

**CAPE ELIZABETH TOWN COUNCIL MINUTES**  
**Regular Meeting # 12-2010**  
**Cape Elizabeth Town Hall**  
**Monday, September 13, 2010**  
**7:30 p.m.**

<b>Roll Call by the Town Clerk</b>		<b>Present</b>	<b>Absent</b>	
<b>Anne E. Swift-Kayatta, Chair</b>	<b>14 Stone Bridge Road</b>	<b>X</b>	<b>767-5754</b>	<b>12/2011</b>
<b>Frank J. Governali</b>	<b>18 Old Ocean House Road</b>	<b>X</b>	<b>799-5842</b>	<b>12/2010</b>
<b>Penelope A. Jordan</b>	<b>349 Fowler Road</b>	<b>X</b>	<b>671-5341</b>	<b>12/2010</b>
<b>Sara W. Lennon</b>	<b>54 Cranbrook Drive</b>	<b>X</b>	<b>741-5139</b>	<b>12/2012</b>
<b>David S. Sherman, Jr.</b>	<b>74 Hunts Point Road</b>	<b>X</b>	<b>749-2668</b>	<b>12/2011</b>
<b>Jessica L. Sullivan</b>	<b>38 Cranbrook Drive</b>	<b>X</b>	<b>774-0115</b>	<b>12/2012</b>
<b>James T. Walsh</b>	<b>23 Rock Crest Drive</b>	<b>X</b>	<b>799-6730</b>	<b>12/2012</b>
<b>Debra M. Lane, Town Clerk</b>		<b>X</b>		
<b>Michael K. McGovern, Town Manager</b>		<b>X</b>		

### **The Pledge of Allegiance to the Flag**

### **Town Council Reports and Correspondence**

Councilor Sullivan – The next meeting of the Open Space Management Committee is September 14. The Committee will meet at 8:00 p.m. following the meeting of the Conservation Commission in the ACP Conference Room (second floor) at Town Hall.

Councilor Jordan reminded residents of the ecomaine Open House on September 25, 8:30 – 11:30 a.m.

Councilor Sherman – The Municipal Review Operations Committee will meet on September 23 at 7:00 p.m. in the William H. Jordan Conference Room at Town Hall.

Chair Swift-Kayatta thanked everyone who participated at the September 7 joint workshop of the Town Council and Planning Board on Land Use Regulations.

**Citizen Opportunity for Discussion of Items Not on the Agenda                      None**

### **Town Manager's Report**

Manager McGovern briefly clarified a statement that was sent out in an email to some residents about one month ago. The email stated the Town purchased a \$750,000 "hook and ladder truck." The fact is 17 years ago the Town purchased a ladder truck at the cost of \$343,000. Mr. McGovern encourages folks when they hear statements or read emails that seem unbelievable or far off they are encouraged to check for the information.

### **Review of Minutes of Meeting held August 9, 2010**

Moved by Jessica L. Sullivan and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council approves the minutes of Meeting #11-2010 held August 9, 2010 as presented.

(7 yes) (0 no)

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**Public Comment: Rudy's of the Cape Liquor License Renewal**

Moved by James T. Walsh and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the request of Councilor Walsh to recuse himself from discussion and voting on this item because of his business relationship with an abutter of Rudy's of the Cape.

(6 yes) (1 abstention Councilor Walsh)

**Item# 106-2010 Rudy's of the Cape Liquor License Renewal**

Moved by Penelope A. Jordan and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council approves the request of Julie S. and Charles L. Barnes to renew the malt and vinous license for Rudy's of the Cape located at 517 Ocean House Road as requested, provided that the applicant update the license #4 Amount of gross income from period of last license for food and liquor within 3-5 days. The license shall be held pending receipt of the updated numbers.

(6 yes) (0 no)

**Public Hearing-Tree Ordinance Amendments**

Present – Robert Malley, Director of Public Works

Intro – Chair Swift-Kayatta

Chair Swift-Kayatta opened the public hearing at 7:43 p.m.  
After hearing no comments the public hearing was closed.

**Item# 107-2010 Tree Ordinance**

Moved by David S. Sherman, Jr. and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council adopts the recommendations of the Ordinance Committee to amend Chapter 18 Conservation Article III Tree Ordinance as presented.

(7 yes) (0 no)

**Item# 108-2010 Pay Per Throw**

**Public Hearing- Pay Per Throw Option**

Present – Robert Malley, Director of Public Works

Intro – Chair Swift-Kayatta

Chair Swift-Kayatta opened the public hearing at 7:47 p.m.

Richard Berman, 58 Hannaford Cove Road

This would be “a great idea” if taxes are decreased. This is a hidden tax. If the bags are too expensive, there may be unintended consequences of illegal dumping. “Education is working,” continue to educate the public on the benefits of recycling.

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Herbert Dennison, 63 Spurwink Avenue

“Leave it alone.” “We are in a recession.” The purchase of bags can not be claimed on income tax. Look at where we are spending money. If the Town Council wants to pursue this concept, put it to referendum.

Pat Bothel, 90 Ocean House Road

The pay per bag system “creates another new trash stream with the plastic bags.” Before going to this system, educate the public to increase recycling. This is another tax.

Anne Colbourn, 1088 Shore Road, 1 year resident

This is a tax. “The only two resources I use are Fort Williams and the Transfer Station.” “Just increase the line item for the Transfer Station.” “Don’t make me pay extra for the things I use regularly.”

Bruce Lockwood, 9 Hunts Point Road

This is an additional cost and a tax. There is no benefit from the federal income tax. The employees do a “great job” at the Recycling Center; it’s easy to use and recycling. Continue education.

Elizabeth Scifres, 22 Longfellow Drive

Against the program. “Diapers are not recyclable; young families are being targeted.” More education is needed to encourage recycling.

Bill DeSena, 11 Wainwright Drive

This is another tax. This program hurts “larger and poorer families.” It is an inconvenience to buy the bags at another site, go home, and then back to the Recycling Center.

John Mrowka, 11 Cheverus Road

Rather see the cost of the facility in the taxes, to see the true cost of the service. It gives taxpayers a true sense of what their taxes are paying for.

Carolyn Smith, 42 Belfield Road

“Trash bags are ugly.” The current system is easy and works. The trend is to recycling more with the increase of bins around town. As long as it works and convenience recycling will continue.

Phil St. Germain, Channel View Road

Against the program. Great value for our tax dollars and the Recycling Center is one of the values. Creates needless bureaucracy and more labor.

David Griffin, 5 Channel View Road

Have you looked at other options? Curbside pickup and recycling? What are other options to increase recycling?

Tim Schwartz, Owns a Trash Removal Service

“This policy will affect my business.” “I am trying to educate my clients.” Composting can save also.

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Robert Huff, 69 Ocean House Road

This creates more work and more expensive. This should be put to referendum.

Eric Lusk, 17 Reef Road

Will taxes go down? If so, will the funding then go for another service? May find dump on the side of the road. Recently saw former resident of Cape Elizabeth at the Recycling Center, still using the center.

After hearing no further comments, Chair Swift-Kayatta closed the public hearing at 8:23 p.m.

On behalf of the Town Council Chair Swift-Kayatta thanked the residents for sharing their views. She explained this evening was intended for a listening session and the council will ponder what they hear from residents. No action will be taken this evening.

Manager McGovern answered a few of the questions asked during the public hearing.

**Item# 109-2010      Property Assessed Clean Energy Ordinance**

Intro – Manager McGovern

Moved by Sara W. Lennon and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council refers to the Ordinance Committee the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

(7 yes) (0 no)

**Item# 110-2010      Personal Property Tax Accounts**

Moved by Sara W. Lennon and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council approves the recommendation of Tax Collector Michael McGovern to abate a total of six personal property tax accounts dating from FY 2004 and amounting to a total of \$1235.96 as follows:

Advance Acceptance All Lines Leasing FY 2005	\$154.06
Cape Mortgage Co. FY 2008	\$24.69
E.F. Johnson Associates FY 2007	\$121.20
Susan Legge Catering Concepts FY 2007	\$60.60
Nick-L-Sons Inc. DBA Fresh Look FY 2004 and FY 2005	\$811.73
Video Jam c/o Jason Halbeib FY 2006	\$63.68

(7 yes) (0 no)

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**Item# 111-2010      Comprehensive Plan**

Moved by David S. Sherman, Jr. and Seconded by Penelope A. Jordan

Ordered the Cape Elizabeth Town Council requests the Ordinance Committee to review and deliberate recommendations relating to the subject of the land use provisions of the 2007 Comprehensive Plan. Prior to the Ordinance Committee meeting, Town Manager Michael McGovern and Councilor Frank Governali will meet to discuss their memos relating to the same subject. A working document will be prepared to present to the Ordinance Committee as a starting point for discussion.

(7 yes) (0 no)

See attachments.

**Citizen Opportunity for Discussion of Items Not on the Agenda      None**

**Item# 112-2010      Request for Hardship Abatement**

Moved by David S. Sherman, Jr. and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council enters into executive session at 9:30 p.m. pursuant to 36 MRSA §841 2.G to discuss a request for an abatement of property taxes by reason of infirmity or poverty.

(7 yes) (0 no)

Moved by David S. Sherman, Jr. and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council exits executive session and reenters public session at 9:45 p.m.

(7 yes) (0 no)

Moved by Jessica L. Sullivan and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council approves the request for an abatement of property taxes by reason of infirmity or poverty for FY 2010 in the amount of \$3288.75.

(7 yes) (0 no)

**Adjournment**

Moved by James T. Walsh and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council adjourns at 9:46 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk

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**Upcoming Meetings**

Finance Committee Meeting Re: Audit Presentation	October 4, 2010	7:00 p.m.
Town Council Workshop Re: Fort Williams Park	October 4, 2010	7:30 p.m.
Regular Town Council Meeting	October 13, 2010	7:30 p.m.
Town Council Workshop Re: Pending Issues (Pay Per Throw)	November 1, 2010	7:30 p.m.
Regular Town Council Meeting	November 8, 2010	7:30 p.m.
Town Council Workshop Re: Council goal setting	December 6, 2010	7:30 p.m.
Regular Town Council Meeting	December 13, 2010	7:30 p.m.