



Regular Town Council Meeting

Monday, July 12, 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. Finance Committee Report

6. 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.

7. Town Manager's Monthly Report

8. Review of Draft Minutes of the meetings held on June 14, 2021 and Special Meetings on June 7, 2021 and June 22, 2021.

9. Public Hearing - Establishment of a New Standing Committee - Diversity, Equity and Inclusion Committee

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

10. Item #100-2021 Recommendation from the Ordinance Committee Relating to a New Standing Committee - Diversity, Equity and Inclusion Committee

On April 12, 2021 the town council referred to the ordinance committee a recommendation from the Ad-Hoc Civil Rights Committee to establish a standing

committee.

The ordinance committee voted 3-0 on May 19, 2021 to recommend a 7-member standing committee; Diversity, Equity and Inclusion Committee.

On June 14 the town council scheduled a public hearing for July 12.

Draft Motion

ORDERED, the Cape Elizabeth Town Council following a public hearing on July 12, 2021 does hereby amend Chapter 4 Boards and Committees to establish a 7-member standing committee; Sec. 4-1-7 D. Diversity, Equity and Inclusion Committee:

SEC. 4-1-7. Establishment of Standing Boards and Committees.

D. Diversity, Equity and Inclusion Committee

1. Membership. The Diversity, Equity and Inclusion Committee shall consist of seven (7) members. In addition, the committee may invite two student representatives from Cape Elizabeth High School and/or Cape Elizabeth Middle School to be non-voting representatives.
2. Purpose. The purpose of the Diversity, Equity and Inclusion Committee shall be to serve as a bridge between town government and the community to celebrate and advocate for diversity, equity and inclusion.
3. Duties.

a. Advise and recommend to the Town Council policies and practices to promote diversity, equity and inclusion. This shall include but not be limited to review of policies and practices of town departments to promote anti-racism, equity and inclusion.

b. Educate the community by developing programs, events and initiatives to promote diversity, inclusion awareness and anti-racism and provide ongoing guidance on approaches for training town officials and employees in order to eliminate explicit and implicit bias.

c. Elevate community awareness and engagement by creating tools such as surveys in order to better understand community view and concerns about diversity, equity and inclusion and campaigns that promote Cape Elizabeth as a town that is a welcoming

and respectful place to live, work and visit.

11. Consent Calendar Item #101-2021 - Item #103-2021

The consent calendar provides for Item #101-2021 - Item #103-2021 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 #101-2021 - Item #103-2021. (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.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves Item #101-2021 - Item #103-2021 as presented.

12. Item #101-2021 The Good Table Liquor License Renewal

The Good Table is seeking renewal of the liquor license.

No concerns have been raised by police, fire and code enforcement.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor (beer), wine, and spirits license for Good Table, Inc. located at 527 Ocean House Road as presented.

13. Item #102-2021 Purchase of a Loader/Backhoe for the Public Works Department

Pursuant to the Purchasing Procedure VIII. Purchases Over \$100,000 A. Any purchase of service contract in excess of \$100,000 shall be approved by the Town Council.

Public Works Director Jay Reynolds has provided a review of the Loader/Backhoe bids which is budgeted in FY 2022 in the amount of \$160,000.

Following the review and bid process, Mr. Reynolds is recommending the award of bid to Milton Cat for a Caterpillar 420 backhoe/loader in the amount of \$108,900.00.

Draft Motion

ORDERED, the Cape Elizabeth Town Council awards the bid to Milton Cat for a Caterpillar 420 backhoe/loader in the amount of \$108,900.00. Said bid process and

award of bid is pursuant to the Town of Cape Elizabeth Purchasing Procedure policy amended June 14, 2021.

14. Item #103-2021 Purchase of a New Pumper for the Fire Department

Pursuant to the Purchasing Procedure VIII. Purchases Over \$100,000 A. Any purchase of service contract in excess of \$100,000 shall be approved by the Town Council.

Fire Chief Peter Gleeson has provided a memo requesting the purchase of a new pumper for the Fire Department.

The Houston-Galveston Area Council (HGAC) cooperative purchasing program was used in the bid process. Chief Gleeson is recommending the award of bid to Greenwood Emergency Vehicles for a new pumper in the amount of \$630,000.00.

Draft Motion

ORDERED, the Cape Elizabeth Town Council awards the bid to Greenwood Emergency Vehicles for a new pumper in the amount of \$630,000.00. Said bid process and award of bid is pursuant to the Town of Cape Elizabeth Purchasing Procedure policy amended June 14, 2021.

15. Item #104-2021 Recommended Amendments to the Thomas Memorial Library Policies

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 the recommended amendments to the various Thomas Memorial Library policies to workshop session on June 7. On June 14, the town council referred the amendments to an additional workshop on July 6 for further discussion.

The recommended changes include suggested amendments from the July 6 workshop.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation from the Thomas Memorial Library Committee to amend certain policies including General Use Policy, Food & Beverage Policy, Computer Use and Internet Policy and Safe Child & Vulnerable Adults Policy as presented, draft dated July 6, 2021.

16. Item #105-2021 Water Body Naming Project

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 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.

On March 8, 2021 the town council referred the conservation committee's recommendations to a workshop held on May 5. It was agreed at the workshop that a review by the Ad-Hoc Civil Rights Committee was desired.

The Ad-Hoc Civil Rights Committee has provided a memo relating to their review.

The town council will determine next steps.

17. Item #106-2021 Town Center Affordable Housing 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 June 14, 2021 the town council referred to workshop Town Center Affordable Housing Amendments. The workshop was held on June 22 and provided an opportunity for continued discussion, citizen comments and information from experts relating to affordable housing.

The town council will discuss next steps.

18. Item #107-2021 Planning Board Recommendation to Amend Chapter 19 Zoning Ordinance Relating to the Size of High Tunnel/Greenhouse Agricultural Buildings

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 considered a request from the William H. Jordan Farm to increase the size of high tunnel/greenhouse agricultural buildings, Sec. 19-9-2.

Due to the subject of the request, Councilors Caitlin Jordan and Penelope Jordan abstained from discussion and voting on this item due to a conflict of interest. Since both councilors serve on the ordinance committee, the town council voted to refer the request to the planning board.

The planning board discussed the item at the June 1, 2021 workshop and voted to schedule a public hearing on June 15. By a vote of 4-2 the planning board voted to refer to the town council an amendment to 19-9-2 c. to increase the building footprint from 2,000 to 3,000 sq. ft. in size.

Draft Motion

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, August 9, 2021 at 7:00 p.m. at the Cape Elizabeth Town Hall a recommendation from the planning board to amend Chapter 19 Zoning Ordinance relating to the size of high tunnel/greenhouse agricultural buildings.

19. Item #108-2021 Proposed Amendments to Chapter 19 Zoning Ordinance 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 development of wireless amendments.

The ordinance committee met on June 9 and June 23, 2021. The committee voted 3-0 to recommend the wireless amendments to the town council for consideration.

It is in order to refer the amendments to the planning board for review and report back to the town council.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to the planning board recommendations from the ordinance committee to amend Chapter 19 Zoning Ordinance relating to wireless amendments.

20. Item #109-2021 Request for Review of Food Trucks within the Town Center District

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 Boucher has requested discussion regarding allowing food trucks within the Town Center District.

The town council may consider scheduling a workshop or refer to the ordinance committee.

21. Item #110-2021 Tax Acquired Property Review (Map U01 Lot 77)

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.

Pursuant to the Town of Cape Elizabeth Real Estate Acquisition/Disposition Policy Section III. Real Estate Disposition 5. a Finance Director John Quartararo requested the Conservation Committee review the land on Cliff Avenue, Map U01 Lot 77 (Shaun M. Devine). The .12 acre lot was tax acquired on January 10, 2021 for the nonpayment of real estate taxes for Fiscal Year 2019.

The Conservation Committee discussed the lot at a meeting held on June 8, 2021 and voted 5-0:

That lot U1-77 is not valuable to the greenbelt trail system and that, if sold, any funds be added to the Land Acquisition Fund.

The town council will determine next steps.

22. Item #111-2021 Recommendation to Refer to Workshop Remote Participation Policy for Boards

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.

LD #32 An Act Regarding Remote Participation in Public Proceedings

The Legislature has made remote participation in public board meetings permissible **but only under limited circumstances.** Under the new law board members are

expected to be physically present for meetings but may attend via remote methods in the case of an emergency or urgent issue that requires the board itself to meet remotely, or an illness or temporary absence that causes a board member significant difficulties in traveling to a meeting.

If the town council wishes to provide remote opportunities they must first adopt a written policy in compliance with the new law. MMA has provided a sample policy.

It is recommended the item be referred to workshop. To begin the discussion, staff will provide a draft policy for consideration. Other considerations include the availability of technology and staff if board members participate remotely. Also, if remote means will be provided for the public.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to workshop consideration of a policy to allow board members remote participation for meetings, when allowed by law.

23. 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.

24. 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.