

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 11-2013
Cape Elizabeth Town Hall
Monday, June 10, 2013
7:00 p.m.

Roll Call by the Town Clerk Present Absent

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

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Sullivan reported on the Library Plan Committee. On May 31 the committee toured libraries in Brunswick, Topsham and Portland.

Councilor Sherman reported on the Town Center Plan Committee. The committee has met twice since the last town council meeting. The last meeting included a tour of the town center.

Chairman Walsh congratulated 2013 CEHS graduates Sam Sherman and Francesca Governali. Congratulations to the CEHS Boys' Tennis Team for winning the Class B state championships.

Finance Committee Report

The finance report will be included Item #96-2013 regarding the state budget.

Citizen Opportunity for Discussion of Items Not on the Agenda None

Town Manager's Report

Mr. McGovern provided a written report highlighting department activities and town events. The town continues to encourage meetings between the neighbors and the Spurwink Rod and Gun Club. The town council will receive an update at the September 5 workshop. There have been questions regarding the town's legal rights to regulate certain aspects of the gun club. The town has asked for an opinion from Ken Cole, Jensen Baird. A report will be available for the workshop.

It was noted that the Middle School won the silver bullet art contest for ecomaine.

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Review of Minutes May 13, 2013

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Meeting #10-2013 held May 13, 2013 as presented.

(6 yes) (0 no)

Item# 90-2013 Day Camps

Intro – Maureen O’Meara, Town Planner

Public Hearing: Seasonal Day Camps

Intro – Councilor Ray, Chairman Ordinance Committee

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

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

ORDERED, the Cape Elizabeth Town Council creates the following day camp definition to Chapter 19 Zoning Ordinance:

SEC. 19-1-3. DEFINITIONS

Day Camp: A program of care and instruction for no more than ten (10) children, age sixteen (16) or younger, at the operator’s residence, and may also include the operator’s yard and off-site field trips. The program shall be limited to no more than four (4) hours a day and limited to school vacation periods, and further limited to no more than four (4) weeks per summer and no more than six (6) weeks in a calendar year.

The amendment also adds day camp as a permitted nonresidential use in the RA, RB, RC, TC, BA, and BB districts.

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

ORDERED, the Cape Elizabeth Town Council amends the main motion to increase the number of children from (10) to (12) and the number of hours a day from (4) to (6).

(4 yes) (2 no Councilors Ray and Sullivan)

Main Motion as Amended:

(4 yes) (2 no Councilors Ray and Sullivan)

Item# 91-2013 Proposed Amendments to the Subdivision Ordinance

Intro - Maureen O’Meara, Town Planner

Ms. O’Meara clarified that the proposal is an overhaul to the entire ordinance. Although there are no substantive changes to the ordinance, it is now consistent with state subdivision statute, the

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organization of the document is improved, the changes reflect current construction practices and the major subdivision review submission list has been reworked to allow more conceptual plans at the preliminary phase and detailed final plans at the final approval phase.

Public Hearing: Amendments to the Subdivision Ordinance

Chairman Walsh opened the public hearing at 7:39 p.m.
After hearing no comments the public hearing was closed.

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

ORDERED, the Cape Elizabeth Town Council approves the new Chapter 16 Subdivision Ordinance as presented with thanks to the Planning Board and Maureen O'Meara for their work.
(6 yes) (0 no)

Public Hearing: Amendments to the Boards and Commissions Ordinance

Item# 92-2013 Proposed Amendments to the Boards and Commissions Ordinance Regarding Responsibilities of the Conservation Commission

Present – Maureen O'Meara, Town Planner

Intro – Councilor Ray, Chairman Ordinance Committee

Chairman Walsh opened the public hearing at 7:45 p.m.
After hearing no comments the public hearing was closed.

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

ORDERED, the Cape Elizabeth Town Council approves the proposed amendments to Chapter 4 Boards and Commissions Article V Conservation Commission as presented.
(6 yes) (0 no)

Article V. Conservation Commission.

Sec. 4-5-1. Establishment. The Cape Elizabeth Conservation Commission, established by vote of the Town Council on April 26, 1971, shall be governed by and shall exercise and perform such rights, powers and duties as may be conferred or imposed under the provisions of the Maine Revised Statutes Annotated (including 30 M.R.S.A., Sec. 3851), and other duties further defined in Sec. 4-5-3 below.

Sec. 4-5-2. Membership. The commission shall be comprised of seven (7) members, residents of the town appointed by the Town Council, who shall serve without compensation for staggered three (3) year terms. Any vacancy shall be filled by appointment by the Town Council for the duration of the unexpired term. [Amended 3/12/90, Eff. 4/11/90].

Sec. 4-5-3. Duties and Responsibilities. The duties and responsibilities of the Conservation Commission shall be as follows:

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- (a) Stewardship of Town open space as described in the Conservation Ordinance, Chapter 18, Article V, Open Space Management;
- (b) Advisory to the Planning Board in the review of open space set aside as part of Subdivision Review, Subdivision Ordinance, Chapter 16, and in the review of Resource Protection Permits, Zoning Ordinance, Chapter 19;
- (c) Administration of the Open Space Evaluation and Preservation Program;
- (d) Preparation of the Greenbelt Plan for Town Council consideration; and
- (e) Other duties as assigned by the Town Council.

Sec. 4-5-4. Open Space Evaluation and Preservation Program. The purpose of the open space evaluation and preservation program is to establish an ongoing, standardized effort for identifying, evaluating and recommending additions to the Town's inventory of preserved open spaces. The program shall be conducted by the Conservation Commission with updates at each stage to the Town Manager.

- (a) Identification and Evaluation. The Conservation Commission shall periodically, which shall be no less than annually, undertake a review of existing open space and consider areas or specific parcels that may be desirable additions to the Town open space system.
- (b) Open Space Evaluation Criteria. The Commission shall focus on land that meets open space criteria adopted by the Town Council. The evaluation process shall include a public participation component that invites suggestions and input from all members of the public and stakeholders. If specific parcels held in private ownership are under consideration, the Conservation Commission shall endeavor to meet with the property owner prior to making a recommendation. In the absence of criteria adopted by the Town Council, the following criteria shall be used:
 - 1. Agriculture - undeveloped lands used for agriculture.
 - 2. Greenbelt trails and recreation areas -land identified in the current Greenbelt Plan.
 - 3. Wildlife habitat - undeveloped lands that provide a habitat for wildlife as identified by the State of Maine such as the Beginning with Habitat information and field verified.
 - 4. Other - significant scenic, cultural and/or unique properties identified by the Town Council.
- (c) Recommendation. At the completion of its evaluation, the Conservation Commission shall forward its open space recommendations to the Town Council. Recommendations shall include a description of how the evaluation criteria has been met and any other factors.

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Item# 93-2013 Proposed Amendment to Chapter 12 Article IV of the Revised Code of Ordinances

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

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, July 8, 2013 at 7:00 p.m. at the Cape Elizabeth Town Hall an amendment to Chapter 12 Article IV of the Revised Code of Ordinances regarding establishing rules and regulations for fort Williams Park.

(6 yes) (0 no)

Article IV. Fort Williams Park Regulations.

[Adopted eff. 11/11/77 under R. S. 1964, T. 30, Sec. 2151 and Revised eff. 10/08/08.]

Sec. 12-4-1 Fires Restricted. No change

Sec. 12-4-2 Permitted Fires. No change

Sec. 12-4-3 Open Hours. No change

Sec. 12-4-4 Filming. No change

Sec. 12-4-5 Weddings No change

Sec. 12-4-6 Waste Materials. No change

Sec. 12-4-7 Pet Excrement Removal. No change

Sec. 12-4-8 Regulation of Park Activities. The town council is hereby authorized to adopt rules and regulations to manage commercial activities in the Park, activities that include, but are not limited to, vending.

Renumber old Sec. 12-4-8 to Sec. 12-4-9

Sec. 12-4-9 Penalty. Any person found to have violated any provision in Article IV shall be punishable by a fine not to exceed Two Hundred Fifty (\$250.00) to be recovered for the use of the Town. The Town shall also recover any fee that would have been assessed if a proper and timely permit had been granted.

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Item# 94-2013 Proposed Assigned Fund Balances

Moved by Jessica L. Sullivan and Seconded by David S. Sherman, Jr.
 ORDERED, the Cape Elizabeth Town Council approves the proposed assigned fund balances as presented.
 (6 yes) (0 no)

		2013	
	General Fund Assigned Fund Balances		
1102016	Records Preservation	\$ 4,577	
1202011	App Geo Implementation	\$ 11,000	
2104002	Police Department Donations	\$ 8,186	
7154052	Library Project	\$ 101,707	From 7154052 and 5104001
5205053	Family Fun Day	\$ 6,921	
6452019	Fort Williams Park Tree Planting	\$ 11,043	
7154004	Police Cruiser Replacement	\$ 58,424	
7154009	Roadway and Drainage Repairs	\$ 107,000	Re: Shore Rd Sidewalk
7154009	Roadway and Drainage Repairs	\$ 125,000	Other
7154013	Sidewalk Improvements	\$ 20,518	
7154111	Town Hall Meeting Spaces/Office Spaces Plan	\$ 25,000	
7154114	Election Equipment	\$ 16,000	
7254227	Fuel Donation Account	\$ 5,376	
	Budgeted Use of Undesignated Surplus	\$ 350,000	
		\$ 850,752	
	Sewer Fund Assigned Fund Balance		
8154017	Charles Road Reconstruction Project	6/30/2013 Balance	
	Infrastructure Fund Assigned Fund Balance		
7504008	Trout Brook	\$ 25,000	
7504015	Charles Road Reconstruction Project	6/30/2013 Balance	

Item# 95-2013 Cape Elizabeth’s Anniversary of its Incorporation

Intro – Mr. McGovern

Moved by David S. Sherman, Jr. and Seconded by James R. Wagner
 ORDERED, the Cape Elizabeth Town Council establishes the Cape Elizabeth 250th Anniversary Committee as presented.
 (6 yes) (0 no)

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Cape Elizabeth 250th Anniversary Committee

The Cape Elizabeth Town Council is forming the Cape Elizabeth 250th Anniversary Committee which is to be a temporary advisory ad hoc committee to serve until December 31, 2015.

Committee Purpose/ Guidance to the Committee

The purpose of the committee is to provide leadership in celebrating the 250th anniversary of the incorporation of Cape Elizabeth.

- The charge is written broadly in order to provide independence to the committee in their review and in their deliberations.
- The committee shall submit updated reports to the town council in six month intervals and/or as permissions or funding is sought.

Committee Membership

The Cape Elizabeth 250th Anniversary Committee will consist of nine persons. The town council, following a recommendation from the appointments committee, will appoint nine citizens. The committee may form subcommittees and recruit citizens to join the subcommittees who are not members of the full committee. Any citizen wishing to serve on the full committee may apply on-line at www.capeelizabeth.com or may receive an application from the town office at 799-7665.

Committee Budget

There is no budget provided at the outset for the committee. If the committee identifies needed resources, the town manager shall forward any financial request to the town council.

Item# 96-2013 Update on State Budget Scenario

Mr. McGovern presented the latest update on the state budget.

The latest information from Augusta is that Cape Elizabeth will likely see a \$350,000 cut in Maine State Revenue Sharing from \$640,000 to approximately \$290,000. We have also heard the possibility of full funding of the homestead exemption program instead of the half which is now in our budget. This would be a savings of \$149,000. The net effect is a net loss of \$ 201,000. Current law provides that revenue sharing is to be used solely for property tax relief so increases up or down go to the bottom line of the tax rate. The municipal budget is now adopted and may not be amended after May 31. However, the tax commitment is not finalized until August. The net effect of the now anticipated legislative actions equates to 10 cents on the tax rate which would result in the assessor setting a tax rate of \$ 16.50 per thousand valuation. It is proposed that the budget itself remain as adopted due to the charter deadline and the actual tax rate be set by the assessor based on the net changes in revenue sharing and in homestead exemption reimbursement. Again, this is an anticipated tax rate of \$16.50 per thousand compared to the current year rate of \$15.84.

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

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the Town Manager's report on the latest update on the state budget.

(6 yes) (0 no)

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Citizen Opportunity for Discussion of Items Not on the Agenda

None

Adjournment

Moved by Jessica L. Sullivan and Seconded by James R. Wagner

ORDERED, the Cape Elizabeth Town Council adjourns at 8:27 p.m.

(6 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk