



## Cape Elizabeth Town Council Minutes

**DRAFT Monday, December 9, 2019**

**7:00 p.m. Council Chambers**

**Cape Elizabeth Town Hall**

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

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

**Administration of Oaths by the Town Clerk Debra M. Lane for Officials Elected on November 5, 2019.**

### **Cape Elizabeth Town Council**

*Caitlin R. Jordan*

*Penelope A. Jordan*

### **Cape Elizabeth School Board**

*Kimberly L. Carr*

*Philip R. Saucier*

### **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**

#### **Item# 1-2020 Election of Town Council Chairman**

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

ORDERED, the Cape Elizabeth Town Council elects Valerie A. Adams to serve as town council chairman for the 2020 council year.

(7 yes) (0 no)

Jamie Garvin was presented a gift on behalf of the town council for serving as chairman this past year.

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

Councilor Deveraux mentioned the State of Maine's unclaimed property list. Residents are encouraged to log onto the site to see if they have any unclaimed property.

[www.maineunclaimedproperty.gov](http://www.maineunclaimedproperty.gov). Ms. Deveraux also attended the naturalization ceremony at the high school on December 6; congratulations to all for a wonderful event.

Councilor Penelope Jordan thanked everyone who went to the polls and is honored to serve another term. The next ordinance committee will be held on January 6 relating to short term rentals; interested parties are encouraged to attend.

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Chairman Adams encouraged council members to attend the ordinance committee meetings relating to short term rentals.

Councilor Garvin attended the naturalization ceremony on December 6. Nominations are now being accepted for ecomaine's eco-Excellence Awards; the nomination deadline is January 31. The town council is reviewing the composition of the ad hoc bottle shed committee at the workshop on December 11; it is not proposed to cease operations at the bottle shed.

**Finance Committee Report**

Councilor Straw noted the Portland Head Light gift shop sales is tracking behind this time last however it is anticipated the fund will meet budget at fiscal year end June 30, 2020.

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

None

**Town Manager's Monthly Report**

I would like to begin my town manager's report by extending my holiday wishes to the good people of Cape Elizabeth. Here is hoping the season brings happiness and health.

There will be a holiday tree lighting event on Friday, December 13 at the Thomas Memorial Library from 6:00 – 7:00 p.m. The event is sponsored by the Cape Courier.

As stated last month, I am happy to bring an end of the season report on the pay and display program at Fort Williams. The first four months were very successful, ending approximately \$65,100 over the forecast gross receipts, and \$40,400 over the forecast net receipts. The gross estimated revenue was forecast to be \$345,100, while actual was \$410,200, and net forecast at \$236,300, while actual net revenue was \$276,700.

Operating expenses were slightly over forecast, by 1%. This is due primarily to the startup costs and increasing the number of terminals over the original amount forecast. This is anticipated to stabilize as the program continues next spring, and conform to the forecast expense amounts. The forecast expenses were \$58,000 while the actual was \$65,900. This resulted in a net expense ratio of 16%, which is less than the 17% originally forecast. This is a function of having higher gross revenues and the relationship between the gross expenses to that revenue.

The volume of transactions tracked as anticipated in the study performed by the special subcommittee in advance of implementing the program. There were a total of 92,955 transactions at the terminals. Of all transactions, the two-hour purchase was 89% of the volume, at 82,920 transactions and 81% of the gross revenues. The three-hour pass was the second most popular option, at 7%\$ of the volume with 6,533 transactions. The remaining 4% of transactions were divided between the four and five hour passes and the season pass. There were 1,420 season passes purchased, which at 1.5% of all transactions is a strong indication that this option was taken by visitors from surrounding communities.

With two months remaining in the first year program, May and June of 2020, it is strongly anticipated that the town shall meet and exceed the anticipated revenue for fiscal year 2020.

Respectfully Submitted,  
Matthew E. Sturgis, Town Manager

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**Review of Draft Minutes of the Special Meeting held November 6, 2019 and the Regular Meeting held November 13, 2019.**

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of the special meeting held on November 6, 2019 as written.

(7 yes) (0 no)

Moved by James M. Garvin and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on November 13, 2019 as written.

(7 yes) (0 no)

**Item# 2-2020            Adoption of Town Council Rules**

Moved by James M. Garvin and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council adopts the Town Council Rules as presented.

(7 yes) (0 no)

See attachment.

**Item# 3-2020            Appointment of the Finance Committee**

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

ORDERED, the Cape Elizabeth Town Council elects James M. “Jamie” Garvin as chairman and the Council as a whole to serve as the finance committee.

(7 yes) (0 no)

**Item# 4-2020            Appointment of Ordinance Committee**

Moved by Jeremy A. Gabrielson and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council elects Penelope A. Jordan as chairman and James M. “Jamie” Garvin and Christopher M. Straw as members of the ordinance committee.

(7 yes) (0 no)

**Item# 5-2020            Appointment of an Appointments Committee**

Moved by James M. Garvin and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council elects Valerie J. Deveraux as chairman and Jeremy A. Gabrielson and Caitlin R. Jordan as members of the appointments committee.

**Consent Agenda**

Items ## 6 - 17 will be considered en bloc. The council chairman will entertain a single motion to approve Items # #6 - 17. Any councilor may request for any item to be removed from the consent list and be separately voted.

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

ORDERED, the Cape Elizabeth Town Council approves Item #6 – Item #17 as presented.

(7 yes) (0 no)

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**Item# 6-2020 Appointment of Representatives to ecomaine Board of Directors**

James M. “Jamie” Garvin and Matthew E. Sturgis for terms to expire on December 31, 2021.

**Item# 7-2020 Appointment of Representative to Greater Portland Council of Governments General Assembly, Metro Coalition, Regional Voice Committee and Executive Committee**

Jeremy A. Gabrielson, General Assembly and Metro Coalition  
James M. “Jamie” Garvin, Regional Voice Committee  
Matthew E. Sturgis, Executive Committee

**Item# 8-2020 Appointment of Representative to PACTS Policy Committee**

Matthew E. Sturgis

**Item# 9-2020 Appointment of Representative to MMA Legislative Policy Committee and MMA Convention Delegate**

James M. “Jamie” Garvin for a term until December 2020.

**Item# 10-2020 Appointment of Representative to Thomas Memorial Library Foundation**

Jeremy A. Gabrielson

**Item# 11-2020 Appointment of Representative to Greater Portland Economic Development Corporation**

Christopher M. Straw

**Item# 12-2020 Appointment of Representative to Portland Jetport Noise Advisory Committee**

Penelope A. Jordan

**Item# 13-2020 Appointment of Representatives to Thomas Jordan Grants Subcommittee**

Penelope A. Jordan to 12/2022

Previously appointed:

Valerie J. Deveraux to 12/2021

Caitlin R. Jordan to 12/2020

**Item# 14-2020 Appointment of Vice Chair of Museum at Portland Head Light**

James M. “Jamie” Garvin  
Council Chairman Valerie A. Adams is chairman per the by-laws.

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**Item #15-2020 Maine Bicentennial Celebration Committee – Ad-Hoc**

Caitlin R. Jordan

**Item #16-2020 Fort Williams Master Planning**

Jeremy A. Gabrielson

**Item #17-2020 School Building Committee**

Valerie A. Adams and James M. “Jamie” Garvin were nominated at the October 16, 2019 town council meeting.

**Item# 18-2020 Code of Ethics**

Moved by James M. Garvin and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council adopts the Code of Ethics for the Town Council as presented, and that each council member will sign the attestation for the 2020 council year.

(7 yes) (0 no)

See attachment.

**Item# 19-2020 Schedule of Council Meetings for 2020**

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

ORDERED, the Cape Elizabeth Town Council approves the following regular, special and workshop meeting dates for the council year 2020. Any changes including date, time and place will be noted on the town’s online calendar.

(7 yes) (0 no)

***Regular and Special meetings***

December 9, 2019 (Regular Meeting and Organizational Meeting for 2020)  
January 13, 2020  
February 10, 2020  
March 9, 2020  
April 13, 2020 (Regular Meeting and Opportunity for Budget Public Comments)  
May 4, 2020 (Special Council Meeting – Budget Public Hearing)  
May 11, 2020 (Regular Meeting and Vote on the FY 2021 Budget)  
June 8, 2020  
July 13, 2020  
August 10, 2020  
September 14, 2020  
October 14, 2020 (Wednesday)  
November 9, 2020  
December 14, 2020 (Regular Meeting and Organizational Meeting for 2021)

***Workshop***

December 11, 2019 (Council Goals and FOAA)  
January 15, 2020  
February 3, 2020  
March 18 and 19, 2020 (Budget Workshops)  
April \*27 and 28, 2020 (Budget Workshops)  
May 6, 2020  
  
June 1, 2020  
  
September 9, 2020  
October 7, 2020  
November 10, 2020 (Organizational Caucus for 2021)  
December 16, 2020 (Council Goals and FOAA)

*\*4/27/2020 Budget presentation from the School Board*

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**Item# 20-2020 Appointments to Boards and Committees**

Councilor Garvin disclosed that several appointees are friends however he was not on the appointments committee.

Moved by Valerie J. Deveraux and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council approves the recommendations of the appointments committee to appoint the following residents to various boards and committees. New terms begin January 1, 2020.

(7 yes) (0 no)

Board	FirstName	LastName	TermExpires	Recommendation	Address
Bd Assessment Review	David B.	Scheffler	12/31/2022	David B. Scheffler	12 Pheasant Hill Road
CS Committee	Amy	Lombardo	12/31/2022	Amy Lombardo	11 Leighton Farms Road
CS Committee	Sarah	MacColl	12/31/2022	Sarah MacColl*	4 Avon Road
Conservation Committee	Zach	Matzkin*	12/31/2022	Matthew Craig	6 Farm Hill Road
Conservation Committee	Robert G.	Petitt	12/31/2022		
Conservation Committee	Jim	Tasse	12/31/2022	Jim Tasse*	30 Cliff Avenue
<b>Conservation Committee</b>	<b>Philip</b>	<b>Saucier</b>	<b>12/31/2020</b>		
Energy Committee	Carrie	Gilbert	12/31/2022	Carrie Gilbert	32 Aster Lane
Energy Committee	Richard A.	Parker	12/31/2022	Richard A. Parker	17 Southwell Road
Firing Range Committee	Town Council		Appointed	12/12/2016	
FWP Committee	Kenneth D.	Pierce	12/31/2022	Kenneth D. Pierce	35 Oakhurst Road
FWP Committee	James T.	Walsh	12/31/2022	Lauren Springer	4 Cottage Lane
FWP Committee	<b>VACANT</b>		12/31/2020	James T. Walsh#	53 Wildwood Drive
Personnel Appeals Board	Leonard	Cole	12/31/2022	Leonard Cole	11 Fieldstone Road
Planning Board	Andrew T.	Gilbert	12/31/2022	Andrew T. Gilbert	32 Aster Lane
Planning Board	James H.	Huebener	12/31/2022	James H. Huebener	13 Kettle Cove Road
Recycling Committee	Kara Lavender	Law	12/31/2022	Kara Lavender Law	31 McAuley Road
Recycling Committee	Chelsea K.	Torrey	12/31/2022		
Recycling Committee	Tim	Trachimowicz	12/31/2022	Tim Trachimowicz	1 Granite Ridge Road
Riverside Committee	Sharon	Smarc	12/31/2022	Sharon Smarc*	84 Oakhurst Road
TML Committee	Sara	Hirshon	12/31/2022	Sara Hirshon	22 Pilot Point Road
TML Committee	Gwyneth	Maguire	12/31/2022	Tim Blackstone	8 Wabun Road
TML Committee	Jason	O'Brien	12/31/2022	Jason O'Brien	349 Fowler Road

Board of Zoning Appeals	Joseph Barbieri	12/31/2022	Joseph Barbieri	3 Harriman Farm Road
Board of Zoning Appeals	Michael Tadema-Wielandt	12/31/2022	Michael Tadema-Wielandt	26 Woodcrest Road
Board of Zoning Appeals	Michael F. Vaillancourt	12/31/2022	Michael F. Vaillancourt*	55 Stonybrook Road
Maine Bicentennial Committee - Ad Hoc		12/31/2020	Wayne Brooking, Jr.	223 Two Lights Road

#Recommended to serve unexpired term

\*Termed Out

Councilor Deveraux noted there are still vacancies on the recycling and conservation committees. The vacancies will be advertised in January.

**Public Hearing      Town Center Tax Increment Financing District**

Chairman Adams opened the public hearing at 7:31 p.m.  
 After hearing no comments, the hearing was closed at 7:32 p.m.

**Item #21-2020      Town Center Tax Increment Financing District**

Present – Clint Swett, Town Assessor

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

ORDERED, the Cape Elizabeth Town Council approves the three recommended technical revisions to the Town Center Infrastructure Improvement Tax Increment Financing District (“TIF”) as presented.

(7 yes) (0 no)

**ACREAGE CORRECTION** – The development of the Hill Way Chiropractic office and apartments along with the removal of the EXEMPT property has resulted in a change in acreage from 27.93 acres to 27.04 acres.

**EXEMPT PROPERTY** – Should not have been included in the original TIF. This property was removed decreasing the acreage and valuation of the OAV.

**ORIGINAL ASSESSED VALUE** – These values were INCORRECTLY selected from the April 1, 2014 assessments and NOT the April 1, 2013. This incorrect starting point was not caught by staff at DECD nor local administrators. This was brought to the attention of the town assessor during the annual assessing audit performed by Maine Revenue Services in 2018.

The original OAV was \$11,729,600 and the corrected OAV is \$11,225,200; a difference of \$504,400.

Captured value five years into the TIF is \$175,296

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**Item #22-2020          Property Tax Assistance Program Report**

Introduction – Clint Swett, Town Assessor

Moved by James M. Garvin and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the tax assessor relating to the 2019 property tax assistance program as required by Chapter 27 Property Tax Assistance Ordinance Sec. 9 Annual Report to the Town Council.

(7 yes) (0 no)

**Item #23-2020          Ocean House Common**

Introduction – John Mitchell, Mitchell & Associates representing Dr. David Jacobson Ocean House Common.

Copies of the deeds were not included in the meeting materials. Some councilors expressed a desire to see the deeds before voting.

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

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to grant a parking license agreement, a cross access easement, and a drainage easement with Dr. David Jacobson for Ocean House Common as reviewed by and deemed acceptable by the town attorney.

(4 yes) (3 no Councilors Adams, Deveraux and Straw)

See attachment.

**Item #24-2020          Request for Acceptance of Aster Lane and Open Space**

Public Comment

Paul McKenney, 11 Headland Lane, President Cottage Brook Homeowners encouraged the town council, for safety reasons, to accept the section of Aster Lane that is complete and the remainder as conditioned. Future consideration should be given to eliminating the gate.

Present – Owens McCullough, Sebago Technics representing the developer and Joel Fitzpatrick, developer

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

ORDERED, the Cape Elizabeth Town Council accepts the fully constructed small section of Aster Lane and conditionally accepts the larger section of Aster Lane and open spaces A, B and the agricultural open space, subject to the following conditions, and authorizes the town manager to sign deeds associated with this order which have been reviewed by and deemed acceptable by the town attorney.

(7 yes) (0 no)

See attachment.



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Conditions of Acceptance:

1. Monumentation to be set.
2. Sewer manholes/catch-basins, drainage manholes to be raised to finish payment at time of finish pavement.
3. Catch-basin and drainage structures to be inspected and cleaned, if needed.
4. As-builts of roadway to be completed in spring once finish pavement is installed. Attached are progress as-builts.
5. Pavement joint between surface and base paving winterized.
6. Culvert outlet from pond to have riprap modified to provide better discharge. Coordinate with engineer.
7. Inspection of trails in the spring of 2020 after snow and ice cover melt.

**Item #25-2020          Request for Memorial and Event at Fort Williams Park Commemorating the USS Eagle 56**

Moved by Valerie J. Deveraux and Seconded by James M. Garvin

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to replace the memorial at Fort Williams Park commemorating the USS Eagle 56 with a granite monument listing the names of the sailors onboard and to approve a 75<sup>th</sup> anniversary remembrance on Saturday, May 2, 2020, 12:00 p.m. – 1:00 p.m. at the memorial as presented. Said monument to be paid for by family members.

(7 yes) (0 no)

**Item# 26-2020          Acceptance of Annual Gifts and Donations**

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

ORDERED, the Cape Elizabeth Town Council accepts gifts and donations received in 2019 with appreciation.

(7 yes) (0 no)

See attachment.

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

ORDERED, the Cape Elizabeth Town Council adjourns at 8:10 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk