



Cape Elizabeth Town Council

Minutes Monday, August 12, 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

Chair Timothy S. Reiniger convened the meeting at 7:02 p.m.

Roll Call by the Town Clerk

All members of the Town Council were present.

Debra M. Lane, Assistant Town Clerk
Michael K. McGovern, Interim Town Manager

The Pledge of Allegiance to the Flag

Presentation – Cape Elizabeth Police Department Accreditation

Mike Tracy, Executive Director of the Maine Chiefs of Police Association recognized the Cape Elizabeth Police Department for recently receiving accreditation from the Maine Law Enforcement Accreditation Program (MLEAP). Chief Paul Fenton and Sgt. Rory Benjamin represented the Department.

Town Council Reports and Correspondence

Town Manager Search Update

8/21/2024 6-7:30 p.m. Meet & Greet the Town Manager finalists at the Thomas Memorial Library
8/22/2024 Finalists interviews with Department Heads
8/22/2024 6:00 p.m. Finalists interviews with the Town Council (executive session)

Town Clerk Angela Frawley announced the availability of absentee ballot requests and how to apply. The target date for in-person absentee balloting is October 7 (subject to change). Due to the anticipated high voter turnout, voters are encouraged to request an absentee ballot now. Ballots must be returned by 8pm on Election Day. Return methods are mail, drop box or drop off to an election staff member during office hours at town hall.

Councilor Anderson reviewed the work of the Ordinance Committee relating to tax relief programs. It is anticipated the Ordinance Committee will report to the council in September. The DEI Committee is requesting the council assign a liaison. Staff is working to include more information on the town's website relating to the Pesticide Ordinance.

Mr. McGovern reported that the gas study on Gull Crest was just received today however we are still waiting for the soils report.

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Finance Committee Report

Finance Chair Timothy Thompson reviewed the dashboard. Questions were asked why the various between July 2023 and July 2024 for public works overtime and vehicle maintenance.

Citizens Opportunity for Discussion of Items Not on the Agenda

Jessica Linzer Simpson, 3 Manter Street

Town Manager's Report

Michael K. McGovern, Interim Town Manager

Revaluation

Around September 1st, the Town will be sending tax bills for the current fiscal year. This is essentially the last step in a process that began in late 2019 when the Town Council authorized a revaluation process to begin. In early 2020, letters went out to all property owners informing them of upcoming visits by our assessing consultants and what to expect in the months ahead. Like everything in 2020, as the month of March evolved, everything changed. The visits were delayed for over two years. Property values increased as they never had in the community. And frankly, most everyone got more nervous about the revaluation

In 2023, the assessor released a report showing the new property values and everyone received letters. It soon became clear that more work was needed and all values were subsequently administratively reviewed by the assessor.

Earlier this year an updated list of valuations was published and the assessor began informal reviews with all property tax payers who requested an appointment. Approximately 500 informal meetings occurred with the assessor over the past six months. After tax bills are delivered, citizens will still have until February 2025 to appeal, if they choose to do so.

The new values are a bit shocking to many in the community but looking at property sales in recent months, the values closely adhere to actual sales. The most recent sales ratio study looking at sales in the last 12 months through June 2024 shows that the average valuation is approximately 91% of the average sale in the market. We are also closely adhering to the state estimate of overall municipal valuations in Cape Elizabeth.

In a couple of months after everything has settled down, I suggest the Town Council receive a fuller update on the new values reflecting upon their overall impacts on our citizenry.

I would also like to thank all those who have been involved in the process. Beginning with Clint Swett, our indefatigable assessor, who has met head on all the challenges over the last five years, who patiently has met with hundreds of individuals who wished to meet with him and has ended up with a work product that meets every test of fairness and accuracy. I also wish to acknowledge the office staff in the Assessing office who have assisted with countless questions, appointment setting and other responsibilities. I also wish to acknowledge the assistance of Matt Sturgis in helping to kick off the process and in working with Clint to ensure that the end result has the quality that it does. Finally, thank you to all the tax payers who have been cooperative and patient over the last five years.

So What About Last Year's Taxes?

This past year taxes were due in October of 2023 and April of 2024. The tax commitment was over \$40.5 million. There are now 4470 real estate property tax accounts. Only 32 accounts are not fully paid. 99.3% of the tax bill accounts are paid in full. The actual dollar amount paid is about 99.5% of the tax commitment. Of the amounts owed we have spoken to many of the citizens involved. Some properties are currently on the market and payments will be made at a closing, some are accounts that are typically late, and as in most years, we know some citizens have situations in their lives that make the taxes very difficult to prioritize among other vital obligations.

Thank you to all citizens for their timely payments and for letting us know of their hopes to pay soon. Thank you also to Finance Director Kristie Bradbury and the tax office staff for their friendly interactions with everyone who comes in or calls.

Beach to Beacon

We had another successful road race this year. As we seek to do every year, key municipal staff will be meeting with race leadership to evaluate any ticks that can enhance the experience and safety of everyone next year. We appreciate all the citizen volunteers, the municipal and school staff who work on the race, the assistance of other communities in the region and the B to B organization itself.

Odds and Ends

- The library is now back to full staff
- Fort Williams Park parking revenues have lagged a bit this year. We will continue to closely monitor. The Town Council will be receiving a report on proposed fee adjustments for the park next month.
- One challenge for the new manager will be to look at the sewer special fund noting that expenditures are outpacing revenues.
- The summer recreation program was successful with about 200 participants each week. It ended on Friday except for some special trips including white water rafting.
- I had breakfast on Wednesday and Thursday with the two finalists for Town Manager. While the sessions were off the record and not part of the formal process, I will say I was impressed with both of them.
- The basketball court need has narrowed to the site adjacent to the library. I think a report on this will be added to your August 19th special meeting.
- The time of the special forum on the Town Center Intersection has been changed to 7 p.m., on August 21st in the Town Hall. The meet and greet is on the same night but starts at 6 p.m. at the Thomas Memorial Library.
- I took advantage of the free service at the library each month on the 4th Wednesday from 11:30 a.m. to 12:30 a.m. to have one's blood pressure and blood glucose taken. The folks there from the CEFD providing the service were friendly and I encourage others to use the service.

Review of Draft Minutes

July 8, 2024 Regular Meeting
July 16, 2024 Workshop Notes
July 24, 2024 Workshop Notes
July 25, 2024 Workshop Notes
July 29, 2024 Special Meeting

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Moved by Jeremy A. Gabrielson and Seconded by Stephanie P. Anderson

ORDERED, the Cape Elizabeth Town Council approves the following meeting minutes and workshop notes, as written:

July 8, 2024 Regular Meeting
July 16, 2024 Workshop Notes
July 24, 2024 Workshop Notes
July 25, 2024 Workshop Notes
July 29, 2024 Special Meeting

(7 yes) (0 no)

Item #128A-2024 and Item #128B-2024

Proposed School Construction Project and Submitting to Referendum \$94.7M

Introduction – James Saffian, Bond Counsel

Item #128A-2024 – Project Order

Moved by Susan A. Gillis and Seconded by Stephanie P. Anderson

Vote Authorizing Expenditures of up to \$94,700,000 (Plus Bond Premium and Investment Earnings) for a Critically Needed New Middle School and for Other Critically Needed Building Repairs and Renovations and Safety Upgrades to Pond Cove Elementary School and Cape Elizabeth High School, and the 1934 Building on the Cape Elizabeth Middle School Campus, and Authorizing Issuance of the Town's General Obligation Bonds Therefor, Subject to the Specified Condition.

Public Comment

Terry Garmey, 1 Garden Lane, represents citizens with Gerald Petruccelli
Maris Pauk, 12 Littlejohn Road
Rob Krauser, 30 Rocky Hill Road
Sara Merrill, 51 Cottage Farms Road
Eliza Matheson, 270 Fowler Road
David Hughes, 8 Hannaford Cove Road
Marianne Schuman, 11 Eastfield Road
Tyler Morin, 13 Algonquin Road
Aglae Shaw, 8 Woodcrest Road
Cynthia Dill, 1227 Shore Road
Meighan Rock, 6 Wabun Road
Chris Gorski, 28 Farm Hill Road
Matt Yantakosol, 67 Columbus Road

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

ORDERED, to amend the motion to remove the \$4.8M municipal project for a project order in the amount of \$89.9M.

(3 yes) (4 no Councilors Anderson, Gillis, Thompson and Reiniger)

Original Motion: (7 yes) (0 no)

See attachment.

Item #128B-2024 – Referendum Order

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

Order Submitting School Construction Project to Referendum Vote and with the Town Council recommending that the referendum question be approved.

(3 yes) (4 no Councilors Anderson, Gillis, Thompson and Reiniger)

The question was called with Councilors Anderson, Gabrielson, Harriman and Jordan in favor.

Moved by Stephanie P. Anderson and Seconded by Susan A. Gillis

ORDERED, to amend the motion with the Town Council recommending that the referendum question not be approved and that recommendation includes the vote count.

(4 yes) (3 no Councilors Gabrielson, Harriman and Jordan)

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

Item #129A-2024 and Item #129B-2024

Proposed School Renovation Project and Submitting to Referendum \$42M

Item #129A-2024 – Project Order

Moved by Susan A. Gillis and Seconded by Timothy L. Thompson

Vote Authorizing Expenditures of up to \$42,000,000 (Plus Bond Premium and Investment Earnings) for Critically Needed Building Repairs and Renovations and Safety Upgrades to Pond Cove Elementary School, Cape Elizabeth Middle School, and Cape Elizabeth High School and Authorizing Issuance of the Town's General Obligation Bonds Therefor, Subject to the Specified Condition.

Public Comment

Ella Misener, 90 Wells Road
Tom Dunham, 11 Becky's Cove Lane
Jillian Blakeslee, 10 Prout Place
Alden Hughes, 8 Hannaford Cove Road
Skip Misener, 90 Wells Road
Jessica Linzer Simpson, 3 Manter Street
Jamie Garvin, 76 Oakhurst Road
Sara Merrill, 51 Cottage Farms Road
John Voltz, 33 Philip Road
Tim Dew, 56 Stonegate Road
Eliza Matheson, 270 Fowler Road
Larry Benoit, 26 Cross Hill Road, SBAC member
Jessica Sullivan, 441 Mitchell Road
Cherie Gustafson, 25 Jewett Road
Michael Young, 4 Ironclad Road
Chris Gorski, 28 Farm Hill Road

(3 yes) (4 no Councilors Anderson, Gabrielson, Harriman and Jordan)

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Moved by Timothy L. Thompson and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council suspends the Town Council Rules to take up new items after 10:00 p.m.

(7 yes) (0 no)

Item #130A-2024 and Item #130B-2024

Proposed Solar Panel Project to Enhance the New Cape Elizabeth Middle School and Submitting to Referendum \$1.65M

Item #130A-2024 – Project Order

Moved by Timothy L. Thompson and Seconded by Caitlin J. Harriman

Vote Authorizing Expenditures of up to \$1,650,000 in the form of Gifts and Grants to pay for Solar Panels to Enhance the New Cape Elizabeth Middle School.

Public Comment

David Hughes, 8 Hannaford Cove Road

Richard Parker, 17 Southwell Road, Energy Committee member

(7 yes) (0 no)

See attachment.

Item #130B-2024 – Referendum Order

Moved by Caitlin J. Harriman and Seconded by Timothy L. Thompson

Order Submitting Solar Panels Project to Referendum Vote and with the Town Council recommending that the referendum question be approved.

(7 yes) (0 no)

Note: The minutes for Item #131-2024 were edited by the Town Council on 10/16/2024.

Item #131-2024 Consideration of a Memorandum of Understanding with the Cape Community Arena Group for the Hockey Rink at Gull Crest

Moved by Timothy L. Thompson and Seconded by Caitlin J. Harriman

ORDERED, the Cape Elizabeth Town Council authorizes the Interim Town Manager to sign a proposed Memorandum of Agreement with the Cape Community Arena Group to supersede the prior MOU entered into on September 28, 2022. Both parties agree to the following:

- The Town Council appropriates \$35,000 for electricity for the hockey rink for the 2024-2025 season with funds carried forward from FY 24 balances.
- The Town will continue to provide water to the site at no cost to the arena group.
- The Town Manager is authorized to seek site plan approval for the steps needed this year to operate the facility including showing current out buildings that are not on the approved site plan.
- The Town Council authorizes the Town to apply to the Maine DEP for any permits and assume the cost of the permitting process.
- The Town Council appropriates \$15,000 for all site plan review and DEP permit costs with the funds being provided as a carry forward balance from FY 2024.
- The Town Council agrees the changing rooms will not be utilized until site plan approval is granted.
- The Town Council requests that the netting be placed to a height of 20 feet around the rink.
- The Town Council notes that in the longer term the CCAG wishes to cover the structure and provide additional seating. The successor MOU addresses fundraising for these improvements.
- The successor MOU provides that the Town will continue to be responsible for the next two years for snow removal for the parking and for furnishing porta potties.
- The successor MOU provides that the Town and CCAG work cooperatively on planning for major renovations including a roof, more seating and better storage for the Zamboni.

Public Comment

Richard Parker, 17 Southwell Road, Energy Committee member

(7 yes) (0 no)

See attachment.

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Item #132-2024 Consider Referring to the Planning Board Requested Zoning Ordinance Amendments to the Town Center

Public Comments

Bob Gaudreau, HardyPond Development Company

John Mitchell, Mitchell and Associates representing HardyPond

Gail Schmidt, 9 Great Pond Drive

Jamie Garvin, 76 Oakhurst Road

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

ORDERED, the Cape Elizabeth Town Council pursuant to Sec. 19-10-3. AMENDMENTS refers to the Planning Board proposed zoning amendments to the Town Center District requested by HardyPond Development Company and refers to the Ordinance Committee following the recommendation from the Planning Board.

(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council, due to the late hour, moves Item #133-2024 – Item #137-2024 to the special meeting on August 19, 2024.

(7 yes) (0 no)

Item #133-2024 Consider a Recommendation from the Conservation Committee Relating to the Disposition of Town Owned Real Estate – May U20 Lot 40 Stephenson Street

Item #134-2024 Approval of Funding for a Traffic Engineering Study Relating to Parking of the Streets Adjacent to Shore Road near Cliff House Beach

Item #135-2024 Recommendation Relating to a Traffic Calming Pilot Program

Item #136-2024 Consider Authorizing the Police Department to Apply for an MMA Risk Reduction Grant

Item #137-20204 MMA Annual Ballot

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

Adjournment

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

ORDERED, the Cape Elizabeth Town Council adjourns at 11:40 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Assistant Town Clerk

**Memorandum of Understanding
Between Town of Cape Elizabeth
And
Cape Community Arena Group**

This Memorandum of Understanding (“MOU”) is entered into on August __, 2024 (“Effective Date”) to memorialize an agreement between the Town of Cape Elizabeth (the “Town”) and Cape Community Arena Group (“CCAG”), collectively known as the “Parties.” This MOU supersedes the prior MOU entered into on September 28, 2022.

I. Goal of the MOU

The goal of this MOU is to provide Cape Elizabeth residents with a more reliable year-round recreation, entertainment, and education facility that does not require capital investment from the Town. The facility has been named the Cape Community Arena (“CCA”). Through CCA’s covered, open-air design, the project is meant to further build community, blend in with the beauty of Gull Crest, and integrate seamlessly with the existing playing fields and Public Works complex. CCAG support the Town’s comprehensive plan commitments to plan for population growth, ensure Cape Elizabeth will continue to be a desirable place to live, and enhance our outdoor recreational areas. The Parties believe that the CCA aligns well with these commitments.

II. Term of the MOU

The term of the MOU (“MOU Period”) will commence on the Effective Date and continue until either this MOU is replaced by a construction and operation agreement or until two years after the Effective Date, whichever is later. Amendments to this MOU may be made via mutual written agreement by both Parties.

III. Termination

Either party hereto may terminate this MOU without cause at any time, upon at least one hundred and twenty (120) days written notice.

IV. Roles and Responsibilities

During the MOU Period, the Parties will work together to bring the current facility into compliance with all applicable state and local laws and regulations and to further the progress toward a completed project.

The Town grants CCAG site access to the Property during the MOU Period for the purpose of operating the CCA and for conducting on-site surveys necessary for design and permitting of the CCA project. “Property” is defined as that portion of Town-owned land on Gull Crest Drive that is occupied by the CCA and supporting facilities. The Town also agrees to provide CCAG with necessary interest in the Property for the purpose of submitting applications to regulatory agencies.

The Town and the CCAG shall develop a plan to address the storage limitations at the Town's maintenance building, which is currently housing the CCAG's Zamboni and other equipment.

The Town agrees to work with CCAG to apply to amend the site plan for the CCA to include accessory buildings that are not depicted on the approved site plan and to apply for any required permits from the Town and the Maine Department of Environmental Protection. The Town agrees to pay for all costs associated with the state and local permitting.

The Town also agrees to provide and pay for water and electricity to operate the CCA. The Town will continue to be responsible for snow removal at the existing gull crest parking lot and the furnishing of porta-potties.

CCAG shall be responsible for removing the insulation and providing access to the Town's water line system within the Town's maintenance building, upon the annual shutdown of the ice rink in the spring.

CCAG shall be responsible for the operation and maintenance of the CCA. As applicable, CCAG shall maintain adequate insurance coverages for any work conducted on the Property and to cover any gap in the Town's insurance policy.

V. Planning and Fundraising for Next Phase

The Parties agree that the goals for a completed CCA project includes the addition of an overhead cover structure for the rink and additional seating. Said overhead cover and additional seating shall be referred to as "Phase 2." CCAG shall be responsible for fundraising for the design and construction Phase 2.

Once the sufficient amount of funds have been raised, CCAG shall request permission from the Town Council to first retain a professional to design Phase 2. Upon approval of a completed design by the Town Council and receipt of sufficient funds and permits for construction, CCAG shall request permission from the Town Council to retain a professional to construct Phase 2.

CCAG shall be responsible for obtaining all necessary permits for Phase 2. The Town shall cooperate in all permitting processes, as owner of the Property.

VI. Oversight of the partnership and primary participants

Each party shall appoint a lead person to serve as an official contact during the MOU Period to provide oversight and coordination in carrying out this MOU.

VII. Liability

CCAG bears sole responsibility for any willful misconduct, negligent act, error, or omission of CCAG or anyone for whom CCAG is legally responsible that arises out of or is in connection

with CCAG’s use of the Property. The Town shall not be liable for said willful misconduct, negligent acts, errors, or omissions of CCAG or anyone for whom CCAG is legally responsible.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the day and date first above written.

TOWN OF CAPE ELIZABETH

WITNESS

Michael McGovern
Interim Town Manager

CAPE COMMUNITY ARENA GROUP

WITNESS

By:
Its:
