



## **Cape Elizabeth Town Council**

### **Minutes**

**Wednesday, October 16, 2019**

**7:00 p.m. Council Chambers  
Cape Elizabeth Town Hall**

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

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

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

All members of the town council were present except Caitlin R. Jordan.

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

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

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

Congratulations to Councilor Adams, formerly Randall, on her recent marriage.

Councilor Devereux attended the Bridges of Friendship photography exhibit at the Thomas Memorial Library. The town established a sister city relationship between the Greater Portland Area and the City of Archangel in 1987. Residents are encouraged to apply for the ad hoc Maine Bicentennial Celebration Committee and various opportunities on standing town boards and committees. The application and deadlines are available at [www.capeelizabeth.com](http://www.capeelizabeth.com).

#### **Finance Committee Report**

Councilor Straw, Finance Committee Chairman reviewed the dashboard and financial reports. It was noted revenues are running approximately \$600,000 over last year at this time. Thank you to the town manager and finance director for their work to further detail revenues and expenditures within the financial reports.

As of 9/30/2019, \$226,707 net revenue has been received from pay and display at Fort Williams Park. The FY 2020 budgeted amount is \$300,000.

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

None

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

- Fall Cleanup – Fees are being waived at the recycling center October 12 - 28. The recycling center will be open Sundays for yard waste disposal only October 20 – November 10.
- An informational meeting will be held at town hall Wednesday, October 23 relating to Phase III of the Scott Dyer Road reconstruction project.
- Absentee voting is now available at town hall. The deadline to vote absentee is Thursday, October 31.

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- Report on school security during elections- Last week Debra Lane and I took the opportunity to sit down with Superintendent Wolfrom to discuss security issues and concerns on election day. Over the next year there will be 4 elections. No student days have been scheduled for the November elections however school will be in session during the March and June primaries. We are looking to provide a greater level of security so we are meeting with Chief Fenton this week to come up with strategies that will help with keeping voters contained within the gym lobby area and also manage outside parking. We did run into an issue during the June vote when there was a playoff lacrosse game at Hannaford Field. In the evening parking lots around the back of the high school filled. Some residents expressed their frustration so we are looking at parking management and those types of issues. If you see additional security at the polls on November 5, please don't be alarmed we're just trying to find different ways to test and adjust to see what are the best methods to use in these situations.
- Coyotes - The winter is coming and our animals out there are interested in a lot of different things to get ready for winter. I had an interesting conversation with Geri Vistein, a conservation biologist, who did a presentation a couple weeks ago at the library regarding coyotes. She called me as a follow up to express her concern and wanted me to convey to folks, please do not feed the wild animals because it gives them bad habits, they think humans are equal to food, and there is a greater level of exposure to the transmission of rabies. An informational article will be posted on the website shortly. [http://www.thomasmemoriamlibrary.org/events/?event\\_id=8305](http://www.thomasmemoriamlibrary.org/events/?event_id=8305)
- Congratulations to Cape Elizabeth Police Department's Jeff Gaudette who has achieved the rank of sergeant. Sgt. Gaudette was sworn in by the town clerk at a ceremony at the Town Center Fire Station on October 16.

Respectfully Submitted,

Matthew E. Sturgis, Town Manager

**Review of Draft Minutes of the meeting held on September 9, 2019.**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on September 9, 2019 as written.

(6 yes) (0 no)

**Consent Calendar**

The town council may consider **Item #136 - #142** en bloc. Any member of the town council may ask for any item to be considered separately.

Present – Robert Malley, Director of Public Works

It was decided to discuss and vote on Item #140 & #141 separately.

Chairman Garvin disclosed he lives on Oakhurst Road and is acquaintances with property owners in Item #136 and Item #138.

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

ORDERED, the Cape Elizabeth Town Council approves Item #136, #137, #138, #139, #142 as follows.

(6 yes) (0 no)

**Item #136-2019      Consideration of Accepting Drainage Easements on Oakhurst and Wood Roads**

ORDERED, the Cape Elizabeth Town Council accepts the following drainage easements as agreed to by the property owners and the Town of Cape Elizabeth with thanks to the property owners for their cooperation.

34 Oakhurst Road (Map U04 Lot 071) Colin & Amanda Lamb (Grantors)  
30 Oakhurst Road (Map U04 Lot 070) Thomas E. Ruff, Trustee of the Thomas E. Ruff Revocable Trust (Grantor)  
64 Wood Road (Map U04 Lot 069)    Jean Haron, Sandy Simpson and Susan DeCesare (Grantors)

**Item #137-2019      Consideration of Accepting Drainage and Property Easements for the Scott Dyer Road Phase II Project**

ORDERED, the Cape Elizabeth Town Council accepts the following easements as agreed to by the property owners and the Town of Cape Elizabeth with thanks to the property owners for their cooperation.

Spurwink Avenue (Map R05 Lot 014)    Anthony A. & Kelly M. Dell'Aquila, Trustees under the Anthony A. Dell'Aquila Living Trust  
111 Scott Dyer Road (Map U35 Lot 032) Kimberly Sunshine Properties, LLC  
132 Scott Dyer Road (Map U45 Lot 006) Norman A. & Eleanor L. Whitaker, Trustees of the Whitaker Family Revocable Trust  
126 Scott Dyer Road (Map U45 Lot 004) Woodlands Senior Living of Cape Elizabeth LLC  
125 Scott Dyer Road (Map R05 Lot 005) Jacqueline L. Berg f/k/a Jacqueline B. McKeagney

**Item #138-2019      Consideration of Accepting Drainage Easements for the Hemlock Hill Drainage Project**

ORDERED, the Cape Elizabeth Town Council accepts the following drainage easements as agreed to by the property owners and the Town of Cape Elizabeth with thanks to the property owners for their cooperation.

9 Hemlock Hill Road (Map U33 Lot 074 001) Benjamin F. & Rian M. Branch  
11 Hemlock Hill Road (Map U33 Lot 074 002) Maureen M. Clancy

**Item #139-2019      General Assistance Appendices**

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Wednesday, November 13, 2019 at 7:00 p.m. at the Cape Elizabeth Town Hall the General Assistance Ordinance Appendices (A-F and H) as recommended by the Maine Municipal Association effective October 1, 2019 – September 30, 2020.

**Item #142-2019      Municipal Election Warrant**

ORDERED, the Cape Elizabeth Town Council approves the municipal election warrant for Tuesday, November 5, 2019 as presented.

**TOWN OF CAPE ELIZABETH**

**MUNICIPAL ELECTION  
WARRANT**

**TUESDAY, NOVEMBER 5, 2019**

**County of Cumberland, ss.**

**To Paul W. Fenton, a constable of Cape Elizabeth. You are hereby directed to notify the voters of Cape Elizabeth of the election described in the warrant.**

Voting for two members of the Town Council to serve a three-year term until December 12, 2022.

Voting for two members of the School Board to serve a three-year term until December 12, 2022.

Voting for one member to serve a five-year term on the Portland Water District Board of Trustees.

Election to be held on Tuesday, November 5, 2019, 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 at 9:00 a.m. Saturday, November 2, 2019 at Town Hall. If requested, inspection time is 9:00 - 10:00 a.m.

Absentee ballots will be processed on Election Day, on the hour every hour beginning at 7:00 a.m. until close. The Cape Elizabeth Town Democratic Committee, the Cape Elizabeth Town Republican Committee, and the State Green Independent 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 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. The Registrar is also available on Election Day at the polls 7:00 a.m. - 8:00 p.m. Proof of residency and identity is required.

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Municipal Officers of Cape Elizabeth, Maine

Dated at Cape Elizabeth this 16<sup>th</sup> day of October 2019.

The warrant and specimen ballots shall be posted at least 7 days prior to the election.

**Item #140-2019      Appointment to School Building Committee**

Introduction – Councilor Deveraux asked Chairman Garvin to clarify the rationale of how appointees were recommended. Having served on the School Needs Assessment Committee and expressing interest on the building committee was not considered because she doesn't have children in school system.

Moved by Jeremy Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council recommends to the school board Chairman Garvin and Councilor Adams as town council representatives to serve on the newly-formed school Building Committee.

(6 yes) (0 no)

**Item #141-2019      Implementation Steps – Comprehensive Plan**

Introduction – Councilor Penelope Jordan noted that responding to concerns from several residents, the review of recommendation #86 should expand to a thorough review of the short-term rental ordinance.

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

ORDERED, the Cape Elizabeth Town Council refers comprehensive plan recommendations #30, #82, #47, #48, #51, #64, #72 for review and recommendations as follows.

(6 yes) (0 no)

#30 & #82 Refer to the Ordinance Committee

#30

Evaluate reducing the minimum lot size for existing, vacant, nonconforming lots to allow construction on infill lots of between 5,000 sq. ft. and 10,000 sq. ft. in size that will be served by public sewer and water and will comply with the Mandatory Affordable Housing provisions for low-income housing.

#82

Review the regulation of existing, nonconforming lots (infill lots) and recommend ordinance revisions that allow nonconforming lots a reasonable opportunity to be built upon and/or buildings expanded to meet the needs of modern households while also protecting the character of neighborhoods.

#47 Refer to the Planning Board

Retain the current, stringent Resource Protection Regulations, Shoreland Zoning, Floodplain Management Ordinance, Great Pond Overlay District and cluster development requirements.

#48 Refer to the Planning Board

Review and update the Resource Protection Permit standards to emphasize avoidance and minimization of wetland alterations.

#51 Refer to the Ordinance Committee

Consider town action to require residents to minimize pesticide use and take advantage of programs such as the Cumberland County Soil and Water Conservation District (CCSWCS) Healthy Yardscaping Initiative.

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#64 - The town council may consider adopting a "sentiment" to consider the Vulnerability Assessment report as part of water access improvements.

#72 Refer to the Conservation Committee  
Assign names to significant unnamed bodies of water and streams.

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

ORDERED, the Cape Elizabeth Town Council refers to the ordinance committee the short-term rental ordinance for a thorough and comprehensive review inclusive of recommendation #86 of the comprehensive plan:

#86

Streamline administrative tracking of short-term rental activity by requiring a permit, without expanding regulatory requirements, for operating a homestay or short-term rental of two weeks per year or less.

(6 yes) (0 no)

**Item #143-2019      Portland Head Light Hardscaping Pedestrian Improvements**

Introduction – Mr. Sturgis

John Mitchell, Mitchell & Associates was present to provide an overview of proposed pedestrian hardscape improvements at Fort Williams Park near the Portland Head Light.

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to refer the proposed pedestrian improvements, as presented by Mitchell & Associates in the October 7, 2019 memo, to the planning board, and to approve the installation of the proposed pedestrian improvements, with funding for the project in an amount not to exceed \$90,000 to be provided by the Portland Head Light Fund. Said project was reviewed by and approved by the Fort Williams Park Committee by unanimous vote on September 26, 2019.

(6 yes) (0 no)

**Item #144-2019      Proposed Commercial Vehicle Fees at Fort Williams Park**

Public Comment

Bill Rapier, Scarborough and tour company operator wasn't aware of discussions relating to commercial vehicle fees at Fort Williams; he would like to be part of the conversation.

Moved by Christopher Straw and Seconded by Valerie A. Adams

ORDERED, the Cape Elizabeth Town Council refers the proposed commercial vehicle fees at Fort Williams Park for 2020, 2021 and 2022 to workshop with the Fort Williams Park Committee on November 6, 2019 with an anticipated vote on November 13, 2019.

(6 yes) (0 no)

See attachment.

**Item #145-2019          Consideration of Accepting the Purchase of a Parcel of Land in  
Conjunction with the Hemlock Hill Drainage Project**

Introduction – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to sign a quit claim deed on the town's behalf in purchasing a portion of Map U33 Lot 54 B from Judith and Peter Bennett for a purchase price of \$10,000 with additional legal fees related to the transaction not to exceed \$1,500 paid for by the town. The source of funding for the purchase price and legal fees is the capital improvement budget.

(6 yes) (0 no)

**Item #146-2019          21 Ivie Road – Tax Acquired Parcel**

Chairman Garvin is friends with Dr. & Mrs. Halter and therefore has recused himself from discussion and voting on Item #146.

Introduction – Mr. Sturgis

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

ORDERED, the Cape Elizabeth Town Council conveys the town-owned property identified in the Cumberland County Registry of Deeds as "part of Lot 101" and identified in the town assessing records as Map U04 Lot 022 to Julie Halter via a municipal quit claim deed, and as compensation, all legal expenses related to the transaction to be paid for by Dr. Jeffrey and Julie Halter, 21 Ivie Road. In addition, the town manager is authorized to sign a quit claim deed on behalf of the town as drafted and deemed acceptable by the town attorney.

(5 yes) (0 no) (1 abstention Chairman Garvin)

**Item #147-2019          Consideration of Authorizing the Energy Committee to Entertain  
Requests for Proposals for a Solar Project on the Town's Landfill**

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

ORDERED, the Cape Elizabeth Town Council authorizes the energy committee to draft a request for proposals for a solar PV (photovoltaic) project at the town's landfill. Said project will require the developer to build the project and sell energy to the town with the town providing the landfill for the location of the project. The RFP will be issued by the town manager and staff. The energy committee will oversee the process to review the submitted proposals and make a recommendation to the town council.

(6 yes) (0 no)

**Item #148-2019          Recommendation to Fill the Unexpired Term on the Energy Committee**

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

ORDERED, the Cape Elizabeth Town Council confirms the recommendation of the appointments committee to appoint John Voltz, 33 Philip Road to the energy committee. Said term shall commence immediately and expires 12/31/2020.

(6 yes) (0 no)

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**Item #149-2019 State of Maine Bicentennial Celebration Committee Charge**

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

ORDERED, the Cape Elizabeth Town Council approves the committee charge for the ad hoc Maine Bicentennial Celebration Committee as follows.

(6 yes) (0 no)

**Maine Bicentennial Celebration Committee**

The Cape Elizabeth Town Council is forming the Maine Bicentennial Celebration Committee which is to be a temporary advisory ad hoc committee to serve until December 31, 2020.

**Committee Purpose/ Guidance to the Committee**

The purpose of the committee is to provide leadership in celebrating the bicentennial of the State of Maine. The charge is written broadly in order to provide independence to the committee in their review and in their deliberations.

The committee shall submit updated reports to the town council as needed, and/or as permissions or funding is sought.

**Committee Membership**

The Maine Bicentennial Celebration Committee will consist of five persons. The town council, following a recommendation from the appointments committee, will appoint two citizens. Three other members of the Committee will consist of one Town Council member, one School Board member, and one appointee of the Cape Elizabeth Historical Preservation Society. The committee may form subcommittees and recruit citizens to join the subcommittees who are not members of the full committee.

Any citizen wishing to serve on the full committee may apply on-line at [www.capeelizabeth.com](http://www.capeelizabeth.com) or may receive an application from the town clerk at 799-7665. The deadline to submit applications is Friday, October 18, 2019.

**Committee Budget**

There is no budget provided at the outset for the committee. If the committee identifies needed resources, the town manager shall forward any financial request to the town council.

**Item #150-2019 Registration Appeals Board Nominations**

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

ORDERED, the Cape Elizabeth Town Council confirms nominations to the Registration Appeals Board as presented. The terms are effective immediately and expire October 16, 2022.

Kimberly J. Monaghan, 6 Russet Lane  
Karen M. Hessel, 45 Wildwood Drive (Alternate)  
Timothy L. Thompson, 6 Pine Ridge Road  
Nancy E. Thompson, 6 Pine Ridge Road (Alternate)

(6 yes) (0 no)



**Item #151-2019 Metro Regional Coalition Council Resolution**

Introduction – Mr. Sturgis

Moved by Jeremy A. Gabrielson and Seconded by James M. Garvin

ORDERED, the Cape Elizabeth Town Council adopts a resolution entitled Metro Regional Coalition Council Resolution Regarding the Housing Affordability Crisis in the Greater Portland Region as follows.

(6 yes) (0 no)

**Metro Regional Coalition Council Resolution**

**Regarding the housing affordability crisis in the Greater Portland region**

WHEREAS our region is in need of young workers and families to support our existing and future economy, and to offset our region's demographic challenges; and

WHEREAS the region is losing more and more middle income households because of the cost burden of housing; and

WHEREAS the affordability of housing throughout the Greater Portland region continues to decline according to the Maine State Housing Authority; and

WHEREAS the number and location of households in our region struggling with the costs of housing is rising as documented by the Greater Portland Council of Governments; and

WHEREAS travel between home and work in our region is becoming longer, generating more expense to commuting households and more traffic congestion and stress to our transportation systems; and

WHEREAS the cost burden of housing falls heavily on our senior population, making aging in place more difficult; and

WHEREAS these findings show a lack of adequate housing choices for current residents and future workers, and the region faces a crisis of housing affordability; and

WHEREAS our region's economic and community wellbeing depends on expanding housing choices which in turn will support all our residents as well as our current and future economy by easing the challenges detailed above; and

WHEREAS the municipalities that make up the Metro Regional Coalition share a commitment to making housing more affordable for every person no matter their income level; and

WHEREAS all the municipalities of the Metro Regional Coalition have met and jointly agreed to pursue solutions to this crisis by acting singly and together to take steps at the municipal level to encourage the expansion of the number of housing units that lower and middle income households can afford without incurring unacceptable housing costs burden; and

WHEREAS the Cape Elizabeth Town Council has determined to engage the region's need for expanded housing choices by:

- (1) continuing its existing Mandatory Affordable Housing requirements for new subdivisions; and
- (2) undertaking a Housing Diversity Study that evaluates current housing costs, needs, impacts on services and other relevant elements and recommends actions to create more affordable opportunities for seniors to downsize, and for young adults and young families to move to Cape Elizabeth (At a minimum, options to evaluate should include incentives to create permanently affordable housing, and municipal purchase of land for construction of affordable housing, and coordination of regional efforts with the Metro Coalition);

with the goal of completing the study by 2025:

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NOW THEREFORE the Cape Elizabeth Town Council is hereby RESOLVED to work with the Greater Portland Council of Governments and the Metro Regional Coalition:

TO EXPAND the number of housing units that can be afforded by lower and middle income households in our community by adopting and improving policies and incentives which allow our community to contribute to achieving the overall regional goal of expanding the number of housing units in our region that are affordable to lower and middle income households by 10% no later than 2025.

Dated this 16<sup>th</sup> day of October, 2019

**Item #152-2019      Authorization for Banking Relationship**

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

ORDERED, the Cape Elizabeth Town Council hereby authorizes the Town of Cape Elizabeth to open and maintain a banking relationship at Katahdin Trust Company with authorized signers; Matthew Sturgis, Town Manager; Debra Lane, Town Clerk; and John Quartararo, Finance Director.

(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 Penelope A. Jordan and Seconded by Valerie A. Adams

ORDERED, the Cape Elizabeth Town Council adjourns at 8:38 p.m.

(6 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk