



Cape Elizabeth Town Council

Minutes Monday, June 12, 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 Pro-Tem

All members of the Town Council were present except for Councilor Gretchen Noonan.

Maureen O'Meara, Town Planner
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Penelope Jordan noted the new section on the town's website for the pesticide use ordinance that the Ordinance Committee is working on.

School Building Advisory Committee Update: Mr. Sturgis and Dr. Record are negotiating a contract with CBRE/Heery for the owner's representative. A contract for the survey has been signed with Portland Research Group. The SBAC will meet June 15 re: meeting with Portland Research Group and Bonds 101 with Joe Cuetera. An RFP has been posted for a communications consultant.

Finance Committee Report

Finance Chair Boucher reviewed the financial dashboard through 5/31/2023. The fiscal year end is June 30. Building permit revenues are down, as noted in previous meetings. Several line items are under budget which will hopefully help with less building permit revenues.

Town Manager's Monthly Report

Matthew E. Sturgis, Town Manager

As the Town transitions to summer and the end of the fiscal year, this month's report will update the council on current projects underway, capital equipment updates, and reminder on upcoming operating hours changes.

The solar energy project to be located behind the recycling center received unanimous approval at the May Planning Board meeting. At the present time encore is waiting for the results of the cap amendment from DEP, are starting the ALTA survey process, updating design details, and other outstanding items that also flow from what the DEP approves. As I receive future updates, I will bring them forward.

Page 2 Town Council Minutes
June 12, 2023

The sidewalk construction from Pond Cove Shopping Center to Fowler Road has begun. At the present time the project is paused as materials for the next phase are being organized, and construction is planned to restart on June 26th.

Survey and engineering work is beginning on the town center intersection planning and engineering project, and you may notice surveyors over the next two weeks.

The site evaluation of Gull Crest for the potential siting of affordable housing is underway, and I anticipate Sebago Technics will present their findings and report at the July 10 Town Council meeting.

The new ambulance unit is nearing completion, with an anticipated delivery at the end of June, early July.

Work will commence on the installation of irrigation for the Village Green, with completion planned for early July.

Planned paving will be taking place in the Oakhurst neighborhood over the summer. This paving work is being coordinated with planned maintenance with the Portland Water District. All of the residents that will have their streets paved have been contacted directly by the Public Works Department.

Residents may also find interest in two upcoming survey efforts that will be underway over the summer, with both the Housing Diversity Study Committee and School Building Advisory Committee planning surveys.

Finally, staff is handing out notifications on the new operating hours beginning on July 1st at the Recycling Center, Tax Collection, Community Services and the Library. New signs have been placed at the Recycling Center and other locations in Town notifying of the changes, and signage at the Recycling Center also is advertising the changes. Electronic messaging will also be deployed the last two weeks of June. Additionally, thank you to the Cape Courier for their coverage of the changes.

Councilor Gillis provided an update on the Portland Jetport Noise Committee. The committee is working with a consultant to address matters of the committee including diverting noise from the most populated areas around the jetport.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Review of Draft Minutes-

May 8, 2023 Regular Meeting

May 15, 2023 Special Meeting

May 30, 2023 Special Meeting

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on May 8, 2023 and special meetings on May 15 and May 30, 2023 as written.

(6 yes) (0 no)

Presentation - Town of Cape Elizabeth Emergency Operations Plans
Charlie Kennedy, EMA Director

Present – Charlie Kennedy, EMA Director and Margaret Cushing, Planner for Cumberland County EMA

Municipal emergency operations plans, required by state and local government, are to be updated every 5 years. The last update for Cape Elizabeth was 2018. On an annual basis, Mr. Kennedy reviews the plan for any technical changes or updates. For 2023, Cumberland County has developed a complete update and format change which provides a more concise document. Ms. Cushing provided an overview from the County's perspective. Disasters happen at the local level – help must be asked for from the county, state or federal level. Efforts focus on the safety of the public and the environment. Evacuation plans must be developed on a county-wide basis with the coordination of area councils, police, fire and public works. Also under construction needing further review is continuity of operations planning and debris management.

Consent Calendar Item #80-2023 – Item #84-2023

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #80-2023 – Item #84-2023 as presented.

(6 yes) (0 no)

Item #80-2023 Consideration of Acceptance of Anonymous Donation to the Thomas Memorial Library Through Impact Asset Donor Advisor Fund

ORDERED, the Cape Elizabeth Town Council accepts a gift of \$3,000 from an anonymous donation through Impact Asset Donor Advisor Fund to the Thomas Memorial Library without restrictions for the use of the funds. The Council appropriates these funds into Fund 46 – Library Fund - Department 890 – Library Agency and revenue account R0503. The Town accepts the funds with gratitude.

Item #81-2023 Consideration of Acceptance of Bequest from Joanne A. (McDonough) Leete to the Thomas Memorial Library

ORDERED, the Cape Elizabeth Town Council accepts a bequest of \$10,000 from the Estate of Joanne A. (McDonough) Leete to the Thomas Memorial Library without restrictions for the use of the funds. The Council appropriates these funds into Fund 46 – Library Fund - Department 890 – Library Agency and revenue account R0503. The Town accepts the funds with gratitude.

Item #82-2023 Consideration of Acceptance of a Grant Award from the MMA Worker's Compensation Fund Ed MacDonald Safety Grant Program

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award of \$3,000.00 from the Maine Municipal Association Worker's Compensation Fund's Ed MacDonald Safety Grant Program into expense account 0726-4451 and revenue account R0928. The grant will reimburse \$3,000 of the total cost of \$4,299.00 for the purchase of 4 mats for the Police Department's Training Facility. The balance will be paid from the Police Department's operating budget. The grant period is May 1 2023 to May 1, 2024.

Item #83-2023 Acceptance of Cumberland County Heating Assistance Grant

ORDERED, the Cape Elizabeth Town Council accepts a grant award of \$50,000.00 from Cumberland County to provide heating assistance to the eligible residents of Cape Elizabeth for the period January 24, 2023 through April 15, 2023. It is further ordered to appropriate these funds into Fund 3 Grant Fund Account 0719-4228 and Revenue Account R0998.

Item #84-2023 Acceptance of MMA Risk Management for Flagpole Damage at Fort Williams Park

ORDERED, the Cape Elizabeth Town Council accepts an insurance claim payment of \$25,000 (R0343) from MMA Risk Management for damage sustained to a flagpole at Fort William Park on March 15, 2023 and appropriates that amount to account 0870-2036.

Item #85-2023 Affirmation of the Appointment of Fire Chief

Councilor Penelope Jordan disclosed Mr. Young is a cousin.

Present- Chief Peter Gleeson and Deputy Chief Stephen Young

Moved by Caitlin R. Jordan and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council affirms the Town Manager's appointment of Stephen F. Young to serve as Fire Chief for the Town of Cape Elizabeth effective July 1, 2023.
(6 yes) (0 no)

Item #86-2023 Consideration of Grant Match Funding Relating to Sawyer Road

Introduction – Maureen O'Meara, Town Planner

Moved by Timothy S. Reiniger and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council authorizes grant match funding for the Maine Natural Resource Conservation Program (MNRCP) of an amount up to \$250,000 for the continued joint effort with the Town of Scarborough to restore tidal flows on the Spurwink March through the removal of the portion of Sawyer Road/Street that sits in the marsh. Funding for the grant match would be included in the FY 2025 municipal budget. It is further ordered that staff is authorized to submit additional grant applications which may be available for this project, with sum totals remaining within the authorized level of \$250,000.
(6 yes) (0 no)

Item #87-2023 Conservation Ordinance Amendments Relating to Events Provisions

Present- Corinne Ketcham, 37 Stone Drive Chairperson Conservation Committee

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

ORDERED, the Cape Elizabeth Town Council refers to the Ordinance Committee the recommendation of the Conservation Committee to amend Chapter 18 Conservation Ordinance relating to events provisions.
(6 yes) (0 no)

Item #88-2023 Consideration to Refer Project Submission Amendments to the Planning Board

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council refers to the Planning Board review of project submission amendments and other relevant ordinance provisions and Planning Board Rules of Procedure with a report back to the Town Council.

(6 yes) (0 no)

Item #89-2023 Consideration of Planning Board Recommendations Relating to LD 2003 Amendments

Public Comments

John Voltz, 33 Philip Road send to public hearing as soon as possible. Work expeditiously to meet the July 1 compliance deadline.

Kevin Justh, 9 Spruce Lane send to public hearing. There have been a number of meetings on the subject. Doesn't affect those with more discretionary funds but does impact a number of residents – perhaps some would not have had to move out if there was a diversity of housing. As other communities have done so, it's time for Cape Elizabeth to move forward.

Tim Thompson, 6 Pine Ridge Road as a member of the Housing Diversity it is expected that the amendments would be sent to the committee. It would be another opportunity for the public to comment and perhaps what they would want to see (or not) beyond what we have to do. What is the rush if municipalities may have until January 1, 2024?

Tom Dunham, 11 Beckys Cove Lane in the real estate business for 50 years. Have been following the process. The ADU criteria is disturbing – not good planning doesn't require parking and stormwater review. Slow down, consider the impact on neighbors. 1800' ADU will change the neighborhood dramatically and property values. Asked months ago for a land planner to demonstrate to the public what impact this will have.

Moved Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council schedules a public hearing on Monday, July 10, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall relating to the LD 2003 amendments.

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

ORDERED, the Cape Elizabeth Town Council amends the motion to send the LD 2003 amendments to the Housing Diversity Study Committee for review and report back to the Town Council in September 2023.

(2 yes) (4 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan)

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council amends the motion to amend the draft amendments to reduce the maximum square feet for an ADU from 1800 sq. ft. to 1100 sq. ft.

(5 yes) (1 no Councilor Reiniger)

Original Motion as Amended: (4 yes) (2 no Councilors Gillis and Reiniger)

Item #90-2023 Consideration for Request of Funding for Survey Work of the Housing Diversity Study Committee

Public Comments

Tim Thompson, 6 Pine Ridge Road a subcommittee for the survey has been established. Questions for the survey can be forwarded to HDSC staff. Disappointed the LD 2003 amendments are not being forwarded to the committee.

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

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to sign contracts as recommended by the Housing Diversity Study Committee to meet the established charge to gauge public opinion about potential housing solutions. 1) Reconnaissance Market Research a division of ComEngage, in an amount not to exceed \$29,780, for a survey study 2) Viewshed, in an amount not to exceed \$7,300, to provide an online discussion forum. It is further ordered the funding shall be allocated from Unassigned Fund Balance.

(6 yes) (0 no)

Item #91-2023 Consideration to Amend the Charge of the Ad-Hoc Housing Diversity Study Committee

Public Comments

John Voltz, 33 Philip Road vote no. It's not appropriate to change a committee charge mid-way. Let the committee perform a complete evaluation.

Tim Thompson, 6 Pine Ridge Road this has been a distraction. However the HDSC voted on June 5 to remove Fort Williams Park from the potential housing list and the council has clarified the restrictions on the property.

Kevin Justh, 9 Spruce Lane speaking as the HDSC Chairman the committee voted unanimously at the June 5 meeting to remove Fort Williams Park as incompatible site usage given all factors.

Tom Dunham, 11 Beckys Cove Lane why can't Plaisted Park and Lions' Field be removed from the list. Building on these impacts quality of life taking away recreational space.

