



Cape Elizabeth Town Council Minutes

DRAFT Monday, April 9, 2018

7:00 p.m. Cape Elizabeth Town Hall

Council Chambers

Jessica L. Sullivan, Chairman
James M. "Jamie" Garvin
Caitlin R. Jordan
Penelope A. Jordan
Sara W. Lennon
Valerie A. Randall
Christopher M. Straw

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Penelope Jordan reminded citizens to continue to be engaged in the comprehensive plan process. Questions and results of the recent survey are online. A public forum will be held in June.

Councilor Straw has had a number of inquiries from citizens relating to the new dog ordinance and when the fence around the multipurpose field at Fort Williams may be installed.

Councilor Garvin announced the Spurwink School Reuse Committee report is complete and will be on an upcoming council agenda.

Report from the Town Assessor Relating to a Draft Senior Citizen Tax Relief Ordinance and Program

Clinton Swett, Town Assessor provided a presentation on a proposed senior citizen tax relief program. The next step is for the council to review the proposed program at an upcoming workshop to discuss how the program may be financed and what perimeters/criteria may be appropriate for Cape Elizabeth.

Opportunity for Public Comment

Susana Measelle Hubbs, 18 Belfield Road commented it's the perfect time to consider and implement a property tax relief program at the local level. The community expects a top level of education. With less state funding there needs to be a mechanism to relieve property tax burden. The community must work together to find solutions.

Finance Committee Report

Councilor Garvin, Chairman Finance Committee reviewed the municipal budget workshops that were held March 20 and 21. The school board will make a preliminary presentation of its FY 2019 budget to the council in workshop session on April 12. A formal presentation will be held on April 24. If needed, a wrap-up session on the FY 2019 budget will be held on April 25.

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Councilor Garvin underscored the request for public input during budget deliberations.

Mr. Sturgis reviewed the dashboard. The town received +\$25,000 more than anticipated from the cable franchise fee. Legal services will exceed budget due to unforeseen lawsuits. Even with the harsh winter, the public works sand and salt supplies are fine; it is not anticipated that these expenditures will exceed budget.

Councilor Lennon encouraged citizens to attend one of the two school board budget public forums on Wednesday, April 11 at 9:00-10:00 a.m. and 6:00-7:00 p.m. Both forums will be held in the chamber.

Update by the Town Manager on the Capital Improvement Plan

During the summer, Mr. Sturgis will be reviewing the next 5-year capital improvement plan. Review is underway for finance options relating to the purchase of capital items; dump/plow truck, rescue unit and ladder truck.

Citizen Opportunity for Discussion of Items Not on the Agenda

Janet Villiotte, 7 Montgomery Terrace sent an email to the town council on April 8 relating to “concerns about financial mismanagement, administrative mismanagement and lack of transparency by the Cape Elizabeth School Board.” A public meeting with the school board is requested to address the concerns. See attachment.

Sonya Madina, Portland, CEHS Teacher stated the school budget year is challenging. With state funding declining, support of the school budget is needed to maintain the integrity of the programs. School Board has operated in a responsible manner even though state funding has continued to decline. The goal is the best education for students.

Terri Patterson, 15 Surf Road stated she has been involved with many committees over the years and has a good sense of how things work. Thank you to Janet Villiotte for her research. Citizens need to be involved and voice their concerns. The facts in the memo don't tell the full story.

Town Manager's Monthly Report

The past month was consistently busy as the municipal budget process continues. The municipal budget was delivered to the Council and then reviewed with each department with the Finance Committee.

In pursuit of the best financing options, I have been in discussions with different lending institutions to pursue the best options for financing the anticipated purchases of the ladder truck replacement, ambulance, and large plow / dump truck replacement as part of the planned capital investment.

In a follow up of last month's approval to move food vendor sites at Fort Williams, three of four food vendors have committed to their locations in Fort Williams by providing deposits for the upcoming season.

Repairs to fencing at Fort Williams as a result of wind storm damage last fall is ongoing, and work on the retaining wall at Battery Blair at the Fort shall be starting soon.

