

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 9-2012
Cape Elizabeth Town Hall
Monday, July 9, 2012
7:00 p.m.

Roll Call by the Town Clerk Present Absent

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

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Sullivan reported on the Thomas Memorial Library's summer concert series, the neighborhood gatherings for those interested in learning about the proposed renovations to the library and the Conservation Commission's trail of the month program.

The council thanked 6th grader Katie Ledoux for her letter proposing the idea of a car show in Cape Elizabeth.

Citizen Opportunity for Discussion of Items Not on the Agenda None

Town Manager's Report

Mr. McGovern reported on the following.

- Thanks to Steve Culver, Chairman and the volunteers for Family Fun Day for another successful event.
- The Shore Road path project continues with an estimated completion date in October 2012.
- The town council agreed to vote on the unopposed slate of officers for the Maine Municipal Ballot as presented.
- It appears there is an impasse between the State of Maine and the Sprague Corporation on the property which the Sprague Corporation leases to the State near the entrance to Crescent Beach State Park. The 50 year lease on the property expired; the lease is now negotiated annually. The State is surveying other entrance options - the field between Richmond Terrace and Inn By The Sea.
- Marion Guthrie, 108 Delano Park, passed away on June 14, 2012. Mrs. Guthrie served on various town committees including the Planning Board. She will be missed.

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Review of June 11, 2012 Draft Minutes

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Meeting #8-2012 held June 11, 2012 as presented.

(7 yes) (0 no)

Item# 106 -2012 Proposed Charter Change

Proposed Charter Change Public Hearing

Chairman Lennon opened the public hearing at 7:14 p.m.

David Griffin, 5 Channel View Road suggested changing the time the public is given to gather signatures to petition for a referendum to 60 days.

Philip Kaminsky, 8 Gladys Road “commended the town council for going in this direction,” and suggests the amount which triggers a referendum remain at \$855,000 which is the current 0.05% of the state valuation.

After hearing no further comments the hearing was closed at 7:17 p.m.

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

ORDERED: The Cape Elizabeth Town Council approves the draft amendment for submission to voters on November 6, 2012 as presented.

(5 yes) (2 no Councilor Ray and Sherman)

**ARTICLE VIII
Initiative and Referendum**

Sec. 1. Petition for overrule of ordinance. ~~action of council.~~ All ordinances, except emergency ordinances passed pursuant to Article II, Section 12, ~~or any vote for a single capital expenditure or a single capital improvement, the total cost of which exceeds 0.05 percent of the last state valuation,~~ shall be subject to overrule by a referendum, as hereinafter provided; ~~except the following shall not be subject to referendum:~~

1. If, within 20 days after the enactment of any such ordinances ~~or passage of any such vote,~~ a petition signed by not less than 10% of the registered voters of the Town of Cape Elizabeth is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk and shall, within 14 days after said public hearing, designate a time and place for the purpose of submitting to a referendum vote the question of adopting such ordinance, ~~or approving such vote.~~ Pending action by referendum, the referred ordinance ~~or vote~~ shall be suspended from going into operation until it has received an affirmative vote of the majority of the voters voting on said question.

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~~1. The annual budget; provided, however, if a single capital expenditure or a single capital improvement, the total cost of which exceeds 0.05 percent of the last state valuation, is included in the annual budget, then that part of the annual budget shall be subject to referendum;~~

Sec. 2. Referendum for approval of certain capital expenditures. Any vote by the council for a single capital expenditure of town funds or a single capital improvement not arising from a fire or other casualty loss, nor arising from a federal or state mandate, the total cost of which exceeds One Million Dollars (\$1,000,000), whether as a separate vote or included in the approved annual budget, shall be submitted to a referendum vote at a time designated by the council. Pending action by referendum, the referred vote, or budget item, shall be suspended from going into operation until it has received an affirmative vote of the majority of voters voting on said question. This section shall not apply to the refinancing of previously authorized debt.

(The sections which follow will be renumbered as needed.)

Explanation

The intent of this proposal is to require most single capital expenditures exceeding \$1.0 million in value to be approved by the voters. The current provision is that a binding citizen vote occurs only after the town clerk receives a petition signed by 10% of the registered voters asking for a council approved capital expenditure valued at more than 0.05% of the state valuation to be overridden. Currently, approximately 750 signatures of voters are needed to attempt to override an expenditure exceeding \$855,375 in value.

Item# 107 -2012 Good Table Annual Licenses

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

ORDERED: The Cape Elizabeth Town Council approves the renewal malt, spirituous and vinous liquor license for The Good Table located at 527 Ocean House Road as presented.

(7 yes) (0 no)

Item# 108-2012 Short Term Rentals

Intro – Elaine Falender, Chairman Planning Board

7:52 p.m. Chairman Lennon invited public comment prior to council consideration of the item.

Jenny Aronson, 27 Lawson Road requested assistance from the town council “laws on the books” banning short term rentals on small lots citing reasons of property values, safety and security.

Peter Clifford, 36 Lawson Road suggested a requirement for a minimum 30 or 14 day stay for short term rentals, placing the burden on the property owner to make certain renters follow rules and a ban on allowing the sub-leasing of homes.

Mary Volin, 17 Lawson Road stated “this is a zoning ordinance issue, not a nuisance.” She encouraged the town council to develop ordinance language which “describes what a neighborhood is.”

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Charlie Webber, 105 Fowler Road and 30 Shipwreck Cove Road (rental property) said the Peabbles Cove Association has strict rules and guidelines for renters, “you can not make one set of rules for every situation.”

Edwin Fitzpatrick, 28 Shipwreck Cove Road said the problem is limited, “rare locations.” “Small government trying to involve themselves in private lives.”

Mary Giftos, 6 Point Road purchased the property recently in a “residential neighborhood” but would have picked another community had she realized the rental problems.

Tom Dunham, 11 Becky’s Cove Lane expressed sympathy for the Lawson Road residents and encouraged them to call the police, “it’s an enforcement issue.” He also asked to be exempt from any rules which may be considered because his residence is next to the rental property and he takes care of rules for his renters.

JoAgnes Pasquarella, 12 Peabbles Point Lane and 6 Boathouse Lane (rental property) favors restricting the number of people and length of time for rental properties, the town must decide “if it is residential or like Old Orchard Beach.”

David Volin, 17 Lawson Road said “relying on the nuisance ordinance is undue burden on neighbors,” ordinances should place restrictions on rentals.

Penny Pollard, 3 Peabbles Point Lane, President of the Peabbles Cove Association provided a copy of the association covenants and a cover letter which states, “The Board wishes to express its unanimous confidence that renting within the Peabbles Cove neighborhood is well regulated by our governing documents and does not require the additional intervention of Town policies.”

8:20 p.m. Chairman Lennon closed public comments.

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

ORDERED: The Cape Elizabeth Town Council thanks the Planning Board for its review of the short term rental property issues and refers to a Town Council workshop on Monday, August 6, 2012 at 7:00 p.m. the Planning Board’s recommended provisions to the zoning ordinance regarding rentals of property on a short term basis.

(7 yes) (0 no)

Item# 109 -2012 Property Boundary Surveys

Intro – Councilor Walsh, Chairman Ordinance Committee

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

Ordered: The Cape Elizabeth Town Council thanks the Ordinance Committee for reviewing issues relating to property boundaries and refers to the Planning Board a review of the Ordinance Committee proposal.

(7 yes) (0 no)

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Item# 110-2012 MMA Legislative Policy Committee

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

ORDERED: The Cape Elizabeth Town Council confirms the town's delegate to the Maine Municipal Association Legislative Policy Committee, Kathy Ray for the next biennium 2013-2014.
(7 yes) (0 no)

Item# 111-2012 Status Update on 2012 Town Council Goals

Intro – Mr. McGovern

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

ORDERED: The Cape Elizabeth Town Council acknowledges receipt of the progress report on 2012 town council goals.
(7 yes) (0 no)

Citizen Opportunity for Discussion of Items Not on the Agenda None

Item# 112-2012 Hardship Abatement-Executive Session

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

ORDERED: The Cape Elizabeth Town Council in conformance with 1 MRSA §405 6 F enters into executive session at 8:48 p.m. to review an application for a hardship abatement.
(7 yes) (0 no)

Moved by David S. Sherman, Jr. and Seconded by Katharine N. Ray

ORDERED: The Cape Elizabeth Town Council exits executive session and returns to public session at 8:56 p.m.
(7 yes) (0 no)

Moved by David S. Sherman, Jr. and Seconded by Katharine N. Ray

ORDERED: The Cape Elizabeth Town Council denies the request for a poverty abatement due to the lack of immediate threat of foreclosure.
(7 yes) (0 no)

Adjournment

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

ORDERED: The Cape Elizabeth Town Council adjourns at 8:55 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk