

CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 3-2014
Cape Elizabeth Town Hall
Monday, February 10, 2014
7:00 p.m.

Roll Call by the Town Clerk Pro-Tem Michael McGovern

Jessica L. Sullivan, Chairman	Present
Caitlin R. Jordan	Absent
Molly MacAuslan	Present
Katharine N. Ray	Present
David S. Sherman, Jr.	Present
James R. "Jamie" Wagner	Present (Arrived 7:01 p.m.)
James T. Walsh	Present

The Pledge of Allegiance to the Flag was led by Council Chairman Jessica Sullivan

Town Council Reports and Correspondence

Chairman Sullivan thanked the staff of the Department of Public Works for their excellent work on recent storms. She also encouraged citizens to apply to serve on the Senior Citizens Advisory Committee and for a vacancy on the Trustees of the Thomas Memorial Library.

Finance Committee Report

Finance Chair Walsh highlighted the upcoming budget review process.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Town Manager's Monthly Report

The town manager noted the recent passing of Pauline V. Neipert. Polly served as the secretary for three town managers, Quentin B. Spector, John E. Henchey and Michael K. McGovern. She first served as a tax clerk coming to Cape Elizabeth after the death of her husband Kenneth Neipert who served as Cape Elizabeth's second town manager. She is survived by a son Neal, son James, son Steven and daughter Jan.

The town manager also summarized the importance of state municipal revenue sharing.

Review of Draft Minutes of [January 6, 2014](#) meeting

Moved by K. Ray and seconded by J. Walsh

to approve the draft January 6, 2014 town council minutes with the following corrections:

On page 2, Sara Lennon said she had a "series" of questions, not "serious".

On page 4, in item # 35, the word "Town" should be capitalized.

Voted 6-0

Item# 38-2014 **Report from the Ordinance Committee on Draft Shooting Range Ordinance**

Recused per earlier vote: Councilor Wagner

Ordinance Committee Chair Katherine Ray gave an overview of the process utilized to date to review the proposed ordinance. Over three meetings, the committee reviewed all emails that had been received, reviewed many documents and met with attorney Kenneth Cole. Mr. Cole then reviewed a number of legal issues with the town council including the status of earlier ordinances, this opportunity to create a baseline from which noise expansions may be reviewed, the challenge with trying to create a baseline without empirical data and the overall focus of balancing property rights and safety. Chair Ray reviewed the proposed firing range committee.

Chairman Sullivan invited public comments.

Eric Frehm of Cross Hill Road criticized the provision of the proposal which would have the Spurwink Rod and Gun Club involved in helping to create the baseline. He believes the town already has the right and responsibility to regulate noise under earlier ordinances.

Tammy Walter of Sawyer Road said noise had not changed in ten years. As the new president of the Spurwink Rod and Gun Club, she said the club is committed to be a safe and responsible member of the community.

Mark Mayone, former president of the SRGC, said the limit for warning signs should be 50 feet instead of 100 in order to be in compliance with Maine law. He said the SRGC should be exempt from the proposed ordinance by having separate provisions placed in the ordinances with what the club would like to do. He also said the club would be willing to cap its membership.

Cathy Kline of Cross Hill Road would like the range evaluation to be required in the ordinance and to be required to be done by an independent professional.

Ralph Romano of Tiger Lily Lane said the town should function to protect its residents. The best place to settle this is in court.

Rich Moran of Cross Hill Road said it would be an abdication of municipal responsibility for the town to not pass this ordinance.

Jamie Wagner of Hannaford Cove Road does not agree with the position of Mr. Cole that you cannot create a baseline going back ten years. The town could go through discovery to find out what was in place 10 years ago.

Mark Casey of Apple Tree Lane said there needs to be an independent safety inspection.

Moved by K. Ray and seconded by J. Walsh: Ordered the Cape Elizabeth Town Council receives the report of the ordinance committee proposing a new Chapter 24 of the Revised Code of Ordinances and sets a public hearing for Monday, March 10, 2014 at 7:00 p.m. at the Cape Elizabeth Town Hall on a proposed Shooting Range Ordinance.

Voted 5-0 with Council Wagner recused.

Item# 39-2014 Fort Williams Park Annual Review of Fort Williams Park Revenues

Bill Brownell of the Fort Williams Advisory Commission introduced this item and said the commission has reviewed policies for revenues at the park and is recommending a fee for [commercial tourists vans](#).

Councilor Walsh said he and Mr. Brownell had met briefly before the meeting with the owner of a commercial van service and were both okay with a \$500 per vehicle per season fee for commercial tourist vans instead of the \$800 that had been formally recommended by the Fort Williams Advisory Commission.

