



Regular Town Council Meeting

Monday, March 8, 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 The section is repealed 30 days after the termination of the state of emergency.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

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. Finance Committee Report

Jeremy A. Gabrielson, Chairman

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 February 8, 2021

9. Item #42-2021 Tabled from February 8, 2021 Short Term Rental Amendments

Draft Motion

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

On January 11, 2021 the town council referred to public hearing on February 8, 2021 a planning board recommendation to amend the short term rental amendments in Chapter 19 Zoning Ordinance. The public hearing was held and the town council voted to table the vote until March 8. Generally ordinances are effective 30 days from the date they are approved however the council will consider adopting STR revisions effective July 1, 2021.

Draft Whereas statements have been provided in advance of the vote.

10. Item #43-2021 Tabled from February 8, 2021 Comprehensive Plan Amendment - Recommendation #86

Draft Motion

ORDERED, the Cape Elizabeth Town Council takes Item #43-2021 off the table from February 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.

On January 11, 201 the town council referred to public hearing on February 8, 2021 a recommendation from the planning board to revise Recommendation #86 of the 2019 Comprehensive Plan. The public hearing was held and the town council voted to table the vote until March 8.

Replace Recommendation #86:

Streamline administrative tracking of short-term rental activity by requiring a permit, without expanding regulatory requirements, for operating a homestay or short-term rental of two weeks per year or less.

Adopt new Recommendation #86:

Restrict Short Term Rentals (STR) to protect the peaceful quiet enjoyment of neighborhoods and preserve housing stock. Limited STR activity associated with primary residency, or in lower density portions of town, may be allowed within a permit structure that allows tracking of activity and funding for enforcement.

11. Item #52-2021 Tabled from February 8, 2021 2021 Town Council Goals

Draft Motion

ORDERED, the Cape Elizabeth Town Council takes Item #52-2021 off the table from February 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.

On February 8, 2021 the town council voted to table the 2021 goals to a vote on March 8. Workshop sessions to discuss the goals were held on December 16, 2020, January 12, February 1 and February 22, 2021.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the 2021 town council goals.

12. Public Hearing Traffic Ordinance Parking Amendments - Kettle Cove at Crescent Beach and Sea View Avenue/Glen Avenue

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 pertinent.

Item #53-2021 Traffic Ordinance Parking Amendments - Kettle Cove at Crescent Beach and Sea View Avenue/Glen Avenue

On September 14, 2020 the town council referred to the ordinance committee review of Chapter 13 Traffic Regulations, Section 13-3-9 and 13-2-4 to consider amending the ordinance to allow non-commercial watercraft launching at the boat launch near the entrance to Kettle Cove at the end of Crescent Beach as an allowed use.

On November 9, 2020 the town council referred to the ordinance committee the recommendations of the conservation committee regarding usage intensity and parking issues related to Cliff House Beach.

On January 11, 2021 the town council referred the ordinance committee recommendations to workshop for council review. The council reviewed the recommendations at the February 1 workshop. On February 8 the council scheduled a public hearing for March 8.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council amends Chapter 13 Traffic Ordinance relating to parking amendments to Kettle Cove at Crescent Beach and Sea View Avenue/Glen Avenue.

13. Item #54-2021 Recommendation of Ad-Hoc Civil Rights Committee

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.

On July 20, 2020 the town council created an ad-hoc committee as follows:

Cape Elizabeth Civil Rights Committee Purpose and Charge

Name of the Committee

The Committee shall be called: **Civil Rights Committee.**

Committee Structure

The Cape Elizabeth Civil Rights Committee will consist of seven citizens appointed by the town council utilizing its appointments committee process. In addition, one town councilor shall serve as a non-voting ex-officio member of the committee and up to two student representatives from CEHS and/or CEMS shall serve as non-voting members to be appointed by the Appointments Committee. The committee shall elect its own chair and secretary. Any vacancy on the committee after the initial appointees have first met shall be filled by utilizing the appointments committee process. The town manager shall provide staff services to the committee.

Committee Purpose

The committee shall be an ad hoc committee which shall identify and review policies in town government, services and municipal departments that contribute to systemic and structural racism, making recommendations for policies to promote greater equity and inclusion.

Committee Charge

The Civil Rights Committee is specifically charged with the following:

1. To prepare within three (3) months from the first meeting of the Civil Rights Committee a draft standing committee charge for town council consideration.

1. Assess immediate actions and advise the town council on issues of racism and inequality in Cape Elizabeth.

Duration of Committee

The committee shall continue in existence until December 31, 2021 unless its term is extended by the town council.

Funding and Staff Resources Needed

The Town Manager will advise the Council on financial needs and request funds as the committee performs its task, not to exceed \$10,000.

The Ad-hoc Civil Rights 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:

1. 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.
2. 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.
3. 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.

14. Item #55-2021 Conservation Committee Recommendation Relating to Water Body Naming

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.

On October 16, 2019 the town council referred to the conservation committee review and recommendation #72 of the Comprehensive Plan:

Recommendation #72 Assign names to significant unnamed bodies of water and streams

After a review process, the conservation committee voted 6-0 on February 9, 2021 to recommend names for water bodies as depicted in the attached memo.

The town council will acknowledge receipt of the recommendations and discuss next steps which may include referral to workshop or a future town council meeting.

15. Item #56-2021 Consideration of Endorsement of the Extended Producer Responsibility Resolution

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.

On February 8, 2021 Chrissy Adamowicz from the Natural Resources Council of Maine presented an overview of the Extended Producer Responsibility (EPR) initiative. Recycling Reform is a campaign to implement the EPR law in Maine. Municipalities are asked to adopt a resolution in support of the effort.

The town council discussed the resolution at a workshop on February 22. It was a consensus to add the item to the March 8 agenda for consideration.

Recycling Reform for Maine - More Effective - More Sustainable - More Equitable

Whereas, Maine's communities are struggling to maintain, expand, and in some cases are eliminating recycling programs due to rising costs and difficult-to-manage materials; and

Whereas, product packaging, which includes plastic, metal, glass and cardboard, constitutes approximately 30 - 40% of the materials managed by weight in Maine's municipal waste management programs; and

Whereas, Maine taxpayers currently unfairly bear 100% of the cost and pay an estimated \$16 million to \$17 million each year to finance the management of this material through fragmented and increasingly expensive disposal or recycling options; and

Whereas, producers of product packaging have little incentive to minimize wasteful packaging or increase access to recycling; and there is no organized coordination between the producers of packaging and municipalities that are responsible for disposing of or recycling the packaging materials; and

Whereas, producers of product packaging have taken some or all responsibility for the management of post-consumer packaging in other parts of the world, including all European Union member states and five provinces in Canada, and, as a result, have greatly increased recycling rates, expanded infrastructure investment, created jobs, and reduced taxpayer costs;

Now, Therefore Be It Resolved,

We, Maine's municipalities, support an Extended Producer Responsibility (EPR) for Packaging

law as endorsed by the Legislature in 2019 through the passage of the Resolve, To Support

Municipal Recycling Programs (LD 1431). We believe that this policy will work to make recycling

in Maine:

More effective: Producers of packaging materials would have a direct economic incentive to produce less-wasteful packaging that can easily and profitably be managed by

municipal recycling programs. Having shared responsibility between those who create the waste and those who manage the waste would foster recycling system improvements and enable greater participation in recycling across Maine;

More sustainable: An EPR law for packaging is an insurance policy for Maine municipalities

when global recycling markets are unfavorable. The current approach to recycling is not resilient to fluctuations in the global recycling market. When commodity prices fall unexpectedly, towns and cities may be forced stop or restrict their programs; and

More equitable: Maine's cities, towns, and taxpayers are currently footing the bill for a problem they didn't create. With recycling reform, taxpayers will no longer pay for the cost of recycling since the net costs of recycling would be reimbursed—and the packaging manufacturers that produce less-wasteful, more recyclable packaging would pay less than those who do not. This is a much more equitable way to distribute costs.

16. Item #57-2021 Receipt of Audit Results FY 2020

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 council and school board met in workshop session on February 10, 2021 to review the results of FY 2020 audit results prepared by Runyon Kersteen Ouellette. The boards also had the opportunity to ask questions.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the results of the FY 2020 Annual Financial Statements ending June 30, 2020 and accompanying reports prepared by Runyon Kersteen Ouellette.

17. Item #58-2021 Refer the FY 2022 Municipal Budget to the Finance Committee

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.

On February 8, 2021 the town manager presented a preliminary overview of the FY 2022 budget. The budget was delivered to the town council on March 5.

Finance Committee Review Schedule

Monday, March 15 6:00 p.m. (Accounts 100.200,400,500,710)

Thursday, March 18 6:00 p.m. (Accounts 300,600-635,640-670 and Special Funds)

Monday, April 26 6:00 p.m. (School Budget Presentation from School Board)

Tuesday, April 27 6:00 p.m. (Wrap-Up, if needed)

Monday, May 3 7:00 p.m. (Special Town Council Meeting - Budget Public Hearing)

Monday, May 10 7:00 p.m. (Regular Town Council Meeting - Vote on the FY 22 Budget)

Draft Motion:

ORDERED, the Cape Elizabeth Town Council refers the proposed manager's municipal budget for

FY 2022 (July 1, 2021 – June 30, 2022) to the finance committee for review.

18. Item #59-2021 Consent Agreement - Two Penguin Properties LLC

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.

Subsequent to the vote on Item #42-2021 relating to Short Term Rental Amendments, it may be in order to consider authorizing the signing of the draft consent agreement between the Town of Cape Elizabeth and Two Penguin Properties, LLC.

19. Item #60-2021 Spirit of America Award

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 Spirit of America Award was created by the Spirit of America Foundation to encourage

volunteerism in communities. The recognition program provides an award for volunteers. An individual, group or organization may be recognized.

On August 12, 2019 the town council nominated the 2019 Spirit of America Award to the Pond Cove Parents Association Playground Committee.

Bruce Flaherty, President of Maine Spirit of America is requesting a nomination for the award.

Town Manager Matthew Sturgis is recommending the nomination of the Community Ice Rink Organizers; Sam and Maureen Sezak, Chris and Melissa Hooper, and Jay and Kate Brandeis for the 2021 Spirit of America Award.

Mr. Sturgis writes, "In late November of 2020 I was contacted by Jay Brandeis, Chris Hooper, and Sam Sezak on an idea to provide an additional outdoor recreation opportunity for all ages in Cape Elizabeth. Their idea was to find a location in Town that would accommodate an outdoor skating rink.

As many of the local indoor skating areas were either severely restricted or unavailable due to COVID concerns or regulations there was a need for all interested ages to have a resource for outdoor recreation through skating.

This group of dedicated volunteers organized additional volunteers, raised funds, and provided the labor to install a temporary skating rink behind Town Hall. This resource was enjoyed by all ages, observed COVID safe practices for outdoor recreation, and made a difference for many in what has been a challenging year.

For their creativity, dedication, volunteerism, and desire to make a difference, I recommend the nomination of the Community Ice Rink organizers for the Spirit of America Award 2021."

20. Item #61-2021 Executive Session - Update on Collective Bargaining and 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 D to receive an update from the town manager relating to collective bargaining negotiations with the Cape Elizabeth Police Benevolent Association and Teamster Local Union No. 340 for the Public Works Department and 1 MRS §405 6 A to begin the annual evaluation of the town manager.

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. 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.