



Cape Elizabeth Town Council

DRAFT Minutes Monday, May 11, 2020

7:00 p.m.

Zoom Online Meeting

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

The meeting via Zoom, an online video and audio conferencing platform, was convened at 7:00 p.m. by Town Council Chairman Pro-Tem James M. Garvin.

In response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) Governor Mills signed [LD 2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency](#), which is now PL 2019, c. 617.

Part G enacts Title 1, section 403-A, Public proceedings through remote access during declaration of state of emergency due to COVID-19. It authorizes conducting public proceedings through telephonic, video, electronic or other similar means of remote participation with specific conditions. The section is repealed 30 days after the termination of the state of emergency.

The Cape Elizabeth Town Council will meet as necessary to continue the town's work via an online platform as allowed by State authorization during the state of emergency due to COVID-19. The platform will allow for public comment as outlined in the Town Council Rules. The public is reminded they should continue to provide questions and comments to the town council relating to business of the town via email or mailing correspondence to their attention to town hall.

Roll Call by the Town Clerk

All members of the town council were online except Chairman Adams.

Debra M. Lane, Town Clerk
Maureen O'Meara, Town Planner
John Quartararo, Finance Director
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Deveraux congratulated the organizers and participants of the online Zimpritch Symposium. The staff at the Thomas Memorial Library did a wonderful job in organizing the event. Residents are encouraged to participate next year.

Finance Committee Report

Finance Chairman Garvin provided an overview of the April 27 and April 28 finance committee workshops. The workshops were well-attended and citizens are encouraged to continue to provide input on the budget.

Mr. Sturgis reviewed the dashboard as of April 30, 2020.

Citizen Opportunity for Discussion of Items Not on the Agenda

David Backer, 25 Drew Road South Portland, President of the 10K Beach to Beacon Road Race thanked the town council for their years of support. Although 2020 is canceled due to the COVID-19 pandemic, the race organizers look forward to coming back in 2021 with the town's support.

Town Manager's Monthly Report – Mr. Sturgis

Although the Memorial Day Parade has been canceled due to COVID-19, several departments have been working together with Memorial Day Parade Chairman Jim Huebener to create a video that will be posted on the town's website and social media. The video will provide an opportunity for residents to commemorate the day. The video will be available Memorial Day weekend.

As we continue to move forward through the challenge of the pandemic, we are slowly seeing signs of adaptation that will allow us to begin the process of reopening our operations. To that end, I am in the process of working with our different department heads to establish operating procedures to assist the public, open our facilities, and provide the services in an expanded fashion. Once this plan is finalized I will be updating the council on our plans. We will also be developing our plans in accordance with the Governor's multi-phase plan for reopening services.

With that being said, I can update the council on what we do know for timing at this point. We anticipate opening the Thomas Memorial Library to drive through services effective June 1st. The Library Director has established a multi-stage re-opening plan that will develop into a full opening of services over time.

Our tax collector and clerk area is projected to open June 1st, but we will be limiting the volume allowed in the common area for transactions, scheduling appointments, and providing the other services provided by this section of Town operations. We will require customers to wear masks for transactions, and we are installing protective glass in transaction areas.

The collector's office can now provide auto registration services for all transactions, effective immediately. Residents looking to register their autos may call the office and the tax collector's office will either email or mail the required forms, advise of the amount of fees, and make arrangements for completing the transactions, including distributing license plates.

The pool and fitness facilities are planned to be open on July 1st in accordance with phase three of the Governor's plan.

However, the Community Services summer camp program is set to begin June 22nd. Staff is working on setting up a safe environment for the campers and staff, with additional tents, social distancing measures, masks, and sanitizer to address safety needs.

Finally, I must take a moment to thank all of our essential employees who have been working all along and performing heroically for the citizens of Cape Elizabeth. Our Police Department, Public Works and Recycling, Fire / EMS, and our dedicated Town Hall staff have been taking care of people, handling our infrastructure, and taking care of the Town's business needs. Additionally, the Thomas Memorial Library has moved so much of their programming online in such a creative manner, and with large turnouts. All of their efforts day-in and day-out are greatly appreciated. Much of this work is unseen but I think it is important to say thank you.

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Review of Draft Minutes of the virtual meeting held on April 13, 2020 and special virtual meetings held on April 1, April 8 and April 28, 2020.

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

ORDERED, the Cape Elizabeth Town Council approves the minutes of the virtual meeting held on April 13, 2020 and special virtual meetings held on April 1, April 8 and April 28, 2020 as written.
(6 yes) (0 no)

Consent Agenda – Item #67-2020 - #70-2020

The town council considered Item #67 - #70 en mass.

Councilor Penelope Jordan requested Item #68-2020 be considered separately.

Opportunity for Public Comment for Item #67-2020 - #70-2020

None

Councilor Penelope Jordan disclosed the Inn By The Sea is a supporter of the Cape Elizabeth Farm Alliance.

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

ORDERED, the Cape Elizabeth Town Council approves Item #67-2020, Item #69-2020 and Item #70-2020 as presented.
(6 yes) (0 no)

Item #67-2020 Inn By The Sea– Liquor Licenses and Special Amusement Permit

ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor, wine and spirits license and special amusement permit for Inn By The Sea, LLC located at 40 Bowery Beach Road.

Item #69-2020 Acceptance of Ed MacDonald Safety Enhancement Grant for the Police Department

ORDERED, the Cape Elizabeth Town Council accepts and appropriates and award of \$1,816.91 from the Maine Municipal Association Workers Compensation Fund's Ed MacDonald Safety Enhancement Grant towards the purchase of two ballistics vests with attachments. The grant period is May 1, 2020 to May 1, 2021.

Item #70-2020 Acceptance of Bequest to the Thomas Memorial Library from the Estate of Darthea B. Libby

ORDERED, the Cape Elizabeth Town Council accepts a bequest of \$73,282.43 from the Estate of Darthea B. Libby and directs that the funds be held in a segregated account in the Town's internal fiscal management system and that the funds be used for repairs and improvements to the Thomas Memorial Library including but not limited to soundproofing certain areas of the library and the installation of security cameras.

Item #68-2020 Refunding 2008 Bond Issue

Introduction – John Quartararo, Finance Director

Moved by Jeremy A. Gabrielson and Seconded by Valerie J. Deveraux
ORDERED, the Cape Elizabeth Town Council approves the following.
(6 yes) (0 no)

TOWN OF CAPE ELIZABETH

**TOWN COUNCIL VOTE AUTHORIZING REFUNDING BONDS
IN AN AMOUNT NOT TO EXCEED \$1,000,000**

WHEREAS, the Town has previously issued its \$2,550,000 2008 General Obligation Bonds dated May 15, 2008 (the “Prior Bonds”); and

WHEREAS, the Town desires to refinance, through a current refunding, an amount of up to \$1,000,000 of its 2008 Bonds;

NOW, THEREFORE, it is:

VOTED: That there be and hereby is authorized, pursuant to the provisions of 30-A M.R.S. §5772, the issue and sale of the Town’s general obligation bonds in the principal amount not to exceed \$1,000,000 (the “Bonds”) to refinance the Prior Bonds in a current refunding.

VOTED: That in order to effect the borrowing heretofore authorized, the Treasurer be and hereby is authorized to prepare, issue and sell the Bonds in the aggregate principal amount not to exceed \$1,000,000, such Bonds to be signed by the Treasurer, countersigned by the Chairman of the Town Council and attested by the Town Clerk.

VOTED: That the form, maturity, interest rates and other details of said Bonds shall be as determined by the Treasurer and the Chairman of the Town Council by their execution thereof, but shall have their respective final maturity not later than the respective final maturities for the Prior Bonds and shall not be inconsistent with the provisions hereof. Such Bonds may be issued as callable bonds, at the discretion of the Treasurer and Chairman of the Town Council.

VOTED: That the Treasurer be and hereby is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including refunding escrow agreements, verification reports, Bond Purchase Agreements, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the refinancing of the Prior Bonds, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be

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approved by the Treasurer such approval to be conclusively evidenced by his execution thereof.

VOTED: That the Treasurer be and hereby is authorized to engage Moors & Cabot, Inc. as financial advisor to the Town in connection with the issuance and sale of the Bonds.

VOTED: That the Treasurer be and hereby is authorized to select the underwriter for the Bonds heretofore authorized and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

VOTED: That the Treasurer be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds for sale be and hereby is approved.

VOTED: That the Treasurer be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds heretofore authorized and an escrow agent for the Prior Bonds and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

VOTED: That the Bonds heretofore authorized shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said Bonds of one maturity may be exchanged for an equal aggregate principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof (or such other minimum denomination as the Treasurer shall approve) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

VOTED: That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds, and the Treasurer be and hereby is authorized and empowered to enter into a Letter of Representation or any other

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contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

VOTED That the Treasurer and Chairman of the Town Council from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to bear the original signature of the Treasurer and Chairman of the Town Council.

VOTED: That the Treasurer be and hereby is authorized and directed to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be “arbitrage bonds” or “private activity bonds” within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

VOTED: That if the Bonds or any part of them, are issued on a tax-exempt basis, the officers executing the Bonds be and hereby are individually authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds to be subject to federal income taxation.

VOTED: That the officers executing the Bonds be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

VOTED: That any or all of the Bonds issued hereunder may be consolidated with and become a part of any other issue of or general obligation bonds authorized to be issued by any previous or subsequent order of the Town Council.

VOTED: That the Treasurer, Chairman of the Town Council and Clerk and other proper officials of the Town 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, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds hereinabove authorized.

VOTED: That if any of the officers of the Town who have signed or sealed the Bonds shall cease to be such officers before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer; and also any such bonds or notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers of the Town, although at the nominal date of such Bonds any such person shall not have been such officer.

VOTED: That if the Treasurer, Chairman of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, be and hereby are authorized to act for such official with the same force and effect as if such official had performed such act.

VOTED: That the investment earnings on the proceeds of the Bonds, if any, and the excess proceeds of the Bonds (including premium), if any, be and hereby are authorized to be used to fund the refunding escrow for the Prior Bonds, to pay redemption premium on the Prior Bonds, if any, to pay interest on the Prior Bonds or the Bonds and to pay issuance costs for the Bonds.

VOTED: The Bonds herein authorized shall be either sold at public sale upon sealed bid, or by negotiated sale in such manner as the Treasurer deems appropriate and in the best interest of the Town, and the Treasurer be and hereby is authorized to provide that any of the Bonds herein authorized be made callable, with or without premium, prior to their maturity.

VOTED: That the Treasurer, with the advice of the bond counsel for the Town and to the extent permitted under the Code, be and hereby is authorized to designate the Bonds as “qualified tax-exempt obligations” under Section 265(b)(3) of the Code.

Item #71-2020 Short-Term Rental Ordinance Amendments

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

ORDERED, the Cape Elizabeth Town Council sets to workshop on Monday, June 1, 2020 revisions to the zoning ordinance relating to short-term rentals as recommended by the ordinance committee.
(6 yes) (0 no)

Item #72-2020 Consideration of Resolve Supporting the Maine Equal Rights Amendment

Introduction - Representative Anne Carney, 21 Angell Point Road requested town council consideration of a resolve supporting the Maine Equal Rights Amendment. Representative Carney also thanked the town council for their work on COVID-19

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

ORDERED, the Cape Elizabeth Town Council supports the resolve relating to the Maine Equal Rights Amendment stating:

Equality of rights under the law may not be denied or abridged by the State or any political subdivision of the State based on the sex of an individual. The legislature has the power to enforce this section by appropriate legislation.

(4 yes) (2 no Councilors Caitlin Jordan and Penelope Jordan)

Item #73-2020 Fiscal Year 2021 – Schedule Public Hearing

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

ORDERED, the Cape Elizabeth Town Council sets the fiscal year 2021 municipal and special funds budgets to public hearing on Monday, May 18, 2020 at 7:00 p.m. via Zoom.

(6 yes) (0 no)

Item #74-2020 Energy Committee – Schedule Working Session

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

ORDERED, the Cape Elizabeth Town Council schedules a workshop with the energy committee on Monday, June 1, 2020 to discuss the request for proposals for the solar project at the recycling center.

(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

Item #75-2020 Annual Evaluation of the Town Manager – Executive Session

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

ORDERED, the Cape Elizabeth Town Council enters into executive session at 8:15 p.m. pursuant to 1 MRS §405 6 A to continue the annual evaluation of the town manager.

(6 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 8:36 p.m.

(6 yes) (0 no)

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Adjournment

Moved by Penelope A. Jordan and Seconded by Caitlin R. Jordan
ORDERED, the Cape Elizabeth Town Council adjourns at 8:36 p.m.
(6 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk