



Cape Elizabeth Town Council

Minutes Monday, July 17, 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

Note: Due to a water line break, the meeting originally scheduled for July 10 was rescheduled to July 17.

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
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, SBAC Chair provided an update on the work of the School Building Advisory Committee. The next meeting is Thursday, July 20. Councilor Jordan also requested an item on an upcoming council workshop to review the 2020 census data as it relates to the Comprehensive Plan.

Councilor Reiniger, MMA Legislative Policy Committee outlined provisions of LD 1706 and noted LD 2003 compliance deadline has been extended to January 1, 2024.

Finance Committee Report

Finance Chair Nicole Boucher noted updated financial reports will be provided in August following the end of the FY 2023 fiscal year on June 30.

Citizen Opportunity for Discussion of Items Not on the Agenda

John Voltz, 33 Philip Road the Town is under-resourced and does not have the right resources or structures to manage the town well. What resources do you have to tackle what needs to be done?

Daniel Harriman, 21 Kettle Cove Road we need guaranteed access to the water for fishermen. We have nothing, it is state-owned.

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**Review of Draft Minutes-
June 12, 2023 Regular Meeting**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on June 12, 2023 as written.

(7 yes) (0 no)

Presentation – Town Engineer Stephen Harding Gull Crest Affordable Housing Feasibility Report

Town Engineer Stephen Harding, Sebago Technics provided an overview of the Gull Crest Affordable Housing Feasibility Report dated July 2023. Chair Gabrielson said an item will be on the August 14 council agenda for next steps – possibly to refer the report to the Housing Diversity Study Committee and the Conservation Committee.

Public Comment

Cynthia Dill, 1227 Shore Road focus on options 1 & 2. Bond the construction of a road and bring it to referendum to see how the community feels.

John Voltz, 33 Philip Road affordable housing needs specific financing. Check to see if this is suitable for affordable housing.

Jessica Linzer Simpson, 3 Manter Street hopes the environmental issues of this site will be studied.

Consent Calendar Item #95-2023 – Item #97-2023

Item #97-2023 was removed from the Consent Calendar for further discussion.

Councilor Caitlin Jordan disclosed her family does business with the Inn by the Sea.

Present – Kathy Raftice, Director of Community Services and Fort Williams Park

Moved by Caitlin R. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #95-2023 – Item #96-2023 as presented.

(7 yes) (0 no)

Item #95-2023 Inn by the Sea Liquor License and Special Amusement Permit Renewal

ORDERED, the Cape Elizabeth Town Council approves the renewal Special Amusement Permit and Hotel - Food Optional (Class I-A) malt liquor (beer), wine and spirits for Inn by the Sea, LLC located at 40 Bowery Beach Road.

Item #96-2023 Transfer of CIP Projects Funds for the Town Center Fire Station Floor

ORDERED, the Cape Elizabeth Town Council authorizes the transfer in of \$24,529.30 into project 2030-4062 FD Resurface Garage Floor and the transfer out of \$18,000 from project 2030-5251 CC Rental Building Repairs and \$6,529.30 from project 2030-5286 FD Firehouse Brickwork. At the end of this fiscal year these three projects will be closed and any unspent appropriation returned to the General Fund.

Item #97-2023 Recommendation from the Fort Williams Park Committee Regarding Fort Williams Park

Moved by Nicole Boucher and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to seek legal review of the current legal status of Fort Williams Park and provide recommendations on how to preserve the park in perpetuity.

(7 yes) (0 no)

Public Hearing Proposed Amendments to Chapter 19 Zoning Ordinance to Comply with LD 2003

Chair Gabrielson opened the public hearing at 7:59 p.m.

Elizabeth Goodspeed, 59 Belfield Road refer back to the Ordinance Committee and delineate what proposed amendments go beyond what is required.

Al Romano, 4 Fernwood Lane LD 2003 took control away from towns. Not opposed to ADU's remaining at 600 square feet. The Town should only meet the minimum requirements. Define vacant lot.

Sharlalyne Morrison-Andrews, 15 Grover Road protect our town. Was under the understanding that the Town was considering only minimum requirements of LD 2003. Why are there no parking considerations? Concerned about the tear down provisions. Wait for the HDSC survey results.

John Voltz, 33 Philip Road don't expect the council to do the minimum. Put something in place that works. Housing has been frozen – seniors and children can't afford to live here.

Anthony Irace, 3 Stephenson Street would like the opportunity to build a small ADU.

Tom Dunham, 11 Beckys Cove Lane concerned about negative impacts on mandates and ordinances. Doesn't oppose 600 sq. ft. ADU. No parking requirements doesn't make sense. Want a review by public safety and code enforcement staff for impacts.

Jessica Linzer Simpson, 3 Manter Street volunteers for AARP. Supports attempts to address the affordable housing crisis.

Jenny Smith-Brock, 7 Tall Pine Road urge adoption of ordinances. Minimum parking is not necessary. The number of spaces required may not be the number needed. Save the space for housing.

Pietrina Owen, 98 Spurwink Avenue limit changes to the minimum required and wait for the HDSC report. Anything beyond the minimum vote separately.

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Stephanie Anderson, 24 Merrimac Place member HDSC speaking as a resident. If the council wants a question added to the survey about the size of ADU's the question can be added.

Nat Jordan, 6 Robinhood Road pass the ordinance quickly to address housing needs.

Tony Owens, 19 Sea View Avenue wait for the HDSC report.

Sandy Dunham, 11 Beckys Cove Lane take your time. Wait for the HDSC survey. Don't approve ordinances beyond the state mandate. Don't allow tear down of a house to build apartments – 1100 sq. ft. and 1800 sq. ft. is a house not an ADU.

Kevin & Jessica Davis-Knowlton, 801 Shore Road encourage increase density to avoid going into open space.

Conrad Chanzit, 36 Lawson Road seasonal resident will short-term rentals be allowed in an ADU?

Daniel Harriman, 21 Kettle Cove Road should not be lax in zoning to become vacation rentals. Cost burden homes decreased because the people moved out of town who couldn't afford it. Don't force us to leave. Favors ADU's.

Tim Thompson, 6 Pine Ridge Road member HDSC speaking as a resident. Requests review by HDSC before the council votes. In the Comprehensive Plan housing goals somethings can't be changed. 1100 sq. ft. ADU is too big. Wants a legal opinion if the proposed ordinances are in compliance with the Comp Plan.

Sara Lennon, 54 Cranbrook Drive suggests two drafts 1) what is the minimum to comply 2) proposed changes highlighting the differences of minimum requirements. Then seek public feedback.

Richard Parker, 17 Southwell Road need differentiation of what is required and what is proposed. Provide feedback to legislators if changes to state law are needed.

Tim Dew, 56 Stonegate Road been told only the minimum is being proposed – review the 2/2023 Ordinance Committee meeting. Honor your word and commitment.

Mary Irace, 3 Stephenson Street works at Salvation Army. No longer can help people find housing. To add an ADU to our property we need to build an addition and then apply for an ADU – risky.

After hearing no further comments, the hearing was closed at 9:08 p.m.

Item #98-2023 Proposed Amendments to Chapter 19 Zoning Ordinance to Comply with
LD 2003

Public Comment

John Voltz, 33 Philip Road if there is missing information this is a step backwards. Need to assign someone to follow this through.

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

ORDERED, the Cape Elizabeth Town Council refers the proposed amendments to Chapter 19 Zoning Ordinance to Comply with LD 2003 back to the Ordinance Committee and requests a review by the Town Attorney to determine what is required by LD 2003 compared to what is proposed.

(7 yes) (0 no)

Item #99-2023 Consideration of a New Policy for the Thomas Memorial Library – Complaints Policy

Moved by Nicole Boucher and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Thomas Memorial Library Committee to approve a new Complaints Policy.

(7 yes) (0 no)

See attachment.

Item #100-2023 Refer to Public Hearing Proposed Amendments to Chapter 7 Dogs

Present- Chief Paul Fenton and ACO Maggie Maxwell

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council refers to public hearing on Monday, August 14, 2023 At 7:00 p.m. at the Cape Elizabeth Town Hall a recommendation from the Ordinance Committee to amend Chapter 7 Dogs Sec. 7-1-7 Management of Dogs on Municipal Property (e) 1 to streamline the process.

(7 yes) (0 no)

Item #101-2023 Renewal of the Spurwink Rod & Gun Club License

Present – Chief Paul Fenton

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

ORDERED, the Cape Elizabeth Town Council approves the 3-year renewal of the license for the Spurwink Rod and Gun Club located at 1250 Sawyer Road as presented.

(7 yes) (0 no)

Item #102-2023 Request for Reconsideration -Item #92-2023 6/12/2023 Proposed Bond Order to Fund the Costs of Design & Engineering for the School Project

Present – Jim Saffian, Bond Counsel

Public Comment

Tom Dunham, 11 Beckys Cove Lane wait for the survey on the schools to determine the consensus of the community and create a budget before spending funds.

John Voltz, 33 Philip Road pass the bond with swift action. The Town hasn't take the opportunity to bond. Finance long-term assets over long-term debt.

Tim Thompson 6 Pine Ridge Road listen to the bond experts as we finance for the town.

Councilor Gillis' motion to reconsider failed due to a lack of a second.

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Item #103-2023 Enter into Executive Session – Update on Pending Litigation Relating to Code Violations at The Lumbery, 287 Ocean House Road.

Public Comment

Michael Friedland, Owner of the Lumbery at 287 Ocean House Road not in violation of codes or ordinances. 19-9-6 is too generic. Need flexibility for outdoor displays. Requests the lawsuit be dropped and amend the rules to continue the business.

Kat Stewart, 16 Olde Colony Lane almost 1200 signatures on an online petition. It's easy – amend the site plan. It's not that bad. Drop the lawsuit.

Dr. Zev Myerowitz, 7 Scott Dyer Road speaking as neighbor and business owner. Listen to the public sentiment and move forward as neighbors.

Richard Armstrong, 2 Waverly Road we live in a nice community. Can't this be worked out?

John Kane, 6 Cape Woods Drive Lumbery is an innovative business model. Lumbery is good for business, the environment, Maine and Cape Elizabeth. Resolve face-to-face without lawsuits.

Kevin Berry, 62 Ocean View Road lawsuit is a waste of money. The Town does nothing to attract small business. Need better tax base. Don't take 6-9 months to help.

Scott Raspa, 512 Delano Park take an opportunity to look at the codes. Need flexibility as a lumber yard. Need better tax base.

Polly Wilcox, 17 Cape Woods Drive compliment whoever allowed the creative mind to come in. Seek a half-way point. Need the trades, educational opportunities, spending time in productive ways. Showing products is a need.

Phineas Sprague, 159 Charles E. Jordan Road feels bad for everyone. This is a bad law. Let's create an ordinance that lifts everyone up.

Chris Cary, 2 Magnolia Terrace must have rules. We want this business. Can we pause and not do anything we can't undo. Get it right – take the time we need.

Jerry Kaufman, 10 Broad Cove Road some services aren't available in big box stores. We can handle this in an efficient manner.

John Voltz, 33 Philip Road per the Comp Plan build a vibrant, walkable, town center. Focus on fixing the business zone.

Emma Kane, 29 Scott Dyer Road purchased a year ago and needed supplies and products from the Lumbery. Look for creative and unique solutions. Stop wasting money on a lawsuit.

Tim Dew, 56 Stonegate Road pause the lawsuit and look at the big picture. See how the business owners are being treated and see why those who didn't open a business.

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David Kane, 39 Trundy Road pursuing the lawsuit puts stress on the owners. Owners are worried the lender could call the note.

Francis Walsh, 51 Starboard Drive former town manager and economic director. Why can't this be settled? This is the type of business we strive for – small business. The town should be attracting this type of business.

Eve Downing, 15 Rand Road and employee of the Lumberly. Pause the lawsuit. Focus on the big picture. The Lumberly features Maine products, environmentally conscious and sustainability. Consider small business and work with the Lumberly on outdoor displays.

Ryan Holland, Partner of the Lumberly 287 Ocean House Road proud of what we have created. Awful to have to leave town. Compromise to let us stay.

Tyler Dube, 29 Scott Dyer Road purchased home less than a year ago. This is an easy thing to fix. The town council has other things to take care of.

Tim Thompson, 6 Pine Ridge Road this evening has been about ordinances. How do we build our ordinances – take a hard look.

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council enters into executive session at 10:49 p.m. pursuant to 1 M.R.S. §405 E and H, to receive an update on pending litigation for code violations at 287 Ocean House Road, The Lumberly.
(7 yes) (0 no)

Moved by Susan A. Gillis and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 11:36 p.m.
(7 yes) (0 no)

Moved by Jeremy A. Gabrielson and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council directs the Town attorney to pursue a consent decree to settle the enforcement action with the Lumberly to bring the property into compliance. In the event the site plan amendments will require ordinance amendments, we direct the Town Attorney to provide draft ordinance amendments for our consideration. If we are able to reach an agreement with the Lumberly, we will not seek any fines or fees. We ask that the Town Attorney report back on progress in thirty days.
(7 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.

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Adjournment

Moved by Caitlin R. Jordan and Seconded by Penelope A. Jordan
ORDERED, the Cape Elizabeth Town Council adjourns at 11:39 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Thomas Memorial Library Complaints Policy

Purpose and Goals

The Thomas Memorial Library tries to provide the highest levels of satisfaction and service to its patrons, but we recognize that occasionally a patron may wish to make a complaint about a library policy or procedure, a service, or a staff member's conduct.

Guidelines

A library patron may choose to start by making their complaint on an informal, oral basis to the library's staff. If the patron chooses not to do so, or if the complaint does not lend itself to informal resolution, the patron may file a formal complaint.

Please note: Patrons wishing to make a complaint about materials in the library's collection must follow the procedure outlined in the "Requests for Reconsideration" section of the Collection Development Policy; those wishing to make a complaint about library displays or exhibits must follow the "Request for Withdrawal/Objection Procedure" outlined in the Displays & Exhibits Policy.

A patron who wishes to file a formal complaint on other matters should do so in writing to the Library Director. The written complaint should include the date, the name, address, email address, and telephone number of the individual making the complaint; and a detailed explanation of the issue. If the complaint deals with a specific incident, it should also include the date of the incident and the time it occurred. The Library Director will respond in writing within fifteen (15) working days of the complaint.

If the patron is not satisfied with the response of the Library Director, they should within ten (10) working days of that response contact the Town Manager. The Town Manager will respond to the person in writing within (30) thirty days from the time of referral.

The decision of the Town Manager is final.

The library will maintain an accurate record of the action taken at each level of the complaint process.

Revised: June, 2023

Voted for recommendation of approval by the TML Committee on: 6/14/23

Amended by the Town Council Effective Date: 7/17/2023

Adopted by the Town Council Effective Date: 7/17/2023

Policy Review: This policy shall be reviewed at least every five (5) years