

**CAPE ELIZABETH TOWN COUNCIL MINUTES**  
**Regular Meeting # 14-2010**  
**Cape Elizabeth Town Hall**  
**Monday, November 8, 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>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**

Chair Swift-Kayatta congratulated Frank Governali on his re-election and Caitlin Jordan on her election to the Town Council. Chair Swift-Kayatta also acknowledged outgoing Councilor Penny Jordan and on behalf of the citizens of Cape Elizabeth thanked her for her service.

Councilor Lennon reported on three appearances including the October 16 Ribbon Cutting Ceremony at the Cliff Walk at Fort Williams Park for the Arboretum, the November 4 Ribbon Cutting at Cape Memory Care located at 126 Scott Dyer Road and the November 7 Annual Meeting of the Cape Elizabeth Land Trust celebrating 25 years.

Councilor Jordan reported that the annual appointments process to various town boards and commissions continues. The Appointments Committee will hold two evenings of interviews November 4 and November 18. Councilor Jordan thanked the citizens for “allowing” her to serve on the Town Council. She will remain involved with issues relating to food and agricultural while working with agencies and organizations such as the Maine Farm Bureau and Cape Farm Alliance.

Chair Swift-Kayatta thanked Debra Lane, Town Clerk and the entire election staff for their work relating to the November 2 elections.

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

**Town Manager’s Report**

Manager McGovern thanked the Fire, Police and Public Works Departments for their efforts during today’s storm. He also thanked Central Maine Power Company for their work to restore power during this and other storms.

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**Review Minutes of October 13, 2010 Meeting**

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

Ordered the Cape Elizabeth Town Council approves the Minutes of Meeting #13-2010 held October 13, 2010 as presented.

(7 yes) (0 no)

**Item# 121-2010      General Assistance Annual Appendices**

**Public Hearing:      General Assistance Appendices**

Chair Swift-Kayatta opened the public hearing at 7:44 p.m.  
After hearing no comments the public hearing was closed.

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

Ordered the Cape Elizabeth Town Council approves the Maine Municipal Association's Model Ordinance annual update of the General Assistance Appendices A – C for the period of October 1, 2010- October 1, 2011.

(7 yes) (0 no)

**Item# 122-2010      Columbus Road Rink Request**

Intro – Manager McGovern

Presentation – Chris Gillespie and son Ethan, 7 Columbus Road

Chair Swift-Kayatta opened the item to public comments at 7:45 p.m.

The following residents spoke in favor of the proposal.

Michael Hunter, 67 Columbus Road

Sharon O'Neill, 56 Columbus Road

Laurie Roberts, 47 Columbus Road

Donald Wiley, 25 Thrasher Road

AJ (Arthur J.) Dininno, 1 Cedar Ledge Road

Erik Olsen, 31 Killdeer Road

Paul Laliberte, 29 Thrasher Road

The public comment session ended at 7:55 p.m.

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

Ordered the Cape Elizabeth Town Council approves the request of Chris and Ethan Gillespie to install a temporary skating rink on the Town-owned parkland on Columbus Road near its intersection with Mitchell Road as presented.

(7 yes) (0 no)

See attachment.

**Item# 123-2010      Draft Resolution Regarding Smart Meters**

Moved by Anne E. Swift-Kayatta and Seconded by Frank J. Governali to approve the request of Councilor Swift-Kayatta to recuse her from discussion and voting on this item due to a possible conflict of interest as Mr. Kayatta's law firm represents Central Maine Power Company.

(7 yes) (0 no)

Councilor Lennon opened the item to public comments at 8:05 p.m.

Comments were received by the following individuals to support the Town Council signing the resolution.

Angela Foley, 14 Beverly Terrace

Elisa Boxer-Cook, Scarborough

Letter written by Dr. Karen K. Emery, 38 Ocean View Road, read by Ms. Boxer-Cook

Sara Merrill, 51 Cottage Farms Road

AJ (Arthur J.) Dininno, 1 Cedar Ledge Road

John Carroll, Representative of Central Maine Power Co addressed some of the concerns expressed regarding the installation of the Smart Meters. He encouraged folks to follow up on the issue on the Public Utilities Commission website Docket #210-345.

The public comment session ended at 8:26 p.m.

Moved by James T. Walsh and Seconded by Penelope A. Jordan

Ordered the Cape Elizabeth Town Council approves the draft resolution as amended regarding the Central Maine Power's installation of Smart Meters.

(6 yes) (0 no) (1 Recusal Swift-Kayatta)

See attachment.

**Item# 124-2010      Metro Coalition Initiative Relating to Regional Economic  
Development**

Intro – Manager McGovern

Harvey Rosenfeld, Director Scarborough Economic Development Corporation

Present – Eric Carson, City of South Portland Economic Director

Karen Martin, Scarborough Economic Development Corporation

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

Ordered the Cape Elizabeth Town Council approves the draft resolution for Cape Elizabeth to participate in the Metro Coalition for a regional economic development initiative. It is not anticipated that this would lead to development proposals in Cape Elizabeth but Cape Elizabeth would participate in the dialogue. There is no financial commitment at this time.

(7 yes) (0 no)

See attachment.

**Item# 125-2010 Proposed PACE Ordinance**

Intro – Councilor Sherman, Chairman Ordinance Committee

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

Ordered the Cape Elizabeth Town Council sets to public hearing a proposed ordinance to enable citizens to participate in a federal/state program administered by the Maine Efficiency Trust that would assist residents with receiving loans for energy efficiency improvements for Monday, December 13, 2010 at 7:30 p.m. at Town Hall.

(7 yes) (0 no)

**Item# 126-2010 Ordinance Committee Public Participation Provisions**

Intro – Councilor Sherman, Chairman Ordinance Committee

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

Ordered the Cape Elizabeth Town Council approves the Ordinance Committee’s proposed public participation provisions for its meetings as presented.

**Speaking on topics on the regular Ordinance Committee meeting agenda**

After the public comment period has been opened, any person wishing to address the Ordinance Committee shall signify a desire to speak by raising his or her hand. When recognized by the chair, the speaker shall give his or her name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. All remarks should be addressed to the Ordinance Committee. Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of the Ordinance Committee members present. The time for public comments is limited to 15 minutes per agenda item. This time may be extended by a majority vote of the Ordinance Committee members present. The chair may decline to recognize any person who has already spoken on the same agenda item and may call on speakers in a manner so as to balance debate. Once the Ordinance Committee has begun its deliberations on an item, no person shall be permitted to address the Ordinance Committee on such item.

**Speaking on topics not on the regular Ordinance Committee meeting agenda**

Persons wishing to address the Ordinance Committee on an issue or concern local in nature, not appearing on the agenda, may do so at a regular Ordinance Committee meeting during any public comment period. Any person wishing to address the Ordinance Committee shall signify a desire to speak by raising his or her hand. When recognized by the chair, the speaker shall give his or her name and address or name and local affiliation. Comments in each comment period shall be limited to three minutes per person and 15 minutes total; however, the time may be extended by a majority vote of the Ordinance Committee members present.

**Decorum**

Persons present at Ordinance Committee meetings shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Persons at Ordinance Committee meetings may only address the Ordinance Committee after being recognized by the chair.

(7 yes) (0 no)

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**Item# 127-2010      Planning Board Revised Rules**

Intro – Manager McGovern, Jr.

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

Ordered the Cape Elizabeth Town Council tables Item #127-2010 regarding the Planning Board new rules of procedure for the conduct of their meetings to Monday, December 13, 2010 at 7:30 p.m.

(7 yes) (0 no)

**Item # 128-2010      Municipal Operations Review Committee**

Intro – Councilor Sherman, Member of MORC

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

Ordered the Cape Elizabeth Town Council acknowledge receipt of the memorandum and draft report of the Municipal Operations Review Committee dated October 14, 2010. The Town Council thanks the members of MORC for their work on the committee.

(7 yes) (0 no)

**Item # 129-2010      Alternative Energy Committee Charge**

Intro – Councilor Lennon, Member of the Alternative Energy Committee

Moved by Sara W. Lennon and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council extends the Alternative Energy Committee through December 31, 2011.

(7 yes) (0 no)

See attachment.

**Item # 130-2010      Arboretum Grant**

Manager McGovern thanked Rick Churchill for writing the grant.

Moved by James T. Walsh and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council accepts the grant for the Fort Williams Park Arboretum from Project Canopy in the amount of \$3,969.

(7 yes) (0 no)

**Item # 131-2010 Riverside Cemetery Trustees**

Intro – Councilor Jordan, Chair Appointments Committee

Moved by Penelope A. Jordan and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council approves the recommendation of the Appointments Committee to amend the Statement of Policy for Boards and Commissions to permit members of the Trustees of Riverside Cemetery to serve up to three full terms instead of two.

*4. A citizen may serve up to two full consecutive terms as a regular member of a standing board or commission, except the Trustees of the Riverside Cemetery, and members of the Planning Board, Zoning Board of Appeals and the Conservation Commission may serve up to three consecutive terms. Reappointment to that same board or commission may then occur only after a one-year period of non-service on that board or commission. Provided, however, despite the term limitations of this paragraph, for good cause shown the Town Council may appoint a board or commission member for an additional one year.*

(7 yes) (0 no)

**Item # 132-2010 Donald Richards Pool**

Intro – Manager McGovern

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

Ordered the Cape Elizabeth Town Council approves expenses at the Donald Richards' Pool including up to \$7,000 for repairs to the timing system within the existing appropriation in the capital improvement section of the budget, 710 accounts and up to \$8,000 for the purchase of a safe inflatable device for the pool to be used for pool rentals and pool use through the capital improvement section of the budget, 710 accounts.

(7 yes) (0 no)

**Item # 133-2010 Pay Per Throw/Pay Per Bag**

Moved by Penelope A. Jordan and Seconded by Jessica L. Sullivan

Ordered the Cape Elizabeth Town Council confirms its intent to not implement pay per throw at this time.

(7 yes) (0 no)

**Item # 134-2010 Comprehensive Plan Implementation**

Intro – Councilor Sherman, Chairman Ordinance Committee

Moved by David S. Sherman, Jr. and Seconded by Frank J. Governali

Ordered the Cape Elizabeth Town Council proceed with Open Space Recommendations as set forth by the Ordinance Committee and confirms its intent regarding Comprehensive Plan implementation as outlined in the report and flowchart of the Ordinance Committee.

(7 yes) (0 no)

See attachment.

**Item # 135-2010 Lease of Upstairs at 343 Ocean House Road**

Intro – Manager McGovern thanked Facilities Director Greg Marles for his work on the lease.

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

Ordered the Cape Elizabeth Town Council authorizes Michael K. McGovern, Town Manager to execute a lease with a rent of \$800.00 per month for the upstairs of 343 Ocean House Road, the building located in the front of the Community Center, to James Ridley as outlined in the Residential Lease Agreement.

(7 yes) (0 no)

See attachment.

**Item # 136-2010 Proposed Picnic Shelter Fee Increase**

Intro – Manager McGovern

Moved by James T. Walsh and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council tables Item #136-2010 relating to the Fort Williams Advisory Commission’s recommended changes for fees at Fort Williams Park to Monday, December 13, 2010 at 7:30 p.m.

(7 yes) (0 no)

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

Manager McGovern updated the Town Council on the \$40,000 credit with PACTS from the Town’s work on Route 77. The Town is restricted to use the \$40,000 on projects that have already been applied for. The lone eligible project is the Shore Road Pathway. If the Town does not receive the larger grant for the pathway, the Town may wish to request PACTS to approve with matching funds work along Shore Road from 1226 Shore Road (Dr. Johnson’s) to the Route 77/Shore Road intersection.

**Adjournment**

Moved by Sara W. Lennon and Seconded by James T. Walsh

Ordered the Cape Elizabeth Town Council adjourns at 9:54 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk

**Upcoming Meetings**

Town Council Caucus	December 6, 2010	6:30 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.