Moved by J. Walsh and seconded by D. Sherman : Ordered the Cape Elizabeth Town Council approves the following fees for commercial tourists vans:

Effective July 1, 2014:

\$20.00/visit - Commercially-Operated Passenger Tour Vans

\$500/vehicle/season - Commercially-Operated Passenger Tour Vans making more than 30 visits to the Park in a season

\$40.00/visit - Tour/Cruise Ship Buses (\$35.00 with a pre-approved billing arrangement and with promotion of the PHL Gift Shop)

\$1,500/trolley/season – for trolleys making more than 30 visits to the Park in a season

In keeping with the fee schedule adopted in 2011, the fees shall be paid at the Portland Head Light or to an on-site attendant. Municipal staff may establish billing arrangements with tour and/or bus companies, recreational camps, school units.

Voted 6-0

Item# 40-2014 Fort Williams Park Annual [Group Use Requests](#)

Moved by J. Walsh and seconded by K. Ray to approve the Fort Williams Advisory Commission's recommendation for approval of group use requests for 2014.

Cape Elizabeth HS Graduation	June 4, 5, and 6, 2014 for rehearsals and June 8 th for ceremony.
Family Fun Day	June 14, 2014
Labor Day Weekend Art Show	August 31, 2014 and rain date of September 1, 2014
Cape Elizabeth Little League	Fields Per December 4, 2013 letter

TD Beach to Beacon Setup July 29-August 1, 2014
TD Beach to Beacon 10K Race August 2, 2014
American Cancer Society October 19, 2014
Making Strides Against Breast Cancer 5 K Walk

Voted 6-0

Item# 41-2014 Trout Brook Grant Authorizations

The Town of Cape Elizabeth, with the Cumberland County Soil and Water Conservation District (CCSWCD), submitted a grant application to the Maine Department of Environmental Protection in September, 2013 for the “Trout Brook Restoration Project, Phase II.” The Town was notified in November that the grant was selected for funding. Three actions are requested from the Town Council. Information on the grant may be found [here](#).

Moved by K Ray and seconded by D. Sherman to:

#1 Accept the grant

Trout Brook has been designated an “Urban Impaired Stream,” which means that it does not meet state and federal water quality classifications due to polluted runoff from impervious cover. Water quality sampling completed during development of the Watershed Management Plan indicated areas with low dissolved oxygen, elevated phosphorus, and elevated chloride.

The City of South Portland and the Town of Cape Elizabeth have partnered with stakeholder groups to prepare a management plan and also received Phase I grant funding to begin management plan implementation.

The Town of Cape Elizabeth is the lead applicant for the Phase II grant. The Phase II grant features improvements to the watershed within Cape Elizabeth. The most exciting components of the Phase II grant are “on the ground” improvements to reduce the flow of pollutants into Trout Brook. These improvements will be installed on the Walnut Hill Equestrian Center and the Church of Latter Day Saints properties. Both property owners are full partners in the grant. The town has committed a \$22,000 cash match plus in-kind services by the town planner and the Conservation Commission.

#2 Authorize a submission to the Planning Board

Some of the Phase II improvements will require Planning Board review, such as construction of a manure storage shed on the Walnut Hill Equestrian Center and construction of a gravel wetland spanning both the Walnut Hill site and the adjacent Church of Latter Day Saints site. Both of these property owners have submitted written support for the grant projects and will continue to be involved in the implementation of the grant. In order to start work during the 2014 construction season, it will be necessary to begin the Planning Board review at the March, 2014 workshop, pending grantor contract signatures.

#3 Approve amendment of the CFUP Program

The town’s cash match comes from a “Community Fee Utilization Program” (CFUP) adopted by the Town Council in 2007. The CFUP program was created to allow the town to collect a fee required by the Department of Environmental Protection (DEP). The Eastman Meadows Condominium project is located in the Trout Brook Urban Impaired Watershed

and triggered DEP review under the Site Location of Development Law. When a development is located in an urban impaired watershed, it must either complete a storm water mitigation project or pay a fee. Because potential mitigation projects in Cape Elizabeth are scarce, the mitigation project would likely have been located in South Portland if the fee program was not developed.

As part of the fee program, a list of projects for which fee monies can be used is required. The program should now be amended to include Trout Brook Management Plan implementation as an eligible expenditure. The DEP strongly supports the efforts to restore the Trout Brook Watershed and has indicated that a letter from the town requesting expansion of the CFUP should be adequate to qualify the cash match.

Voted 6-0

Item# 42-2014 [Schools Organic Recycling](#)

Moved by J. Walsh and seconded by D. Sherman to renew an agreement with Maine Waste Solutions to provide for recycling of food wastes within the schools.

Voted 6-0

Citizen Opportunity for Discussion of Items Not on the Agenda

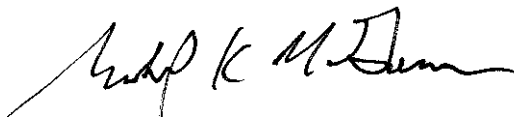
None

Adjournment

Moved by D. Sherman and seconded by J. Walsh to adjourn at 8:17 p.m.

Voted 6-0

Respectfully submitted,



Michael K. McGovern
Clerk Pro-tem