Kevin Justh, 9 Sprue Lane Lions' Field has deed restrictions and Plaisted Park was not under consideration for various factors including lack of infrastructure etc.

Tim Dew 56 Stonegate Road suggested the town manager summarize the deed restrictions and easements on Fort Williams Park as outlined in the June 5 workshop.

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

ORDERED, the Cape Elizabeth Town Council amends the Ad-Hoc Housing Diversity Study Committee's charge as follows:

Committee Charge

○ The Housing Diversity Study Committee is specifically charged with the following activities: The donation of municipal land for affordable housing projects, including potential locations. Except that Fort Williams Park, Lions' Field and Plaisted Park be removed from the list of town-owned properties as a site for potential housing.

(2 yes) (4 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan)

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

ORDERED, the Cape Elizabeth Town Council amends the Ad-Hoc Housing Diversity Study Committee's charge as follows:

○ The Housing Diversity Study Committee is specifically charged with the following activities: The donation of municipal land for affordable housing projects, including potential locations. Except that Fort Williams Park be removed from the list of town-owned properties as a site for potential housing.

(2 yes) (4 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan)

Item #92-2023 Proposed Bond Order to Fund the Costs of Design & Engineering for the School Project

Public Comment

Tom Dunham, 11 Beckys Cove Lane is the bond for anticipated need or already-spent funds. Usually this is not a bond, but pay-as-you-go. Come up with a reasonable budget and then proceed to engineering and soft costs.

John Voltz, 33 Philip Road urges swift passage of the bond amount. Have been impressed with the committee's thoughtful work.

Tim Dew, 56 Stonegate Road haven't heard the SBAC talk about this. This is a surprise, \$1M you have to go to the town, this is kind of silly.

Tim Thompson, 6 Pine Ridge Road there is confusion to where the initial \$400,000 estimate came from to now a suggested \$950,000 bond. Starting with a budget at the beginning makes a lot of sense.

Mary Ann Lynch 2 Olde Colony Lane this item has never come up with the SBAC. Are decisions being made outside of the committee? Before voting, this should go before the SBAC.

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

ORDERED, the Cape Elizabeth Town Council approves the proposed bond order to fund the costs of design and engineering for the school project entitled, **Vote authorizing expenditures of up to \$950,000 for cost of design and engineering for alternate school plans for Pond Cove/Middle Schools and the issuance of bonds therefore.**

(5 yes) (1 no Councilor Reiniger)

Item #93-2023 Updates to the Personnel Code

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

ORDERED, the Cape Elizabeth Town Council approves the recommended amendments to Chapter 3 Personnel Code as presented, effective immediately.

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

ORDERED, the Cape Elizabeth Town Council amends the motion to add the following amendment to Chapter 3 Personnel Code:

Article 1 General Provisions

Sec. 3-1-1 Employment

(g) Other requirements

All candidates for regular positions must be of high moral character, high school graduates or equivalent and at least 18 years of age. In evaluating moral character, the Town shall consider sufficient evidence of criminal, infamous, and/or dishonest conduct. ~~Any applicant who has been convicted of a felony or who has been convicted of a misdemeanor involving moral turpitude may not be considered for employment.~~

(6 yes) (0 no)

Original Motion as Amended: (6 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

Item #94-2023 Enter into Executive Session - Request for Abatement of Property Taxes

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council enters into executive session at 9:20 p.m., pursuant to 1 M.R.S. §405 F, to discuss a request for an abatement of property taxes due to hardship or poverty. (6 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 9:41 p.m.

(6 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the request for a hardship or poverty tax abatement in the amount of \$3466.48.

(6 yes) (0 no)

Page 9 Town Council Minutes
June 12, 2023

Adjournment

Moved by Caitlin R. Jordan and Seconded by Nicole Boucher
ORDERED, the Cape Elizabeth Town Council adjourns at 9:43 p.m.
(6 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk
Minutes taken from the recording of the meeting.