



Cape Elizabeth Town Council

Minutes Monday, August 8, 2022

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

Chair Gabrielson convened the meeting at 7:00 p.m.

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

Chair Gabrielson thanked the town staff for their work on the TD Beach to Beacon 10K Road Race. More than 5,000 runners participated – congratulations to all!

Finance Committee Report – Finance Chair Nicole Boucher

Review of the dashboard ending 7/31/2022. It was noted the dashboard reflects revenue and expenditures from July 1, 2022 – June 30, 2023 – see Other News.

Review of Draft Minutes

July 11, 2022

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on July 11, 2022 as written.

(7 yes) (0 no)

Citizen Opportunity for Discussion of Items Not on the Agenda

John Voltz, 33 Philip Road asked the town council for a commitment to consistent, long-term financial planning. Need to summarize data from report to report – look forward and backward for 5 years. Communicate information to the public annually. Fix the one-town concept – write down a cost-sharing agreement.

Town Manager's Report – Matthew E. Sturgis

On Thursday, August 18, Town Hall and services will close for employee training in the morning followed by an appreciation luncheon at noon at the Fort Williams Park Picnic Shelter. A revised time table and offer is expected by the end of the month relating to the solar project.

Consent Calendar Item #114-2022 – Item #120-2022

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the Consent Calendar Item #114-2022 – Item #120-2022 as presented.

(7 yes) (0 no)

**Item #114-2022 Consideration of an Additional Appropriation – PHL Keepers Quarters
Painting**

ORDERED, the Cape Elizabeth Town Council appropriates in the FY 2022 budget \$15,000 for project 2030-4061 PHL – Painting Keepers House; appropriates \$15,000 from the fund balance account of the Portland Head Light Fund; and authorizes an interfund transfer of \$15,000 from the Portland Head Light Fund to the General Fund.

**Item #115-2022 Consideration of a Transfer of Budget Appropriation for Fort Williams
Park CIP Fund**

ORDERED, the Cape Elizabeth Town Council orders that project 0865-4026, Picnic Shelter Parking Lot Pedestrian be closed and the available funding of \$117,000, be transferred into project 0865-4040 Pond Engineering – MPU, \$23,000, and to project 8065-4041 Pond Work – MPU, \$94,000.

Item #116-2022 Consideration to Ratify Award of Grant – Maine INFONET

ORDERED, the Cape Elizabeth Town Council accepts an award of a \$5,000 grant from Maine INFONET on behalf of the Minerva Consortium. The purpose of which is to develop a space to combat "an epidemic of loneliness." The grant period runs from July 13, 2022 to July 13, 2023.

**Item #117-2022 Consideration to Accept Award of Grant by the American Library
Association**

ORDERED, the Cape Elizabeth Town Council accepts an award of a \$10,000 grant from the American Library Association (ALA). The Estee Lauder Foundation is funding this grant for the ALA. The grant period runs from October 1 to December 15. 2022.

Item #118-2022 Interdepartmental Budget Transfers FY 2022

ORDERED, the Cape Elizabeth Town Council authorizes the transfer in of \$228,000 into the FY2022 expense budget for various departments funded by the transfer out of \$140,200 from various departments and the appropriation of \$88,000 of Youth Program revenue over the budget as presented.

Interdepartmental Budget Transfers

Dept.	Title	Transfer In	Transfer Out	Revenues
0600	Facilities Management	4,000		
0614	Fort Williams Park Bldgs.	28,000		
0615	Library Building	4,500		
0617	Spurwink School Bldg.	500		
0631	Cape Cottage Fire Sta.	3,000		
0612	Parks & Misc. Bldgs.	2,200		
0610	Town Hall		10,000	
0611	Public Works/Recycling		7,000	
0613	Spurwink Church		5,000	
0630	Town Center Fire Sta.		7,200	
0622	Richards Pool		13,000	
	Facilities	42,200	42,200	-

0170	Employee Benefits	59,000		
0510	Library	4,000		
0410	Human Resources		63,000	
	Miscellaneous	63,000	63,000	-
0635	Richards Pool Programs	25,000		
0637	Youth Programs	98,000		
0634	Fitness Center		10,000	
0636	Adult Programs		7,500	
0645	Fort Williams Park		17,500	
	Subtotal	123,000	35,000	-
Appropriate Revenue				
R0347	Youth Program Revenues			88,000
	Community Services	123,000	35,000	88,000
	Grand Totals	228,200	140,200	88,000

Item #119-2022 Carry Forward Balances FY 2022 to FY 2023

ORDERED, the Cape Elizabeth Town Council authorizes the carry forward of \$422,845 of unexpended appropriations in General Fund; and \$3,515 of unexpended appropriation for the Riverside Cemetery PC fund from FY 2022 budget to FY 2023. The particular accounts and amounts are noted in the July 28, 2022 memo provided by Finance Director John Quartararo in which the detail to support this request will be made a part of the minutes.

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Dept	Acct	Title		Dept Available	Acct Available	Carried Forward
0110	2016	Administration	Record Preservation	57,005	11,962	12,000
0110	2009	Administration	Conferences & Meetings		3,302	3,000
0110	2015	Administration	Internet Online Charges		15,250	15,000
0110	2088	Administration	Computer Maintenance		16,275	16,000
			Subtotal	57,005	46,789	46,000
0120	2011	ACP	GIS Improvements	19,486	2,455	2,455
0140	1002	Elections	Part Time P/R	44,256	42,174	10,000
0140	2021	Elections	Minor Equipment		5,144	5,000
0210	1001	Police Dept.		311,106	124,348	50,000
0210	1003	Police Dept.	Overtime P/R		64,294	60,000
0210	2008	Police Dept.	Training		90,653	50,000
0210	3005	Police Dept.	Minor Equipment		20,383	20,000
			Subtotal	311,106	299,678	180,000
0230	2033	Fire Dept.	Radio/Pager Maint	76,635	26,265	35,000
0230	3005	Fire Dept.	Minor Equipment		5,144	5,000
			Subtotal	76,635	31,408	40,000
0310	2037	Public Works	Storm Drain Maint	127,555	13,135	13,135
0310	3032	Public Works	Salt & Chlorides		36,794	15,000
			Subtotal	127,555	49,929	28,135
0330	2019	Parks/Grounds	Tree/Planting Maint-FWP	108,647	12,546	12,546
0330	2035	Parks/Grounds	Bldg Repair-FWP		51,780	51,780
0330	2036	Parks/Grounds	Stonewall Repairs-FWP		38,873	20,000
0330	2037	Parks/Grounds	Community Playground		1,669	1,669
			Subtotal	108,647	104,868	86,995
0611	4066	Public Works/Recycling	Garage Door-OSHA	18,261	3,200	3,200
0611	4067	Public Works/Recycling	Flagpole Replacement		4,500	4,500
0611	4068	Public Works/Recycling	Fuel Pump Safety Bollards		2,800	2,800
			Subtotal	18,261	10,500	10,500
0612	4059	Parks Buildings	Hvy Equip-Wood Siding	5,192	3,200	3,200
0612	4060	Parks Buildings	Hvy Equip-Steel Support		2,500	2,500
0612	4061	Parks Buildings	Hvy Equip-Fuel Containment		1,000	1,000
0612	4062	Parks Buildings	Hvy Equip-Garage Door Repair		3,800	3,800
			Subtotal	5,192	10,500	10,500
0630	4075	Police Station	Security Server Backup	8,665	4,260	4,260
		Total General Fund 01		776,809	607,705	422,845
0860	2012	Riverside Cemetery PC	Contracted Services	8,346	500	500
0860	2032	Riverside Cemetery PC	Marker Repairs		1,400	1,400
0860	2036	Riverside Cemetery PC	Stonewall Repairs		1,615	1,615

		Total Riverside Cemetery Fund 50	8,346	3,515	3,515
		Grand Total	785,155	611,220	426,360

Item #120-2022 Maine Municipal Association Annual Ballot

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to vote on behalf of the Town Council the Slate of Nominees for the election of MMA Vice President and Executive Committee Members for 2023 as presented by the Maine Municipal Association's Nominating Committee:

Vice President - 1-Year Term

Diane Hines, Town Manager, Town of Ludlow & Reed Plantation

Executive Committee Members - 3-Year Term

Ivan McPike, Mayor, Town of Hampden Phillip Crowell, City Manager, City of Auburn Anthony Ward, Town Manager, Town of Casco

(7 yes) (0 no)

Item #121-2022 Consideration to Ratify Award of School Construction BAN

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council ratifies the award of the 2022 bond anticipation note for the school construction project to the low bidder Piper Sandler with a coupon rate 4.00%, premium \$11,039, net interest cost \$2.838% and net proceeds of \$261,039.00.

(6 yes) (1 no Councilor Gillis)

Item #122-2022 Consideration to Ratify Updated Collective Bargaining Agreements for Police and Public Works Employees

Introduction – Mr. Sturgis

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the updated collective bargaining agreements with the Teamster Local Union No. 340 Public Works Department and The Cape Elizabeth Police Benevolent Association as recommended by the Town Manager. The updated contracts will replace the two prior contracts, originally expiring 6/30/2024, spanning July 1, 2022 to June 30, 2025.

(7 yes) (0 no)

See attachments.

Item #123-2022 Refer to the Ordinance Committee – Review of Ordinance Updates Required by Stormwater Permit

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

ORDERED, the Cape Elizabeth Town Council refers to the Ordinance Committee for review and report back to the Town Council Chapter 25 Storm Water relating to ordinance changes required by the General Permit for Stormwater Discharges from the Municipal Separate Storm Sewer Systems.

(7 yes) (0 no)

Item #124-2022 School Building Projects and Bonding – Set to Public Hearing

Public Comment

Scott Clark, 6 Brentwood Road analysis is lacking of what funding a proposed magnitude of the school project will be to the town's population. There will be a profound effect to the town the first 10 years of the bond repayment – how will this effect town services?

Elizabeth Biermann, 10 Trundy Road new school buildings are needed. The town has spent a substantial amount on studying the projects; money well-spent will be to move this forward to the voters.

Moved by Nicole Boucher and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council approves the following with the correction in the first Whereas to replace elementary/middle school with elementary and middle school to denote these are considered two buildings.

(7 yes) (0 no)

TOWN OF CAPE ELIZABETH
Order Setting Public Hearing on Referendum Question Regarding School Construction
Projects and Bonding Therefor

WHEREAS, on August 22, 2022, the Cape Elizabeth Town Council will consider one or more votes (i) authorizing expenditures of up to \$121,659,305 to design, construct and equip a new ~~elementary /middle school~~ elementary and middle school and (ii) authorizing expenditures of up to \$4,933,809 to renovate the Cape Elizabeth High School (collectively, the "Projects"), and to further authorize issuance of the Town's general obligation bonds therefor (the "Votes"); and

WHEREAS, pursuant to Article VIII, Section 2 of the Town Charter, any Town Council vote for a single capital expenditure of Town funds or a single capital improvement, the total cost of which exceeds one million dollars (\$1,000,000), must be submitted to a referendum vote at a time designated by the Town Council; and

WHEREAS, pursuant to Title 20-A, §§15904 & 15905-A and Title 30-A, §2528 of the Maine Revised Statutes, as amended, the Town Council, as the municipal officers of the Town of Cape Elizabeth, are required to hold a public hearing on the proposed referendum questions at least 10 days before the referendum date; and

WHEREAS, the Town Council now desires to set a public hearing on the Votes and the proposed referendum questions;

NOW THEREFORE, be it hereby Ordered and Resolved by the Town Council of the Town of Cape Elizabeth as follows:

1. That the Town Council will hold a public hearing on the Projects and the proposed referendum questions on Monday, August 22, 2022, at 7:00 p.m. at Town Hall, 320 Ocean House Road, Cape Elizabeth, Maine.
2. That the Town Clerk shall cause notice to be given to the public at least 7 days prior to such public hearing by having a copy of the proposed referendum questions, together with the time and place of the public hearing, posted in the same manner required for the posting of a warrant under Title 30-A, §2523 of the Maine Revised Statutes.

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3. That the Projects may be submitted to the voters as one or more referendum questions.
4. That the estimated costs of the Projects shall be revised to reflect the action taken by the Cape Elizabeth School Board subsequent to the date hereof.
5. That the Town Manager, Clerk and other appropriate Town official or employee be and hereby are authorized to take any and all additional actions as may be reasonably necessary to schedule and give notice of said public hearing.
6. That this Order shall take effect immediately upon adoption.

Item #125-2022 Recommendation from the Planning Board – Food Truck Amendments

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

ORDERED, the Cape Elizabeth Town Council refers food truck amendments as recommended by the Planning Board to public hearing on Monday, September 12, 2022 at 7:00 p.m. at Town Hall.

(7 yes) (0 no)

See attachment.

Item #126-2022 Recommendation of the Appointments Committee – Ad-Hoc Housing Diversity Study Committee

Moved by Nicole and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Appointments Committee to appoint the following citizens to serve on the Ad-Hoc Housing Diversity Study Committee:

Stephanie Anderson, 24 Merrimac Place

Curtis Kelly, 374 Mitchell Road

Kevin Justh, 9 Spruce Lane

Amit Oza, 14 Campion Road

Katie Reeves, 997 Shore Road

Timothy Thompson, 6 Pine Ridge Road

Victoria Volent, 58 Cottage Farms Road

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

ORDERED, the Cape Elizabeth Town Council amends the motion to remove Curtis Kelly from the list of candidates.

(4 yes) (3 no Councilors Gabrielson, Gillis and Reiniger)

Original Motion as Amended: (7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council directs the Appointments Committee to reconvene to consider a recommendation back to the Town Council for the 7th member of the Ad-Hoc Housing Diversity Study Committee.

(7 yes) (0 no)

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Item #127-2022 Recommendation of the Ordinance Committee – Consultant for the Ad-Hoc Housing Diversity Study Committee

Intro – Councilor Penelope Jordan, Chair Ordinance Committee

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

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Ordinance Committee to accept the proposal from K&J Strategic Solutions to provide consultant support to the Ad-Hoc Housing Diversity Study Committee with Cost Proposal 2 in the amount of \$42,560.00.
(7 yes) (0 no)

Item #128-2022 CCAG Request for Temporary Ice Rink at Gull Crest – Winters 2022/2023 and 2023/2024

Present – Jay Brandeis, Michael Tadema-Wielandt, Chris Hooper

Public Comment

John Voltz, 33 Philip Road supportive of the temp project to see what it will be like. There should be a review of integrating the project onto the school campus so it is close for the school teams and the facility is part of the town center – working towards a vibrant town center. The MOU needs to be revisited to address the needs – the suitable purpose and liability protections for the town.

Al Romano, 4 Fernwood Lane not opposed to the temp project to find out the interest of citizens. This and other projects should not be the financial responsibility of the town – should be self-funding as this is discretionary.

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

ORDERED, the Cape Elizabeth Town Council grants CCAG approval to apply for Planning Board review for the temporary ice rink based on plans submitted dated 7/29/2022 based on the current MOU approved 3/14/2022 with a successor MOU to be drafted for the temp ice rink for the 2023/2024 winter season.
(7 yes) (0 no)

Item #129-2022 Consideration of Donation to Safe in Maine Fund

Present – Belinda Ray, GPCOG Director of Strategic Partnerships

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

ORDERED, the Cape Elizabeth Town Council appropriates \$50,000 to the Safe in Maine Fund from excess Fiscal Year 2022 revenues in account R0898 - State Revenue Sharing.
(5 yes) (2 no Councilors Gillis and Reiniger)

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Item #130-2022 Consideration of Extending the Limited Emergency for Remote Meetings

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

ORDERED, the Cape Elizabeth Town Council extends the limited emergency to allow for remote meetings until December 31, 2022.

(7 yes) (0 no)

See attachment.

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

Adjournment

Moved by Timothy S. Reiniger and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council adjourns at 9:07 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

**Order Declaring a Limited Emergency
Adopted by the Cape Elizabeth Town Council
August 30, 2021**

Revised October 13, 2021 to Extend Until December 31, 2021

Revised December 13, 2021 to Extend Until March 31, 2022

Revised March 14, 2022 to Extend Until June 1, 2022

Revised May 9, 2022 to Extend Until August 31, 2022

Revised August 8, 2022 to Extent Until December 31, 2022

WHEREAS, in the Spring of 2021 the COVID-19 Pandemic had seemed to be coming to an end with the advent of vaccines and good vaccination rates, but instead infection rates, and new variants, hospitalizations, and deaths from the COVID-19 virus have been increasing in recent months; and

WHEREAS, in the two (2) weeks between July 14 and July 28, 2021, the rate of COVID-19 infections confirmed by testing have more than doubled in the United States, and those trends continue; and

WHEREAS, on July 1, 2021, in the State of Maine, the average daily case total was 22.1;

WHEREAS, since that time the rate of COVID-19 infections confirmed by testing in the State of Maine has increased at a significant rate to an average number of 67.1 daily cases as of July 27, 2021, for an increase of 203.6 percent, and those trends continue; and

WHEREAS, a majority of the new infections in the United States and the State of Maine involve the Delta variant, a highly contagious SARS-CoV-2 virus strain; and

WHEREAS, the Delta variant has increased transmission, the severity of COVID-19 infections based on hospitalization and case fatality rates, and decreased susceptibility to therapeutic agents; and

WHEREAS, the Delta variant represents 47.6 percent of all sequenced samples collected in July in the State of Maine; and

WHEREAS, as a result of the Delta variant and the increase in COVID-19 infections, the United States Centers for Disease Control and Prevention announced on July 27, 2021, that fully vaccinated individuals should wear masks in indoor public settings in parts of the country that are experiencing a substantial or high transmission of COVID-19; and

WHEREAS, the Maine Center for Disease Control and Prevention similarly announced on July 28, 2021, that masks are recommended to be worn by fully vaccinated individuals in public indoor settings in almost all Maine counties, including Cumberland County; and

WHEREAS, the risk of COVID-19 virus transmission from vaccinated individuals to unvaccinated individuals (for example children under 12) remains unknown; and

WHEREAS, as a result of the above-described situation, the Town Manager has determined that masks must be worn by staff and visitors to all Town buildings; and

WHEREAS, Town buildings have adequate ventilation under normal circumstances, but does not provide sufficient space to socially distance the number of members that may potentially attend meetings, and every effort has been made to secure an appropriate venue; and

WHEREAS, the technology infrastructure and processes currently exist to continue to continue to allow remote participation in and public access to Town Council, Board, and Committee meetings in accordance with Maine law; and

WHEREAS, the Town of Cape Elizabeth is committed to continuing to provide opportunities for public engagement which are accessible and safe; and

WHEREAS, all Town of Cape Elizabeth boards and committees have or will be adopting the Remote Participation Policy as authorized in 1 M.R.S. section 403-B;

NOW, THEREFORE, BE IT ORDERED AND DECLARED by the Cape Elizabeth Town Council that a limited emergency continues to exist within the Town of Cape Elizabeth; and

BE IT FURTHER ORDERED, that as a result of the declared limited emergency and the existence of an “emergency or urgent issue” as described above, pursuant to 1 M.R.S. section 403-B and the Town of Cape Elizabeth’s recently adopted Remote Participation Policy, being physically present for meetings in Cape Elizabeth Town buildings is not practicable at this time, and therefore allows that all Town of Cape Elizabeth boards, committees, and other groups may conduct meetings by remote technology/methods only until the limited emergency is terminated; and

BE IT FURTHER ORDERED, that as a result of this declared limited emergency, the existence of an “emergency or urgent issue,” the fact that Town buildings may be unable to provide adequate social distancing for full public physical access to meetings, and in order to be consistent with board and committee meetings, the Town Council hereby strongly recommends that all other Town boards and committees also continue to meet by remote technology/methods only in accordance with the requirements of the Town’s adopted policy; and

BE IT FURTHER ORDERED that this Order is enacted as an Emergency so that it may take effect immediately, with an expiration of October 15, 2021.

Revised August 8, 2022 to extend until December 31, 2022.