



Cape Elizabeth Town Council

Minutes Wednesday, October 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.

Mary Costigan, Town Attorney
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 - The Ordinance Committee will hold a public forum on Monday, October 16 at 7:00 p.m. in the Councilor Chambers on the proposed LD 2003 amendments drafted by the committee. The SBAC held a public forum on September 20 to present the survey results; the results will be further discussed on October 19.

Councilor Reiniger – Re: Item #113-2023 held September 11, 2023 asked whether the original motion, which was amended, was still open. If so, he would motion to vote for dismissal of the lawsuit against The Lumbery. Chair Gabrielson deferred the discussion to Item #129-2023.

Finance Committee Report

Finance Chair Nicole Boucher noted the management dashboard on the new MUNIS software should be available for the November meeting. Expenses are tracking at approximately 25% of the budget. The manager was asked to provide a list of anticipated larger expenditures.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

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Town Manger's Report
Matthew E. Sturgis

Property tax bill have been mailed, and property tax payments are being received. The Town provided an insert with an update on the delay in the implementation of the revaluation and the next steps in the process. The due date for first half property tax payments is October 23rd.

The senior citizen property tax relief forms are currently being mailed out by the assessing department. If you are age 65 or older, have lived in Cape Elizabeth for 10 or more years, have a Federal Adjusted Gross Income of \$60,000 or less, and your property taxes or rent exceed 5 percent of your Federal Adjusted Gross Income, then you may qualify. There are applications available online through the Assessor's section of the Town website, or one may request them by calling 799-1619.

The solar power installation project continues to move forward. The site was aerially mapped by a drone on September 29th, which will assist in maximizing the area for optimal panel placement. Encore renewables is waiting for final DEP approval of their permit application, which is anticipated shortly.

Community Services will be holding its Trunk or Treat Halloween event on October 27th. This is a very well attended community event, and more details are available through Community Services.

The Thomas Memorial Library, in partnership with the Town's Diversity, Equity, and Inclusion Committee will be holding their Human Library event on Saturday, October 14th between 11:00 am and 4:00 pm. A Human Library® event offers people the opportunity to have a conversation with someone who belongs to a group in society that has experienced stigma, stereotyping, or prejudices. No registration is required.

Finally, I am anticipating a proposal and a presentation for next month's council meeting from Tilson Technology regarding the Town's wireless infrastructure project. This would be consistent with the council goals of improving the Town's communications infrastructure.

Respectfully submitted.

Review of Draft Minutes
Regular Meeting – September 11, 2023

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 September 11, 2023 as written.

(6 yes) (1 no Councilor Reiniger)

Note: Councilor Reiniger made a motion to amend the minutes however it failed due to a lack of a second. For informational purposes the motion as presented is below – highlighted in red.

Moved by Timothy S. Reiniger and Seconded by

ORDERED, the Cape Elizabeth Town Council amends the motion to Item #113-2023 September 11, 2023 as follows:

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Excerpt Item #113-2023 September 11, 2023

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 Cape Elizabeth lawsuit against The Lumbery, instead of voting on dismissal tonight 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)

Consent Calendar Item #121-2023 – Item #124-2023

Item #121-2023 was removed from the Consent Calendar. Councilor Penelope Jordan recused herself from discussion and voting on the item as she is an owner of 19 Wells Road.

Councilor Caitlin Jordan disclosed she has done business with The Good Table and will continue to do so if they reopen.

Moved by Caitlin R. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the Consent Calendar Item #122-2023 – Item #124-2023 as presented.

(7 yes) (0 no)

Item #122-2023 Good Table, LLC Liquor License Renewal

ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor (beer), wine and spirits liquor license for Good Table, LLC located at 529 Ocean House Road.

Item #123-2023 Acceptance of the Click It or Ticket Grant

ORDERED, the Cape Elizabeth Town Council accepts and appropriates the grant award of \$5,000 from the Maine Bureau of Highway Safety, administering NHTSA (National Highway Traffic Safety Administration) funding for the National Click It or Ticket campaign.

Item #124-2023 Acceptance of the Distracted Driving Grant

ORDERED, the Cape Elizabeth Town Council accepts and appropriates the grant award of \$5,000 from the Maine Bureau of Highway Safety, administering NHTSA (National Highway Traffic Safety Administration) funding for the Distracted Driving Enforcement campaign.

Item #121-2023 Well, LLC DBA The Well at Jordan's Farm Liquor License Renewal

Councilor Caitlin Jordan disclosed she does business with The Well.

Moved by Caitlin R. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the liquor license renewal malt liquor (beer), wine and spirits for Well, LLC DBA The Well at Jordan's Farm, 19 Wells Road.
(6 yes) (0 no) (1 recusal Councilor Penelope Jordan)

Item #125-2023 Acknowledge Receipt of the Housing Diversity Study Committee Status Report July – September 2023

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the status report of the Housing Diversity Study Committee July - September 2023.
(7 yes) (0 no)

Public Hearing General Assistance Appendices

Chair Gabrielson opened the public hearing at 7:30 p.m.
After hearing no comments the hearing was closed.

Item #126-2023 General Assistance Appendices

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council following a public hearing on October 11, 2023 does hereby adopt the proposed General Assistance Maximums, Appendices A, B, D - H for October 1, 2023 - September 30, 2024 and the Recovery Residence Housing Maximums.
(7 yes) (0 no)

Item #127-2023 Recommendation from the School Building Advisory Committee Regarding Architectural Design Services

Public Comment

Al Romano, 4 Fernwood Lane asked if there are constraints on the payment and what is the contract amount.

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

ORDERED, the Cape Elizabeth Town Council approves the unanimous recommendation of the School Building Advisory Committee to contract with Harriman as the architectural design team for the school project. It is Further Ordered, the Superintendent and Town Manager negotiate said contract and authorize the Town Manager to sign the contract for services. The recommendation will also be voted on by the School Board.
(7 yes) (0 no)

**Item #128-2023 Recommendation from the School Building Advisory Committee
Regarding Communication Services**

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

ORDERED, the Cape Elizabeth Town Council approves the unanimous recommendation of the School Building Advisory Committee to contract with CESO Communications as the communication consultant for the school project. It is Further Ordered, the Superintendent and Town Manager negotiate said contract and authorize the Town Manager to sign the contract for services. The recommendation will also be voted on by the School Board.
(5 yes) (2 no Councilors Gillis and Reiniger)

**Item #129-2023 Proposed Amendments to the Zoning Ordinance Relating to Outdoor
Storage and Display**

Introduction – Town Attorney Mary Costigan

Public Comment

Mike Friedland, 287 Ocean House Road there should be a process for minor changes to a site plan through the code enforcement officer. Relieved that the proposed changes to the ordinance would not require listing specific items for sale, rather broad categories. Not certain what the justification is to continue the lawsuit.

After discussion, it was determined since Councilor Reiniger's motion to dismiss the lawsuit against The Lumbery was not noticed, the item will appear on the November 13 agenda.

**Vote to Remove Item #116-2023 from the Table – Request from the Cape Arena Group
Regarding Electricity Expenses**

Unanimously the Town Council agreed to take Item #116-20233 off the table.

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

Public Comment

Scott Liston, 2 Keyes Lane representing CAG – requesting the Town pay the electricity expenses for the ice rink. This will allow the group to proceed with next steps and fundraising. The chiller (\$16,000 monthly rental) and electricity are the largest expenses. The group will fundraise to purchase a chiller at a cost of \$250,000 with a life of 30 years.

Al Romano, 4 Fernwood Lane concerned the town will own a resource it can't afford over the long-term. Favors CAG leveraging the town's electricity rate.

Mary Ann Lynch, 2 Olde Colony Lane this facility is not a savings to the town, it is a cost. The town should not be paying the bill for a private entity. Look at Falmouth's model 501 c 3. Any requests should be made within the annual budget process. Encourages the council to send the request to the finance committee in 3/2024.

Tom Dunham, 11 Beckys Cove Lane agrees with the comments of Mary Ann Lynch. There are significant financial demands - the request should go through the budget process.

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Jessica Sullivan, 441 Mitchell Road agrees with previous comments. Requests should go through the budget process. Favors CAG leveraging the town's electricity rate.

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

ORDERED, the Cape Elizabeth Town Council approves a supplemental appropriation for up to \$35,000 for the Town to pay the electricity bill for the ice arena for the 2023-2024 season.
(6 yes) (1 no Councilor Noonan)

**Item #130-2023 Ordinance Committee Status Report and Next Step Recommendations
Relating to LD 2003**

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

ORDERED, the Cape Elizabeth Town Council schedules a public hearing on Monday, November 13, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road relating to LD 2003 amendments as proposed by the Ordinance Committee with the anticipation of a vote that same evening following the public hearing. It is further ordered a Town Council workshop be scheduled on or about November 1 to review said proposed amendments.
(7 yes) (0 no)

**Item #131-2023 Request from Councilor Reiniger to Refer LD 2003 Policy Issues to the
Housing Diversity Study Committee and Alternate LD 2003 Zoning
Amendments to the Ordinance Committee**

Public Comment

Al Romano, 4 Fernwood Lane urges passage of the proposed alternate ordinance to the Ordinance Committee.

Kevin Justh, 9 Spruce Lane, HDSC Chair several issues have already been referred to the HDSC and are under review. Survey results will be available soon.

Francis Walsh, 51 Starboard Drive glad to hear the town is availing the services of the Greater Portland Council of Governments for communications for the 10/16 Ordinance Committee public forum.

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

ORDERED, the Cape Elizabeth Town Council **1)** refers a list of LD 2003 policy issues drafted by Councilor Reiniger to the Housing Diversity Study Committee with written comment back to the Town Council prior to the November 13, 2023 Town Council meeting **2)** refers to the Ordinance Committee proposed alternate LD 2003 zoning amendments drafted by Councilor Reiniger that reflect the minimum legally required changes. See email from Councilor Reiniger dated September 29, 2023.
(2 yes) (5 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan and Noonan)

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**Item #132-2023 Vote to Amend the Minutes Item #66-2023 held May 8, 2023 Relating to
Stormwater Amendments**

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council amends Item #66-2023 held on May 8, 2023 to read as follows:

(7 yes) (0 no)

Public Hearing Proposed Stormwater Amendments

Chair Gabrielson opened the public hearing at 7:15 p.m.
After hearing no comments, the public hearing was closed.

Item #66-2023 Proposed Stormwater Amendments

Maureen O'Meara, Town Planner
Jay Reynolds, Director of Public Works
Kristie Rabasca, Integrated Environmental Engineering

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council having held a public hearing on Monday, May 8, 2023 does hereby approve the proposed [stormwater](#) amendments to Chapter 25 Stormwater [Ordinance](#), [Chapter 16 Subdivision Ordinance and Chapter 19 Zoning Ordinance](#) as recommended by the Planning Board, draft dated February 14, 2023.

(5 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

Adjournment

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council adjourns at 9:38 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk