

**CAPE ELIZABETH TOWN COUNCIL MINUTES**  
**Regular Meeting # 6-2013**  
**Cape Elizabeth Town Hall**  
**Monday, March 11, 2013**  
**7:00 p.m.**

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

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

**The Pledge of Allegiance to the Flag**

**Town Council Reports and Correspondence**

**Monthly Financial Update**

Finance Committee Chairman Governali provided a profile of the municipal and school debt through 2020 and reminded residents of the fiscal year 2014 budget schedule.

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

**Town Manager's Report**

Mr. McGovern announced that funds are still available through the Thomas Jordan Trust for fuel assistance; the income guideline is 150% of the poverty level. The State of Maine and Sprague Corporation have reached a 5 year agreement for the state to lease the lands at Crescent Beach State Park for \$100,000 per year.

**Review of Minutes**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Meeting #4-2013 held February 11, 2013 as presented.

(6 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Special Meeting #5-2013 held March 4, 2013 as presented.

(6 yes) (0 no)

**Item #43-2013 Proposed Amendment to the Boards and Commissions Ordinance**

Intro – Mr. McGovern

**Public Hearing Proposed Amendment to the Boards and Commissions Ordinance**

Chairman Walsh opened the public hearing at 7:13 p.m.  
After hearing no comments the hearing was closed.

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

ORDERED, the Cape Elizabeth Town Council deletes the language in Chapter 4 Boards and Commissions ordinance Article VI. Sec. 4-6-1 and Sec. 4-6-2 referencing the Community Services Advisory Commission as the administration of the program is now fully in the school department.  
(6 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.~~
- ~~(e) To review athletic field use and make recommendations on fields maintenance and use to the Town Council and municipal staff.~~

Renumber as needed

**Item# 44-2013 Proposed Boards and Commissions Ordinance Amendment**

**Public Hearing Proposed Amendment # 2 to the Boards and Commissions Ordinance**

Chairman Walsh opened the public hearing at 7:14 p.m.  
After hearing no comments the hearing was closed.

Moved by James R. Wagner and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council amends Chapter 4 Boards and Commissions Ordinance Section 4-7-3 to remove an inconsistency with the Personnel Code Sec 3-1-10 (b) relating to an appeal of a disciplinary action other than a reprimand from any full time employee.  
(6 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# 45-2013 Budget Referrals**

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

ORDERED, the Cape Elizabeth Town Council refers the proposed municipal and general fund budgets for FY 2014 to the finance committee and requests the Finance Committee to review the proposed school budget upon its receipt from the school board.  
(6 yes) (0 no)

**Item# 46-2013 Fort Williams Park Group Use Request From the American Cancer Society**

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

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Advisory Commission for the use of Fort Williams Park on Sunday, October 20, 2013 for the American Cancer Society Making Strides Against Breast Cancer walk as presented.  
(6 yes) (0 no)

*Set up starting at about 7:00 AM and clean-up will be complete by 2:00 PM. Walk registration will be from approximately 9:00 – 11:00 AM with a 11:00 start for the walk.*

*The walk route will be about 3 miles in the park. This route is to be determined and could be a loop that participants walk 2-3 times for a total of about three miles. Event volunteers will be stationed along the walk route. The picnic shelter and electricity will be used to set up a PA system. A small stage (risers) will need an area in the park to set up one or two tents and up to six 10 x 10 canopies for event registration, information, services, etc. Porto-johns will be rented by the American Cancer Society – the number and location will meet requirements for park use. The American Cancer Society will provide trash bags and receptacles/dumpster and event organizers will remove trash in abiding by Carry In-Carry out Policy.*

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*Parking will be needed for about 650-700 cars. Event organizers will provide/post parking signs as needed for park use. Event volunteers will be stationed to help park cars. The American Cancer Society will hire police assistance for the registration area and if needed to assist with parking or walk route.*

*Per request of the event organizer, due to limited funding, all town expenses will be reimbursed and the use fee will be waived.*

**Item# 47-2013 Tobacco Use**

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

ORDERED, the Cape Elizabeth Town Council approves as amended the recommended change from the Personnel Advisory Committee to the Personnel Code Sec 3-1-18 to extend the smoking policy to apply to all tobacco products.

(6 yes) (0 no)

**Sec 3-1-18 ~~Smoking~~ Tobacco Use**

The Town of Cape Elizabeth maintains a ~~smoke~~ tobacco free environment for its employees and visitors to municipal facilities. There is no ~~smoking-tobacco use permitted in~~ any municipal building or in any municipal vehicle. . Employees and other visitors shall not ~~smoke~~ utilize tobacco products at any entranceway to any building. Employees may use their regular breaks for ~~smoking~~ use of tobacco products and are not entitled to additional breaks.

**Item# 48-2013 Definition of Normal High Water Line of Coastal Waters**

Intro – Mr. McGovern

Moved by David S. Sherman, Jr. and Seconded by James R. Wagner

ORDERED, the Cape Elizabeth Town Council refers to the planning board a request submitted to the town manager by the code enforcement officer recommending a clarification of the term “normal high water line of coastal waters” contained in the zoning ordinance.

(6 yes) (0 no)

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

**Item# 49-2013 Police Negotiations and Manager Evaluation**

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

ORDERED, the Cape Elizabeth Town Council enters into executive session at 7:36 p.m. in accordance with 1 MRSA §405 6 A. and D. to discuss with the town manager the status of collective bargaining with the Cape Elizabeth Police Professional Association and to complete the annual evaluation of the town manager.

(6 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 7:51 p.m.

(6 yes) (0 no)

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Moved by Frank J. Governali and Seconded by James R. WagnerORDERED, the Cape Elizabeth authorizes the town manager to sign a successor two year contract with the Cape Elizabeth Police Professional Association with a 2% wage increase on July 1, 2013 and a wage increase on July 1, 2014 based on the CPI-U for calendar year 2013 but not less than 2% nor more than 3%.

(5 yes) (1 no J. Sullivan)

**Adjournment**

Moved by Frank J. Governali and Seconded by David S. Sherman, Jr.  
ORDERED, the Cape Elizabeth Town Council adjourns at 7:59 p.m.

(7 yes) (0 no)

The Finance Committee will meet following the town council meeting to begin review of the proposed Fiscal Year 2014 budget.

Respectfully Submitted,

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Debra M. Lane, Town Clerk