



## **Cape Elizabeth Town Council**

**Monday, July 8, 2019 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**

**Following the executive session, Town Council Chairman James M. "Jamie" Garvin reconvened the meeting at 7:03 p.m.**

### **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 Straw asked if other town councilors received a letter from the White House inviting local officials to meet with regional directors to discuss issues. All members of the town council received the invitation.

Councilor Penelope Jordan asked when the town council will respond to another letter received from Gary Cummings relating to short term rentals. It was noted Mr. Cummings was present.

### **Finance Committee Report**

Councilor Straw, Finance Committee Chairman noted at fiscal year-end revenues exceeded budget and expenditures were below. Additional information will be provided to the town council including final fiscal year reports, final school subsidy allocation and revenue sharing. Chairman Garvin encouraged ongoing subcommittee meetings of the town council and school board chairmen and finance committee chairmen.

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

Susan Payne, 72 Stonybrook Road, member of the Citizens' Climate Lobby thanked the town for continuing to listen and encouraged the council to support HR 763 Energy Innovation and Carbon Dividend Act. The town's energy committee has endorsed the resolve.

Tim Hedba, 55 Richmond Terrace said 4-6 homes on Richmond Terrace are used for short-term rentals. The number of changeovers is creating more people, traffic and noise. There is no one to monitor the activity.

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Barbara Cummings, 36 Richmond Terrace said short-term rentals are changing the neighborhood. There is an increased number of renters, guests, family, friends and traffic. What is the process to review the ordinance and require property owners to live in these homes? How can a business operate in a residential zone?

Tom Meyers, 4 Sea View Avenue thanked the staff, conservation committee, Chief Fenton and the police department and town council for their help with the management plan at Cliff House Beach Park. The police department has been helpful in enforcing the plan and educating users of the beach of the regulations.

Gary Cummings, 36 Richmond Terrace said he has spoken with Ben McDougal, Code Enforcement Officers however hasn't filed any formal complaints. There needs to be teeth in the ordinance to protect the neighborhood.

**Town Manager's Monthly Report**

Summer is definitely in full swing, and with the great weather and increased tourism, traffic has markedly increased. Our local police force is responding to speeding and other traffic complaints from Town residents.

On July 1<sup>st</sup> we began the pay and display program at Fort Williams Park and the first week was a success. The park experienced a high volume of visitors, week with the parking lots heavily subscribed daily. Staff observations are that use of the pay and display meters was adopted quickly. I am pleased to report that the first week of meter gross revenues was \$33,214. As the program continues I will look to provide a greater detailed breakdown of the revenues, such as number of season passes, all day fares, and hourly fares. Next month's financial dashboard will begin tracking these revenues on a monthly basis. This program has also increased local subscription to using the recycling center decals, which residents can pick up at the police department and the recycling center. I would like to express my thanks for the efforts of Kathy Raftice at Community Services, Bob Malley, Public Works Director, Cape Elizabeth Police Department, Debra Lane, Assistant Town Manager, and our park rangers, greeters, and parks crew for all of their efforts in assisting the program's start.

In the same discussion of municipal revenues, I have an updated amount to anticipate for State Revenue Sharing. The budget anticipated Revenue Sharing in the amount of \$475,000, but the most recent approved State budget now has the updated amount coming to the Town as \$582,180.

The Surf Side Avenue case is scheduled to begin on July 22, in Portland, and the Town Planner, Code Enforcement Officer, and myself are named as potential witnesses.

Please be advised that the Tri for a Cure is this coming Sunday, and between 6 am and 11 am traffic may be adversely impacted due to the presence of cyclists in the Tri. Please plan your travel accordingly. We will be locating the electronic message board in the Town center to remind residents of the event.

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Speaking of planning ahead, the Beach to Beacon is planned for August 3, with traffic impacts from 6 am to noon. Signage will be installed before the event as a reminder to residents of the event.

Respectfully submitted,

Matthew E Sturgis  
Town Manager

**Review of Draft Minutes of the meeting held on June 10, 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 June 10, 2019 as written.

(7 yes) (0 no)

**Presentation**

**HR 763 Energy Innovation and Carbon Dividend Act**

Peter Monroe, Portland, Member of the Citizens' Climate Lobby encouraged the town council to endorse the resolution entitled, "RESOLVED, that the United States Congress initiate a revenue-neutral fee on Carbon Fuels." The town's energy committee has endorsed the resolve.

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

ORDERED, the Cape Elizabeth Town Council endorses the resolve entitled, "RESOLVED, that the United States Congress initiate a revenue-neutral fee on Carbon Fuels" as presented.

(7 yes) (0 no)

**RESOLVED, that the United States Congress initiate a revenue-neutral fee on Carbon Fuels.**

**WHEREAS**, Maine recognized that the health of our citizens is dependent on the high quality of our air, water, and natural resources and that the health of much of the state's economy, including agriculture, forestry, fishing and tourism are favored by a stable climate;

**WHEREAS**, the University of Maine's Climate Change Institute agrees with the consensus of climate scientists worldwide, that the climate is now changing rapidly, and that recent changes are associated with increased concentrations of pollutant emissions of carbon dioxide (CO<sub>2</sub>) and other greenhouse gases, derived principally from the burning of the carbon fuels (coal, oil and natural gas); and

**WHEREAS**, the State has pursued efforts through the Regional Greenhouse Gas Initiative to reduce the burning of carbon fuels for generation of electricity, and is on target to reduce all emissions to 10% below 1990 levels by 2020, with plans being developed for an 80% reduction by 2050; and

**WHEREAS**, such reductions of CO<sub>2</sub> emissions worldwide are warranted in order to stay below the 1.5°C global temperature rise that is currently acknowledged to be a dangerous climate threshold; and

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**WHEREAS**, putting a price on carbon fuels (“a carbon fee”) is widely accepted by economists as being the most effective means to achieve this goal; with revenues returned to the economy through equitable dividends distributed to all households (both as currently incorporated in the language of H.R.763); with the intent of leveraging market forces to encourage investments in increased energy efficiency and alternate sources of energy by both industry and consumers.

**WHEREAS**, this carbon-fee-and-dividend proposal is expected to be revenue-neutral (not enlarging government), effective (in reducing emissions), good for people (for improved health and with dividends to cover rising costs and/or choice in a freer market), good for the economy (with new jobs in many sectors), and bipartisan (with support from both major political parties).

**NOW, THEREFORE, BE IT RESOLVED** that the \_\_\_\_\_  
\_\_\_\_\_ (*Name of town or group*) strongly urges that the U.S. Congress:

- (1) Enact a carbon fee and dividend system (as in H.R. 763) that both: a) reduces US CO2-equivalent emissions to 10% of 1990 levels; and b) encourages similar actions by other nations trading with the United States by suitable carbon-content-based tariffs for imports from, and rebates for exports to, nations that have not taken similar actions; and
- (2) Implement this policy with the speed appropriate to the gravity and urgency of the situation, and in recognition of the benefits that will be realized by a transition to clean energy.

**Signed** \_\_\_\_\_  
**Title** \_\_\_\_\_ **Dated** \_\_\_\_\_

**Item #117-2019      The Good Table Liquor License**

Councilor Caitlin Jordan disclosed her family does business with The Good Table.  
Councilor Penelope Jordan disclosed The Good Table supports the Cape Farm Alliance.

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

ORDERED, the Cape Elizabeth Town Council approves The Good Table renewal malt, spirituous and vinous liquor license located at 527 Ocean House Road as presented.

(7 yes) (0 no)

**Item #118-2019      CAG Pizza, Inc. DBA Ocean House of Pizza Liquor License**

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

ORDERED, the Cape Elizabeth Town Council approves CAG Pizza, Inc. DBA Ocean House of Pizza renewal malt and vinous liquor license located at 337 Ocean House Road as presented.

(7 yes) (0 no)

**Item #105-2019 Tabled from June 10, 2019**

Moved by Jeremy A. Gabrielson and Seconded by Valerie A. Randall

ORDERED, the Cape Elizabeth Town Council takes Item #105-2019 off the table.

(7 yes) (0 no)

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**Public Hearing      Draft Comprehensive Plan**

Present – Maureen O’Meara, Town Planner

Chairman Garvin opened the public hearing at 7:51 p.m.  
After hearing no comments, the hearing was closed.

**Item #105-2019      Draft Comprehensive Plan**

Ms. O’Meara requested the town council consider editing page 7 Public Participation to include the dates of the town council meetings, workshops and public hearings.

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

ORDERED, the Cape Elizabeth Town Council adopts the Town of Cape Elizabeth 2019 Comprehensive Plan, as amended May 28, 2019, subject to adding the dates of the town council meetings, workshops and public hearings on page 7 Public Participation.  
(6 yes) (1 no Councilor Straw)

**Item #119-2019      Proposed Amendments to Chapter 7 Dogs**

Present – Maureen O’Meara, Town Planner

Public Comment

Tom Meyers, 4 Sea View Avenue said to keep teeth in the ordinance to enforce it. Looks forward to the discussion of dogs on athletic fields; dogs should not be allowed on athletic fields due to health concerns.

Introduction – Councilor Penelope Jordan, Ordinance Committee Chairman

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

ORDERED, the Cape Elizabeth Town Council sets the proposed amendments to Chapter 7 Dogs to Monday, August 12, 2019 at 7:00 p.m. at the Cape Elizabeth Town Hall which will include all athletic fields as a Category 1 No dogs (none) on the Property Management Category Designation. It is anticipated the town council will vote on the amendments on September 9, 2019 meeting.  
(7 yes) (0 no)

**Item #120-2019      Request to Amend Sewer Service Area – 38 Broad Cove Road**

Present – Maureen O’Meara, Town Planner

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

ORDERED, the Cape Elizabeth Town Council refers to the planning board, pursuant to Section 15-1-4 (i), a request from Randall Weill and Catherine Coughlin to extend the sewer service area to include 38 Broad Cove Road.  
(7 yes) (0 no)

**Item #121-2019      Memorandum of Understanding for the Maine Reciprocal Borrowing Pilot – Maine State Library**

Introduction – Kyle Neugebauer, Director Thomas Memorial Library

Moved by Valerie A. Randall and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Thomas Memorial Library Committee to enter into a statewide reciprocal borrowing program, through the Maine State Library, and authorize the town manager to sign the Memorandum of Understanding for the Maine Reciprocal Borrow Pilot for a 12-month duration of the pilot until August 31, 2020 as presented.

(7 yes) (0 no)

**Memorandum of Understanding for the Maine Reciprocal Borrowing Pilot**

The \_\_\_\_\_ library agrees to extend borrowing privileges to any individual cardholder [also called user or borrower], in good standing, from any other library that has opted to participate in the Maine Reciprocal Borrowing Pilot.

**Library Participation Requirements:**

Libraries that choose to participate in the Maine Reciprocal Borrowing Pilot must belong to one of the Maine InfoNet supported systems that operate using the Sierra ILS. These libraries' materials are shown in MaineCat and consist of MILS, Minerva, URSUS; the ARRC libraries of Portland Public Library (PPL), Bangor Public Library (BPL) and the Maine State Library (MSL); Colby-Bates Bowdoin (CBB), and the University of New England (UNE).

**Borrower Participation Requirements:**

To borrow from any Participating Library, the borrower shall present a library card issued by a Participating Library where the borrower is in good standing.

**Loan Rules:**

For same-system transactions, intra-system rules will apply. (Minerva to Minerva lending is an example of a 'same-system' transaction.)

For cross-system transactions (e.g. Minerva to URSUS lending), the "Maine-Cat" loan rules will apply. This means that items would either go out for four weeks with a two-week renewal or go out for one week with a one-week renewal.

The biggest difference is how the due dates appear in the owning library system. If it is cross-system, the owning library sees the 56-day checkout, and the borrowing patron/system sees the current checkout period (4 weeks) with one renewal possible if no holds are placed. If it is within the same system, the item-owning and patron home libraries will be more in accord and show the same dates and terms.

To reduce confusion, users will request and pick up interlibrary loan materials through their home library. This does not apply to URSUS library "intra-system" holds.

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Users may return materials to any Participating Library. Participating Libraries will check in materials using standard protocols and return or forward the items through the existing van delivery service. Please refer to the *FAQ* document, included with the MOU, for information regarding specific procedures.

**Financial Assistance for Participating;**

This Memorandum of Understanding is made in the spirit of interlibrary cooperation and participating members shall expect no compensation for participating. Participation is entirely “opt-in” and this effort represents a one-year pilot to understand the dynamic of expanded reciprocal “walk-in” borrowing.

This pilot will require statistical data-gathering to best understand the impact to net-lenders or libraries providing increased and disproportionate service. This data will inform how we might be able to provide financial assistance (i.e. Direct State Aid if available) to such libraries in the future, should libraries agree to participate on a permanent basis.

**Fees/Fines/Collection for Lost Materials:**

All fees, fines, or collection efforts for late, lost or damaged materials is handled the same way as the rules and parameters established through the normal ILL delivery process.

**Duration:**

For the purposes of this project’s pilot year, libraries must opt-in for participation by September 1, 2029, and may begin to register (opt-in) starting June 1, 2019, and will agree to participate for the 12 month duration of the pilot, which will end August 31, 2020. Upon completion of the pilot year, a Participating Library may withdraw from participation upon 30-days’ prior written notice to Maine InfoNet.

AGREED TO-

Participating Library Name:

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Approved by:

Date:

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**Maine State Library**

Approved by:

Date:

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**Maine InfoNet**

Approved by:

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**Item #122-2019      Discussion of Regional Efforts for Individuals and Families Seeking Asylum**

Public Comment

Rosemarie DeAngelis, Pleasantdale, South Portland said Fort Williams should be a public park. Asylum seekers and other struggling populations have the least ability to pay. The town council should not be charging for Maine residents; the park belongs to the state. If the town continues to pay, there should be a way that asylum seekers and others should not have to pay.

Heather Dallas, Scarborough has started an organization Making It Home that collects household items, gently-used items that are donated to asylum seekers.

Updates on efforts will continue to be shared on the town's website. The town will continue to review efforts to help asylum seekers and others. What can Cape Elizabeth do now and in the long term to help the Greater Portland region and social service agencies that carry the brunt of helping those in need. Financial, health (mental, physical and emotional), and affordable housing are among the greatest needs. Other suggestions to help include home shares and hosting, provide funding for transportation costs (DownEaster and Metro), GPCOG and the City of Portland costs, funding from the Thomas Jordan Trust (if allowed by the trust).

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

ORDERED, the Cape Elizabeth Town Council approves the expenditure of \$5,000 to Preble Street Resource Center and \$5,000 to Opportunity Alliance, from undesignated surplus, to help shoulder the burden of the greater community.

**Item #123-2019      Amendment and Extension of Lease to Portland Water District for the Wastewater Treatment Facility on Spurwink Avenue**

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

ORDERED, the Cape Elizabeth Town Council extends and amends the lease with the Portland Water District entitled Second Amendment to Lease for the Wastewater Treatment Facility on Spurwink Avenue as presented.

(7 yes) (0 no)

SECOND AMENDMENT TO LEASE

This Amendment to Lease is made this    day of    , 2019 by and between the Town of Cape Elizabeth, a municipal corporation with a mailing address of P.O. Box 6260, Cape Elizabeth, Maine 04107 ("Town"), and the Portland Water District a quasi-municipal corporations with a place of business at 225 Douglass Street, Portland, Maine (PWD).

Whereas, Town and PWD entered into a lease agreement dated May 1, 1985, ("Lease") for the lease of parcels located on Spurwink Avenue ("Premises") in the Town of Cape Elizabeth used by PWD for wastewater and sewage treatment facilities; and

Whereas, Lease was amended on May 10, 2017 to expand the area leased by PWD ("Amendment"); and

Whereas, Lease term is scheduled to expire May 1, 2025; and



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Whereas, PWD is performing improvements on the Premises which require an extension to the Lease;

NOW THEREFORE, the parties agree to amend the Lease as follows:

1. The Lease term shall be extended by Thirty (30) years to May 1, 2055.
2. The District shall pay Four Thousand Dollars (\$4,000) per year as rent for the leased premises, payable in advance in annual installments beginning May 1, 2020, due on or before the first day of May of each year. The Town agrees that said rental shall be used solely and exclusively for the benefit of the poof of the Town of Cape Elizabeth in recognition of the provisions of the will of Thomas Jordan, by which the Town acquired the premises.

Rent for each year after 2025 shall be increased by two percent (2%) over the rent for the preceding year.

3. Any and all terms of the Lease and Amendment not herein amended remain in full force and effect.

In Witness whereof, the parties have caused this Amendment to Lease to be signed the day and date above written.

\_\_\_\_\_  
Witness

TOWN OF CAPE ELIZABETH

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
Witness

PORTLAND WATER DISTRICT

\_\_\_\_\_  
Carrie Lewis  
General Manager

**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 Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council adjourns at 9:21 p.m.

(7 yes) (0 no)

Respectfully Submitted,

\_\_\_\_\_  
Debra M. Lane, Town Clerk