



## **Cape Elizabeth Town Council Minutes**

**DRAFT Monday, August 13, 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

**The meeting was convened at 7:00 p.m. by Town Council Chairman Jessica L. Sullivan.**

### **The Pledge of Allegiance to the Flag**

#### **Roll Call by the Town Clerk**

All members of the town council were present except for Councilor Randall.

Debra M. Lane, Town Clerk

Matthew E. Sturgis, Town Manager

### **Town Council Reports and Correspondence**

Chairman Sullivan congratulated the participants in the Beach to Beach 10K and thanked the race leadership for organizing a safe and successful event.

Ms. Lane reminded citizens that nomination papers for town council and school board are available. Three seats are available on both boards. The deadline to submit nomination papers to the town clerk is 4:00 p.m. Friday, September 7.

#### **Finance Committee Report**

Councilor Garvin, Chairman Finance Committee reviewed the finance-related topics discussed at the 7/16 council workshop and dashboard as of 7/31. Tax bills for FY 2019 are in the mail.

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

Christopher Munz, 5 South Street noted the petition provided to the town council on 7/9 signed by residents of 7 properties. Mr. Munz is asking the town council to place on the September agenda a request to reinstall the gate at the end of Aster Lane. Since the gate was removed traffic has increased and there is a concern for the safety particularly of children in the neighborhood.

### **Town Manager's Monthly Report**

As the fiscal year started on July 1, the new year projects are also underway.

This week the Eastman Road paving rehabilitation will begin, with some milling of the surface taking place and new surfacing being put down. The project is estimated to take five to six days, if the weather cooperates. Please be mindful that there will be some heavy equipment in use, which may lead to some delays on Eastman Road while the project is under construction.

The new property tax bills are posted on the website and will be in the mail shortly. There is some positive news to report, as the final tax rate, which was estimated to be \$19.18 was reduced to a rate of \$19.02, which is a result of an increase in the Town's value due to new construction and an increase in the Homestead Exemption reimbursement.

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The Cliff House beach stair project is close to completion, with a final installation of a granite slab as the final step to be placed. I wanted to thank the public for their patience during this installation process during one of the hottest weather stretches in memory. Additionally, the advisory sign for beach users is ordered, and will be installed once complete.

Finally, on this Thursday, August 16, the Town Offices will be closed so we may hold annual departmental and organizational training sessions and the annual employee appreciation luncheon. Town Office will open for regular business on Friday, the 17<sup>th</sup> at 7:30 a.m.

**Review of Draft Minutes of July 9, 2018 and Special Meeting held July 30, 2018**

Moved by Penelope A. Jordan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on July 9, 2018 as written.  
(6 yes) (0 no)

Moved by Sara W. Lennon and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the special meeting held on July 30, 2018 as written.  
(6 yes) (0 no)

**Public Hearing      14 Strout Road Tower Overlay District Map Amendment**

Councilor Penelope Jordan asked for continued recusal on this item.

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

ORDERED, the Cape Elizabeth Town Council recuses Councilor Penelope Jordan from discussion and voting on this item.  
(5 yes) (0 no)

Chairman Sullivan opened the public hearing at 7:12 p.m.  
After hearing no comments, the hearing was closed.

**Item #114-2018      14 Strout Road Tower Overlay District Map Amendment**

Introduction – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council approves the June 25, 2018 planning board recommendation relating to the request of Tower Specialists, Inc. for a zone change for the existing Tower Overlay District encompassing the entire parcel at 14 Strout Road, Map R05 Lot 024 and a small portion of 341 Spurwink Avenue Map R05 Lot 029 as follows:

The Planning Board recommends the 14 Strout Rd Tower Overlay District Zoning Amendment Phase 1 and Phase 2, with the stipulation that the Phase 2 zoning boundary will take effect after the Crowne Castle tower has been removed and not replaced and the property owner provides to the Town of Cape Elizabeth written notification confirming that the tower has been removed and not replaced no later than April 1, 2020.

(4 yes) (1 no Councilor Straw) (1 abstention Councilor Penelope Jordan)

**Item #115-2018      Rotary for Use – Fort Williams Park – Rotary Club of South Portland-Cape Elizabeth**

Introduction – Members of the Rotary Club of South Portland-Cape Elizabeth Tony Wagner, 11 Todd Road and John Lobosco, 21 Fessenden Road

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

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee for a request from the Rotary Club of South Portland-Cape Elizabeth to utilize the Picnic Shelter at Fort Williams Park and adjacent field area on Friday, June 21, 2019 and Saturday June 22, 2019 as presented.

(5 yes) (1 no Councilor Straw)

**Item #116-2018      Report – Fort Williams Park Committee Report Relating to Pay and Display Parking at Fort Williams Park**

Public Comment

Victoria Volent, 58 Cottage Farms Road thanked the committee for their work and suggested a review of the daily parking rate to increase the rates.

Moved by Penelope A. Jordan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report, as requested by the town council, of the Fort Williams Park Subcommittee relating to the feasibility of pay and display parking at Fort Williams Park and refers the report to a town council workshop on September 17, 2018.

