



Cape Elizabeth Town Council Agenda

Monday, April 8, 2019

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

Public Participation at Town Council Meetings

After an item has been introduced, any person wishing to address the council shall signify a desire to speak by raising their hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. All remarks should be addressed to the Town Council. Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present. For agenda items that are not formally advertised public hearings, the time for public comments is limited to 15 minutes per agenda item. This time may be extended by a majority of the Town Council. The chairman may decline to recognize any person who has already spoken on the same agenda item and may call on speakers in a manner so as to balance debate. Once the Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item.

Speaking at the meeting on topics not on the agenda at regular Council meetings

Persons wishing to address the Council on an issue or concern local in nature not appearing on the agenda may do so at a regular Town Council meeting before the town manager's report and/or after the disposition of all items appearing on the agenda. Any person wishing to address the Council shall signify a desire to speak by raising their hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation if the local affiliation is pertinent. Comments in each comment period shall be limited to three minutes per person and 15 minutes total; however, the time may be extended by majority vote of councilors present.

Decorum

Persons present at Council meetings shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Persons at Council meetings may only address the Town Council after being recognized by the chairman.

Convening of the Meeting by Town Council Chairman James M. "Jamie" Garvin

Roll Call by the Town Clerk

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Finance Committee Report

Dashboard and Financial Reports as of 3/31/2019

[Appropriation Control](#)

[Expense Distribution](#)

[Revenue Control](#)

[Revenue Distribution](#)

Citizen Opportunity for Discussion of Items Not on the Agenda

Town Manager's Monthly Report

Review of Draft Minutes of [March 11, 2019](#) and Special Meeting held [March 18, 2019](#).

Public Hearing [Chapter 10](#) Coastal Waters and Harbor Ordinance Proposed Amendments

Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present.

Item #63-2019 Chapter 10 Coastal Waters and Harbor Ordinance Proposed Amendments

On October 10, 2018 the town council referred to the ordinance committee for review and recommendations proposed amendments to Chapter 10, Coastal Waters and Harbor Ordinance as recommended in the Harbors Committee Report.

The ordinance committee reviewed Chapter 10 at three meetings: December 17, 2018, January 9, 2019 and February 7, 2019. On February 7 the ordinance committee recommended (3-0) proposed amendments for town council consideration. On March 11 the council set the amendments to public hearing for April 8.

Out Haul standards are provided for informational purposes only as the Harbor Master has authority to promulgate standards.

The town council may consider adopting the amendments, refer to workshop or back to the ordinance committee.

Public Hearing [Chapter 13](#) Traffic Regulations at Fort Williams Park

Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present.

Item #64-2019 Chapter 13 Traffic Regulations at Fort Williams Park

In the context of reviewing pay and display parking at Fort Williams Park, on October 10, 2018 the town council referred to the ordinance committee Chapter 13 Traffic Regulations to address pay and display parking regulations at Fort Williams Park. If parking fees are approved ordinances will need to be in place.

The ordinance committee reviewed Chapter 13 Traffic Regulations at two meetings. At the January 9, 2019 meeting, the committee voted (3-0) to recommend amendments to the town council which authorize the town council to manage parking and circulation in Fort Williams. Specific proposals such as pay and display would be implemented under management authority.

On February 11, 2019 the town council referred the proposed traffic regulations to workshop on March 18, 2019 and public hearing on April 8, 2019.

It is anticipated the town council will vote on the Chapter 13 Traffic Regulations as Fort Williams Park.

In a subsequent agenda item, the town council will address the discussion at the March 18 council workshop relating to the enforcement of parking fees at Fort Williams Park.

Item #65-2019 Opportunity for Public Comments on FY 2020 Budget

Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present.

The town council welcomes public comment on the fiscal year 2020 budget. Two budget workshops on the municipal budget have already been held. This is another opportunity for public comment early in the budget process. The public hearing on the budget will be held at a special meeting on May 6.

Item #66-2019 Culvert and Habitat Assessment [Study](#)

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

Town Planner Maureen O'Meara will be present to provide an overview of the Cape Elizabeth Culvert and Habitat Assessment Study.

On April 10, 2017 the town council authorized application for a coastal communities grant to the Maine Coastal Program to assess 16 municipal culverts. On December 10, 2018 the town council accepted a Part II grant focusing on Sawyer Road to follow up a Part I grant studying 16 town culverts; the grant was in collaboration with the Town of Scarborough.

Recommended Motion:

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the Cape Elizabeth Culvert and Habitat Assessment Study dated March 22, 2019.

Item #67-2019 [Update](#) to Rescue Fees

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

The town manager has provided a memorandum related to rescue fees. Chief Gleeson will be present to provide an overview of the recommendation to update rescue fees.

Item #68-2019 Chapter 13 Traffic Regulations – Enforcement of Parking Fees at Fort Williams Park

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

At the March 18 workshop it was noted if the town enters into an agreement for a pay and display program at Fort Williams Park that provides for the enforcement of parking fees to be the responsibility of a vendor/agent, Sec. 13-2-6 and any applicable sections of the ordinance will need to be amended to allow an agent or designee of the town to enforce parking fees at the park.

Below is a draft. Proposed changes are underlined and in bold text.

Recommended Motion:

ORDERED, the Cape Elizabeth Town Council refers to the ordinance committee Chapter 13 Traffic Regulations to review and report back to the town council provisions in the ordinance to allow an agent or designee of the town to enforce parking fees at Fort Williams Park.

Sec. 13-2-6. Penalty. a. A motor vehicle in violation of any provision of this Article II (Parking Regulations), the parking provisions of Article VI, (Fort Williams Park Regulations) or the parking provisions of Article VII (School Property Regulations) may be issued a ticket by a law enforcement officer **or duly authorized parking enforcement agent**. In addition, a motor vehicle in violation of any parking provision of Article VI (Fort Williams Park Regulations) may be issued a ticket by **an authorized** municipal employee **or duly authorized parking enforcement agent** authorized to do so by the Chief of Police. The dollar amount of the fine to be paid in conjunction with a ticket issued for a parking violation shall be set by order of the 13-7 town council. If payment of a ticket is not received at the Public Safety Building within 30 days after the date of the issuance of the ticket, the fine shall double.

**Item #69-2019 Statement of Policy for Revenues Received from Parking Fees
at Fort Williams Park**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

It was a consensus of the town council at the March 18, 2019 workshop to refer a statement of policy relating to revenues received from parking fees at Fort Williams Park to the April 25, 2019 workshop.

The town manager has provided a memorandum to the town council. Below is a statement to serve as a starting point for council discussion.

“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.”

Item #70-2019 Pay and Display Parking at Fort Williams Park

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

June 11, 2018 - The town council tasked the Fort Williams Park Committee to craft a proposal for pay/display parking at Fort Williams Park.

August 13, 2018 - The town council referred the report to a workshop on September 17.

September 17 & October 2, 2018 Workshops - The town council continued review of the feasibility of pay and display parking at Fort Williams Park and possible next steps.

October 10, 2018 - The town council voted to refer to the ordinance committee Chapter 13 Traffic Regulations to address pay and display parking regulations at Fort Williams Park in order to have ordinances in place if pay and display is approved.

November 13, 2018 Workshop - The workshop provided additional discussion to review the possible structure of pay and display.

November 14, 2018 – The town council authorized the town manager to issue a request for proposals for parking management including equipment and enforcement as well as issue a request for proposals to purchase equipment for pay and display parking including installation as well as request for proposals for providing enforcement services for pay and display parking.

February 11, 2019 – The town council set the pay and display proposal for workshop on March 18.

March 18, 2019 Workshop – It was a consensus to hold a public on charging parking fees at the May 6 special council meeting which is the same evening as the FY 2020 budget public hearing. The vote on parking fees and RFP on services for a pay and display program at Fort Williams Park will be held on May 13.

Recommended Motion:

ORDERED, the Cape Elizabeth Town Council sets to public hearing charging parking fees, through a pay and display program, at Fort Williams Park on Monday, May 6, 2019 at 7:00 p.m. at the Cape Elizabeth Town Hall.

Item #71-2019 Easement Deed – 51 Ocean House Road

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

In the process of creating a site plan review for the property located at 51 Ocean House Road it was discovered that an existing public sewer line easement appears to encroach on the southerly corner of the parcel.

It is recommended an easement be conveyed to the Town of Cape Elizabeth from Maxwell Cove, LLC. The town attorney has reviewed the language.

Recommended Motion:

ORDERED, the Cape Elizabeth Town Council approves an easement deed from Maxwell Cove, LLC for property located at 51 Ocean House Road as presented.

Item #72-2019 Statement of Policy – Boards and Committees Barring the Appointment of Town Employees from Serving on Standing Boards and Committees

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

Councilor Straw has requested review of the policy prohibiting town employees from serving on boards and committees following a concern expressed from a citizen and school employee who applied for a board during the recent annual appointments process.

The policy was discussed at workshops held February 4 and March 18. It was a consensus of the town council at the March 18 workshop to review additional amendments to the policy as discussed at the workshop.

It is anticipated the town council will vote on the amendments.

Item #73-2019 Group Uses at Fort Williams Park

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

On March 28, 2019 the Fort Williams Park Committee voted to approve the following group uses at Fort Williams Park.

Recommended Motion:

ORDERED, the Cape Elizabeth Town Council approves the following group uses at Fort Williams Park as recommended by the Fort Williams Park Committee.

Additional Request from Beach to Beacon

Thursday, August 1, 2019 – Welcome Gathering for Elite Athlete’s and Families

5:00 – 7:00 p.m. (tent will already have been erected)

50-60 people, Light food and alcohol

FWPC (5-0)

Portland Yacht Club - Monhegan Island Race Finish

Saturday, August 10 – Monday, August 12, 2019 (early morning)

(PYC will hire police for overnight)

FWPC (5-0)

American Cancer Society – Breast Cancer Walk

Sunday, October 20, 2019

7:00 a.m. – 12:00 p.m.

FWPC (4-0) (1 recusal Russell)

Item #74-2019 School Budget Validation Referendum Election [Warrant](#)

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

The town council will vote on the school budget on May 13, 2019 and the citizen vote will be held on Tuesday, June 11, 2019.

The town clerk recommends approval of the following motion.

ORDERED, the Cape Elizabeth Town Council approves the warrant for the school budget validation referendum election warrant as presented.

**TOWN OF CAPE ELIZABETH
SCHOOL BUDGET VALIDATION REFERENDUM**

Tuesday, June 11, 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.

SCHOOL BUDGET QUESTIONS

School Budget Validation Referendum

Do you favor approving the Town of Cape Elizabeth school budget for the upcoming school year that was adopted at the latest school budget meeting of the Town Council?

Yes

No

The following is a non-binding expression of opinion for the consideration of the School Board and Town Council.

I find the school budget adopted at the May 13, 2019 Town Council's school budget meeting to be:

---- TOO HIGH ---- ACCEPTABLE ---- TOO LOW

School Budget Validation Referendum Process

Do you wish to continue the budget validation referendum process in Cape Elizabeth for an additional three years?

Yes No

Informational Note

A "YES" vote will require Cape Elizabeth to continue to conduct a referendum to validate its annual school budget for the next three years.

A "NO" vote will discontinue the budget validation referendum for a least three years and provide instead that the annual school budget shall be finally adopted at a meeting of the Town Council.

Election to be held on Tuesday, June 11, 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 on Election Day, on the hour every hour until close, beginning at 7:00 a.m. The Cape Elizabeth Town Democratic Committee, the Cape Elizabeth Town Republican Committee, and 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 on Election Day at the polls and prior to Election Day 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. Proof of residency and identity is required.

**Item #75-2019 Executive Session-
Request for Hardship/Poverty Tax Abatement
Annual Evaluation of the Town Manager**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

Recommended Motion:

ORDERED, the Cape Elizabeth Town Council enters into executive session in conformance with 1 MRS §405 6 F to consider a request for an abatement of property taxes based on hardship or poverty and 1 MRS §405 6 A to continue the annual evaluation of the town 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.

Adjournment

