



## **Cape Elizabeth Town Council**

**DRAFT Minutes Monday, September 11, 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, SBAC Chair provided an update on the work of the School Building Advisory Committee. The upcoming committee meeting dates include 9/14, interviews for architects 9/19 & 9/21. Also a public forum, including survey results, will be held on 9/20.

### **Finance Committee Report**

Finance Chair Nicole Boucher noted the management dashboard on the new MUNIS software should be available for the October meeting. Revenues and expenditures are tracking as anticipated to date.

### **Citizen Opportunity for Discussion of Items Not on the Agenda**

David Lawser, 19 Orchard Road is trying to build a front porch similar to the neighbors. Who is making this difficult? An appointment is scheduled with the Code Enforcement Officer.

Kevin Justh, 9 Spruce Lane tools must be provided to deal with land use issues.

John Voltz, 33 Philip Road favors good process. Need data to make good decisions. Talking about pending litigation is inappropriate – let the process play out. The item on the agenda is premature.

Kevin Jordan, 91 Two Lights Road is concerned about the valuation – troubling results. The revaluation is being conducted in the midst of a hot market. Farmland, open space, conservation easements were not factored in. The quality of the data is suspect.

Leslie Connolly, 23 Hunts Point Road how can Charles E. Jordan Road, a public road, be posted?

**Update on the Revaluation**  
**Matthew E. Sturgis**

The Town is currently undergoing a town wide assessment update to values from the prior assessment performed in 2011. On Tuesday, September 5th the Town Assessor received the initial values provided to him by the firm contracted to perform the update.

On Wednesday, September 6th, the Assessor provided an update on the project to the council at your workshop. Over the subsequent days from that workshop, the Assessor and the Town Manager have both had the opportunity to review the initial values and evaluated the current progress of the project.

After review and analysis, the Assessor and Manager have come to the conclusion that the project is incomplete, with a number of properties still under review, specific classifications of properties having questions on current use programs such as tree growth, consideration of easements and other constraints to land value, and other outstanding items that frankly need more time or the project to be completed.

In an attempt to have the project completed and property tax bills to be issued on the new values, the pace of the project increased to meet that deadline, however there are outstanding issues that remain in place, and at this point the recommendation to the Town Council would be to pause the project's implementation, take the additional time needed to continue review of the property records and values, continue a thorough proofing of the data, and take the necessary time to make sure all of the details are attended to for a complete assessment update for the next fiscal year.

The plan at this time would be to take the next three months to continue the necessary property reviews, perform a complete evaluation of the proposed changes, proof the entire data set, and analyze the conclusions to value for the assessed values.

Once this review, analysis, and final proofing is complete, then new notifications will be sent out to all property owners after the first of the year. Once the mailings are sent, then the Assessor and his team will have two months to perform follow up reviews with property owners, make additional adjustments as needed due to discussions with property owners, and have the project completed at the beginning of the budget process late winter / early spring. This pause will also allow the Assessor the time to understand the entirety of the values, including the building costs, land values, sales employed, and other value indicators used by our consultants. Having this understanding will also enable the Assessor to be able to explain the values to property owners when they do have questions on their assessments.

Having the updated value as part of the next budget will allow the council and school board to have the new value as part of the budget and be able to forecast a projected tax rate coming out of the budget process.

The Assessor will take his efforts to committing taxes based on the current assessed values for the Town and continue his adjustments to all of the exemptions as he has in prior years. Taxes will be committed next week, new bills will be issued shortly thereafter based on the current values, and if the council approves the changes this evening to the due date for payment, taxes will be due on October 23 this fall and April 16, 2024.

Notifications on the pause in the implementing of the new assessed values will be mailed along with the property tax bills, along with the revised timeline.

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Additionally, notice of the pause in the update will be posted on the Town website and the Tax Clerks and Assessing Codes and Planning staff will also be prepared to share the update in the project.

If the council does desire to take action on this item, a motion affirming the decision to pause the implementation of the revaluation for Fiscal Year 24, with a projected implementation for Fiscal Year 2025 would be a recommended action.

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

ORDERED, the Cape Elizabeth Town Council suspends the **Town Council Rules** to take Item #120-2023 out of order.

(7 yes) (0 no)

**Item #120-2023      Consideration to Change the First Half FY 2024 Real Estate Tax Due Date**

**Public Comment**

Tom Dunham, 11 Beckys Cove Lane lack of citizen involvement is why we are here. Good fiscal management on the municipal side, lacking good fiscal management on the school side. Urge citizens to get involved.

Penny Pollard, 3 Peabbles Point Lane how can citizens know what goes into the revaluation and how values are calculated?

Kevin Justh, 9 Spruce Lane are we going to do 100% inspection? There are data gaps – more information is needed.

Laura Morris, 53 Bowery Beach Road the pandemic inflated home sales – do these sales need to be included in the revaluation?

John Voltz, 33 Philip Road frustrated with the revaluation process. Communicate and explain the process and values with the citizens. 100% inspection should be used.

Moved by Nicole Boucher and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council fixes the first half tax due date for FY 2024 from October 16, 2023 to October 23, 2023. Said tax due dates were originally established on May 15, 2023 Item #75-2023. It is further ordered to affirm the recommendation of the Town Manager and Town Assessor to pause the implementation of the tax revaluation to a projected implementation to Fiscal Year 2025.

(7 yes) (0 no)

**Review of Draft Minutes-**  
**August 14, 2023 Regular Meeting**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on August 14, 2023 as written.

(7 yes) (0 no)

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**Item #113-2023      Request from Councilor Reiniger Regarding the Zoning Ordinance Violation Against The Lumbery**

**Public Comment**

Mike Friedland, 287 Ocean House Road Owner of The Lumbery it is overkill to address small items through site plan review; there is a flaw in the system. Hope to resolve this without the lawsuit.

Scott Lehigh, 15 Beacon Lane, The Lumbery is a great asset. Is there an ax to grind on behalf of the town?

Francis Walsh, 51 Starboard Drive surprised to see Councilor Reiniger's two proposals. Thought there would be a resolution by now with The Lumbery. Concerned about the proposed workshop to retain and attract businesses – first we must know what that means which is economic development. Why do we want it – what do we want. CE will never be the business center of the region. Willing to work on the workshop.

Dr. Zev Myerowitz, 7 Scott Dyer Road this is solvable. Work with the applicant, reduce the anxiety and financial cost. Kick this along there are other more important matters to work on.

Kevin Barry, 62 Ocean View Road there is no clarity to what the violation is or what needs to be resolved.

Mary Ann Lynch, 2 Olde Colony Lane lawsuits should be approved the town council or at least the council should be made aware. The public doesn't understand what is going on. Seems like the council is hiding behind attorney-client privilege which can be waived.

John Voltz, 33 Philip Road it's important to follow the process. Good process is to not speak about pending litigation. Work it out – let the process play out. Endorse your own process.

Tim Dew, 56 Stonegate Road pausing the lawsuit sounds great. Vote to put off the lawsuit – he doesn't deserve it. Perception is bad. It's about doing the right thing and not the perception.

David Andrews, 15 Grover Road amazed this is taking so long. It's embarrassing – wrap it up and move on.

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

ORDERED, the Cape Elizabeth Town Council directs town staff to move forward and secure a voluntary dismissal of the Cape Elizabeth lawsuit against The Lumbery.

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

ORDERED, the Cape Elizabeth Town Council amends the motion to forward and secure a voluntary dismissal of the the Cape Elizabeth lawsuit against The Lumbery, to scheduling mediation at a workshop open to the public, to identify steps need to be taken and who are the parties responsible to complete each task to bring resolution and put a stay of violations during the process.

(5 yes) (2 no Gillis and Reiniger)

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Moved by Jeremy A. Gabrielson and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council refers to workshop to conduct a review of current policies regarding land use ordinances and situations of non-compliance.

(7 yes) (0 no)

**Item #114-2023      General Assistance Appendices – Set to Public Hearing**

Public Comment

John Voltz, 33 Philip Road what are things in the ordinance that aren't enforceable? Would like to see a presentation at the public hearing.

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Wednesday, October 11, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road the proposed General Assistance Maximums, Appendices A - H for October 1, 2023 - September 30, 2024 and the Recovery Residence Housing Maximums.

(7 yes) (0 no)

Laura Morris, 53 Bowery Beach Road suggests a moderator for Zoom content. It is okay to remove someone after the first nasty comment.

**Item #115-2023      Request from the Ad-Hoc Housing Diversity Study Committee to Extend the Deadline**

Kevin Justh, 9 Spruce Lane HDSC Chair reviewed the reasons for the request to extend the deadline.

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Ad-Hoc Housing Diversity Study Committee to extend the report deadline from September 30, 2023 to December 31, 2023. In addition, the charge of the committee is amended to reflect the change.

(7 yes) (0 no)

See attachment.

**Item #116-2023      Request from the Cape Arena Group Regarding Electricity Expenses**

Present – Scott Liston, CAG

Public Comment

Al Romano, 4 Fernwood Lane supports leveraging the town's lower electricity rate however doesn't support the town paying for the electricity. This is the first step in a slippery slope of the town assuming responsibility for the arena.

Mary Ann Lynch, 2 Olde Colony Lane this is a bad idea and bad business. This is the beginning of the town taking over the facilities operations. This is not a function of government. Options include the facility being operated by a 501 c 3. The request should have competed within the budget process.

Kevin Justh, 9 Spruce Lane the town has a broad history of supporting recreation and private partnership for recreational facilities.

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Scott Liston, 2 Keyes Lane CAG the board is trying to continue the arena as a town asset. Although the arena could be rented out, this will take away from opportunities for the town to use it. Electricity, insurance and the chiller are the greatest expenses.

Debbie Peck, 21 Cottage Farms Road this should go through the budget process to compete with other needs.

John Voltz, 33 Philip Road leverage the cost of the town's rate for electricity. Do not have hidden subsidies. See who is paying. Need to know the operations.

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

ORDERED, the Cape Elizabeth Town Council approves the Town assuming the cost of electricity, at the town's rate, for the ice arena for the upcoming 2023-2024 season.

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

ORDERED, the Cape Elizabeth Town Council tables the motion to the October 11, 2023 Town Council meeting pending additional information regarding the operation and expense of the ice arena.  
(7 yes) (0 no)

**Item #117-2023      Recommendation from the Ordinance Committee Regarding a Pesticide Ordinance**

Public Comment

Nancy Ross, 12 Elmwood Road attended the Ordinance Committee meetings and found a collaborative process. However was surprised and disappointed to find out the draft ordinance did away with the waiver process and replaced by a notification provision in an emergency to allow prohibited chemicals to be applied. Do not put to public hearing as we are not seeing what the true and useful ordinance should be.

Richard Bryant – 55 Spurwink Avenue drafter of the citizen petition pesticide ordinance. Thanked the Ordinance Committee for expanding and improving the ordinance. However there is the one significant change to replace the waiver process with a notification provision. This guts the effectiveness of the ordinance. Encourages the committee to put the waiver provision back into the ordinance.

Debbie Peck, 21 Cottage Farms Road disappointed to find the key piece was taken out of the draft – encourages the waiver provisions to be added back in.

Heather Spalding, Deputy Director of Maine Organic Farms & Gardners (MOFGA) disappointed the waiver process was replaced with notification.

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

ORDERED, the Cape Elizabeth Town Council suspends the **Town Council Rules** to take a new item up after 10:00 p.m.  
(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council refers to workshop revisions to the referendum ordinance as an alternate drafted by the Ordinance Committee dated August 15, 2023 to discuss the proposed Notification process as outlined in section H. NOTIFICATION.

(7 yes) (0 no)

**Item #118-2023      Recommendation from the Ordinance Committee Regarding Home Business Amendments**

Introduction – Ordinance Chair Penelope Jordan

Public Comment

Kevin Justh, 9 Spruce Lane not sure the broader flexibility has been accomplished. The way people use their land has changed over time. Would like to see a continuation of land use review going forward.

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

ORDERED, the Cape Elizabeth Town Council refers to the Planning Board recommended amendments to Chapter 19 Zoning Ordinance Home Business Amendments as recommended by the Ordinance Committee draft dated August 15, 2023.

(7 yes) (0 no)

**Item #119-2023      Request from Councilor Reiniger to Refer to a Town Council Workshop Relating to Attracting and Retaining Non-Residential Small Businesses**

Public Comment

Kevin Justh, 9 Spruce Lane this can be done but there are trade-offs to consider. Figure out what you want and then figure out how to do it. It's okay to change.

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

ORDERED, the Cape Elizabeth Town Council refers to a Town Council workshop a review of town policies, organizational structures, and ordinances relating to attracting and retaining non-residential small businesses with goal of identifying specific steps that can be taken by the Town Council and town boards and staff.

(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 10:32 p.m.  
(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk



# Ad-Hoc Housing Diversity Study Committee

Approved by the Cape Elizabeth Town Council May 9, 2022

Amended September 11, 2023

## **Committee Purpose**

In connection with Recommendation #83 of the 2019 Comprehensive Plan, the Cape Elizabeth Town Council wishes to form the Housing Diversity Study Committee, a temporary advisory ad-hoc committee, to further research housing needs and issues as perceived by the residents of Cape Elizabeth.

## **Committee Structure**

The Housing Diversity Study Committee shall consist of seven (7) citizen members, appointed by the Town Council following a recommendation from the Appointments Committee.

The committee shall appoint its own Chair and Vice Chair, if determined necessary.

Any vacancy on the committee after the initial appointees have first met shall be filled by utilizing the Appointments Committee process.

## **Committee Charge**

The Housing Diversity Study Committee is specifically charged with the following activities:

- Familiarizing themselves with the 2019 Comprehensive Plan and the 2020 US Census results to understand current population and housing trends in the region, the change in demographics over the last decade in Cape Elizabeth, and potential barriers to housing opportunities for a variety of demographics, including but not limited to: seniors, workforce, young adults, families, and renters.
- Conduct a thorough review, facilitate discussion and information sharing, and gather public feedback on the results of the recently commissioned Housing Diversity Study.
- Explore the pros and cons and general public appetite for a variety of housing solutions that may be employed to meet the projected needs of the community. Some areas to consider include, but are not limited to:
  - Accessory Dwelling Units (ADUs)
  - Non-conforming lots and minimum lot sizes

- Duplexes and multiplex housing, including the conversion of large single-family homes
  - Taxpayer subsidies or incentive programs for constructing or providing affordable housing
  - The donation of municipal land for affordable housing projects, including potential locations
- The Committee will provide status reports and executive summaries of their work to the Town Council by the following dates:
  - October 31, 2022, or after their third meeting, whichever is later
  - March 31, 2023
  - June 30, 2023
- The Committee will complete its work with a final report to the Town Council by December 31, 2023. (Amended 9/11/2023)

Recommendations provided to the Town Council are expected to be financially and practically viable with demonstrated success and/or application in other communities. As such, experts in the field of housing, housing development, construction, planning, and others, are expected and encouraged to be consulted.

## **Committee Duration**

The Committee shall remain in duration for twelve (12) months except if the deadline is extended by the Town Council. (Amended 9/11/2023)

## **Committee Budget**

Funds for the committee's work up to \$45,000 are hereby appropriated from the unassigned fund balance to support the committee's work by funding guest speakers and consultants to work with the committee and/or conduct a professional public survey, if desired by the committee.

## **Committee Staff**

The Town Manager shall designate a person to serve as staff for the committee.