(6 yes) (0 no)

**Item #117-2018      Review of Proposed Settlement Agreement Relating to Paper Street Sections of Surfside Avenue**

Present – Attorneys Durward Parkinson, Benjamin McCall and Susan Driscoll

Public Comment

Victoria Volent, 58 Cottage Farms Road asked the council to renegotiate the agreement (\$500,000 is too low) and set aside the 9/10 meeting to hear how residents feel about the settlement agreement and do not vote on the same evening.

Paul Moson, 22 Trundy Road read the petition circulated by the Save Our Shore group. He suggests a larger room for the 9/10 public hearing and asks the council to think about what the majority of citizens want.

Jim Morra, 5 Waumbek Road said if the council continues with the settlement proposal it tells the world that Cape Elizabeth government does not follow the fundamental American principal of government representing the people, rather acting on behalf of small, wealthy special interest groups. If approved the general public will lose confidence in its' government. The voters should vote on the issue on 11/6.

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Susan Guerette, 2 Katahdin Road asked the council to remember \$357. The mediated document is not worth the paper it is written on, it takes away the rights of the neighbors and petitioners. The mediation will require the residents with private rights to spend thousands of dollars to file to protect their own rights. Residents will seek protection for quiet use and enjoyment and enforcement for any breach of the settlement agreement.

Sarah MacColl, 4 Avon Road said my rights are being eroded by this action. Take a long term look at the erosion of the area at Trundy beach, need to preserve the higher piece of property for everyone to walk on. Encourages the council to accept.

Kate MacColl, 4 Avon Road grew up in Cape Elizabeth. It's not about the money, it's about being able to walk around and be open to one another.

Maynard Murphy, 24 Pilot Point Road has read the agreement but still feels the council should accept the entire length of Surfside Avenue. If the agreement is approved more work needs to be done to protect the deeded and implied rights of the neighbors. Paragraph 3 needs to be clarified. Courts generally give deference to municipalities, the acceptance of Surfside Avenue should be successful.

Priscilla Armstrong, 18 Avon Road said there is not adequate protection of my rights in the settlement agreement. If the council moves forward they need to ensure the deeded rights and not put the neighbors in the situation of litigation to defend those rights. The town hasn't done enough to protect the rights of the neighbors. If the council approves the agreement the rights of all in the neighborhood for all of Surfside Avenue needs to be protected.

Florence Braff, 69 Hannaford Cove Road said it's upsetting to think the town can be threatened by litigation and possibly give up rights to a paper street. Also concerned about the reputation of the town.

Deborah Murphy, 24 Pilot Point Road, President Shore Acres Improvement Association. Shore Acres is a caring, thoughtful neighborhood. Openness and sharing has changed in the last 10 years. It's important to share such as shoreline access. Encourage the council to accept the paper street because it's the right thing to do. Don't think legal challenges would undo the acceptance. The settlement agreement doesn't protect the rights of Shore Acres neighbors. Need abutters to affirm the rights of the lot owners. Don't feel the deemed vacation process is appropriate.

Moved by Sara W. Lennon and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council sends to public hearing on Monday, September 10, 2018 at 7:00 p.m. at the Cape Elizabeth Town Hall the proposed settlement agreement to begin the deemed vacation process of a paper street section of Surfside Avenue.

(6 yes) (0 no)

**Item #118-2018 Request of the Cape Elizabeth School Board to Set to Referendum an Interlocal Agreement for the Greater Sebago Education Alliance Regional Service Center**

Introduction – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the school board to set to referendum on Tuesday, November 6, 2018 the following referendum question.

Do you favor a plan for the Cape Elizabeth School Department to join the Greater Sebago Education Alliance Regional Service Center through an interlocal agreement that will allow the School Department to receive additional revenue through the state funding formula and to more efficiently procure goods and services?

(6 yes) (0 no)

**Item #119-2018 Request to Amend the Sewer Service Area – 33 Wells Road**

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

ORDERED, the Cape Elizabeth Town Council refers to the planning board for review and recommendation a request from Sue and Greg Sarka, 33 Wells Road to expand the sewer service area to include their residence so the property may connect to the municipal sewer.

(6 yes) (0 no)

**Item #120-2018 Consideration of Agreement with LEICA Geosystems, Inc. to Host an Antenna on the Town Center Fire Station**

Introduction – Mr. Sturgis

Moved by Penelope A. Jordan and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council approves the request of LEICA Geosystems, Inc. for the town to host the Smartnet GNSS Reference Network antenna to be located on the Town Center Fire Station at 2 Jordan Way. The annual fee to be paid to the town is \$1500.00.

(6 yes) (0 no)

**Item #121-2018 Establishment of an Energy Committee**

Moved by Penelope A. Jordan and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, September 10, 2018 at 7:00 p.m. at the Cape Elizabeth Town Hall consideration of a standing energy committee amending Chapter 4 Boards and Committees.

(6 yes) (0 no)

**Item #122-2018      MMA Voting Ballot**

Introduction – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council approves the 2019 slate of officers for the Maine Municipal Association's Vice President and Executive Committee as presented.

(6 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 Sara W. Lennon and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council adjourns at 8:57 p.m.

(6 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk