



Regular Town Council Meeting

Monday, November 8, 2021 at 7:00 pm

Town Hall Council Chambers

1. Convening of the Meeting

Town Council Chairman James M. "Jamie" Garvin

2. Roll Call by the Town Clerk

James M. "Jamie" Garvin, Chairman

Nicole Boucher

Valerie J. Deveraux

Jeremy A. Gabrielson

Caitlin R. Jordan

Penelope A. Jordan

Gretchen R. Noonan

3. The Pledge of Allegiance to the Flag

4. Town Council Reports and Correspondence

5. Report from the Code Enforcement Officer - Progress Report on Short Term Rental Permits

Benjamin McDougal, Code Enforcement Officer

6. Finance Committee Report

Jeremy A. Gabrielson, Finance Committee Chairman

Attachments:

- **Appropriation Control October 2021** (Appropriation_Control_October_2021.pdf)
- **Expense Distribution October 2021** (Expense_Distribution_October_2021.pdf)
- **Revenue Control October 2021** (Revenue_Control_October_2021.pdf)
- **Revenue Distribution October 2021** (Revenue_Distribution_October_2021.pdf)
- **Financial Dashboard October 2021** (Financial_Dashboard_October_31_2021.pdf)

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

Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

8. Town Manager's Monthly Report

Matthew E. Sturgis, Town Manager

9. Review of Draft Minutes of the meeting held on October 13, 2021

Attachments:

- **Town Council Minutes October 13, 2021** (Town_Council_Minutes_October_13__2021.pdf)

10. Item #151-2021 Acceptance of Bid from the City of Westbrook to Purchase Two Police Vehicles

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Finance Director John Quartararo has provided a memo dated October 13, 2021 outlining the process for selling two police vehicles.

Per the Purchasing Procedure, Section VII Excess Town Equipment, Vehicles and Real Property the town council must authorize the sale.

Draft Motion

ORDERED the Cape Elizabeth Town Council authorizes the sale of a 2018 and a 2019 Ford Explorer Police Interceptor to the City of Westbrook on an AS IS basis for the total purchase price of \$20,000.

Attachments:

- **Memo Finance Director Sale of Police Vehicles 10 13 2021** (Memo_Finance_Director_Sale_of_Police_Vehicles_10_13_2021.pdf)
- **Purchasing Procedure 06 14 2021** (Policy_Purchasing_Procedure_Amended_06-14-2021.pdf)

11. Item #152-2021 Consideration of Adopting the Fort Williams Master Plan Update 2021

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

On Thursday, Sept. 24, 2020, the Fort Williams Park Committee (FWPC) and members from Richardson & Associates Landscape Architects met at the Picnic Shelter in Fort Williams Park to kick off the Master Plan update. During the review process, the Fort Williams Park Committee engaged input from members of the public, stakeholders, staff

and professionals. A series of meetings, meetings with stakeholders and an extensive survey was conducted.

The town council held two workshops, September 8 and October 6, to review the draft.

Draft Motion

ORDERED, the Cape Elizabeth Town Council adopts the Fort Williams Park Master Plan Update 2021 (draft dated 10/1/2021) as recommended by the Fort Williams Park Committee. The town council thanks the Fort Williams Park Committee, stakeholders and citizens for their work and input during the review of the master plan.

Attachments:

- **FWP Master Plan Update 2021 (Draft 10/1/2021)** (FWP_Master_Plan_Draft_10_01_2021.pdf)

12. Item #153-2021 Proposed Fort Williams Park Fee Changes

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. 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 October 21, 2021 Fort Williams Park Committee meeting, the committee voted (4-2) to recommended fee changes for Fort Williams Park.

The town council will review the fee changes. If approved the council should designate the effective date of the changes.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommended fee changes for Fort Williams Park as recommended by majority vote of the Fort Williams Park Committee on October 21, 2021. The proposed fees are effective on XXX.

Attachments:

- **Proposed Fee Changes - Fort Williams Park 10 21 2021** (FWP_Proposed_Fee_Changes_10_21_2021.pdf)
- **Fort Williams Park Committee Minutes 10 21 2021** (FWP_Minutes_10_21_2021.pdf)

13. Item #154-2021 Proposed Order Adopting the Second Amendment Town Center TIF and Development Program

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. 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 was held on October 13, 2021 on a proposed tax increment financing district (TIF) for the Dunham Court Project including a proposed Second Amendment to the Town Center Infrastructure Improvement Downtown Development Tax Increment Financing District and Development Program. The town council voted to review public hearing comments and possible other financing mechanisms at a workshop on October 27, 2021 prior to the vote on November 8.

A proposed order, see attached, has been prepared by Attorney Tibbetts for council consideration.

Attachments:

- **Order Adopting the Second Amendment to the Town Center TIF and Development Program** (Orders_of_the_Cape_Elizabeth_Town_Council_-_Downtown_TIF_2nd_AMD.pdf)

14. Item #155-2021 Draft Housing Diversity Study RFP

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. 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 October 27, 2021 town council workshop, the council discussed moving forward in making a broader affordable housing plan. The council provided staff direction to prepare a request for proposals for a housing diversity study. The 2019 Comprehensive Plan includes a recommendation to conduct a Housing Diversity Study.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves a Request for Proposals for a Housing Diversity Study.

Attachments:

- **Draft RFP Housing Diversity Study 10 29 2021** (Draft_Housing_Diversity_Study_RFP_10-29-2021.pdf)

15. Item #156-2021 Consideration of the Planning Board's Recommendation Relating to Wireless Amendments

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the

affiliation is pertinent.

On May 10, 2021 the town council referred to the ordinance committee a request to propose amendments to add wireless infrastructure as a use to the zoning ordinance. The ordinance committee recommendations were referred to the planning board on July 12. On August 9 the council referred to the planning board review of 5G wireless amendments as proposed by the ordinance committee.

Both wireless amendment packages have been merged into one wireless amendment package. The two objectives of the package is to add essential services as a permitted use in all zoning districts and 5G amendments to ease regulatory barriers to improve telecommunication services in town. The planning board voted (7-0) on October 19 to send the amendments to the town council for consideration.

The council will consider next steps which may include referral to the ordinance committee or to schedule a public hearing.

Attachments:

- **Memo Planning Board Re: Wireless Amendments** (Memo_PB_Wireless_Amendments_10_21_2021.pdf)
- **Wireless Amendments Draft 10 19 2021** (Wireless_Amdts_Draft_10-19-2021.pdf)

16. Item #157-2021 Citizens Petition - Cape Elizabeth Citizen Petition to Send Town Center Affordable Housing Amendments to Referendum

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

A citizens petition, entitled **Cape Elizabeth Citizen Petition to Send Town Center Affordable Housing Amendments to Referendum**, was filed with the Town Clerk on November 2, 2021 following a vote of the town council relating to the town center affordable housing amendments on October 13, 2021. See below reference.

As required by charter, the petition was filed within 20 days of the enactment of the ordinance. Signatures will be verified by the town clerk and reported at the council meeting.

If a sufficient number of signatures are verified to meet the requirement of the Charter, the town council will call a public hearing to be held within 30 days from the date of the filing of the petition. Within 14 days after the public hearing the council will schedule the

vote.

Staff recommends scheduling a special council meeting, for the purpose of the public hearing, on Wednesday, December 1 at 7:00 p.m. No action is taken at the public hearing. In addition, an item will be included on the December 13 council agenda to schedule the referendum vote.

Draft Motion

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report of the Town Clerk following certification of a sufficient number of signatures and sets to public hearing on Wednesday, December 1, 2021 at 7:00 p.m. at the Cape Elizabeth Town Hall or via Zoom a citizens petition entitled **Cape Elizabeth Citizen Petition to Send Town Center Affordable Housing Amendments to Referendum** pursuant to The Council-Manager Charter Article VIII Initiative and Referendum Sec. 1. Petition for overrule of ordinance.

ARTICLE VIII

Initiative and Referendum

Sec. 1. Petition for overrule of ordinance. All ordinances, except emergency ordinances passed pursuant to Article II, Section 12 shall be subject to overrule by a referendum.

1. If, within 20 days after the enactment of any such ordinances, a petition signed by not less than 10% of the registered voters of the Town of Cape Elizabeth is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk and shall, within 14 days after said public hearing, designate a time and place for the purpose of submitting to a referendum vote the question of adopting such ordinance. Pending action by referendum, the referred ordinance shall be suspended from going into operation until it has received an affirmative vote of the majority of the voters voting on said question.

17. Item #158-2021 Request from Councilor Deveraux to Review Parking Along Shore Road

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Councilor Deveraux is requesting a discussion relating to parking along Shore Road near the South Portland line.

The town council may discuss referring this item to a future workshop or a discussion during the potential improvements along Shore Road from the South Portland line to the Fort Williams Park entrance.

18. Item #159-2021 Authorization of the American Rescue Act Funding Resolution & Spending Plan

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present. 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 Manager is recommending the signing of the American Rescue Plan Act Funding Resolution and spending plan.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the proposed American Rescue Plan Act Funding Resolution and proposed use of funds spending plan as presented. It is further ordered the Town Clerk sign the Resolution on behalf of the Town Council.

Town of Cape Elizabeth Resolution
American Rescue Plan Act Funding

WHEREAS, the American Rescue Plan Act will authorize federal funding for the Town of Cape Elizabeth in the amount of approximately \$982,600; and

WHEREAS, there are four authorized spending categories including: 1. COVID-19 related or negative economic impact; 2. Revenue loss restoration; 3. Premium pay options; and 4. Water, sewer, and broadband infrastructure; and

WHEREAS, the Town Manager is offering a proposed spending plan to the Town Council on November 8, 2021, with an opportunity for public input; and

WHEREAS, all expenditures shall be complete by December 31, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CAPE ELIZABETH ASSEMBLED THIS 8TH DAY OF NOVEMBER, 2021 THAT:

1. The Town Council generally accepts the proposed spending plan, attached hereto as Appendix A; and
2. The Town Council acknowledges that the proposed spending plan is subject to

change based upon the evolution of the pandemic, emerging needs, regional and statewide collaborations; and

3. No expenditures other than those that have already been encumbered shall occur without the approval of the Town Council.

Attest: Debra M. Lane, Town Clerk

Appendix A

American Rescue Plan Act of 2021

Proposed Use of Funds/Project List

Infrastructure:

Kettle Cove Drainage Project, in collaboration with Portland Water District \$400,000

Surf Road Stormwater Management Project: \$475,000

COVID Impact/Response:

Allocation to IT infrastructure to upgrade CETV and Town Council Chambers to enable virtual/hybrid meetings \$13,600

Premium Pay:

Compensation Adjustment Fire/EMS first responders \$94,000

Attachments:

- **ARPA Resolve and Spending Plan** (American_Rescue_Plan_Resolve_and_Project_List_11_2021.pdf)

19. Reminder:

The 2022 town council will meet to caucus on Monday, November 15 at 7:00 p.m. at Town Hall-Jordan Conference Room.

The results of the caucus will be voted on at the December 13 organizational/regular council meeting.

20. 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 majority vote of the councilors present. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

21. 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.