



Regular Town Council Meeting

Monday, April 12, 2021 at 7:00 pm

Please click the link below to join the webinar:

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COVID-19 Update

In response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) the Governor 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 The section is repealed 30 days after the termination of the state of emergency.

1. Convening of the Meeting

Town Council Chairman James M. "Jamie" Garvin

2. Roll Call by the Town Clerk

3. The Pledge of Allegiance to the Flag

4. Town Council Reports and Correspondence

5. Finance Committee Report

Finance Committee Chairman Jeremy A. Gabrielson

6. Citizen Opportunity for Discussion of Items Not on the Agenda

(Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

7. Town Manager's Monthly Report

Matthew E. Sturgis, Town Manager

8. Review of Draft Minutes of the meeting held on March 8, 2021

9. Consent Calendar Item #62-2021 - Item #66-2021

The consent calendar provides for Item #62-2021 - Item #66-2021 to be considered en bloc. Any town councilor may ask for any item to be considered separately. At the discretion of the chairman, any item removed from the consent calendar may be considered before or after the consideration of the items remaining on the consent calendar.

Opportunity for Public Comment Item #62-2021 - Item #66-2021. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves Item #62-2021 - Item #66-2021 as presented.

10. Item #62-2021 Acceptance of Anonymous Donation to the Police Department

The Police Department has received a \$5,000 anonymous donation with future additions for the use by the Police Department "for the purpose of youth activities, officer training and safety equipment and/or arms."

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes the establishment of the Police Department Donation Fund, a non-lapsing fund, for receipt of donations to the Police Department and authorizes the expenditure of funds when received consistent with the donor's intention for use of the funds. The Town Council gratefully accepts the donation

of \$5,000 from an anonymous donor.

11. Item #63-2021 Acceptance of Grant Award from the Maine Bureau of Highway Safety - Impaired Driving Enforcement Grant

On March 11, 2021, the Maine Bureau of Highway Safety notified Police Chief Fenton of an award of up to \$1275.40 for the purchase of eCitation printers. There is a match of \$360.00 which will come from the police department's operating budget or other police department resources. The grant purchase ends September 30, 2021.

The grant will reimburse the purchase of eCitation printers up to \$600.00 per printer.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award of \$1275.40 from the Maine Bureau of Highway Safety - Impaired Driving Enforcement grant to account 0725-4463. The grant will reimburse the purchase of eCitation printers that will work with the State's new eCitation ticketing system. Any match requirements will be met through the police department's operating budget or other police department resources, as allowed by the terms of the grant. The purchasing period of the grant ends September 30, 2021.

12. Item #64-2021 Recommended Policy Relating to Short-Term General Fund Borrowing

Finance Director John Quartararo is recommending the Town Council consider a policy which will allow the Town to provide short-term financing for bond projects from the General Fund using inter-funds loans until other financing is arranged. The other financing may be a bond anticipation note or a bond issue.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council adopts the policy that the Town of Cape Elizabeth permit the temporary use of Town cash resources to fund cash flow for Town projects. Those projects will have an approved bond order and the financing will exist until proceeds are received from a bond anticipation note or the permanent financing. The Town Manager is delegated approval of such financing with input from the Finance Director. When the bonded project is a school project, input from the School Superintendent and School Business Manager will be included either of whom may execute the agreement. The Town Manager will execute a written agreement between the project sponsor and the Town. The agreement will include the following elements:

1. The project being financed;
2. The maximum amount of cash required;
3. The estimated date when the bond or bond anticipation note would be issued that would refund the amount borrowed;

4. The agreed to markup over the bank's cash management rate from its primary banker;
5. Monthly, the project is charged for interest costs based upon disbursement amounts and disbursements dates; and,
6. The written agreement will terminate when the funds advanced under the agreement are paid.

13. Item #65-2021 School Construction Bond Order

The School Board is requesting the Town Council authorize a bond order in the amount of \$300,000 to pay for the development of a concept design for the construction of the Pond Cove/Middle School.

The Town's bond counsel James Saffian, Esq. has prepared the bond order.

The School Department, through the school budget would be responsible for repaying either the General Fund or the BAN debt holder.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes a bond order in the amount of \$300,000 for funds to be utilized the pay for the development of a concept design for the construction of the Pond Cove/Middle School as prepared by the Town's bond counsel. The bond order will allow the Town to issue bond anticipation notes or use a self-funded inter-fund loan from the General Fund to provide working capital. The amount borrowed would be repaid by either the issuance of a bond authorized by the order or a larger bond that would be authorized by referendum. The School Department, through the school budget would be responsible for repaying either the General Fund or the BAN debt holder.

14. Item #66-2021 School Budget Validation Referendum Election Warrant

The town clerk recommends approval of the following motion.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the following School Budget Validation Referendum Election Warrant as follows:

TOWN OF CAPE ELIZABETH
SCHOOL BUDGET VALIDATION REFERENDUM
WARRANT

Tuesday, June 8, 2021

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 10, 2021 Town Council's school budget meeting to be:

___ TOO HIGH ___ ACCEPTABLE ___ TOO LOW

Election to be held on Tuesday, June 8, 2021 at the Cape Elizabeth High School.
Polls open at 7:00 a.m. and Close at 8:00 p.m.

Absentee Ballot Processing:

Absentee ballots may be processed prior to Election Day as allowed by law beginning on the 4th day immediately prior to Election Day from 9:00 a.m. - 9:00 p.m. The start time may vary if an inspection is requested as prescribed by law. Election laws, including the processing of absentee ballots, are subject to any Executive Orders by the Governor of Maine during the COVID-19 Emergency. Questions are directed to the Town Clerk at 799-7665.

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. Questions should be directed to the Registrar of Voters at 799-7665. Proof of residency and identity is required.

Municipal Officers of Cape Elizabeth, Maine

Dated at Cape Elizabeth this 12th day of April 2021.

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

15. Item #54-2021 Tabled from March 8, 2021 Recommendation of the Ad-Hoc Civil Rights Committee

Draft Motion:

ORDERED, the Cape Elizabeth Town Council takes Item #54-2021 off the table from March 8, 2021.

Opportunity for Public Comment. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

This agenda item was scheduled for February 8 however due to the late hour, the item was tabled.

On July 20, 2020 the town council created an Ad-hoc Civil Rights Committee. The committee has met several times and is recommending the following draft charge for a standing committee.

Cape Elizabeth Diversity, Equity and Inclusion Committee (CEDEIC) to serve as a bridge between the Town and the community in order to celebrate and advocate for diversity, equity, and inclusion (DEI). The Committee shall promote education and training; increase community engagement; and review Town policies and provide policy recommendations.

Duties:

Advise the Town Council on Policies and Practices to Promote DEI

- a. Review policies and practices of Town departments and make recommendations to promote antiracism, equity and inclusion.
- b. Advocate for DEI with respect to housing, transportation, public accommodation, and

access to Town services.

Education

- a. Develop programs, events and initiatives to promote diversity, inclusion, awareness and anti-racism in our community.
- b. Provide ongoing guidance on approaches for training Town officials and employees in order to eliminate explicit and implicit bias.

Community Awareness and Engagement

- a. Create tools such as surveys in order to better understand community views and concerns about DEI.
- b. Create campaigns that promote Cape Elizabeth as a Town that is a welcoming and respectful place to live, work, and visit.

The town council will acknowledge receipt of the recommendation and discuss next steps.

16. Item #42-2021 Tabled from March 8, 2021 Short Term Rental Amendments Draft Motion:

ORDERED, the Cape Elizabeth Town Council takes Item #42-2021 off the table from March 8, 2021.

Opportunity for Public Comment. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

A public hearing on Short Term Rental Amendments was held on February 8, 2021. The town council voted to table the vote until March 8. On March 8, amendments to the proposed amendments were approved however the council voted to table the vote on the amended motion to the April 12 town council meeting in order for the changes to be written into the draft for a final vote.

Generally ordinances are effective 30 days from the date they are approved however the council will consider adopting STR revisions effective July 1, 2021.

17. Item #67-2021 Opportunity for Public Comments Relating to the Proposed FY 2022 Budget

Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present. Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When

recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is relevant.

The town council welcomes public comment on the FY 2022 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 (general fund and special revenue funds) will be held at a special meeting on May 3. The town council will vote on the special revenue funds on May 3 and the general fund on May 10.

18. Item #68-2021 Request for a Town Council Workshop Relating to Short-Cut Roads

Opportunity for Public Comment. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

At the February 8, 2021 town council meeting, Councilor Gabrielson noted correspondence he received from the Board of the Cottage Brook Condominium Association asking for a review of the gate at Aster Lane. It was a consensus that the matter be scheduled to a future town council workshop.

The short-cut road initiative passed at a special election held on June 13, 2006. The initiative referenced the Zoning Ordinance 19-1-3, 19-7-16.

Link to the results: <https://www.capeelizabeth.com/news/post/594/>

19. Item #69-2021 Recommendation to Use Unassigned Funds to Cover an Overage in the Communications Tower Project

Opportunity for Public Comment. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Staff is recommending \$45,000 be appropriated from the unassigned fund balance to offset the difference in the cost (\$418,128) and budgeted amount (\$375,000) for the communications tower project. The difference follows value engineering and savings within the current year budget.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes the use of \$45,000 from the unassigned fund balance for the remaining project cost for the communications tower project for communications equipment of public safety and public works.

20. Item #70-2021 Proposed Agreement with Central Maine Power to Convert Municipal Street Lights to LED

Opportunity for Public Comment. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

The Town of Cape Elizabeth currently has 361 street lights that operate at an annual cost of \$57,940. The new LED lights would operate at an estimated annual cost of \$40,162. Central Maine Power would convert the lights at a \$0 cost to the Town. The conversion project would begin this summer, with an anticipated start in July.

The conversion to LED is a cost savings and addresses several town council goals.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to enter into an agreement with Central Maine Power (CMP) to convert, supply, and maintain the outdoor lighting service provided by street lights in Cape Elizabeth. The agreement is for 15 years, with the ability to terminate based on the terms and conditions as defined in the agreement.

21. Citizens may at this point in the meeting raise any topic that is not on the agenda that pertains to Cape Elizabeth local government.

(Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

22. Item #71-2021 Executive Session - Continue the 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.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Draft Motion:

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

23. Adjournment

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.