



Cape Elizabeth Town Council Agenda

Monday, May 11, 2020

7:00 p.m. Council Chambers

Zoom Online Meeting

Valerie A. Adams, Chairman
Valerie J. Deveraux
Jeremy A. Gabrielson
James M. "Jamie" Garvin
Caitlin R. Jordan
Penelope A. Jordan
Christopher M. Straw

Please click the link below to join the webinar:

<https://zoom.us/j/95486855819>

Or iPhone one-tap :

US: +13126266799,,95486855819# or +16468769923,,95486855819#

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Dial(for higher quality, dial a number based on your current location):

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Webinar ID: 954 8685 5819

International numbers available: <https://zoom.us/u/arif56SCE>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 not 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 The section is repealed 30 days after the termination of the state of emergency.

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 Valerie A. Adams

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 4/30/2020

[Appropriation Control](#)

[Expense Distribution](#)

[Revenue Control](#)

[Revenue Distribution](#)

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 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.

Town Manager's [Monthly Report](#)

Review of Draft Minutes of the virtual meeting held on [April 13, 2020](#) and special virtual meetings held on [April 1](#), [April 8](#) and [April 28, 2020](#).

Consent Agenda – Item #67-2020 - #70-2020

The town council will consider Item #67 - #70 en mass. The town council may take any item off the consent agenda for separate discussion and action.

Opportunity for Public Comment for Item #67 - #70

(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 relevant.

Item #67-2020 [Inn By The Sea](#)– Liquor Licenses and Special Amusement Permit

The Inn By The Sea is seeking approval for the renewal liquor licenses and special amusement permit. There have been no concerns or objections raised by code enforcement, police and fire departments.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor, wine and spirits license and special amusement permit for Inn By The Sea, LLC located at 40 Bowery Beach Road.

Item #68-2020 Refunding 2008 Bond Issue

Finance Director John Quartararo is recommending the town issue refunding bonds for the 2008 General Obligation Bond Issue. The bonds are dated May 15, 2008 for \$2,250,000, maturing on April 15, 2028. The current principal balance is \$1,000,000 and the schedule interest payments are \$181,688. Both the town and school are responsible for the debt service as both departments had Projects financed; savings will be realized proportionally. The current estimate is for a net savings of \$70,000 over the 8-year life of the bonds (2028).

Mr. Quartararo has been in consult with Financial Advisor Joe Cuetara, Moors & Cabot, and Bond Counsel James Saffian. Mr. Saffian has prepared the order.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the following:

TOWN OF CAPE ELIZABETH

**TOWN COUNCIL VOTE AUTHORIZING REFUNDING BONDS
IN AN AMOUNT NOT TO EXCEED \$1,000,000**

WHEREAS, the Town has previously issued its \$2,550,000 2008 General Obligation Bonds dated May 15, 2008 (the “Prior Bonds”); and

WHEREAS, the Town desires to refinance, through a current refunding, an amount of up to \$1,000,000 of its 2008 Bonds;

NOW, THEREFORE, it is:

VOTED: That there be and hereby is authorized, pursuant to the provisions of 30-A M.R.S. §5772, the issue and sale of the Town’s general obligation bonds in the principal amount not to exceed \$1,000,000 (the “Bonds”) to refinance the Prior Bonds in a current refunding.

VOTED: That in order to effect the borrowing heretofore authorized, the Treasurer be and hereby is authorized to prepare, issue and sell the Bonds in the aggregate principal amount not to exceed \$1,000,000, such Bonds to be signed by the Treasurer, countersigned by the Chairman of the Town Council and attested by the Town Clerk.

VOTED: That the form, maturity, interest rates and other details of said Bonds shall be as determined by the Treasurer and the Chairman of the Town Council by their execution thereof, but shall have their respective final maturity not later than the respective final maturities for the Prior Bonds and shall not be inconsistent with the provisions hereof. Such Bonds may be issued as callable bonds, at the discretion of the Treasurer and Chairman of the Town Council.

VOTED: That the Treasurer be and hereby is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including refunding escrow agreements, verification reports, Bond Purchase Agreements, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the refinancing of the Prior Bonds, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer such approval to be conclusively evidenced by his execution thereof.

VOTED: That the Treasurer be and hereby is authorized to engage Moors & Cabot, Inc. as financial advisor to the Town in connection with the issuance and sale of the Bonds.

VOTED: That the Treasurer be and hereby is authorized to select the underwriter for the Bonds heretofore authorized and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

VOTED: That the Treasurer be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds for sale be and hereby is approved.

VOTED: That the Treasurer be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds heretofore authorized and an escrow agent for the Prior Bonds and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

VOTED: That the Bonds heretofore authorized shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said Bonds of one maturity may be exchanged for an equal aggregate principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof (or such other minimum denomination as the Treasurer shall approve) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

VOTED: That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds heretofore authorized in book-entry form pursuant to

the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds, and the Treasurer be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

VOTED That the Treasurer and Chairman of the Town Council from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to bear the original signature of the Treasurer and Chairman of the Town Council.

VOTED: That the Treasurer be and hereby is authorized and directed to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be “arbitrage bonds” or “private activity bonds” within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

VOTED: That if the Bonds or any part of them, are issued on a tax-exempt basis, the officers executing the Bonds be and hereby are individually authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds to be subject to federal income taxation.

VOTED: That the officers executing the Bonds be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

VOTED: That any or all of the Bonds issued hereunder may be consolidated with and become a part of any other issue of or general obligation bonds authorized to be issued by any previous or subsequent order of the Town Council.

VOTED: That the Treasurer, Chairman of the Town Council and Clerk and other proper officials of the Town be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds hereinabove authorized.

VOTED: That if any of the officers of the Town who have signed or sealed the Bonds shall cease to be such officers before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer; and also any such bonds or notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers of the Town, although at the nominal date of such Bonds any such person shall not have been such officer.

VOTED: That if the Treasurer, Chairman of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, be and hereby are authorized to act for such official with the same force and effect as if such official had performed such act.

VOTED: That the investment earnings on the proceeds of the Bonds, if any, and the excess proceeds of the Bonds (including premium), if any, be and hereby are authorized to be used to fund the refunding escrow for the Prior Bonds, to pay redemption premium on the Prior Bonds, if any, to pay interest on the Prior Bonds or the Bonds and to pay issuance costs for the Bonds.

VOTED: The Bonds herein authorized shall be either sold at public sale upon sealed bid, or by negotiated sale in such manner as the Treasurer deems appropriate and in the best interest of the Town, and the Treasurer be and hereby is authorized to provide that any of the Bonds herein authorized be made callable, with or without premium, prior to their maturity.

VOTED: That the Treasurer, with the advice of the bond counsel for the Town and to the extent permitted under the Code, be and hereby is authorized to designate the Bonds as “qualified tax-exempt obligations” under Section 265(b)(3) of the Code.

Item #69-2020 Acceptance of Ed MacDonald Safety Enhancement [Grant](#) for the Police Department

The police department has received an award of \$1,816.91 from the Edward MacDonald Safety Enhancement Grant for the purchase of two ballistic vests with attachments.

Maine Municipal Association Workers Compensation Fund provides the grant that covers 2/3 of the purchase costs. The 1/3 cost that is the responsibility of the Town will be paid from the police operating budget. The grant period is May 1, 2020 to May 1, 2021; the purchase will be made immediately. The letter of award is noted in an email from the Maine Municipal Association to Chief Fenton dated April 22, 2020.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts and appropriates an award of \$1,816.91 from the Maine Municipal Association Workers Compensation Fund’s Ed MacDonald Safety Enhancement Grant towards the purchase of two ballistic vests with attachments. The grant period is May 1, 2020 to May 1, 2021.

Item #70-2020 Acceptance of [Bequest](#) to the Thomas Memorial Library from the Estate of Darthea B. Libby

On April 23, 2020 the Town received a letter from Carol B. Nelson, Trustee of the Estate of Darthea B. Libby and a check in the amount of \$73,292.42 relating to a bequest from the Estate of Darthea B. Libby for the Thomas Memorial Library for repairs to the library for current or future needs. Director Rachel Davis is requesting authorization for use of the funds for soundproofing in certain areas of the library and installation of security cameras working in consult with the police department.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts a bequest of \$73,282.43 from the Estate of Darthea B. Libby and directs that the funds be held in a segregated account in the Town's internal fiscal management system and that the funds be used for repairs and improvements to the Thomas Memorial Library including but not limited to soundproofing certain areas of the library and the installation of security cameras.

Item #71-2020 Short-Term Rental Ordinance [Amendments](#)

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 relevant.

Following a workshop on September 4, 2019, the town council referred a review of short-term rental (STR) regulations to the ordinance committee on October 16, 2019. The ordinance committee has held 8 meetings and at the meeting on April 16, 2020 voted to recommend short-term rental revisions to the zoning ordinance. [Comments](#)

On April 13, 2020 the town council voted (7-0) to adopt a moratorium banning any new short-term rental permits as of June 1, 2020 for 180 days. The moratorium provides an opportunity for further review relating to short-term rental provisions.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council sets to workshop on Monday, June 1, 2020 revisions to the zoning ordinance relating to short-term rentals as recommended by the ordinance committee.

Item #72-2020 Consideration of [Resolve](#) Supporting the Maine Equal Rights Amendment

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 relevant.

Representative Anne, Carney has requested town council consideration of a resolve supporting the Maine Equal Rights Amendment.

Maine's Legislature ratified the federal Equal Rights Amendment to the U.S. Constitution in 1974, however did not take the step to include in Maine's constitution. This session, Representative Reckitt introduced LD 433 which, if passed by 2/3 of the Legislature, will put an amendment of the Maine Constitution to include an equal rights amendment before the voters on November 3, 2020.

The amendment states:

Equality of rights under the law may not be denied or abridged by the State or any political subdivision of the State based on the sex of an individual. The legislature has the power to enforce this section by appropriate legislation.

Item #73-2020 Fiscal Year 2021 – Schedule Public Hearing

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 relevant.

The FY 2021 budget has been reviewed at four workshops; April 8, April 9, April 27 and April 28. At a special meeting on April 28, 2020 the town council voted to schedule the municipal budget vote on May 27, 2020 with the public hearing on May 18.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council sets the Fiscal Year 2021 budgets to public hearing on Monday, May 18, 2020 at the Cape Elizabeth Town Hall or via Zoom.

Item #74-2020 Energy Committee – Schedule Working Session

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 relevant.

The energy committee has been working on a request for proposals for a solar project at the recycling center. The committee has requested to meet with the town council to discuss the project and the committee's recommendations.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council schedules a workshop with the energy committee on Monday, June 1, 2020 to discuss the request for proposals for the solar project at the recycling center.

Item #75-2020 Annual Evaluation of the Town Manager – Executive Session

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 relevant.

The town council has met twice, February 10 and March 9, 2020 to discuss the town manager's evaluation.

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.

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 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.

Adjournment