be engaged to advise and assist the Committee as required.

Public Input and Outreach: The Committee shall seek public engagement and input in its deliberations through a multi-channel public outreach campaign, which may include websites, social media, e-mail, public signage, notices in the newspaper and direct mail. All public correspondence relevant to the SBAC received by the Committee, Town Council and School Board will be made available to the public via the town website.

Committee Budget: The Town Manager, in consultation with the Superintendent, is responsible for the Committee budget for Town Council approval, and to manage the approved Committee budget. This budget includes estimated costs of the Committee through referendum, including the estimated costs for the Owner's Rep, the Design Team, and the Committee's consultants. The costs of the School Committee's proposed contracts with the Owner's Rep and Design Team payable under this budget, as well as the costs of the Committee's contracts with other consultants for its activities, must be submitted to the Town Manager for budgetary control approval.

Committee Reports: The Committee chairs will regularly update the School Board and Town Council on the progress of the Committee.

Definitions:

Building Plan - Proposal(s) to address educational and physical building needs at Pond Cove Elementary, Cape Elizabeth Middle School, and Cape Elizabeth High School, including, but not limited to new construction, addition, and or renovation of existing buildings.

Design Team - Architectural and Engineering Firm(s)

Owner's Rep(resentative) - The individual or firm tasked with representing the interests of the owner (Town of Cape Elizabeth) throughout the duration of the project and reporting to, as applicable, the committee, the Superintendent of Schools and/or Town Manager.

Consultants - Third party professionals engaged to advise and assist the committee.

REMOTE PARTICIPATION POLICY
Adopted by the Cape Elizabeth Town Council
~~August 30, 2021~~
Draft January 9, 2023

Town of Cape Elizabeth

Pursuant to 1 M.R.S. § 403-B and after public notice and a hearing held on ~~August 30, 2021~~ February 13, 2023 the Cape Elizabeth Town Council adopts the following policy effective immediately to govern the participation, via remote methods, of members of the Town Council, Planning Board and Board of Zoning Appeals, boards and committees and the public in the public proceedings or meetings of the body.

Members of the Body

When technology is available hybrid meetings will become available. The Town Council, Planning Board and Board of Zoning Appeals will provide remote participation for members of the body in certain circumstances as outlined in this policy when the technology is available and operational in the given meeting space.

Boards and committees may provide remote participation for members of the body under certain circumstances as outlined in this policy when the technology is available and operational in the given meeting space.

Members of the body are expected to be physically present for meetings except when not practicable, such as in the case of an emergency or urgent issue that requires the body to meet via remote methods, or an illness or temporary absence of a member that causes significant difficulty traveling to the meeting location. The chair, in consultation with the town manager, or if applicable the board staff member or other members if appropriate and possible, will make a determination that remote methods of participation are necessary in as timely a manner as possible under the circumstances. A member who is unable to attend a meeting in person will notify the chair, and/or town manager or if applicable the board staff member as far in advance as possible.

Remote Methods

Remote methods of participation may include telephonic or video technology allowing simultaneous reception of information and may include other means necessary to accommodate disabled persons. Remote participation will not be by text-only means such as e-mail, text messages, or chat functions.

Public

The public will be provided a meaningful opportunity to attend via remote methods when ~~any member of the body participates via remote methods~~ hybrid technology is available and operational in the given meeting space. If public input is allowed or required at the meeting, an effective means of communication between the body and the public will also be provided. The public will also be provided an opportunity to attend the meeting in person unless there is an emergency or urgent issue that requires the entire body to meet using remote methods.

Notice

Notice of all meetings will be provided in accordance with 1 M.R.S. § 406 and any applicable charter, ordinance, policy, or bylaw. When the public may attend via remote methods, notice will include the means by which the public may access the meeting remotely and will provide a method for disabled persons to request necessary accommodation to access the meeting. Notice will also identify a location where the public may attend the meeting in person. The body will not restrict public attendance to remote methods except in the case of an emergency or urgent issue that requires the body to meet using remote methods of attendance.

The body will make all documents and materials to be considered by the body available, electronically or otherwise, to the public who attend remotely to the same extent customarily available to the public who attend in person, provided no additional costs are incurred by the body.

Votes

All votes taken during a meeting using remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the body and the public. A member of the body who participates remotely will be considered present for purposes of a quorum and voting.

Disruption of Service

Remote participation is offered as a convenience. In the event there is a disruption in service and the communication can't be restored the expectation is the meeting will continue. In the event the number of members of the body participating remotely are needed for a quorum the meeting will be adjourned for lack of a quorum and reconvened at a date to be determined.

This policy will remain in force indefinitely unless amended or rescinded.

This policy will be reviewed annually at the Town Council's organization meeting in December.