



## Cape Elizabeth Town Council

Monday, September 9, 2019 DRAFT Minutes

7:00 p.m. Council Chambers

Cape Elizabeth Town Hall

James M. "Jamie" Garvin, Chairman  
Valerie J. Deveraux  
Jeremy A. Gabrielson  
Caitlin R. Jordan  
Penelope A. Jordan  
Valerie A. Randall  
Christopher M. Straw

**The meeting was convened by Town Council Chairman James M. "Jamie" Garvin.**

### **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**

### **Presentation – Ralph T. Gould Award for Outstanding Citizenship**

Tim and Nancy Thompson, 6 Pine Ridge Road were present to receive the Ralph T. Gould Award.

Chairman Garvin delivered the following remarks and presented a crystal vase in recognition and appreciation of service.

We are very fortunate here in Cape Elizabeth to live in a community where so many people are invested in service to their friends and neighbors, and commit their time, talents, and passion to making this town the special place that it is. Tonight we are pleased to give special recognition to two of our fellow citizens, Nancy and Tim Thompson, by honoring them with the Ralph Gould Award for Citizenship.

I want to share with you just a few of the many reasons Nancy and Tim were chosen as this year's award winner. But first, for those that might not be aware, I'd like to give you a little bit of background on Ralph Gould and this award that was established in 1986 and bears his name.

Ralph Gould was the consummate community leader -- a well-respected and successful businessman, the owner and operator of Gould Equipment Company; a supporter of the arts and music in the schools and community; a long-time member of the Cape Elizabeth Fire Department, and in fact one of the leaders of the Cape Elizabeth Fire Department Band, which performed for many years at public functions, parades, and at popular variety shows Ralph organized right where we're gathered today, which was at one time the town's auditorium.

I reached out to another distinguished Cape citizen and current president of the Cape Elizabeth Historical Preservation Society, Jim Rowe, for some thoughts about Ralph, and he shared this:

*Every so often, his name would pop up as a significant benefactor to, or driver in this project or that, never in an obnoxious or ostentatious way, though... always quietly... almost unnoticed (unless you were looking.) That was his style. He was one of those individuals who, if you approached him with a well-defined and reasonable need, he had the means and the energy to help... always quietly.*

It's that reflection from Jim that really resonates with me as I think about all of the incredible work that Nancy and Tim have done for the benefit of our community, so often without fanfare.

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Nancy and Tim are long-time Cape Elizabeth residents, volunteers, and business owners. In 2004, they tragically lost their middle child Timmy, who had just graduated from Cape Elizabeth High School, to suicide. Since that time, and in his memory, they both have been passionate advocates speaking publicly about their loss in the hopes of saving lives. They urge those with emerging mental health issues to not take no for an answer and to push harder for services. They also encourage people to not be afraid to speak about their illness so they may be able to have others help them. And their efforts helped in the passage of legislation that put in place today's training requirements to help educators and staff identify students at risk and know what steps to take to help try to prevent suicide.

Last year, through their Thompson Mental Health Initiative, in collaboration with the school department and the Cape Elizabeth Education Foundation, and led by CEMS nurse Jill Young, they helped to launch a community-wide program focused on recognizing the importance of mental wellness, and creating a foundation of advocacy, education, and awareness. The initiative, with the theme, "You will be found at CEMS," helped to empower students, staff, and parents to be proactive and confident in caring for themselves and others, provide tools and tips for improving mental health, introduce health resources in or near our school community, and decrease stigma around mental health.

Several of us on the council had the chance to participate in this initiative in different ways, including the community read along of the book, *Finding Perfect*.

Their annual Thompson Award, given through CEEF, honors the faculty or staff member who reaches out to Cape Elizabeth students in lasting and meaningful ways, and go above and beyond what is expected, providing students guidance and mentoring. And they have both served on numerous boards and with community service and philanthropic organizations through the years.

To let you behind the current a little bit, the council actually discussed this award back in the spring, but with the summer months and various schedules to coordinate, it's not until now that we got it on our agenda. In that light, I find it a bit ironic, or maybe serendipitous is the better way to look at it, that yesterday kicked off the annual National Suicide Prevention Week. I hope in some small measure; we're doing our part to raise awareness here tonight.

In addition, over the last two years, Tim generously served on the Comprehensive Plan Committee. Probably not realizing what he'd gotten himself into, Tim served as its chair and was a steady hand guiding a dedicated group of fellow citizens through an extremely rigorous and detailed process to accomplish the important work of updating the plan that serves as the foundation for much of the town's planning direction and ordinances. Councilor Penny Jordan, who also served on the committee, noted how Tim was very good at ensuring everyone on the committee was heard, how he'd ask questions when it seemed they were at an impasse, drawing out comments to ensure that all perspectives were voiced and considered. As is his style, he made sure it wasn't about the loudest voice, but about the collective voice of the team. As Town Planner Maureen O'Meara described:

*"Tim's strength is a genuine interest in where folks are coming from. He wants to hear from you and puts folks at ease who may start from a point of controversy, anxiousness, or hostility. He made the public feel welcome as part of the process, and all staff feel appreciated."*

I was among those that saw some of these same characteristics on display as part of last year's School Needs Assessment Committee. As part of a group representing a wide cross section of the community, Tim went from just asking a few questions and expressing some skepticism at a budget hearing, to getting involved to try and find areas of common ground, and to be part of the discussion to find solutions for a complex set of competing needs and priorities. School Board Chair Susanna Measelle Hubbs shared:

*"While Tim and Nancy have long supported the Cape schools, Tim's insights and energy for helping make the schools a safer and better place was evident in many discussions the committee held. His participation in the process garnered great respect from not only me, but my fellow board members and Superintendent. Most importantly, Tim's contribution of time and thoughtfulness during this process will forever benefit our students and our schools."*

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I read somewhere once that thriving communities are places filled with common people doing uncommon work for the common good. And that sometimes from overwhelming community challenges come tremendous community opportunities. I can think of no better example of this than Nancy and Tim Thompson and their work in our community, and it is with great pleasure that I have the honor of presenting them with the 2019 Ralph Gould Award for Citizenship.

**Town Council Reports and Correspondence**

Chairman Garvin reported on a meeting held earlier today of the Greater Portland Council of Governments Regional Voice Committee where he brought up short term rentals. This subject sparked interest; GPCOG may be a resource as the town reviews the ordinance.

**Presentation by the Friends of Casco Bay**

Mary Cerullo was present to provide an overview of BayScaping, an education program on environmentally friendly lawn care.

**Finance Committee Report**

Councilor Straw, Finance Committee Chairman reviewed the dashboard ending 8/31/2019. He noted that receipts from the Portland Head Light for the last few days of the month have been received, however the deposits are reported and reconciled early in the next month.

Mr. Sturgis reviewed the policy statement approved by the town council April 8, 2019 relating to revenues generated by pay and display parking at Fort Williams Park.

“Revenues generated by the pay and display parking program at Fort Williams Park will be primarily employed in offsetting the following: the operational expenses of Fort Williams Park, long term capital needs of the Town, and general municipal operating expenses.”

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

None

**Town Manager’s Monthly Report**

I would like to open my manager’s report by reminding all that school is back in session, and please be aware of school bus traffic and increased pedestrians in the Town center, and let’s all please be safe.

Applications for the senior citizen property tax relief program are now available on the Town’s website, at the Assessor’s office, or available to be mailed if one desires. Applications are due on or before November 15, 2019. For more information, contact the Assessor’s office at 799-1619.

On September 28 the Town will be partnering with Dr. Ginger Browne Johnson and Veterinary and Rehabilitation Center of Cape Elizabeth in providing discounted rabies vaccinations at the picnic shelter at Fort Williams in observance of World Rabies Day. The event will be held in the morning and is available for both dogs and cats. More detailed information will be posted shortly on the Town Website.

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Finally, the Town held its annual employee training and appreciation day on August 15. This was a well-attended event by staff, with an emphasis on mandatory annual training in harassment as well as specialized training in customer service. This was followed by the annual luncheon where longevity awards were presented to staff. Of significant anniversaries celebrated were Public Works Director Bob Malley and Public Works Supervisor Jim Green, with both achieving 40 years of service to the Town.

Respectfully submitted,

Matthew E Sturgis  
Town Manager

Chairman Garvin noted the passing of K. Wayne Murray former member of the fire department and town council. Mr. Murray served on the fire department starting in 1944 and served as fire chief 1966 – 1977; he was a member of the town council 1980 - 1985. Mr. Murray passed away on 8/28/2019 and the age of 91 at his home in Denmark.

**Review of Draft Minutes of the meeting held on August 12, 2019.**

Moved by Jeremy A. Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on August 12, 2019 as written.

(7 yes) (0 no)

**Public Hearing      Request to Amend Sewer Service Area – 38 Broad Cove Road**

Chairman Garvin opened the public hearing at 7:41 p.m.

Randall Weill, 38 Broad Cove Road and his wife Catherine Coughlin are requesting approval to connect to the sewer system to address their 30+ year old septic system.

After hearing no further comments, the hearing was closed at 7:42 p.m.

**Item #131-2019      Request to Amend Sewer Service Area – 38 Broad Cove Road**

Moved by Valerie A. Randall and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council approves the request of Randall Weill and Catherine Coughlin to extend the sewer service area to 38 Broad Cove Road.

(7 yes) (0 no)

**Item #125-2019      Proposed Amendments to Chapter 7 Dogs**

Public Comments

Richard Armstrong, 2 Waverly Road is concerned further restrictions will result in no off-leash areas for dogs. Fort Williams Park has maintained roads in winter which makes it easy to run dogs; other areas of town are not accessible particularly in the winter.

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Roger Rioux, 5 Bridlepath Way, member of the Little League said children have to be on athletic fields, dogs do not. Feces are dangerous. Dogs should not be on (on or off leash) athletic fields, facilities or children's playgrounds.

Tom Meyers, 4 Sea View Avenue supports the ordinance with minor tweaks – see letter to the town council. There should be respect for people in public places, not everyone likes dogs, perhaps they are afraid or allergic.

Heidi Hansen, 313 Fowler Road supports the ordinance; the property management category designation is innovative. Dog waste is not a hazard. Maintained areas for unleashed dogs is important. Why is the town council changing what has already been worked on in committee?

Councilors Garvin, Straw and Randall disclosed they are dog owners.

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

ORDERED, the Cape Elizabeth Town Council takes Item #125-2019 Proposed Amendments to Chapter 7 Dogs off the table from August 12, 2019.

(7 yes) (0 no)

Moved by Jeremy A. Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council adopts the proposed amendments to Chapter 7 Dogs as presented in the draft dated August 29, 2019 with an amendment on line #39 to read, "If a dog approaches and remains within 10 feet of any person..." Strike the word "or" and replace with "and."

Moved by Valerie J. Deveraux and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council amends the motion line #29 to read, "(e) "Leash" shall mean a hand held device, 15 feet or less in length..." Strike 30 feet and replace with 15 feet.

(3 yes) (4 no Councilors Gabrielson, Garvin, C. Jordan and P. Jordan)

Original Motion: (6 yes) (1 no Councilor Deveraux)

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

ORDERED, the Cape Elizabeth Town Council approves the Property Management Category Designation draft dated August 29, 2019 with the following amendments:

- Assign all athletic fields Category 2 (April 1 – November 1) and Category 3 (November 2 – March 31); the same designation as Fort Williams multipurpose field.
- Add municipal sidewalks and streets to the Municipal Property not listed above.
- Group athletic fields together (Fort Williams, Gull Crest, Plaisted and Lions Field).
- Add Fort Williams as a subheading.
- Make clear to delineate between the playing surfaces at athletic facilities and the surrounding remaining park area.

(1 yes) (6 no Councilors Deveraux, Gabrielson, Garvin, C. Jordan, P. Jordan and Straw)

Moved by Christopher M. Straw and Seconded by Jeremy A. Gabrielson

ORDERED the Cape Elizabeth Town Council approves the Property Management Category Designation draft dated August 29, 2019 as presented.

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Moved by Jeremy A. Gabrielson and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council amends the motion to add municipal sidewalks and streets to Municipal Property not listed above and designate a Category 2.

(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council amends the motion to regroup Fort Williams Park references from the Stonegate Area to its own group entitled Fort Williams Park.

(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council amends the motion to designate the Fort Williams multipurpose field as a Category 1, the remaining off-leash area as a Category 3, and the remainder of Fort Williams park area as a Category 2.

(4 yes) (3 no Councilors Gabrielson, Randall and Straw)

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

ORDERED, the Cape Elizabeth Town Council amends the motion to add Fort Williams baseball and softball fields playing surfaces, and designate as a Category 1.

(6 yes) (1 no Councilor Gabrielson)

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

ORDERED, the Cape Elizabeth Town Council amends the motion to regroup Plaisted Park from the Stonegate Area to Fort Williams Park, designate the playing surface of Plaisted park as a Category 1, and the remainder of the park area as a Category 3.

(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council amends the motion to designate the Lions Field playing surface as a Category 1, and the remainder of the park as a Category 3.

(7 yes) (0 no)

Moved by Valerie A. Randall and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council amends the motion to add Hannaford Field, and designate as a Category 1, to be managed by the school superintendent.

(7 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council amends the motion to designate school campus athletic fields playing surfaces as a Category 1, with the remainder of the school campus as a Category 2 during the school day and from ½ hour before to ½ after athletic (including practices) and community events that have fixed start and end times, and as a Category 3 outside of the school day and more than ½ hour before or more than ½ hour after athletic (including practices) and community events that have fixed start and end times.

(6 yes) (1 no Councilor Randall)

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

ORDERED, the Cape Elizabeth Town Council amends the motion to add Gull Crest athletic fields playing surfaces, and designate as a Category 1.

(5 yes) (2 no Councilors Randall and Straw)

Moved by Christopher M. Straw and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council amends the motion to strike the reference to athletic fields as the fields have been encompassed in prior amendments.

(7 yes) (0 no)

Moved by Christopher M. Straw and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town amends the motion to add any additional municipal athletic playing surfaces as not listed above and designate as a Category 1.

(2 yes) (5 no Councilors Gabrielson, Garvin, C. Jordan, P. Jordan and Randall)

Original Motion as Amended: (6 yes) (1 no Councilor Randall)

**Item #132-2019      Greenbelt License – 15 Silva Drive**

Moved by Jeremy A. Gabrielson and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council approves the Trail License Agreement between the Town of Cape Elizabeth and Bruce Sahrbeck, owner of 15 Silva Drive as presented with appreciation to the Sahrbeck Family for agreeing to the license. In addition, the town council authorizes an agent of the Town to sign the license.

(7 yes) (0 no)

**Item #133-2019      Recommended Inter-Fund Transfers and Bond Counsel Order for the Lease/Purchase of Equipment**

Introduction – Mr. Sturgis

Moved by Jeremy A. Gabrielson and Seconded by Christopher M. Straw

ORDERED, the Cape Elizabeth Town Council approves the following inter-fund transfers and bond counsel order as presented.

(7 yes) (0 no)

A. Authorize the following inter-fund transfers to the General Fund for the FY 2020 CIP Projects, such amounts to be appropriated from the respective fund balances:

a. Ambulance/Rescue Fund (Fund 75)	\$ 55,000.00
b. Fort Williams Park CIP Fund (Fund 65)	110,000.00
c. Portland Head Light Fund (Fund 70)	100,000.00
d. Library Bond Projects Fund (Fund 86)	<u>46,112.17</u>
e. Total Inter-fund transfers authorized	<u>\$ 311,112.17</u>

B. Authorize the following lease purchase agreement with TD Equipment Finance, Inc. for equipment for the Public Works Department including a mower and front-end loader.

Vote Authorizing Lease Purchase Agreement  
with TD Equipment Finance, Inc.

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 TD Equipment Finance, Inc. in the amount of \$255,000, and bearing interest at the rate of 2.09% per annum, to lease finance a John Deere mower and a front-end loader, for the Town, with a

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term of not more than 5 years (the "Lease Agreement"), which 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; provided that any obligation of the Town to make lease payments pursuant to such agreement shall be subject to annual appropriation approved by the Town as part of its annual budget.

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 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 Lease Agreement, or the vehicles leased thereunder, shall be used directly or indirectly in any manner that would cause such 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.

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

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 Lease Agreement in accordance with these votes.

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

- C. Authorize the appropriation of \$225,000 of anticipated lease/purchase proceeds for the purchase of a front-end loader (715-4023) at \$178,000 and a rotary mower (715-5038) at \$47,000, both of which are included in the approved 2020 CIP Budget.
- D. Authorize the transfer of \$50,000 from CIP Project 715-4023 (front-end loader) and \$15,000 from project 715-5038 (rotary mower) to Debt Service – Lease Payment, account 710-5012 for the payment of the first year buy-down of the lease/purchase agreement.
- E. Authorize the appropriation of \$1,111,907.83 from the General Fund Unassigned Fund Balance for approved 2020 CIP Projects.
- F. Accept and appropriate a grant of \$1,000 from Dirigo Safety, LLC for enforcement of underage drinking laws during the period July 1, 2019 to June 30, 2020.

**Item #134-2019      State of Maine Bicentennial Celebration**

Moved by Penelope A. Jordan and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council supports the establishment of an ad hoc Maine Bicentennial Committee to explore possible ways for the town to participate in the celebration of the bicentennial of the State of Maine. The town manager will provide a committee charge for town council review at the October 16 meeting with committee members selected at-will by the town council.

(7 yes) (0 no)



**Item #135-2019      Energy Committee Update – Set to Workshop**

Moved by Christopher M. Straw and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council schedules a workshop with the energy committee on Wednesday, October 2, 2019. The energy committee requests to meet with the town council to update them on their work.

(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 Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council adjourns at 9:48 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk