

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

**Roll Call by the Town Clerk Present Absent**

<b>James T. Walsh, Chair</b>	<b>X</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>X</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>X</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>X</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>X</b>	<b>Term Expires 12/2014</b>	<a href="mailto:dsherman@dwmlaw.com">dsherman@dwmlaw.com</a>
<b>Jessica L. Sullivan</b>	<b>X</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>X</b>	<b>Term Expires 12/2015</b>	<a href="mailto:jamiewagnerlaw@gmail.com">jamiewagnerlaw@gmail.com</a>
<b>Debra M. Lane</b>	<b>X</b>		
<b>Michael K. McGovern</b>	<b>X</b>		

**The Pledge of Allegiance to the Flag**

**Town Council Reports and Correspondence**

Councilor Sullivan reported that the Thomas Memorial Library is beginning to unveil new online products including an audio book program. Residents are encouraged to check the various programs being offered during February school vacation.

Councilor Sherman reported on his first meeting as representative to the Portland Jetport Advisory Commission. Residents are encouraged to contact Mr. Sherman with questions or concerns related to the jetport.

**Monthly Financial Update**

Councilor Governali, Finance Committee Chairman spoke about the potential impact to property taxpayers if the town receives less income from the state based on proposed reductions to the homestead exemption, suspending revenue sharing for two years, and shifting half of teacher retirement expenses to the town.

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

Kathleen Janick, 112 Delano Park and Ted Darling, 35 McAuley Road, representing the Cape Elizabeth Land Trust, presented the Town of Cape Elizabeth a picture of Robinson Woods to thank the town for the assistance in acquiring Robinson Woods II.

**Town Manager's Report**

Mr. McGovern recognized and thanked the members of the public works department for their hard work and tremendous job during the Blizzard of 2013. He also reported the town has received the final payment for the bus and trolley revenue at Fort Williams Park for a total of \$26,000.

**Page 2 Town Council Minutes  
February 11, 2013**

**Review of Minutes  
January 2, 2013 Meeting  
January 7, 2013 Meeting**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Meeting #2-2013 held January 2, 2013 as presented.  
(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Meeting #3-2013 held January 7, 2013 as presented.  
(7 yes) (0 no)

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

Moved by Frank J. Governali and Seconded by Katharine N. Ray

ORDERED, the Cape Elizabeth Town Council approves the proposed Library Planning Committee and charge as amended.  
(7 yes) (0 no)

**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 library services. The committee shall meet with the town center plan committee to consider opportunities for enhancing the town center.

**Committee Budget**

The committee shall request funding from the town council 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**

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

ORDERED, the Cape Elizabeth Town Council approves the proposed Town Center Plan Committee 2013 and charge as amended.

(7 yes) (0 no)

**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).
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 request funding from the town council to carry out its work program. The funds shall be appropriated from the unassigned general fund balance.

Moved by Jessica L. Sullivan and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council appoints Councilors Governali, Ray and Sullivan to serve as town council representatives to the Library Planning Committee.  
(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council appoints Councilors Sherman and Wagner to serve as town council representatives to the Town Center Plan Committee 2013.  
(7 yes) (0 no)

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

It was noted that the referrals to the town manager were not in the FOSP report and the referrals to the finance committee is continuous, not limited to the upcoming budget.

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

ORDERED, the Cape Elizabeth Town Council approves the following referrals en bloc relating to recommendations from the Future Open Space Study Committee.  
(7 yes) (0 no)

**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**

Intro – Councilor Sherman, sponsor of the item.

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

ORDERED, the Cape Elizabeth Town Council refers to the Planning Board for review an amendment to the zoning ordinance that would make limited, summer day camps a permitted use.  
(7 yes) (0 no)

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

Intro – Mr. McGovern

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

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, March 11, 2013 at the Cape Elizabeth Town Hall at 7:00 p.m. a proposed amendment to Chapter 4 Boards and Commissions ordinance to delete language Article VI. Community Services Advisory Commission as administration of the program is now fully in the school department.  
(7 yes) (0 no)

~~**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.~~

February 11, 2013

~~(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**

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

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, March 11, 2013 at the Cape Elizabeth Town Hall at 7:00 p.m. a proposed amendment to Chapter 4 Boards and Commissions ordinance to amend language Sec. 4-7-3. Duties and Responsibilities of the Board that the Personnel Appeals Board may hear any appeal of a disciplinary action other than a reprimand from any full time employee. Current language provides for appeals by full time members of the police department only.

(7 yes) (0 no)

**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.

**Item# 41-2013 Fort Williams Park 2013 Large Group Use Requests**

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

ORDRED, the Cape Elizabeth Town Council approves the recommendations of the Fort Williams Advisory Commission to approve the following requests as presented.

(7 yes) (0 no)

- 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**                      **None**

**Adjournment**

Moved by Frank J. Governali and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council adjourns at 8:19 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk

