

**CAPE ELIZABETH TOWN COUNCIL MINUTES**  
**Regular Meeting # 12-2013**  
**Cape Elizabeth Town Hall**  
**Monday, July 8, 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</b>	<b>12/2015</b>	<b><u><a href="mailto:jim.walsh@capeelizabeth.org">jim.walsh@capeelizabeth.org</a></u></b>
<b>Frank J. Governali</b>	<b>X</b>	<b>Term Expires</b>	<b>12/2013</b>	<b><u><a href="mailto:frank.governali@capeelizabeth.org">frank.governali@capeelizabeth.org</a></u></b>
<b>Caitlin R. Jordan</b>	<b>X</b>	<b>Term Expires</b>	<b>12/2013</b>	<b><u><a href="mailto:caitlin.jordan@capeelizabeth.org">caitlin.jordan@capeelizabeth.org</a></u></b>
<b>Katharine N. Ray</b>	<b>X</b>	<b>Term Expires</b>	<b>12/2014</b>	<b><u><a href="mailto:retbank@maine.rr.com">retbank@maine.rr.com</a></u></b>
<b>David S. Sherman, Jr.</b>	<b>X</b>	<b>Term Expires</b>	<b>12/2014</b>	<b><u><a href="mailto:dsherman@dwmlaw.com">dsherman@dwmlaw.com</a></u></b>
<b>Jessica L. Sullivan</b>	<b>X</b>	<b>Term Expires</b>	<b>12/2015</b>	<b><u><a href="mailto:jsullivan08@maine.rr.com">jsullivan08@maine.rr.com</a></u></b>
<b>James R. "Jamie" Wagner</b>	<b>X</b>	<b>Term Expires</b>	<b>12/2015</b>	<b><u><a href="mailto:jamiewagnerlaw@gmail.com">jamiewagnerlaw@gmail.com</a></u></b>
<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 Governali reported the next meeting of the Library Planning Committee is Tuesday, July 9 at 10:00 a.m.

Councilor Sherman noted the next meeting of the Town Center Plan Committee on Monday, July 15 at 4:00 p.m.

**Finance Committee Report – Finance Chairman Governali**

The capital planning process continues. Councilor Governali and Michael McGovern will soon meet to begin forecasting and obtain input from the school department.

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

Carl Dittrich, 500 Ocean House Road, requested a complete list of events be published on the town's website so that residents are aware of road closures, he encouraged a review of the Video Tour, located on the town's website homepage, highlighting recreation opportunities to ensure Cape Elizabeth sites are used (the video includes the small boat launch on the Scarborough side of the Spurwink River which launches into waters of Cape Elizabeth) and he noted the potential safety hazard of the packs of bike groups who move through town not in single file.

**Town Manager's Report**

Mr. McGovern thanked the Family Fun Day volunteers for a successful event on June 15. Residents interested in serving are encouraged to inquire.

On July 13 at 10:00 a.m. the Postal Service will hold an event the lighthouse to celebrate the dedication of the lighthouse stamp which will include Portland Head Light.

**July 8, 2013**

FEMA has revised floodplain maps which includes 45 additional homes in Cape Elizabeth. The town will send letters to approximately 250 property owners in the floodplain to inform them of the change.

Town Clerk Debra Lane announced the availability of nomination papers for the municipal election on November 5. Nomination papers for town council and school board will be available beginning Monday, July 29 in the town clerk’s office. The deadline for submission is Friday, September 6. There are two available seats on both the council and school board.

**Town Manager’s Report (continued)**

The planning board is working on building permit notifications and high water marks.

Residents are encouraged to keep their homes and vehicles locked. Recent burglaries occurred with residents at home.

A new police officer has been hired to replace Retired Officer Andrew Steindl. Darin Estes, a Cape Elizabeth resident and officer with the Town of Lisbon, will begin later this month.

**Review of Minutes June 10, 2013**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of Meeting #11-2013 held June 10, 2013 as written.

(6 yes) (0 no)

**Item# 97-2013 Proposed Amendment to Chapter 12 Article IV of the Revised Code of Ordinances**

Intro – Councilor Ray, Chairman Ordinance Committee

**Public Hearing: Fort Williams Park Vendor Regulations**

Chairman Walsh opened the public hearing at 7:26 p.m.

Kristian Kristiansen, 40 Alewife Cove, is an artist who has set up in Fort Williams Park since early May and encourages the town council to keep in mind first amendment rights of artists.

Marilyn Kristiansen, 40 Alewife Cove, is an artist who has set up in Fort Williams Park since early May and notes the first amendments rights of artists and that these artists are not the same as commercial vendors. Both Mr. & Mrs. Kristiansen encourage a site in the park that is accessible and visible to the public.

**July 8, 2013**

Bill Brownell, 9 Cedar Ledge Road, Chairman of the Fort Williams Advisory Commission, explained how the recommendations got to this point including meeting with Michael McGovern and Tom Leahy, Town Attorney. The recommendations “balance the rights of the vendor and town rights with fair and reasonable rules.”

Carl Dittrich, 500 Ocean House Road, stated “artists are a commercial venture.” As a vendor in Fort Williams Park I am required to pay sales tax, insurance, purchase equipment and pay a substantial fee to the town for the rights to vend in the park, for the artists to not pay “doesn’t seem fair.”

After hearing no comments the hearing was closed at 8:43 p.m.

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

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Ordinance Committee to amend Chapter 12 Article IV Sec. 12-4-8 and Sec. 12-4-9 of the Revised Code of Ordinances as presented.

(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) per day of infraction 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.

**Item# 98-2013 Proposed Fort Williams Park Vending Regulations**

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

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Advisory Commission to approve vending rules and regulations at Fort William Park effective August 8, 2013 as presented.

**July 8, 2013**

Moved by David S. Sherman, Jr. and Seconded by Frank J. Governali  
ORDERED, the Cape Elizabeth Town Council tables Item #98-2013.  
(4 yes) (2 no Councilor Ray and Chairman Walsh)

This item will be discussed at a workshop preceded by a site walk.

**Item# 99-2013 Good Table Annual Licenses Application**

Present – Anthony Kostopoulos, Owner of The Good Table

Moved by James R. Wagner and Seconded by Caitlin R. Jordan  
ORDERED, the Cape Elizabeth Town Council approves the annual renewal malt, vinous, and spirituous license for the Good Table Restaurant at 527 Ocean House Road.  
(6 yes) (0 no)

**Item# 100-2013 Library Policy Updates**

Intro – Manager McGovern

Moved by David S. Sherman, Jr. and Seconded by James R. Wagner  
ORDERED, the Cape Elizabeth Town Council approves the updates to the Displays and Exhibits Policy and the Public Relations Policy for the Thomas Memorial Library as recommended by the Trustees of the Thomas Memorial Library as presented.  
(6 yes) (0 no)  
See attachment.

**Item# 101-2013 Purchase of Remainder of Loveitt Heirs Parcel**

Moved by David S. Sherman, Jr. and Seconded by James R. Wagner  
ORDERED, the Cape Elizabeth Town Council accepts the offer of Phillip Clifford, Sr. and Susan Clifford to sell their estimated 3/112ths fractional interest in the so-called Loveitt heirs' parcel, an approximately 18 acre parcel behind the Sherwood Forest neighborhood, to the Town in consideration of \$8,000 and the Town's placement and maintenance of a permanent sign explaining the history of the Loveitt parcel; to utilize funds in the Town's land acquisition fund for such acquisition and to authorize the Town Manager to execute any documents which may be required to complete such acquisition.  
(6 yes) (0 no)

Description:

A certain lot or parcel of land situated in the Town of Cape Elizabeth, County of Cumberland and State of Maine, bounded and described as follows:

A certain 18 acre woodlot, so called, entitled "Undivided" as described in the Plan of one Thrasher dividing land among the heirs of Jedediah Loveitt, recorded in the Cumberland County Registry of Deeds on November 16, 1876, in Plan Book 4, Page 7, to which plan

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reference is hereby made for a complete description of the premises; said premises being bounded on the north by land formerly of John Frederick Loveitt, et als; on the east by land formerly of Thompson; on the south and west by land formerly of George Allen, all as shown on said Plan.

There is also conveyed herewith all rights of the Grantor, if any, in any rights of way or easements connecting the above described premises to any public ways in the Town of Cape Elizabeth whether such rights or way or easements have been acquired by grant, prescription, necessity or otherwise; also including any other rights in easements, rights of way or appurtenances belonging to or appurtenant to the above described premises.

**Item# 102-2013 Effect of State Budget Adoption**

Intro – Mr. McGovern

	FY 2013	FY 2014	FY 2014	\$ Change	% Change
	BUDGET	As Adopted	Apparent	FY 13 to FY 14	FY 13 to FY 14
<b>EXPENDITURES</b>					
TOWN SERVICES	\$ 8,865,608	\$ 9,032,363	\$ 9,032,363	\$ 166,755	1.9%
COUNTY ASSESSMENT	\$ 998,136	\$ 1,061,728	\$ 1,061,728	\$ 63,592	6.4%
SCHOOL DEPARTMENT	\$ 21,765,817	\$ 22,528,078	\$ 22,528,078	\$ 762,261	3.5%
COMMUNITY SERVICES	\$ 437,006	\$ 447,000	\$ 447,000	\$ 9,994	2.3%
Local Homestead Exemption	\$ 149,000	\$ 157,000	\$ 195,242	\$ 46,242	31.0%
	\$ 32,215,567	\$ 33,226,169	\$ 33,264,411	\$ 1,048,844	3.3%
<b>REVENUE</b>					
TOWN SERVICES	\$ 3,306,400	\$ 3,398,500	\$ 3,210,264	\$ (96,136)	-2.9%
SCHOOL DEPARTMENT	\$ 2,842,679	\$ 2,820,506	\$ 3,248,197	\$ 405,518	14.3%
TOTAL	\$ 6,149,079	\$ 6,219,006	\$ 6,458,461	\$ 309,382	5.0%
<b>NET TO TAXES</b>					
TOWN SERVICES	\$ 5,559,208	\$ 5,633,863	\$ 5,822,099	\$ 262,891	4.7%
COUNTY ASSESSMENT	\$ 998,136	\$ 1,061,728	\$ 1,061,728	\$ 63,592	6.4%
SCHOOL DEPARTMENT	\$ 18,923,138	\$ 19,707,572	\$ 19,279,881	\$ 356,743	1.9%
COMMUNITY SERVICES	\$ 437,006	\$ 447,000	\$ 447,000	\$ 9,994	2.3%
Local Homestead Exemption	\$ 149,000	\$ 157,000	\$ 195,242	\$ 46,242	31.0%
State Budget Change					
TOTAL	\$ 26,066,488	\$ 27,007,163	\$ 26,805,950	\$ 739,462	2.8%
<b>TAX RATES (Rounded to nearest ¢)</b>					
TOWN SERVICES	\$ 3.37	\$ 3.43	\$ 3.54	\$ 0.17	5.0%
COUNTY ASSESSMENT	\$ 0.61	\$ 0.65	\$ 0.65	\$ 0.04	6.6%
SCHOOL DEPARTMENT	\$ 11.50	\$ 11.96	\$ 11.70	\$ 0.20	1.7%
COMMUNITY SERVICES	\$ 0.27	\$ 0.27	\$ 0.27	\$ -	0.0%
SUBTOTAL				\$ -	
Local Homestead Exemption	\$ 0.09	\$ 0.09	\$ 0.12	\$ 0.03	33.3%
TOTAL	\$ 15.84	\$ 16.40	\$ 16.28	\$ 0.44	2.8%
				\$ -	
TAX RATE VALUATION BASIS	1,645,700,000	1,648,500,000	1,648,500,000	\$ 2,800,000	0.2%

**July 8, 2013**

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

ORDERED, the Cape Elizabeth Town Council, having held a public hearing on Monday, April 29, 2013, and having received revised estimates following the adoption of a state budget, does hereby re-state and approve the General Fund Budget for Fiscal Year 2014 with gross expenditures of \$33,264,411 and gross revenues of \$6,458,461 and with the amount of \$26,805,950 to be raised from taxation, and to fix Tuesday, October 1, 2013, and Tuesday, April 1, 2014, as the dates upon each of which one-half of such tax is due and payable, with interest to accrue upon taxes due and unpaid after each such date at the rate of seven percent (7.00%) per annum. In accordance with 36 M.R.S.A. Section 506, the Tax Collector and Town Treasurer are authorized to accept prepayment or decline prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with 36 M.R.S.A. Section 506-A, a taxpayer who pays an amount accepted by the tax collector and town treasurer in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the minimum annual rate per annum set by the State of Maine.

If the State of Maine shall during FY 2014 curtail or otherwise reduce the state school subsidy from the estimated \$2,620,194, the town shall provide an amount equal to the amount curtailed or reduced from the unassigned fund balance to the Cape Elizabeth School Department so that the authorized expenditure amount is unchanged.

This restated budget approval reflects three revised estimates:

State School Subsidy from \$2,192,506 to \$2,620,197.

Maine State Revenue Sharing from \$640,000 to \$451,764.

Homestead Exemption local cost from \$157,000 to \$195,242

(6 yes) (0 no)

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

### **Adjournment**

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

ORDERED, the Cape Elizabeth Town Council adjourns at 8:20 p.m.

(6 yes) (0 no)

Following the adjournment, the town council met briefly in workshop session to discuss properties that have been foreclosed upon in the last few years. It was a consensus of the town council to ask the family of 15 Scott Dyer Road (Doreen Imondi) to maintain the lawn and furthermore the town council extends to the family an October 1, 2013 deadline to redeem the property prior to the town taking further action. Mr. McGovern will inform the family of the council discussion.

**July 8, 2013**

The town council will meet for a site walk at the bus circle at Fort Williams Park at 5:30 p.m. Tuesday, July 30. Following the site walk the council workshop will relocate to the Jordan Conference Room at Town Hall to discuss proposed rules for Fort Williams Park relating to “street artists.”

The workshop adjourned at 8:30 p.m.

The Board of the Museum at Portland Head Light met following the council workshop.

Respectfully Submitted,

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Debra M. Lane, Town Clerk

**Attachments - 3 Pages**  
**Item #100-2013**  
**July 8, 2013**

Thomas Memorial Library  
Policy Manual  
**Displays and Exhibits Policy**

Displays and exhibits will be encouraged consistent with library goals and objectives to provide materials, services, and information for educational, recreational and cultural enrichment for the community.

**BULLETIN BOARDS**

1. Space on library bulletin boards will be available to the public on an equitable basis regardless of the beliefs or affiliation of the individuals or groups requesting their use, in accordance with the *LIBRARY BILL OF RIGHTS* (American Library Association).
2. Priority will be given to announcements of library programs. Other material from nonprofit organizations will be posted as space allows.
3. Postings will be limited to announcements of music, drama, and civic programs, or similar items from nonprofit organizations. All materials judged inappropriate under these guidelines will be referred to a more appropriate venue.
4. The library reserves the right to discard any posted material after the event date or at the discretion of the staff.
5. No promotional materials, leaflets, or posters which advocate the election of a candidate, political, or otherwise, shall be displayed.
- 5-6. The Library does not provide electronic bulletin boards for use of the public.

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**DISPLAY CASES**

The display cases belonging to the Cape Elizabeth Historical Preservation Society will be maintained by that organization, with the cooperation of the library staff.

**EXHIBIT SPACE**

1. Hobby, craft, and art exhibits are encouraged but are to be displayed at the owner's risk and are NOT covered by library insurance.
2. All exhibits must be previously approved by the Director in consultation with the Cape Elizabeth Arts Commission Library Gallery Manager who shall be elected annually each February. Application may be made by any individual or group wishing to display their art work in the library. Artists may not submit subsequent applications for the use of the space unless 18 months have passed since their last exhibit. Applications for specific dates may not exceed 12 months from the date of submission, if a date is not offered or available during this timeframe, a new application must be made at a later time.
3. A contract outlining the responsibilities of the exhibitor must be signed by each exhibitor and the Library Director/Gallery Manager. Each exhibitor is responsible for installation and dismantling and removing the entire show on the date specified in the contract. The exhibitor will provide all necessary equipment for mounting the exhibit, using library approved materials, and should provide, at the time of installation, a list of pieces in the exhibit.

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Accepted/Proposed: 6/20/2002/6/13

Approved/Accepted: 8/12/2002/222



Thomas Memorial Library  
Policy Manual  
**Displays and Exhibits Policy**

4. The library will permit the sale of items in the exhibit, subject to the following restrictions:
  - A. The exhibitor will display a price list at the circulation desk, and may provide sufficient copies for patrons to take.
  - B. The exhibitor will inform the Library Director, in writing at the end of an exhibition, of the sale price to be received by the exhibitor for all items sold during or as a result of the display at the library.
  - C. The exhibitor is solely responsible for the sale transaction. Library staff will not negotiate sales, collect payment, deliver an item to a purchaser, or calculate commissions.
  - D. Any item sold must remain on display with the show until the removal of the entire exhibit at the date specified in the contract. No departure from this rule will be permitted without prior approval of the Director and shall be subject to any conditions he/she may impose. An item Artwork may be marked with a red dot in the lower corner of the item to indicate that it has been sold.
  - E. The exhibitor will pay a 10% commission on the total sale price of items sold during or as a result of the display in the library. Payment shall be made to the Town of Cape Elizabeth, in the form of a check. The commission must be paid at the Town Office within one month of the removal of the exhibit.
5. The Library Director, in consultation with the ~~C. E. Arts Commission~~ Gallery Manager, will select and schedule displays, judging works appropriate for a public library display. They reserve the right to cancel or withdraw permission for the exhibition of materials without prior notice when such withdrawal seems advisable.
6. Areas of the library, other than the designated gallery space, may on occasion be used for displays, subject to consultation and prior approval of the Director.
7. All public display areas are subject to the occupancy limitations established by state and local authorities, for service and safety reasons. The exhibit areas and their capacities (in parentheses) should be observed and monitored by each exhibitor: Entrance Foyer (36), Adult Foyer (37) and Children's Foyer (49). It also should be noted that these are also exit pathways; there should not be anything moveable in these areas that could get knocked over and impede exit from the building.

OTHER

1. Free informational material from city and state agencies, schools and nonprofit groups who wish to publicize their organization or activities, may be left at the circulation desk for display in the appropriate rack or case.
2. The library reserves the right to weed and discard as necessary materials left in the information rack.

Thomas Memorial Library  
Policy Manual  
**Public Relations Policy**

In order to promote, an understanding of the library's goals and objectives, and to encourage library use and active participation in the various services offered by the library to people of all ages, it will be the policy of the Thomas Memorial Library to:

- Create and distribute promotional flyers, posters, and brochures to publicize library events and services.
- Provide an actively maintained website to provide online access to all the library's events, collections and policies as well as aggressively using appropriate social media tools to promote the library.
- Publicize library events and services in the *Cape Courier* on a regular basis. When appropriate, efforts will be made to publicize events in other media, such as the Portland newspapers, the local cable channel, and other television and radio broadcasts. While the library will post promotional flyers for events from outside groups that are held in the library facility, the responsibility for publicizing these events lies with the sponsoring group.
- Provide tours of the library facility for new patrons conducted by library staff whenever appropriate.
- Locate suggestion boxes in both the Adult and Children's areas of the library to actively solicit patron input into library services.
- Provide opportunities for patrons to participate in formal and informal evaluations of library services.
- Maintain request books and/or databases in both the Adult and Children's areas of library for materials that patrons would like the library to acquire.