



Cape Elizabeth Town Council Minutes

Monday, September 14, 2015

7:00 p.m.

Cape Elizabeth Town Hall

Katharine N. Ray, Chairman
Patricia K. Grennon
Caitlin R. Jordan
Molly MacAuslan
Jessica L. Sullivan
Jamie Wagner
James T. Walsh

The meeting was convened at 7:00 p.m. by Town Council Chairman Katharine N. Ray.

Roll Call by the Town Clerk

All members were present.

Town Council Reports and Correspondence

Councilor MacAuslan reminded residents of the Citizens Round Table discussion to be held at the Middle School Cafetorium on Thursday, September 17 at 7:00 p.m.

Finance Committee Report

Councilor Walsh reviewed the financial dashboard, also available on the town's website.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Town Manager's Monthly Report

Mr. McGovern reminded everyone of the exit doors.

Review of Draft Minutes of August 10, 2015 meeting.

Moved by Jessica L. Sullivan and Seconded by James T. Walsh

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on August 10, 2015 as presented.

(7 yes) (0 no)

Item #105-2015 Public Hearing: License for the Spurwink Road and Gun Club

Recommendation from the Firing Range Committee

Chairman Ray opened the public hearing at 7:07 p.m.

Tammy Walter, 1095 Sawyer Road, President Spurwink Rod & Gun Club said except for the overhead baffles the club has complied with the LaRosa report. The club is important to the community and its' history. The "limbo" that the club has been in for nearly 3 years needs to be resolved. The club requests the council grants the license.

Mark Mayone, Past President Spurwink Rod & Gun Club requested a hardship exception for the 25 yard range. The conditional license would require the 50 and 100 yard ranges remain suspended until the ranges meet the LaRosa design standards and town approval.

Kathleen Kent, 74 Wells Road moved in 1992 for the rural character and scenic beauty of that part of Cape Elizabeth and knowing the gun club was there. "That part of Cape Elizabeth has been changed forever by development." The town should have "protections" for people and activities that pre-existed developments. Don't understand why people choose to move next to a gun club and then want to shut it down. The residents should "foot the bill" for what they are demanding.

Bill Goodykoontz, 55 Cross Hill Road said "the real estate agent lied" when told the gun club was loosing members and was about to close. Concerned about safety. The LaRosa report recommends live fire to be discontinued for 7 reasons which have not been addressed.

Jim Richard, 9 Cross Hill Road stated without overhead baffling there is no shot containment. This is a national standard for modern ranges. The club is asking the town to "grandfather safety which is a very dangerous move." Overhead baffling is needed.

William Morris, 23 Cross Hill Road stated some rounds can travel 3 miles. How many children and grandchildren live within a 3 mile radius of the club? Was not told about the club when the home was purchased. There is a danger without overhead baffling. Listen to the professionals.

Ellen Nadeau, 9 Apple Tree Lane presented the "human side" of the issue. Although the number of stray bullets is unknown there are 3 incidents of bullets hitting homes (each incident was described).

Sara Lennon, 54 Cranbrook Drive "takes exception" when the club says it's a neighborhood issue. "It's a town-wide issue." Although it's not a noise issue, shots can be heard from different parts of town. Some residents will not walk around the neighborhood because of the safety.

Daniel Price, 53 Cross Hill Road asked the town council to "vote in a way that the LaRosa suggestions are upheld." If a councilor votes to approve the license, state the reasons why and what will it take to vote in a way that the safety report suggestions are upheld.

Eric Stephanus, 2 Tiger Lily Lane read the draft motion, letter from Attorney Leahy and letter to Councilor Jordan. Asked the town council for a "straightforward application of the ordinance," requiring live fire to remain suspended until all the conditions of the safety report are met including range management, physical improvements and certification by a competent town appointed inspector.

Doris Bauman, 56 Cross Hill Road asked the town council to not issue the license until the requirements of the report and ordinance have been met and that a trained, knowledgeable expert verifies the requirements have been met.

Ezra Steinberg, 1 Chesterwood Road "didn't do homework" when purchased home in March 2015. The issues are about safety and noise. Stopped walking in the woods in back of the gun club when learned the range is "unsafe." Assumes the license will not be granted without overhead coverage due to the liability.

Ed Nadeau, 9 Apple Tree Lane said the LaRosa report “made it clear that do it yourself approach to gun range design is inadequate.” The firing range committee is not qualified to evaluate the range. There is no lead management plan. A reliable, professional plan and inspection should be the minimum standard. The council is encouraged to reject the application without proper inspections, detailed plans, fill schedule and funding plans to ensure conformance with the ordinance. Hardship should also be rejected.

