



Cape Elizabeth Town Council Minutes

Monday, July 10, 2017

7:00 p.m.

Cape Elizabeth Town Hall

James M. "Jamie" Garvin, Chairman
Patricia K. Grennon
Caitlin R. Jordan
Penelope A. Jordan
Sara W. Lennon
Katharine N. Ray
Jessica L. Sullivan

The meeting was convened by Town Councilor Chairman James M. "Jamie" Garvin at 7:00 p.m.

Pledge of Allegiance to the Flag

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk

Matthew E. Sturgis, Town Manager

Town Council Reports and Correspondence

Councilor Penelope Jordan reported the next meeting of the comprehensive plan committee is July 12 at 7:00 p.m. Citizens are encouraged to go the town's website and answer the question of the month. In an effort to engage the community and obtain feedback questions will be posted online.

Councilor Grennon announced the next meeting of the ordinance committee is July 11, 12-2 p.m.

Councilor Sullivan mentioned the recent article in the Portland Press Herald regarding Arcadia National Park. She said there are similar parallels to the stresses on Fort Williams Park; everyone is encouraged to read the article.

Chairman Garvin reported on the recent meeting with Town Manager Matthew Sturgis, Fort Williams Park Committee Chairman Mark Russell and Director of Public Works Bob Malley involving issues at Fort Williams Park, long-range strategy, use, cost, and protection of the resource. The dialogue will continue in a series of meetings with stakeholders e.g. residents, abutters, committee members, staff to develop strategies and solutions to the problems.

Finance Committee Report

Finance Chairman Sullivan announced the results of the June 13 school budget validation referendum and reviewed the June 30 dashboard.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

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Town Manager's Monthly Report

The past month was very active, with projects underway, plans being finalized, and the end of the fiscal year here.

The transfer station construction project is in full swing, with initial paving installed, concrete work in place, and additional site work underway. Compactors are arriving on site this Wednesday. We are currently planning on a closure July 26th to complete the finish paving. During that time we will have an alternative means of disposal available near the salt shed where the current silver bullets are (all of this weather permitting). The completion of this project is early August, and we are on track to meet that time line

This Thursday the bids will be opened for the Scott Dyer / Hill Way reconstruction project. That will be at 2 pm in the Council Chambers. We will also be opening bids for the street sweeper replacement and the irrigation project at the Rey Moulton fields on Scott Dyer Road.

I participated in the hiring process of the facilities and transportation director with representatives from the school department. After performing interviews with a strong pool of candidates, a selection was made. Our new director is Perry Schwarz, who started today.

Speaking of facilities, the Cape Care playground reconstruction project was completed today. We will be taking photos of the playground and getting them on the website shortly. There are some new very fun equipment installations there that the kids will enjoy.

Chairman Garvin, Mark Russell of the Fort Williams Advisory Committee, Bob Malley, and I met to discuss the myriad issues surrounding the operation of Fort Williams. The August agenda will have an item setting a date for a workshop with the Committee.

I did have the opportunity to meet with the Cape Elizabeth Land Trust board of directors two weeks ago. It was a great meeting with their group, and I look forward to working with them.

In August I will be attending the Maine Town and City Managers New England Management Institute at Sunday River. Of note are educational sessions on collective bargaining, road preservation, and employment issues in a changing employment environment.

On Thursday night I will be attending the Harbors Committee meeting. At this meeting, representatives of the State will be in attendance to discuss access to the beach, and other Kettle Cove / Crescent Beach harbor related issues.

Respectfully submitted,
Matthew E. Sturgis, Town Manager

Review of Draft Minutes of June 12, 2017

Moved by Jessica L. Sullivan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on June 12, 2017 as presented.

(7 yes) (0 no)

Item #100-2017 Paper Street Technical Assessment

Intro – Jim Tasse, Conservation Committee Chairman

Public Comment

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Andrea Adams, 25 Algonquin Road Ext, representing the Ocean View Association (7 member group) provided a map highlighting Ocean View Association property and a release deed from Shore Acres Land Company to Ocean View Association, Inc. dated 10/3/1991. Why did the Sebago Technics survey end short of the private way? OVA is requesting the council vacate the paper streets.

Charles Scamman, 2 Scamman Circle spoke with Ms. Adams and provided a map highlighting his property, May U36 Lot 24 & 25. Mr. Scamman said he has never been notified that the town may have interest in the paper streets.

Geoffrey Alexander, 31 Reef Road stated the neighborhood is not “underserved” when it comes to access to the ocean as the neighborhood has Trundy Point. The neighborhood as a whole has not been surveyed on whether they want the path; perhaps members of the association have been.

John Perrin, 8 Surf Side Avenue read a letter from Richard Geyer, 16 Algonquin Road who expressed safety and liability concerns for walkers if a path is built and traffic increases.

Stewart Wooden, 33 Pilot Point Road requested the council vacate the paper streets. He estimated the tax revenue from the households if the paper streets are vacated.

Hulda Khalidi, 19 Pilot Point Road favors vacating the paper streets. She expressed concern for the many children in the neighborhood if a path is built and traffic increases.

Heather Geikie, 12 Surf Side Avenue said the Sebago Technics survey did not survey the entire road. She requested the council vacate the paper streets.

Ann Ingalls, 9 Waumbek Road asked the council to vacate the paper streets.

Sheila Mayberry, 30 Trundy Road said abutters knew about the paper streets when they purchased their properties. The paper streets are a town-wide asset and the incipient rights should be kept for the benefit of all.

Deborah Murphy, 24 Pilot Point Road said the paper streets are an asset. Abutters receive a discount on land value because they abut a paper street. She asked the council to retain the rights for all to have access.

Mayard Murphy, 24 Pilot Point Road asked the council to maintain its’ rights and to develop a trail for all to enjoy.

Chuck Rzeszutko, 6 Waumbek Road asked who is protecting the quality of life. He supports the recommendation of the conservation committee.

Jay Chatmas, owner of 15 Pilot Point Road read a note from Joe & Marilyn Brita, 12 Algonquin Road. When he purchased he was aware of the paper streets. It was his understanding speaking with the town manager, at the time, that although there were no guarantees there were no plans to develop the paper streets. The original design of the neighborhood was for vehicles to access the lots, not for a pedestrian trail.

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Moved by Caitlin R. Jordan and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council moves to take the necessary steps to vacate the following proposed unaccepted ways (also known as “paper streets”), pursuant to 23 M.R.S. §3027, which may include the provision of proper notice to the Planning Board, as well as to all lot owners on applicable recorded subdivision plans and their mortgagees of record:

<u>ID#</u>	<u>Name/Location</u>
U12-5	Surfside Avenue
U12-8	Atlantic Place
U15-1	Lighthouse Point Road

(4 yes) (3 no Chairman Garvin, Councilors Ray and Sullivan)

Item #101-2017 19 Wells Road Tower Overlay District Zoning Map Amendment

It was a unanimous consensus of the town council to continue the requested refusal of discussion and voting on this item from Councilor Penelope Jordan as she is an owner of 19 Wells Road.

Councilor Caitlin Jordan stated for the record she is personal friends with the owners of 19 Wells Road.

Intro – Planning Board Member Josef Chalat

Presentation – Victor Manougian and Paul Peckens

Moved by Sara W. Lennon and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council refers the request by Global Signal Acquisitions IV LLC (Crown Castle) to establish a tower overlay district located at 19 Wells Road, Map R05 Lot 30 to the ordinance committee for review and to set the request for a public hearing on Monday, August 14, 2017 at 7:00 p.m. at the Cape Elizabeth Town Hall.

(6 yes) (0 no)

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Item #102-2017 Agricultural Easement Amendment

Intro – Planning Board Chairman Carol Anne Jordan

Public Comments

Priscilla Harrison, 29 Westminster Terrace provided the town council with 111 signatures from members of the community who signed a document entitled:

Open Letter to the Cape Elizabeth Town Council

The Planning Board is asking the Town Council to adopt their recommended change to the Open Space zoning ordinance on July 10. This ordinance change may have implications for all town citizens and future developments. As with any proposed changes to town ordinances, we request that the Town Council:

- provide an open, transparent and thoughtful process
- allow sufficient community input
- provide advance public notice on the town website and to community newspapers

We believe a change in ordinance needs community wide input and deliberation. We request that the public process to review these recommendations allows the time necessary for community voices to be heard.

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Peter Dixon, 29 Westminster Terrace stated he gathered approximately 70 of the signatures. He said many residents didn't know anything about the proposed amendment and that he could have obtained about 20 more signatures but those citizens were reluctant to sign anything that was going to be submitted to the council.

Paul Seidman, 21 Oakview Drive said a memo to the council said there was a suggestion that a reason to move swiftly on this had to do with a potential legal challenge. Is there any documentation of this?

Rebecca Fernald, 313 Mitchell Road stated there are "far reaching" land use implications if the amendment passes. It's the responsibility of the planning board to following the state law which requires 5 acres for agricultural land to be preserved for open space in a development.

Diana Sterne, 1 Columbus Road asked why the change is needed as an emergency basis. The council should gather more information and public input before making a decision.

Lawrence Sterne, 1 Columbus Road asked what the changes mean. What are the ramifications?

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

ORDERED, the Cape Elizabeth Town Council refers the planning board recommendation amendment to the ordinance committee for review, and to set a public hearing on Monday, August 14, 2017 at 7:00 p.m. a proposed amendment in Sec. 19-7-2 Open Space Zoning, Section D Open Space Design Standards relating to a provision that agricultural land may be preserved as part of open space in new development.

(7 yes) (0 no)

Note: An email to a group of citizens from Paul Seidman was read.

Item #103-2017 Marijuana Regulations

Intro – Councilor Grennon, Ordinance Committee Chairman

Moved by Patricia K. Grennon and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, August 14, 2017 at 7:00 p.m. at the Cape Elizabeth Town Hall the ordinance committee's proposed ordinance prohibiting retail marijuana establishments and retail marijuana social clubs.

(7 yes) (0 no)

Item #104-2017 Domestic Fowl and Farm Animals

Intro – Mr. Sturgis

Moved by Caitlin R. Jordan and Seconded by Katharine N. Ray

ORDERED, the Cape Elizabeth Town Council refers the town manager's request to the ordinance committee a proposed amendment to the miscellaneous offenses ordinance language to contain domestic fowl within the owner's property.

(7 yes) (0 no)

**Item #105-2017 Proposed Shared Borrowing Memorandum of Understanding Between the
Thomas Memorial Library and Various Local Libraries**

Intro – Kyle Neugebauer, Director Thomas Memorial Library

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

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to sign the memorandum of understanding for shared library borrowing services between the Thomas Memorial Library and Baxter Memorial Library, Gorham, Scarborough Public Library, South Portland Public Library and Walker Memorial Library, Westbrook as presented.

(7 yes) (0 no)

See attachment.

**Item #106-2017 Amended Vote Authorizing Printer/Photocopier Lease Purchase
Agreement**

Intro – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council amends the June 12, 2017 vote authorizing a printer/photocopier lease purchase and approves the following vote authorizing the town manager to sign a lease purchase agreement with Androscoggin Bank for printers and photocopiers for town departments as presented.

(7 yes) (0 no)

**TOWN OF CAPE ELIZABETH, MAINE
Vote Authorizing Printer / Photocopier Lease Purchase Agreement
with Androscoggin Bank**

Whereas, on June 12, 2017, the Cape Elizabeth Town Council approved a lease purchase agreement with Biddeford Savings Bank; and

Whereas, after discussions with Biddeford Savings Bank, the Town has determined that Biddeford Savings Bank does not offer a lease purchase financing arrangement suitable for the Town;

Whereas, the Town Council has determined to enter into a lease purchase arrangement with Androscoggin Bank;

Now, therefore, be it hereby voted by the Cape Elizabeth Town Council as follows:

VOTED: That the Town Council hereby authorizes the Town Manager for and on behalf of the Town to execute and deliver a municipal lease purchase agreement with Androscoggin Bank in the amount of \$46,343.40 and bearing interest at the rate of 3.01% per annum, to lease finance printers and photocopiers for the Town, with a term of not more than 5 years (the “Town Lease Agreement”), which Town Lease Agreement shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Town Manager, such approval to be conclusively evidenced by his execution thereof.

VOTED: That the Town Manager is authorized to negotiate, execute, and deliver such other documents and certificates as may be necessary or appropriate in connection with the Town Lease Agreement which documents and certificates shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Town Manager, such approval to be conclusively evidenced by his or her execution thereof.

VOTED: That the Town Manager be and hereby is authorized and directed to covenant and certify on behalf of the Town that no part of the proceeds of the Town Lease Agreement, or the improvements financed therewith, shall be used directly or indirectly in any manner that would cause such Town Lease Agreement to be a “private activity bond” or an “arbitrage bond” within the meaning of Section 141 or Section 148 of the Internal Revenue Code of 1986, as amended.

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VOTED: That to the extent available under Section 265(b)(2) of the Code, with the advice of Bond Counsel, the Town Lease Agreement may be designated as “qualified tax exempt obligations”.

VOTED: That the Town Manager and the other proper officials of the Town (the “Authorized Representatives”) be and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things as may be necessary or desirable in order to effect the execution and delivery of the Town Lease Agreement in accordance with these votes.

VOTED: That all prior actions of the Town in effectuating the Town Lease Agreement are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Town Lease Agreement.

Moved by Jessica L. Sullivan and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council suspends the **Town Council Rules** to take items up after 10:00 p.m.

(7 yes) (0 no)

Item #107-2017 Fort Williams Park Group Use Request – EverWalk

Intro – Mr. Sturgis

Moved by Patricia K. Grennon and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee for the EverWalk event at Fort Williams Park on Saturday, September 16, 2017 as outlined including an assessed fee of \$5.00/registered walker, an area fee of \$500 and any additional costs for parks, police or rescue coverage as presented.

(7 yes) (0 no)

Item #108-2017 Nomination to Opportunity Alliance Board of Directors

Intro – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council approves the appointment of Tim Soley, 644 Shore Road to serve on the Opportunity Alliance Board of Directors, as a representative appointed by local municipal government, for a three-year term.

(7 yes) (0 no)

Item #109-2017 Proposed Carry Forward Balances

Intro – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council approves the proposed carry forward balances to be applied as of July 1, 2017, as amended.

(7 yes) (0 no)

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Carry Forward Amounts		2017
General Fund Assigned Fund Balances		
1102016	Records Preservation	\$ 4,500
1202011	GIS Improvements	\$ 20,700
1202019	Code Enforcement Software	\$ 8,681
1805010	Debt service payment	\$ 144,714
2202010	Contracted PSAP	\$ 4,999
2303005	Minor equipment, Fire Department service truck body	\$ 6,000
3102039	Pavement markings	\$ 25,000
5101002	Part time payroll	\$ 5,300
5205053	Family Fun Day	\$ 11,700
6222035	Richards Pool Building Maintenance	\$ 15,000
6402010	Professional Services	\$ 5,000
6404114	Greenbelt Trails Maintenance	\$ 24,200
6412010	Professional Services	\$ 22,700
6452035	Fort Williams Park Building Repairs	\$ 8,000
6452036	Fort Williams Park Stone Wall Repairs	\$ 5,000
6602010	Professional Services	\$ 39,800
7154004	Police Cruiser Replacement	\$ 7,100
7154009	Roadway and Drainage Repairs	\$ 293,800
7154013	Sidewalk Improvements	\$ 48,700
7154021	Computer upgrades	\$ 3,800
7154024	Town Hall exterior repairs	\$ 12,500
7154136	Grounds equipment	\$ 3,000
7154052	Original Library Building	\$ 142,500
7154111	Town Hall Meeting Spaces/Office Spaces Plan	\$ 105,200
7155236	Police radios	\$ 5,000
7155287	PD Computer replacement	\$ 5,000
7155304	Wetteam boat replacement	\$ 80,000
7155310	Town Hall main stairwell	\$ 63,250
7155313	Harbors Committee	\$ 8,888
7155315	Paper streets technical study	\$ 3,350
7155316	2019 Comprehensive Plan	\$ 54,011
7254227	Fuel Donation Account	\$ 4,487
7844302	Recycling center project	\$ 941,569
8154016	Ottawa Road CSO project	\$ 161,103
8654018	Perimeter fencing Fort Williams	\$ 35,000
	Community Services Miscellaneous Supplies	\$ 15,000
	Budgeted Use of Undesignated Surplus	\$ 352,000
		\$2,696,552

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Citizens may at this point in the meeting raise any topic that is not on the agenda that pertains to Cape Elizabeth local government.

None

Adjournment

Moved by Patricia K. Grennon and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council adjourns at 10:12 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

See Item #105-2017 2-Page Attachment

Final Draft 4/3/2017

**Memorandum of Understanding
between
Baxter Memorial Library, Gorham
Scarborough Public Library Corporation,
South Portland Public Library,
Thomas Memorial Library, Cape Elizabeth,
Walker Memorial Library, Westbrook**

Baxter Memorial Library, Scarborough Public Library, South Portland Public Library, Thomas Memorial Library and Walker Memorial Library, [individually "Member" or collectively the "Members"], agree to extend borrowing privileges to any individual cardholder [also called user or borrower], in good standing, of Members.

The borrower must obtain a card from the Member serving the borrower's community of legal residence.

Library Services:

Borrowers are expected to conform to rules of the loaning Member including loan periods and late fees. Members' policies may differ and need not be modified to align during the period the Memorandum of Understanding is in effect.

All Members belong to the Minerva consortium and use the same circulation system so borrower's cards issued by Members will be honored for transactions.

To borrow from any Member, the borrower shall:

- Be In good standing with the home Member, and shall
- Be in good standing with other Minerva libraries, and shall
- Present a current borrower's card, and shall
- Have no outstanding issues that restrict usage at the home Member

To reduce confusion, users will request and pick-up interlibrary loan materials through the home Member.

Users may return materials to any participating Member. Members will check-in materials using standard Minerva protocol and return or forward the items through the existing courier service.

Remuneration for Service:

This Memorandum of Understanding is made in the spirit of interlibrary cooperation and participating Members expect no compensation or reimbursement for services rendered or for collections used by cardholders from Members.

Duration:

A Member may withdraw from participation in this Memorandum of Understanding upon 30-days prior written notice to all other Members.

47 Agreed to:

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49 For Baxter Memorial Library

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53 Signature

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56 Print name

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59 Title

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65 For South Portland Public Library

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69 Signature

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72 Print name

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75 Title

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78 Date

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80 For Walker Memorial Library

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84 Signature

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87 Print name

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90 Title

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93 Date

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For Scarborough Public Library

Signature

Print name

Title

Date

For Thomas Memorial Library

Signature

Print name

Title

Date