Our public works department, encouraged by the anticipated spring weather, has resumed sweeping operations to clean up the sand applied to the roadways this winter. The primary routes will be addressed first, followed up by secondary roadways. Additionally, the parks department is accepting applications for seasonal workers.

Discussions are ongoing with both the public works and police collective bargaining units.

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Finally, multiple departments are involved with our legal team in preparing documents and answering questions as part of the discovery process in the Surf Side Avenue paper streets lawsuit. The Town's attorneys are working on assembling the information requested and preparing for delivery.

Respectfully submitted,

Matthew E Sturgis, Town Manager

Review of Draft Minutes of March 12, 2018 and Special Meetings held March 20 and 21, 2018

Moved by Valerie A. Randall and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on March 12, 2018 as written.

(7 yes) (0 no)

Moved by James M. Garvin and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the minutes of the special meetings held on March 20 and March 21, 2018 as written.

(7 yes) (0 no)

Item #56-2018 The Well, LLC Qualified Catering Application

Councilor Penelope Jordan recused herself from discussion and voting on this item due to a business relationship with The Well.

Councilor Caitlin Jordan disclosed she does business with The Well.

Intro – Mr. Sturgis

Moved by James M. Garvin and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the renewal qualified catering application for The Well LLC/Jason Williams DBA The Well at Jordan's Farm located at 21 Wells Road as presented.

(6 yes) (0 no) (1 recusal Councilor Penelope Jordan)

Item #57-2018 Review and Discussion – Fiscal Year 2017 Audit Results

Chairman Sullivan announced Jennifer Connors of Runyon Kersteen Ouellette was unable to attend the meeting due to illness. The item will be rescheduled to May 14.

Item #58-2018 Pay/Display at Fort Williams Park

Intro – Mr. Sturgis

Public Comment

Ms. Cavanaugh, 16 Littlejohn Road asked since this has been voted down twice by voters, will the issue be decided by the town council or vote by citizens.

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

ORDERED, the Cape Elizabeth Town Council refers the discussion of pay/display at Fort Williams Park to a workshop on May 1, 2018.

(7 yes) (0 no)

Moved by Valerie A. Randall and Seconded by James M. Garvin

ORDERED, the Cape Elizabeth Town Council directs the town manager to create a request for proposals for providing pay/display parking units for Fort Williams Park and receive responses to the request from vendors.

(7 yes) (0 no)

Item #59-2018 Fort William Park Foundation Request for Naming the Historic Stone Bandstand in the Children's Garden at Fort Williams Park

Councilor Garvin recused himself from discussion and voting on this item as his wife is board member of the Fort Williams Park Foundation.

Intro – Lynn Shaffer, 650 Shore Road President Fort Williams Park Foundation

Moved by Sara W. Lennon and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council refers to the Fort Williams Park Committee for review and comment the recommendation of the Fort Williams Park Foundation to name the historic stone bandstand in the Children's Garden at Fort Williams Park as "Council Ring." The Cape Elizabeth Historic Preservation Society will also be notified of the recommendation; comments from CEHPS are welcome.

(6 yes) (0 no) (1 recusal Councilor Garvin)

Item #60-2018 Proposed Drone Policy

Intro – Chairman Sullivan

Moved by Sara W. Lennon and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council refers the subject of the use of drones on all town/school property to a future workshop.

(7 yes) (0 no)

Item #61-2018 Conservation Committee Recommendation Relating to the Request of the Cape Elizabeth Land Trust for Funding for the Purchase of Robinson Woods III

Elizabeth Goodspeed, 59 Belfield Road President Cape Elizabeth Land Trust and David Briman, 997 Shore Road CELT Board member were available to answer questions.

Intro – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council refers the request of the Cape Elizabeth Land Trust to assist with the purchase of Robinson Woods III in the amount of \$281,666 or 1/3 of the purchase price to a future workshop to continue discussion and deliberation.

(7 yes) (0 no)

Item #62-108 Town Center Intersection

Intro – Mr. Sturgis

Laura Reddington emailed the town council on March 29, 2018 relating to safety concerns and pedestrian crossing at the intersection of Route 77/Scott Dyer Road/Shore Road.

The town manager and police chief have met to discuss this issue. Pedestrians need to be aware and use the crosswalk that already exists just south of the intersection. Repainting in the area, just north, between the old and new Cumberland Farms is a first step traffic calming measure for a visual cue that the area is narrowing and vehicles should not circle to the right of a stopped vehicle. A future step may be an infrastructure reshape; narrowing the curb.

Moved by Caitlin R. Jordan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council refers safety concerns and pedestrian crossing in the town center at the intersection of Route 77/Scott Dyer Road/Shore Road to a future workshop.
(7 yes) (0 no)

Item #63-2018 Corporate Credit Card Agreement – People’s United Bank

Intro – Mr. Sturgis

Moved by James M. Garvin and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the town manager to enter an agreement with People’s United Bank, entitled Commercial Card Resolution Form, for the issuance of credit cards and authorizes the town manager, the town council chairman and two members of the town council to sign as presented.
(7 yes) (0 no)

Item #64-2018 Draft Code of Ethics/Town Council Rules

Intro – Mr. Sturgis

Moved by Sara W. Lennon and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council approves the revised code of ethics, dated March 21, 2018, prepared by Town Attorney Thomas Leahy as presented.

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

ORDERED, the Cape Elizabeth Town Council amends the motion to revise the Town Council Rules adopted December 11, 2017 to clarify that although disclosures are required for any potential conflict of interest, a council vote following a disclosure is permissive not required.
(7 yes) (0 no)

Section 6. Conflict of interest Each Town Council member shall disclose any potential conflict of interest immediately after the chairman introduces an item. The council member shall briefly explain their reason why they believe they may have a conflict of interest. The balance of the Town Council members after reviewing applicable statutes **shall may** by majority vote determine if the member has a conflict. If any member of the Town Council believes that another member has a statutory conflict of interest, they may raise a point of order at any time and the Town Council shall immediately suspend business to resolve the issue. If any member discovers part way into a discussion that they may have a conflict of interest, the council member may raise a point of order and the Town Council shall immediately suspend business to resolve the issue. All resolutions of conflict of interest issues **shall may** be by majority vote of the remaining Town Council members and after citing applicable statutory provisions. If the same issue is to be discussed at subsequent meetings, the recusal need not be revoted. The chairman will announce to those present the previous decision to recuse the council member.

Original Motion as Amended:
(7 yes) (0 no)

Item #65-2018 Appointment of Election Clerks and Warden

Councilor Penelope Jordan recued herself from discussion and voting on this item as her sister has been nominated as warden.

Councilor Caitlin Jordan disclosed non-immediate family members have been nominated.

Intro – Debra Lane, Town Clerk

Moved by Caitlin R. Jordan and Seconded by James M. Garvin

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Town Clerk for Carol Anne Jordan as Warden and Victoria Gilman, Meagan Winker and Debra Lane to serve as Deputy Wardens and until successors are sworn.

(6 yes) (0 no) (1 recusal Councilor Penelope Jordan)

Moved by Caitlin R. Jordan and Seconded by Valerie A. Randall

IT IS FURTHER ORDERED, The Cape Elizabeth Town Council approves the following list of residents who may be considered to serve as election clerks for the Town of Cape Elizabeth for a period of 2 years and until successors are sworn.

(6 yes) (0 no) (1 recusal Councilor Penelope Jordan)

Democrat	Republican	Unenrolled Voters
Priscilla Armstrong	Scott Berry	Kris Murray
Lillian Bates	Beverly Brooking	Teresa Olsen
Edna Chace	Kathy Cotter	Patrick Winker
Janice Chapman	Marguerite Hallowell	
Margaret Davenport	Debra Harney	
Sheila Heatley	Kathy Maxwell	
Roy Herrmann	James Walsh	
Karen Kerrigan	Kathy Walsh	
James Rowe	Linda Winker	
Antionietta Sweeney		
Meagan Winker		

Item #66-2018 School Budget Validation Referendum Election Warrant

Intro – Debra Lane, Town Clerk

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

ORDERED, the Cape Elizabeth Town Council approves the warrant for the school budget validation referendum election warrant as presented.

(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council approves the wording of the school budget validation referendum questions.

(7 yes) (0 no)

**TOWN OF CAPE ELIZABETH
SCHOOL BUDGET VALIDATION REFERENDUM
Tuesday, June 12, 2018**

County of Cumberland, ss.

To Neil R. Williams, a constable of Cape Elizabeth. You are hereby directed to notify the voters of Cape Elizabeth of the election described in the warrant.

SCHOOL BUDGET QUESTIONS

School Budget Validation Referendum

Do you favor approving the Town of Cape Elizabeth school budget for the upcoming school year that was adopted at the latest school budget meeting of the Town Council?

Yes No

The following is a non-binding expression of opinion for the consideration of the School Board and Town Council.

I find the school budget adopted at the May 14, 2018 Town Council's school budget meeting to be:

---- TOO HIGH ---- ACCEPTABLE ---- TOO LOW

Election to be held on Tuesday, June 12, 2018, at the Cape Elizabeth High School Gymnasium.

Polls open at 7:00 a.m. and Close at 8:00 p.m.

Absentee Ballot Processing:

Absentee ballots will be processed on Election Day, on the hour every hour until close, beginning at 7:00 a.m. The Cape Elizabeth Town Democratic Committee, the Cape Elizabeth Town Republican Committee, State Green Independent Party and State Libertarian Party have also been notified, in writing, of the absentee ballot process.

The Registrar of Voters is available to accept new registrations and corrections to the voter list on Election Day at the polls and prior to Election Day at Town Hall, 320 Ocean House Road. Town Hall is open Mondays 7:30 a.m. - 5:00 p.m. and Tuesday - Friday, 7:30 a.m. - 4:00 p.m. Proof of residency and identity is required.

Item #67-2018 Municipal Budget Guidance for Fiscal Year 2020

Intro – Mr. Sturgis

Moved by Christopher M. Straw and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council refers a discussion on budget guidelines and parameters for fiscal year 2020 to a workshop to be held after the June 12, 2018 school budget validation referendum.

(7 yes) (0 no)

Item #68-2018 Board and Committee Goals – Conservation Committee

Moved by Sara W. Lennon and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council acknowledge receipt of the conservation committee's 2018 goals and objectives as presented.

(7 yes) (0 no)

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 Caitlin R. Jordan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council adjourns at 9:34 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Attachment – Janet Villiotte Memorandum April 8, 2018

Dear Councilors:

Attached you will find a memo detailing a number of issues concerning the management of our School Department. Reference links are listed at the end of the memo. I have also included a folder which contains a series of appendices. Each provides additional supporting documentation.

I will be speaking during the public comment portion of Monday's Council meeting.

Thank you in advance for your attention to, and consideration of, these matters.

Respectfully,

Janet Villiotte

7 Montgomery Terrace
CE

5 April 2018

To: Cape Elizabeth Town Council

From: Janet Villiotte
7 Montgomery Terrace
Cape Elizabeth

Town Councilors,

I am writing to you as a concerned parent, citizen and taxpayer. As those ultimately responsible for decisions around our Town's management and financial health, I wish to share that I am extremely concerned about financial mismanagement, administrative mismanagement and lack of transparency by the Cape Elizabeth School Board.

The following information has been obtained with great difficulty:

- Review of the 2018-19 CESD Budget Appropriation Master Report (obtained directly from the Business Office) revealed that as of 2/11/18, **CEMS and PC Administration** expenditures had already exceeded by approximately **\$35,000 each** the entire 2017-18 FY allocation. (Appendix B)
- Documents obtained after a FOAA request confirmed that **Principal Hasson received \$114,726** plus benefits, and **Principal Tracy received between \$87,106 and \$116,142** plus benefits during FY 2018- and neither has worked since July. Principal Eismeier, after 17 years, received \$30,000. (Appendix D)
- **The 2017 municipal audit for CE noted "Significant Deficiencies"**, due to CESD bookkeeping issues (9 pages of line items were cited). Approximately **\$4 million of commingled funds** were discovered. This is the first time ever that our town has received a review of this nature. (Appendix F)
- A request for CESD's monthly financial statements for the current FY was made, and the Business Manager's response was that **monthly reports are not generated**. (Any functional financial institution should track monthly expenditures.)

• **Tremendous CESD administrative turnover- within the last 6 years CESD has employed:**

- 2 Superintendents
- 2 CEHS Assistant Principals
- 4 CEMS Principals
- 3 (possibly 4) CEMS Assistant Principals
- 3 Pond Cove Principals
- 3 Pond Cove Assistant Principals 2
- 3 Special Education Directors
- 2 Directors of Instruction

Turnover destabilizes the school community from the top down. It makes our district less attractive to potential applicants and new families. Conducting candidate searches for these top positions is also costly in terms of time and dollars. (Appendix A)

• The Interim Superintendent did not publicly acknowledge the most recent administrative departures until July 17, when he sent a letter to the school community, pledging not to rush the hiring process and the inclusion of all stakeholders. There was little opportunity for public input during this four-week period in the summer, nor were any School Board meetings held between June 26 and August 14, when selected candidates for both Principal positions, and the PC Assistant Principal, were voted on. The only stakeholder opportunity was when parents were invited for one hour to meet one finalist for each school, once a finalist for each school was selected. These two meetings also were held at very short notice, on August 9 and August 10. (Appendix K)

• **CESB held 31 executive sessions in 2017 alone.** Nearly all executive sessions listed “personnel issues” as a rationale. In contrast, Falmouth School Board held only 3 Executive sessions in 2017. The Yarmouth School Board held 2; MSAD 51’s School Board had 3. (Appendices E, H)

• **The CESD website is extremely difficult to navigate,** creating a barrier to access. Gmail users have been asked in some places to log in to see 2018-19 budget documents, which is a violation of the public’s right to know. There is no such registration requirement on the Town’s website. Such barriers to viewing public documents are probably illegal. A 3 week correspondence with the Business Office was required to rectify this issue. Budget documents for 2018-19 available online are not kept up to date, despite numerous edits noted in the activity log. (Appendices C, I, L)

Contextual Considerations:

- a trend continues: projected 40% decrease in state education subsidy, roughly \$875,000
- possible increase in CE property taxes, up to 11%
- proposed school renovations/new buildings- current estimate is \$27 million

Conclusion:

The School Board members are elected public officials who are accountable to the voters and taxpayers. They hire and oversee the CESD Superintendent, whose responsibilities include personnel and budgetary matters, among them oversight of the Business Office. There is an enormous fiduciary duty to our Town that has been shirked. There is a lack of transparency, indeed a culture of opacity in decision-making, without which trust and relationships cannot be built. Anyone who cares about the quality of our children’s education and the disposition of our tax dollars should be extremely concerned and asking for answers to the questions raised by these findings. (Appendices C, J)

Request for Council Action: The Town Council is the ultimate responsible body for Cape Elizabeth’s financial health, community stability and tax rate. Given the serious warning raised by all of this information, I am respectfully requesting that public meetings with the School Board be held to demand answers, accountability and corrective action plans for the following:

- Failure to efficiently manage the SD budget
- Failure to meet government audit standards with bookkeeping and accounting practices
- Failure to effectively hire, manage, and maintain administrative staff, causing a disruptive school system environment and wasteful spending.
 - Failure to provide transparency or ease of access via the CESD website or Business Office
- Possible violations of Maine law executive session meeting requirements
- Possible violations of Maine's right to know laws

Please find attached all supporting reference documentation.

Thank you.

Janet Villiotte