Cathy Kline, 66 Cross Hill Road said the council needs to ensure its’ constituents that the gun club has addressed all safety concerns within the safety report before any part of the club is opened. Professional guidance is need for safety and lead management. Best practices for lead management are needed. Are corners being cut compromising safety? The budget estimate in the LaRosa report is “vastly different” than the gun club budget.

Alexa Ward, 1095 Sawyer Road hears shots but has never felt unsafe. Safety is not only determined by shot containment but also by the members shooting. When you shoot there is a focused area aiming toward a small target. Supports the gun club.

Polly Wilcox, 17 Cape Woods Drive said the town cherishes the history and may be thinking differently about what is going on. Hoping the town comes up with a “win-win” situation. Both sides have good claims. People can use and learn about guns in a responsible way.

Ed Riley, 3 Chesterwood Road encouraged the town council to not grant the license even on a conditional basis until all safety deficiencies have been addressed. Use a professional to determine if deficiencies have been corrected. Safety is number one concern. Do not approve based on hardship.

Ralph Romano, 12 Tiger Lily Lane suggested the town council “do some serious soul searching” about the firing range committee. Is the committee functioning as intended? Their decision, almost unanimously, to approve the license before they had the safety report was “at least rash and maybe even reckless.” Although someone may know about the gun club they may not realize it is unsafe. Shouldn’t the town government have been looking into it?

Mark Membrino, 1 Cardinal Lane found a bullet in his house. “For some to say there have been no incidents, I feel a bullet in my house is an incident.” 3 homes found bullets all of which were hit on the same side, facing the gun club and are down range from the club. Asked the council to consider 3 questions in the report which the answer to all is no: Is the plan sufficient? Should the range be reopened before the problems are corrected? When the problems are corrected should members be free to fire whatever and whenever?

Ty Matheson, father of a member of the youth shooting team said there is much more than gun safety learned from shooting a gun properly including discipline and attention to detail. Bullets do not curve in midair, they shoot straight. As proper safety is learned it will be taught for generations and be safer each time.

Tim Lindsey, 5 Tenney Lane Scarborough said on or about 10/15 it looks like people are going to be able to carry a concealed weapon without a permit; this should be alarming. This club will fill a need for proper training. There is a general interest from youth in knowing how to handle a firearm.

Mark Doering, 10 High View Road, member of the Spurwink Rod & Gun Club said there seems to be “minority, special interest groups” located near the gun range that seem to be going after what they can to close the gun range. There are no reported injuries at the club. There are injuries at town facilities such as Fort Williams and the schools but there “doesn’t seem to be energy around safety pointed towards that.”

Terry Gray, 17 Channel View Road supports the gun club and approval of the license. The club is a vehicle to safely train young and old people about the safe and appropriate use of firearms. It's not about how one feels about guns, it's about having the vehicle to safely teach the use and respect for firearms. Before purchasing a home in Broad Cove, several bids were put on homes including Cross Hill with the understanding a gun club was nearby. The time to decide if you want to purchase a home near a gun club is before you buy.

Garth Altenburg, 31 Olde Colony Lane said "simply stated at this time we have a firearms safety issue." Don't see how a license can be granted without 100% shot containment and meeting the recommendations of the safety report.

Jonathan Good, Evans Street South Portland, Member of Spurwink Rod and Gun Club and NRA Instructor, Retired Army and Police Officer. There is misinformation on both sides. Responsibility, discipline and knowledge are taught to youth when learning about firearms which will serve them the rest of their lives. Encouraged the town council to approve the license on a step by step basis as certain perimeters are met. The club is part of the heritage of the town.

Joe McGonigal, 32 Cross Hill Road moved in 2 years ago with the knowledge of the gun range. "Up until recently thought the gun club was safe, had no reason to think otherwise." The club can't be partially safe. Do not reopen until the club is completely safe.

After hearing no further comments the public hearing was closed at 8:09 p.m.

Intro – Councilor Jordan, Chairman Firing Range Committee

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

ORDERED, the Cape Elizabeth Town Council grants conditional approval for the 25 yard range to be open as long as the design and drawings are made by a design engineer and reviewed by the code enforcement officer, that the Town receives notice that the manual has been updated, that the entrance fence has been repaired and that the 50 and 100 yard ranges remain suspended until complete shot containment is attained and that the ranges are approved by the code enforcement officer. Said conditional approval includes review of the findings of facts.

Moved by James T. Walsh and Seconded by Martha MacAuslan

ORDERED, the Cape Elizabeth Town Council tables Item #105-2015 to the October 14, 2015 town council meeting in order that the town attorney draft findings of fact based on this evening's council discussion which includes no range shall be open without complete shot containment.

(7 yes) (0 no)

Item # 106 Report of the Solid Waste and Recycling Long Range Planning Committee

Intro – Councilor Sullivan, Member of the Solid Waste and Recycling Long Range Planning Committee

All Members of the Committee were present-

Bill Brownell, Jamie Garvin, Anne Swift-Kayatta, Charles Wilson and Robert Malley

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

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the Report of the Solid Waste and Recycling Long Range Planning Committee with thanks to Chairman Jessica Sullivan, Members Bill Brownell, Jamie Garvin, Anne Swift-Kayatta and Charles Wilson, Consultants Randy Tome and Megan McDevitt and Public Works Director Robert Malley.

(7 yes) (0 no)

Item # 103-2015 Proposed Lease Agreement of Space at Office Building at Front of Community Center

Tabled on 8/10/2015

Councilor Wagner recused himself from discussion and voting on this item as he is the tenant.

Present – Greg Marles, Director of Facilities and Transportation

Moved by Caitlin R. Jordan and Seconded by James T. Walsh

ORDERED, the Cape Elizabeth Town Council removes Item #103-2015 from the table.

(6 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by James T. Walsh

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to sign a new lease of space at 343 Ocean House Road to Asylum Law, L3C as presented. The lease is for three years until July 31, 2018.

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

Item # 107-2015 Ordinance Committee Report on Proposed Land Use Amendments and Updated Sewer Service Area Map and Transfer of Development Rights Map

Intro – Councilor Wagner, Chairman Ordinance Committee

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

ORDERED, the Cape Elizabeth Town Council sets to public hearing proposed land use amendments and amendments to the sewer service area map and the transfer of development rights map as reviewed by the Ordinance Committee for Wednesday, October 14, 2015 at 7:00 p.m. at the Cape Elizabeth Town Hall.

(7 yes) (0 no)

Item # 108-2015 Capital Stewardship Plan for FY 2017 – FY 2026

Intro – Mr. McGovern

Moved by James T. Walsh and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the FY 2017-FY 2026 Capital Stewardship Plan as presented.

(7 yes) (0 no)

Item # 109-2015 Draft Personnel Code Amendments

Intro – Mr. McGovern

Moved by Jessica L. Sullivan and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council approves the proposed amendments to Chapter 3 Personnel Code as presented.

(7 yes) (0 no)

Item # 110-2015 Updated Agreement with Opportunity Alliance for General Assistance Program

Intro – Mr. McGovern

Moved by Patricia K. Grennon and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council approves the proposed updated agreement with the Opportunity Alliance for their assistance in providing the Town's general assistance program and for social worker services. This service has been provided to the Town since 2008.

(7 yes) (0 no)

Item # 111-2015 Sewer User Charge Collection Agreement Update

Intro – Mr. McGovern

Moved by Jessica L. Sullivan and Seconded by Martha MacAuslan

ORDERED, the Cape Elizabeth Town Council approves the proposed updated agreement with the Portland Water District relating to their collection of sewer fees. The Portland Water District has been providing this service to the Town since the initial agreement on December 29, 1978.

(7 yes) (0 no)

Item # 112-2015 Loan Agreement for 2nd Order Fresnel Lens

Intro – Mr. McGovern

Moved by Martha MacAuslan and Seconded by James R. Wagner

ORDERED, the Cape Elizabeth Town Council approves the proposed updated renewal agreement with the Mystic Seaport Museum for a 2nd order Fresnel lens on display at the Museum at Portland Head Light as presented.

(7 yes) (0 no)

Item # 113-2015 Maine Incorporation of Museum at Portland Head Light

Intro – Mr. McGovern

Moved by James T. Walsh and Seconded by Martha MacAuslan

ORDERED, the Cape Elizabeth Town Council approves the new incorporation of the Museum at Portland Head Light with the Maine Bureau of Corporations, replacing the earlier incorporation that expired.

(7 yes) (0 no)

Item # 114-2015 Warrant for November 3, 2015 Municipal Election

Intro – Debra Lane, Town Clerk

Moved by Jessica L. Sullivan and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council approves the municipal warrant for the November 3, 2015 election as presented.

(7 yes) (0 no)

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Adjournment

Moved by Martha MacAuslan and Seconded by James T. Walsh

ORDERED, the Cape Elizabeth Town Council adjourns at 10:14 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk