

**CAPE ELIZABETH TOWN COUNCIL MINUTES**

**Regular Meeting # 7-2012  
Cape Elizabeth Town Hall  
Monday, May 14, 2012  
7:00 p.m.**

**Roll Call by the Town Clerk**

**Present Absent**

<b>Sara W. Lennon, Chairman</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2012</b>	<a href="mailto:slennon@maine.rr.com">slennon@maine.rr.com</a>
<b>Frank J. Governali</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2013</b>	<a href="mailto:frank.governali@capeelizabeth.org">frank.governali@capeelizabeth.org</a>
<b>Caitlin R. Jordan</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2013</b>	<a href="mailto:caitlin.jordan@capeelizabeth.org">caitlin.jordan@capeelizabeth.org</a>
<b>Katharine N. Ray</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2014</b>	<a href="mailto:katharine.ray@capeelizabeth.org">katharine.ray@capeelizabeth.org</a>
<b>David S. Sherman, Jr.</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2014</b>	<a href="mailto:dsherman@dwmlaw.com">dsherman@dwmlaw.com</a>
<b>Jessica L. Sullivan</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2012</b>	<a href="mailto:jsullivan08@maine.rr.com">jsullivan08@maine.rr.com</a>
<b>James T. Walsh</b>	<b>Term Expires</b>	<b>X</b>	<b>12/2012</b>	<a href="mailto:jim.walsh@capeelizabeth.org">jim.walsh@capeelizabeth.org</a>
<b>Michael K. McGovern, Town Manager</b>		<b>X</b>		
<b>Debra M. Lane, Town Clerk</b>		<b>X</b>		

**The Pledge of Allegiance to the Flag**

**Town Council Reports and Correspondence**

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

**Town Manager's Report**

**Minutes of April 9, 2012 Town Council Meeting**

**Minutes of April 11, 2012 Town Council Meeting**

**Minutes of April 23, 2012 Town Council Meeting**

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

ORDERED: The Cape Elizabeth Town Council approves the minutes of Meeting #5-2012 held April 9, 2012, Special Meeting #6-2012 held April 11, 2012 and Special Meeting #7-2012 held April 23, 2012 as written.

(7 yes) (0 no)

**Item # 70-2012**

**Adoption of Municipal Budget**

Intro – Finance Chairman Governali

It was a consensus to vote on Item ##70 – 74 en bloc.

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

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby adopt the municipal budget for Fiscal Year 2013 and hereby makes the following gross appropriations for each listed department.

(6 yes) (1 no Sullivan)

<b>Expenditures by Department</b>		<b>BUDGET</b>
		<b>FY 2013</b>
110	<b>ADMINISTRATION</b>	513,971
120	<b>ASSESSING/CODES PLANNING</b>	360,648
130	<b>TOWN COUNCIL</b>	500
135	<b>LEGAL AND AUDIT</b>	55,000
140	<b>ELECTIONS</b>	40,732
150	<b>BOARDS AND COMMISSIONS</b>	13,565
530	<b>PUBLIC INFORMATION</b>	47,028
160	<b>INSURANCE</b>	97,900
170	<b>EMPLOYEE BENEFITS</b>	1,004,167
180	<b>DEBT SERVICE</b>	934,344
520	<b>CONTRIBUTIONS</b>	10,500
710	<b>INTERGOVT. ASSESSMENTS</b>	21,348
210	<b>POLICE DEPARTMENT</b>	1,197,722
215	<b>ANIMAL CONTROL</b>	22,981
220	<b>PUBLIC SAFETY COMMUNICATIONS</b>	161,852
225	<b>WETeam</b>	24,103
230	<b>FIRE DEPARTMENT</b>	297,640
235	<b>FIRE POLICE UNIT</b>	11,427
240	<b>MISC. PUBLIC PROTECTION</b>	141,446
250	<b>EMERGENCY PREPAREDNESS</b>	3,696
310	<b>PUBLIC WORKS</b>	1,066,648
320	<b>REFUSE DISPOSAL/RECYCLING</b>	719,376
410	<b>HUMAN SERVICES</b>	50,400
510	<b>LIBRARY</b>	512,916
600	<b>FACILITIES MANAGEMENT</b>	193,868
610	<b>TOWN HALL</b>	29,224
615	<b>LIBRARY BUILDING</b>	29,717
620	<b>TOWN CENTER FIRE STATION</b>	23,467
630	<b>POLICE STATION</b>	65,765
635	<b>CAPE COTTAGE FIRE STATION</b>	7,920
640	<b>PARKS &amp; TOWN LANDS</b>	82,371
641	<b>SCHOOL GROUNDS</b>	150,989
645	<b>FORT WILLIAMS PARK</b>	250,317
660	<b>TREES</b>	22,061
<b>715</b>	<b>CAPITAL PROJECTS</b>	700,000
	<b>Grand Total</b>	<b>8,865,609</b>

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**Item # 71-2012                      Approval of Cumberland County Assessment**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve for inclusion in the Fiscal Year 2013 budget the assessment from Cumberland County for 2011 amounting to \$998,136.

**Item # 72-2012                      Approval of Local Homestead Exemption Funds**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve for inclusion in the Fiscal Year 2013 budget the amount of \$149,000 for the local share of homestead exemptions.

**Item # 73-2012                      Approval of Community Services Special Funds Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve for inclusion in the Fiscal Year 2013 General Fund budget the amount of \$437,006 for the local taxation share of the Community Services budget and the full Community Services budget in the amount of \$1,070,494 in authorized expenditures and estimated revenues of \$1,070,494 is hereby approved.

**Item # 74-2012                      Property Tax Levy Limit**

Ordered: The Cape Elizabeth Town Council in accordance with Title 30-A MRSA Section 5721-A the Town of Cape Elizabeth hereby increases the property tax levy limit for municipal services to the legally allowed limit of \$6,467,278. The actual property tax levy for municipal purposes is \$5,559,208.

**Item # 75-2012                      School Budget Approval**

Moved by Jessica L. Sullivan and Seconded by Katharine N. Ray

ORDERED: The Cape Elizabeth Town Council accepts the recusal from Councilor Walsh from discussion and voting on the school budget.  
(6 yes) (0 no) (1 recusal Walsh)

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

VOTED: The Town of Cape Elizabeth hereby agrees to accept the following estimated state and federal funds.  
(5 yes) (1 no Sullivan) (1 recusal Walsh)

**Education**

State Education Subsidy:	\$2,025,679
Title IA:	\$25,000
Title IIA:	\$45,000
Local Entitlement:	\$365,000
Food Service State Subsidy	\$65,000

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- #1 VOTED: Cost Center Summary. That the Town of Cape Elizabeth appropriate **\$9,677,009** for Regular Instruction; **\$3,003,009** for Special Education; **\$56,003** for Career and Technical Education; **\$700,059** for Other Instruction; **\$2,427,558** for Student and Staff Support; **\$661,789** for System Administration; **\$1,014,515** for School Administration; **\$657,105** for Transportation; **\$2,245,366** for Facilities Maintenance; **\$1,323,404** for Debt Service; **\$0** for All Other Expenditures.
- #2 VOTED: State/Local EPS Funding Allocation. That the Town of Cape Elizabeth appropriate **\$15,788,856.26** for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and that the Town of Cape Elizabeth raise **\$13,763,177.50** as the Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

*Explanation: The Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that the Town must raise in order to receive the full amount of state dollars.*

- #3 VOTED: Non-State Funded Debt Service. That the Town of Cape Elizabeth raise and appropriate **\$1,323,404** for the annual payments on debt service previously approved by the legislative body for non-state-funded school construction projects, or non-state funded portions of school construction projects in addition to the funds appropriated as the local share of the Town's contribution to the total cost of funding public education from kindergarten to grade 12.

*Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the Town's long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or other legislative body.*

- #4 VOTED: Additional Local Funds. That the Town of Cape Elizabeth raise and appropriate **\$3,836,556.50** in additional local funds, which exceeds the State's Essential Programs and Services funding model by **\$3,447,927.73** as required to fund the budget recommended by the school board.

The School Board recommends an appropriation which exceeds the State Essential Program and Services model for the following reasons:

The state's funding model does not support all of the costs for K-12 education. It includes only those costs considered essential by the state's Essential Programs and Services (EPS) model.

*Explanation: The additional local funds are those locally raised funds over and above the Town's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the Town's budget for educational programs.*

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- #5 VOTED: Total School Budget Summary. That the Town of Cape Elizabeth authorize the School Board to expend **\$21,765,817** for the fiscal year beginning July 1, 2012 and ending June 30, 2013 from the Town's contributions to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.
- #6 VOTED: Adult Education. That the Town of Cape Elizabeth appropriate for Adult Education, the sum of **\$216,673** and the Town of Cape Elizabeth raise as the local share, the sum of **\$69,151**; with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program.
- #7 VOTED: Special Funds. That the town of Cape Elizabeth hereby appropriates, in addition to the school budget amounting to **\$21,765,817**, the sum of **\$1,005,000**, said amount being the estimated amount expected to be received as revenues from the school lunch program, Title IA, Title IIA and Local Entitlement Funds. If the actual revenues shall be less than the appropriated funds, then the appropriation shall be lowered to an equivalent level.
- #8 VOTED: Additional Unanticipated State School Subsidy. That the town of Cape Elizabeth will reduce the additional local appropriation raised pursuant to Maine Revised Statutes, Title 20-A, §15690(3) for public schooling by the amount of any unanticipated state general purpose aid received for the fiscal year beginning July 1, 2012 and ending June 30, 2013.

In addition the State of Maine directly assumes the cost for the employer share of teacher retirement. The estimated amount is \$1,960,000.

**Item# 76-2012 Proposed FY 2013 General Fund Budget Summary Motion**

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

- A. Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012, does hereby adopt the General Fund Budget for Fiscal Year 2013 with gross expenditures of \$32,176,709, and gross revenues of \$6,131,079 and with the amount of \$26,045,759 to be raised from taxation, and to fix Tuesday, October 2, 2012, and Tuesday, April 2, 2013, as the dates upon each of which one-half of such tax is due and payable, with interest to accrue upon taxes due and unpaid after each such date at the rate of seven percent (7.00%) per annum. In accordance with 36 M.R.S.A. Section 506, the Tax Collector and Town Treasurer are authorized to accept prepayment or decline prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with 36 M.R.S.A. Section 506-A, a taxpayer who pays an amount accepted by the tax collector and town treasurer in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the minimum annual rate per annum set by the State of Maine.

(7 yes) (0 no)

It was a consensus to vote on Item ##77 – 84 en bloc.

Moved by Frank J. Governali and Seconded by Jessica L. Sullivan

ORDERED: The Cape Elizabeth Town Council approves the following Item ##77-84 as presented.  
(7 yes) (0 no)

**Item# 77-2012                      Cape Elizabeth Rescue Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Cape Elizabeth Rescue Fund Budget for Fiscal Year 2013 with approved expenditures of \$263,900.

**Item# 78-2012                      Cape Elizabeth Sewer Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Cape Elizabeth Sewer Fund Budget for Fiscal Year 2013 with approved expenditures of \$1,755,300.

**Item# 79-2012                      Cape Elizabeth Spurwink Church Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Cape Elizabeth Spurwink Church Fund Budget for Fiscal Year 2013 with approved expenditures of \$11,362.

**Item# 80-2012                      Cape Elizabeth Riverside Cemetery Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Cape Elizabeth Riverside Cemetery Fund Budget for Fiscal Year 2013 with approved expenditures of \$50,817 and expenditures of \$18,000 from the Riverside Cemetery Capital Fund.

**Item# 81-2012                      Portland Head Light Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Portland Head Light Fund Budget for Fiscal Year 2013 with approved expenditures of \$543,695.

**Item# 82-2012                      Fort Williams Park Fund**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Fort Williams Park Special Fund Budget for Fiscal Year 2013 with approved expenditures of \$214,961.

**Item# 83-2012 Cape Elizabeth Infrastructure Improvement Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Infrastructure Improvement Fund Budget for Fiscal Year 2013 with approved expenditures of \$0.

**Item# 84-2012 Thomas Jordan Fund Budget**

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, April 23, 2012 does hereby approve the Thomas Jordan Fund Budget for Fiscal Year 2013 with approved expenditures of \$35,535.

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

ORDERED: The Cape Elizabeth Town Council suspends the **Town Council Rules** to take Item #93-2012 out of order.

(7 yes) (0 no)

**Item# 93-2012 Future Workshop Item**

Intro – Councilor Sherman

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

ORDERED: The Cape Elizabeth Town Council includes as part of the June 4, 2012 workshop meeting a discussion of an amendment to the town charter which would automatically trigger a citizen vote on any single capital expenditure approved by the town council that is over a certain threshold cost.

(7 yes) (0 no)

Moved by David S. Sherman, Jr. and Seconded by Caitlin R. Jordan

ORDERED: The Cape Elizabeth Town Council refers to the November 6, 2012 municipal ballot a proposal for a library project.

(5 yes) (2 no Ray and Sherman)

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

ORDERED: The Cape Elizabeth Town Council refers to workshop on June 4, 2012 proposed language for the library project referendum.

(7 yes) (0 no)

Chairman Lennon reminded residents of the community conversation regarding a library project to the held on Thursday, May 31, 2012 at 7:00 p.m. in the Town Council Chamber at Town Hall; the event will be televised on Channel 3.

**Item# 85-2012 Fort Williams Park Master Plan Amendments**

Intro – Ordinance Committee Chairman Walsh

Present – Robert Malley, Director of Public Works.  
Bill Nickerson, Chairman Fort Williams Advisory Commission

**Public Hearing: Fort Williams Park Master Plan Amendments**

Chairman Lennon opened the public hearing at 7:26 p.m.  
After hearing no comments the hearing was closed.

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

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, May 14, 2012 and having received recommendations from the Fort Williams Advisory Commission and the Cape Elizabeth Planning Board does hereby find that the *Fort Williams Park Master Plan 2011 Update* as submitted on January 4, 2012:

- Contains plans for park, recreational or cultural uses consistent with the long term plans of the Town for the use of Fort Williams Park;
- Proposed buildings or uses will not interfere with or detract from park, recreational or cultural uses existing and anticipated during the period of such use;
- Proposed uses will be sensitive to and will not unduly impact the adjacent residentially zones properties; and
- Proposed uses will be consistent with the active recreational use of Ship Cove and with the passive recreational use of the remaining shoreline with Fort Williams Park

And hereby adopts the Fort Williams Park Master Plan 2011 Update as an amendment to the Fort Williams Park Master Plan, and if any inconsistencies exist between the master plan and the amendments, the amendments shall take precedence.

(7 yes) (0 no)

**Item# 86-2012 Amendment to Conservation Ordinance**

Intro – Ordinance Committee Chairman Walsh

Present – Maureen O’Meara, Town Planner

**Public Hearing: Proposed New Article V to Conservation Ordinance  
Chapter 18 Open Space Management**

Chairman Lennon opened the public hearing at 7:34 p.m.

Garvan Donegan, 12 Cranbook Drive, Conservation Commission Chairman  
Mr. Donegan encouraged the council to adopt the new article.

After hearing no further comments the hearing was closed at 7:34 p.m.



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

Ordered: The Cape Elizabeth Town Council, having held a public hearing on Monday, May 14, 2012 does hereby approve the addition of Article V to the Conservation Ordinance as presented.

(7 yes) (0 no)

Open Space Management Amendments  
Conservation Ordinance  
CHAPTER 18  
CONSERVATION

Article V. Open Space Management

Sec. 18-5-1. Purpose. Open spaces managed by the Town of Cape Elizabeth are for the benefit and enjoyment of all citizens and visitors. Town policy is to impose as few restrictions on use of these properties as possible, consistent with the desire to promote user safety in a natural environment, minimize conflicting uses, protect the natural features and generally exercise proactive stewardship of a valuable and enduring town asset. This ordinance establishes Town open space management rules to safeguard the essential character of Cape Elizabeth public open spaces for public use now and in the future.

Sec. 18-5-2. Applicability. The provisions of this chapter apply to all open space (as defined below) for which site-specific rules and/or management entities have not otherwise been approved by the Town Council. Town owned open space exempted from the chapter includes Fort Williams Park, Town athletic fields, Riverside Memorial Cemetery, and the school campus. Town athletic fields shall mean any athletic field managed and/or scheduled by the Cape Elizabeth School Department Athletic Director. School campus shall mean all the groomed and improved portions of the school campus. Athletic fields and the school campus does not include the natural areas adjacent to groomed and maintained athletic fields and school campus.

Sec. 18-5-3. Definitions. The following terms shall have the meanings given herein. All words not defined herein shall carry their customary and usual meanings.

Animal Trap: Any device that is made to catch undomesticated animals.

Encroachment: An alteration of open space by a private party without permission of the Town of Cape Elizabeth. Encroachments may include, but are not limited to:

1. Placement of structures, buildings, fences, landscape objects, and play equipment;
2. Placement of yard and leaf waste;
3. Placement of household trash;
4. Planting of trees and vegetation;
5. Removal of trees and vegetation;
6. Unauthorized clearing, mowing and landscaping.

Greenbelt: A network of public trails located on Town owned or easement held land. Most greenbelt trails are marked with Town greenbelt trails signs and are included on the Town Greenbelt Trails Map.

Open Space: Land owned in fee or held in easement by the Town of Cape Elizabeth where public access is permitted and is included in the Town inventory of open space.

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Sec. 18-5-4. Open Space Management Regulations. The following regulations shall govern the use of open space subject to this chapter.

- a. Trail Closure. The Town Manager may close a trail on a temporary basis to preserve trail surface stability, for trail maintenance or public safety. Notification of a closed trail shall be posted on the Town website and at the trail, when conditions permit, and shall be provided electronically to the Conservation Commission.
- b. Hours of Operation. Open space subject to this chapter shall be open at all hours for the enjoyment of the public. From the hours of sunset to sunrise, trail users shall limit activities to the quiet enjoyment of trails and open space. Snowmobiles may be operated in designated areas from sunrise until 8:00 p.m.
- c. Encroachments. Encroachments are prohibited. Open space is held for the benefit and enjoyment of public use, for its own use, and within the context of local ordinances, deed restrictions, and usage easements which the Town has purchased or been granted. The Town is responsible for protecting the public interest in public property, now and for future generations, and has a fiduciary responsibility to protect these assets.

When a possible encroachment occurs, the following process shall be used:

1. Identification of an encroachment. A potential encroachment on open space may be reported to the Town Manager by any party.
  2. Confirm encroachment. Following report of a potential encroachment, the potential encroachment shall be inspected by the Town and, if deemed necessary, a professional surveyor may be retained to confirm the property boundary and prepare a sketch showing the extent of the encroachment. When applicable, the deed for the open space shall be reviewed for restrictions. If the Conservation Commission identifies a possible encroachment, it may gather information as described above and report its findings to the Town Manager.
  3. Identification of party causing encroachment. The Town Manager shall attempt to identify who has caused the encroachment and initiate contact. If the responsible party cannot be determined, the Town may take action to remedy the encroachment under subsection 4 below. If the party can be identified, the Town Manager shall initiate contact and seek voluntary cooperation to remove, repair, restore and/or replace as necessary.
  4. Remediation. If the Town Manager is unable to obtain voluntary cooperation, all legal remedies available to a property owner may be undertaken by the Town. Remedies may include but are not limited to removal of structures, replanting of vegetation, installation of fencing or other visually prominent boundary markers, and a recovery of any costs incurred by the town. Appeal of the Town Manager's determination that an encroachment has occurred may be made to the Town Council.
- d. Vegetation Damage or Removal. No vegetation shall be removed on open space without the permission of the Town, except for blockage of Town trails. When vegetation blocks a trail marked with greenbelt trail signs, vegetative barriers such as trees and branches may be removed, only where the trail is located, without Town permission.

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e. Tree Stand. No tree stand shall be erected on open space without the permission of the Town Manager. Permission to erect a tree stand for the purpose of hunting may be obtained in compliance with the following requirements:

1. The tree stand must be installed in conformance with state law;
2. The tree stand must be installed a minimum of 100 yards from any residential dwelling;
3. The tree stand must be installed a minimum of 10 yards from any Town of Cape Elizabeth greenbelt trail marked with greenbelt signs; and
4. The tree stand must include the name and contact information of the owner on the tree stand.

f. Animal Traps. The Town of Cape Elizabeth determines that all open space is located within one half (1/2) mile of the built-up section of the Town, as used in the State of Maine Trapping Rules, and therefore only "cage-type live traps and drowning sets" may be used in Cape Elizabeth. No traps may be set on open space without the Town Manager's permission. Licensed trappers may be granted permission in order to remove animals causing damage to property or for wildlife survey and research purposes.

g. Motorized vehicles. No motorized vehicles may operate on open space, except as follows:

1. Snowmobiles may be operated on open space designated on the Uses and Activities Chart in the Management of Greenbelt and Open Space Plan;
2. Motorized vehicles performing construction and maintenance work authorized by the Town; and
3. Emergency services vehicles.

h. Events. Group events on open space must obtain permission from the Town prior to the event. For an event that is not publicly advertised and involving the assembly of less than 50 persons, an application will be reviewed by the Town Manager or Town Manager's designee. For an event that is publicly advertised and/or will include 50 or more attendees, an application will be reviewed by the Conservation Commission. For an event with 150 or more attendees, an application will be reviewed by the Conservation Commission, which shall then make a recommendation to the Town Council. The Town Council may make independent findings in approving or denying any request.

An application shall be made in writing and provide information for each of the following items:

1. The name of the applicant, a contact person, contact information and person supervising the event on-site;
2. A description of the event including the date and time of the activity, a description of the group's mission or purpose and experience in holding events, purpose of the event and the anticipated number of attendees;

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3. Event parking, event tent or other on-site set-up, and need for utilities such as sanitary waste disposal, electricity, amplified sound, power generator, trash removal, etc;
4. Insurance or other liability arrangements.

The reviewing authority will consider the following in reviewing an event application:

1. If an event has already been approved for the same open space on the same day (Priority shall be given to Town of Cape Elizabeth, Cape Elizabeth School Department, and Cape Elizabeth based organizations events when applications are submitted at the same time for the same open space);
2. If the event is in keeping with the desired recreational and cultural uses of the open space;
3. If the event is compatible with the enjoyment of the open space by non-event users;
4. If the event may expose the town to unreasonable safety related liabilities;
5. Experience of the applicant in handling large crowds;
6. The number of vehicles anticipated, parking available and traffic impacts;
7. The insurance coverage or liability arrangements of the applicant;
8. The need and availability of public safety personnel for event security;
9. Expected need and use of sanitary facilities, electrical service, refuse disposal and recycling;
10. Use of outside vendors;
11. Advertising for the event;
12. Extent of wear to the open space;
13. Potential noise or other impacts on abutters; and
14. Other impacts unique to the open space or the event.

**Sec. 18-5-5. Penalties.** The violation of any provision of this ordinance shall, in addition to any civil penalties available to the Town therefore, constitute a misdemeanor and be punishable by a fine not to exceed \$1,000.00 to be recovered upon complaint to the use to the Town. Each day that any violation of this ordinance shall continue following notification thereof by the Town Manager shall constitute a separate offense.

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**Item# 87-2012                      Open Space Management Plan**

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

Ordered: The Cape Elizabeth Town Council does hereby adopt the Open Space Management Plan dated 10/12/2011 including the management policies contained in the 11/1/11 draft as presented.  
(7 yes) (0 no)

**Item# 88-2012                      Inn By The Sea Liquor License Renewals**

Moved by Jessica L. Sullivan and Seconded by Frank J. Governali

Ordered: The Cape Elizabeth Town Council approves the application of the Inn by the Sea, LLC for renewal of their malt, vinous and spirituous licenses and special amusement permit for the Inn by the Sea at 40 Bowery Beach Road.  
(7 yes) (0 no)

**Item# 89-2012                      Approval of Warrant for June 12, 2012 Referendum Election**

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

Ordered: The Cape Elizabeth Town Council does hereby approve the warrant for the June 12, 2012 school budget validation referendum as presented.  
(7 yes) (0 no)

**TOWN OF CAPE ELIZABETH  
SCHOOL BUDGET VALIDATION REFERENDUM  
WARRANT  
TUESDAY, JUNE 12, 2012**

**County of Cumberland, ss.**

**To Neil R. Williams, a constable of Cape Elizabeth. You are hereby directed to notify the voters of Cape Elizabeth of the election described in the warrant.**

**School Budget Validation Referendum**

YES    Do you favor approving the Town of Cape Elizabeth school budget for the upcoming school  
NO    year that was adopted at the latest school budget meeting of the Town Council?

**The following is a non-binding expression of opinion for the consideration of the School Board and Town Council.**

I find the school budget adopted at the May 14, 2012 Town Council's school budget meeting to be:

TOO HIGH  
ACCEPTABLE  
TOO LOW

Election to be held on Tuesday, June 12, 2012, at the Cape Elizabeth High School Gymnasium.

Polls open at 7:00 a.m. and Close at 8:00 p.m.

Absentee Ballot Processing:



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**TOWN OF CAPE ELIZABETH  
ALEWIFE REGULATIONS -2013**

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**Regulations for the taking of alewives shall be as follows:**

A minimum unobstructed opening of two feet (2') shall be maintained at all times between the riverbank and the downstream end of the weir.

The maximum mesh size of wire, twine, or other material used in the weir shall not exceed one inch by one inch (1" x 1").

There shall be a 72-hour weekly closed season on alewives from sunrise each Thursday morning until sunrise the following Sunday morning. No fish shall be taken during this period and alewives must be allowed to escape upstream to spawning areas. During the closed season, a natural unobstructed opening of three feet by three feet (3' x3') shall be maintained in the upstream and downstream end of the trap to allow for escapement of spawning alewives and other migratory fish.

Migratory fish such as salmon, shad, or other species except alewives and blueback herring that enter the trap, shall be removed and allowed to pass upstream.

Fishing operations shall cease and all fishing gear obstructing the passage of fish shall be removed from the fishing waters not later than June 5.

The total landings in pounds or bushels and value of the catch shall be made available to the Maine Department of Marine Resources and/or National Marine Fisheries Service on request by these agencies.

The town manager shall grant harvesting rights with preference being given to commercial fishermen and to landowners abutting any stream where the harvesting is to occur. No one may enter upon the land of another for the purpose of harvesting alewives except with permission of the landowner.

**Additional Regulations for Streams with Atlantic Salmon Runs**

The entrance to the dipping pen or trap shall be covered by bars, slats, or spacers with a maximum width of two inches (2") between said bars, slats or spacers.

Dipping of alewives shall be confined to the dipping pen or trap.

**Item# 92-2012**

**Fort Williams Park Use from Maine Historical Society**

Intro – Steve Bromage, 9 Hamlin Street, Assistant Director Maine Historical Society

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

ORDERED: The Cape Elizabeth Town Council approves the request from the Maine Historic Society for the use of Fort Williams Park on June 30, 2012 for a 19<sup>th</sup> century baseball event as proposed.

(7 yes) (0 no)

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

**Adjournment**

Moved by Frank J. Governali and Seconded by James T. Walsh

ORDERED: The Cape Elizabeth Town Council adjourns at 7:50 p.m.  
(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk