

**CAPE ELIZABETH TOWN COUNCIL AGENDA**  
**Regular Meeting # 4-2013**  
**Cape Elizabeth Town Hall**  
**Monday, February 11, 2013**  
**7:00 p.m.**

**Roll Call by the Town Clerk**

|                                |                             |  |
|--------------------------------|-----------------------------|--|
| <b>James T. Walsh, Chair</b>   | <b>Term Expires 12/2015</b> | <a href="mailto:jim.walsh@capeelizabeth.org">jim.walsh@capeelizabeth.org</a>             |
| <b>Frank J. Governali</b>      | <b>Term Expires 12/2013</b> | <a href="mailto:frank.governali@capeelizabeth.org">frank.governali@capeelizabeth.org</a> |
| <b>Caitlin R. Jordan</b>       | <b>Term Expires 12/2013</b> | <a href="mailto:caitlin.jordan@capeelizabeth.org">caitlin.jordan@capeelizabeth.org</a>   |
| <b>Katharine N. Ray</b>        | <b>Term Expires 12/2014</b> | <a href="mailto:retbank@maine.rr.com">retbank@maine.rr.com</a>                           |
| <b>David S. Sherman, Jr.</b>   | <b>Term Expires 12/2014</b> | <a href="mailto:dsherman@dwmlaw.com">dsherman@dwmlaw.com</a>                             |
| <b>Jessica L. Sullivan</b>     | <b>Term Expires 12/2015</b> | <a href="mailto:jsullivan08@maine.rr.com">jsullivan08@maine.rr.com</a>                   |
| <b>James R. "Jamie" Wagner</b> | <b>Term Expires 12/2015</b> | <a href="mailto:jamiewagnerlaw@gmail.com">jamiewagnerlaw@gmail.com</a>                   |

**The Pledge of Allegiance to the Flag**  
**Town Council Reports and Correspondence**  
**Monthly Financial Update**  
**Citizen Opportunity for Discussion of Items Not on the Agenda**  
**Town Manager's Report**

**Review of Minutes**  
[January 2, 2013 Meeting](#)  
[January 7, 2013 Meeting](#)

**Item# 35-2013 Proposed Library Planning Committee**

Provided below is a draft composition and charge for a proposed library planning committee.

**Committee Created**

There is hereby created a library planning committee to consist of five members. Three members will be from among the membership of the Cape Elizabeth Town Council and shall be appointed by the council. One member to be invited shall be a member of the Cape Elizabeth School Board chosen by the school board. One member shall be a trustee of the Thomas Memorial Library chosen by the trustees. The library director of the Thomas Memorial Library shall be a non-voting ex-officio member and shall serve as the staff liaison to the committee. The facilities manager shall be invited to participate in committee meetings to serve as a non-voting staff resource.

**Committee Purpose**

The committee shall prepare a plan for public library services and facilities to serve Cape Elizabeth for the next 25 years.

The committee shall seek public input in its deliberations and shall consider lower costs alternatives than the library proposal that was not approved in November 2012.

The committee shall review past materials and information relating to library facilities but shall take a fresh look at possible future actions.

The committee shall look at utilization of space for other municipal and school services optimizing service to citizens and cost efficiencies. The committee shall meet with the town center plan committee to consider opportunities for enhancing the town center.

### **Committee Budget**

The committee shall receive an initial appropriation of \$25,000 to carry out its work program. The funds shall be appropriated from the unassigned general fund balance.

### **Committee Reports**

The committee shall meet regularly to advance its work and shall provide a substantial progress report in October 2013. Following the progress report, the town council will consider future directions and actions.

### **Item# 36-2013      Town Center Plan Committee**

One of the town council goals for 2013 is to appoint a committee to develop a new town center plan. The following draft charge has been prepared.

## **Draft Charge Town Center Plan Committee 2013**

### **Introduction**

Cape Elizabeth adopted a Town Center Planning in 1993 and subsequent zoning amendments in 1995. It is time to revisit the plan and take a fresh look at the Town Center with the goal to support a vibrant, business and pedestrian friendly town center. The committee should complete its recommendations by the end of 2013.

### **Committee Structure**

The 2013 Town Center Committee shall consist of 9 members. The Town Council, following a recommendation from the Appointments Committee, shall appoint 5 residents, of which at least one shall be a town center business owner and one a resident of the town center or an adjacent neighborhood. The Town Council shall appoint 2 of its members to serve on the committee and shall ask the Planning Board and the School Board to also appoint one of its members to the committee. The committee shall appoint its own chair and shall keep minutes of the meetings. The Town Manager shall designate staff for the committee.

### **Committee Charge**

1. The Town Center Plan Committee shall review existing conditions in the town center, including but not limited to land uses, lot and building vacancies, infrastructure (roads, sidewalks, stormwater, sanitary sewer, etc), but not including municipal buildings.
2. The committee should articulate a vision for the town center. The committee should focus on the purpose statement of the Town Center zone and confirm that the purpose statement remains valid or, if not, what changes are recommended to articulate a vision for the town center.
3. The committee shall prepare and implement a public information plan, with a focus on town center business owners, and shall hold a public forum.
4. The committee shall meet with the library planning committee to consider opportunities for enhancing the town center.
5. The committee shall provide a status report to the Town Council within 6 months of its first meeting.

6. The committee shall provide a final report with recommendations to the Town Council by December 31, 2013.

**Committee Budget**

The committee shall receive an initial appropriation of \$10,000 to carry out its work program. The funds shall be appropriated from the unassigned general fund balance.

**Item# 37-2013 Future Open Space Study Committee Recommendations**

The town council recently reviewed at a council workshop the recommendations from the Future Open Space Study Committee. The following town council action is recommended:

**Referral to the Conservation Commission:**

The town council requests the conservation commission to prepare and implement a public education effort to increase public knowledge of the amount of publically owned and accessible open space and the past and ongoing financial commitment made to acquire and maintain open space. The commission should include in its public education effort opportunities for direct public involvement in open space planning, prioritization and maintenance.

When the conservation commission updates the greenbelt plan, it should include the open space definition as follows: *“Land and water areas, either public or private, maintained in an essentially undeveloped state (which may include athletic fields) for use as active or passive recreation, wildlife habitat, agriculture, or preservation”*

**Referral to the Ordinance Committee:**

The FOSP Committee recommended that the *Conservation Commission duties and authority be revised as necessary to task it with primary responsibility for preparing and submitting open space evaluation and preservation recommendations to the Town Council. Conservation Commission membership should be increased to 9 to improve its capacity to perform its expanded duties.*

The ordinance committee is requested to review this recommendation and to recommend language back to the town council.

**Referral to the Planning Board:**

*FOSP recommended that the current regulations promoting clustering be retained. More work should be done to investigate the potential for increasing the amount of open space that is preserved while maintaining the density allowed that makes this a desirable option for property owners. More emphasis should also be put on preserving contiguous open space and connectors and less on open space as buffer strips.*

The town council requests the planning board should restart its implementation of the Land Use Chapter recommendations in the 2007 Comprehensive Plan, with emphasis on the above recommendation.

*FOSP recommended that the town retain the current TDR regulations. The Planning Board should be tasked with reviewing the TDR sending areas map to align it with Open Space criteria priorities. The town council requests that the planning board include this recommendation in its comprehensive plan Land Use Chapter recommendations.*

*FOSP recommended that the review of growth areas be referred to the Planning Board as part of the resumption of the Planning Board’s comprehensive plan implementation work. The Planning*

*Board's comprehensive planning implementation work should include public outreach about the benefits of open space zoning. The Planning Board should also recommend ordinance amendments that make preservation of agricultural land a higher open space priority when preserving open space as part of new development.* The town council requests the planning board to do so.

### **Referral to the Town Manager**

The town council requests the town manager consider recommending funding for the land acquisition fund as part of his recommended budget.

The town council requests the town manager as part of the annual carry forward process in June of each year to propose reserving a portion of unutilized overlay funds for the land acquisition fund.

The town council requests the town manager to consider recommending an open space bond of part of the overall capital improvement planning process.

The town council requests the town manager to work with the assessing department to make available information on the availability of state programs to reduce current taxation on open space, agricultural lands and potential tree growth parcels.

### **Referral to the Town Council Finance Committee**

The town council requests the finance committee to consider recommending funding for the land acquisition fund as part of its recommended budget.

The town council requests the finance committee to consider recommending an open space bond of part of the overall capital improvement planning process.

The town council requests the finance committee to consider as part of its budget review the possibility of providing a penny or more in the proposed annual tax rate for land acquisition purposes.

### **Item# 38-2013 Limited Summer Day Camps**

Councilor Sherman has requested that that the Town Council refer to the Ordinance Committee an amendment to the zoning ordinance that would make limited, summer day camps a permitted use. Limited summer day camps operated by enterprising teenagers and adults have offered entertainment and camaraderie in Cape Elizabeth for many summers. These "camps" are small and neighborhood focused, but due to an interpretation last summer by the former code enforcement officer, they are not permitted. The amendment could include a definition that keeps these summer camps small and limited, and allows them as a permitted use.

As this would require a zoning ordinance amendment, it is recommended that this request be referred to the planning board.

### **Item# 39-2013 Proposed Amendment to the Boards and Commissions Ordinance**

The Community Services Advisory Commission is currently established by local ordinance and the commission is made up of appointees of the council and the school board. As the community services program has evolved over the years and as the administration of the program is now fully in the school department, it is not in keeping with the responsibility of the school board for care and management of the schools for the program's oversight to be determined by the council through local ordinance. It is therefore proposed to delete the language in the Boards and Commissions ordinance referencing the commission thus leaving to the school board to determine how any oversight is to occur.

There is nothing in this proposal that changes the process of council review of the community services budget. This may be referred to the ordinance committee or be set for public hearing on March 11, 2013.

**~~Article VI. — Community Services Advisory Commission.~~**

**~~Sec. 4-6-1. Membership.~~** ~~The Community Services Advisory Commission shall consist of seven Cape Elizabeth residents. The Town Council shall appoint three members and the Cape Elizabeth School Board shall appoint four. Appointments shall be for staggered three year terms and no person shall serve more than two full consecutive terms. Any vacancy shall be filled for the remainder of the term by the original appointing body.~~

**~~Sec. 4-6-2. Duties and Responsibilities.~~** ~~The duties and responsibilities of the Commission shall be as follows:~~

- ~~(a) To represent the needs and issues of total community education services.~~
- ~~(b) To adopt policies to govern the recreation and adult education program, subject to specific disapproval of such policies by a resolution adopted by either the Town Council or the School Board.~~
- ~~(c) To recommend an annual budget for the community recreation program to the School Board and the Town Council.~~
- ~~(d) To recommend a candidate for Community Services Director to the School Board. Review of candidates shall be conducted in accordance with procedures adopted by the Commission and the Superintendent of Schools.~~
- ~~(e) To review athletic field use and make recommendations on fields maintenance and use to the Town Council and municipal staff.~~

**Item# 40-2013      Proposed Board and Commissions Ordinance Amendment**

The Personnel Code provides in Sec 3-1-10 (b) that the Personnel Appeals Board may hear any appeal of a disciplinary action other than a reprimand from any full time employee.

The Board and Commissions Ordinance in Section 4-7-3 limits the right to appeal to the Personnel Appeals Board to full time members of the police department and as may be provided in any collective bargaining agreement that may confer such jurisdiction.

To remove this inconsistency, it is recommended to amend the Boards and Commissions Ordinance as follows:

**Sec. 4-7-3. Duties and Responsibilities of the Board.** The duties and responsibilities of the Board shall be to consider and decide disciplinary appeals ~~by full-time members of the~~

~~Police Department~~, as provided for in Sec. 3-1-10 of the Personnel Code and in any collective bargaining agreement that may confer such jurisdiction.

This may be referred to the ordinance committee or be set for public hearing on March 11, 2013.

**Item# 41-2013**      **[Fort Williams Park 2013 Large Group Use Requests](#)**

The Fort Williams Advisory Commission recommends approval of the following requests:

- Cape Elizabeth High School Commencement: June 9, 2013 with practice beginning June 5, 2013
- Family Fun Day: June 15, 2013
- Cape Elizabeth Little League: April through July per letter
- TD Beach to Beacon 10K: August 3, 2013 with setup beginning July 30, 2013
- Engine Company One Labor Day Weekend Art Show: September 1, 2013 with rain date of September 2, 2013

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

**Adjournment**

**[Link to Monthly Financial Reports](#)**

**Public Participation at Town Council Meetings**

After an item has been introduced, any person wishing to address the council shall signify a desire to speak by raising their hand or by approaching the lectern. When recognized by the chairman, 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 Town Council. Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present. For agenda items that are not formally advertised public hearings, the time for public comments is limited to 15 minutes per agenda item. This time may be extended by a majority of the Town Council. The chairman 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 Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item.

**Speaking at the meeting on topics not on the agenda at regular Council meetings**

Persons wishing to address the Council on an issue or concern local in nature not appearing on the agenda may do so at a regular Town Council meeting before the town manager's report and/or after the disposition of all items appearing on the agenda. Any person wishing to address the Council shall signify a desire to speak by raising their hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation if the local affiliation Council. Comments in each comment period shall be limited to three minutes per person and 15 minutes total; however, the time may be extended by majority vote of councilors present.

**Decorum**

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