



Cape Elizabeth Town Council Agenda

Wednesday, October 16, 2019

7:00 p.m. Council Chambers

Cape Elizabeth Town Hall

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

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 James M. "Jamie" Garvin

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 9/30/2019

[Appropriation Control](#)

[Expense Distribution](#)

[Revenue Control](#)

[Revenue Distribution](#)

Citizen Opportunity for Discussion of Items Not on the Agenda

Town Manager's Monthly Report

Review of Draft [Minutes](#) of the meeting held on September 9, 2019.

Consent Calendar

The town council may consider **Item #136 - #142** en bloc. Any member of the town council may ask for any item to be considered separately.

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

Item #136-2019 Consideration of Accepting Drainage [Easements](#) on Oakhurst and Wood Roads

Public Works Director Robert Malley has provided copies of three drainage easements signed by Oakhurst and Wood Road property owners in conjunction with the relocation of an existing storm drain.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts the following drainage easements as agreed to by the property owners and the Town of Cape Elizabeth with thanks to the property owners for their cooperation.

34 Oakhurst Road (Map U04 Lot 071) Colin & Amanda Lamb (Grantors)

30 Oakhurst Road (Map U04 Lot 070) Thomas E. Ruff, Trustee of the Thomas E. Ruff

Revocable Trust (Grantor)

64 Wood Road (Map U04 Lot 069) Jean Haron, Sandy Simpson and Susan DeCesare (Grantors)

Item #137-2019 Consideration of Accepting Drainage and Property [Easements](#) for the Scott Dyer Road Phase II Project

Public Works Director Robert Malley has provided copies of four drainage easements and a property easement signed by Scott Dyer Road property owners in conjunction with the Scott Dyer Road Phase II Project that was substantially completed at the end of August 2019.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts the following easements as agreed to by the property owners and the Town of Cape Elizabeth with thanks to the property owners for their cooperation.

Spurwink Avenue (Map R05 Lot 014) Anthony A. & Kelly M. Dell'Aquila, Trustees under the Anthony A. Dell'Aquila Living Trust

111 Scott Dyer Road (Map U35 Lot 032) Kimberly Sunshine Properties, LLC

132 Scott Dyer Road (Map U45 Lot 006) Norman A. & Eleanor L. Whitaker, Trustees of the Whitaker Family Revocable Trust

126 Scott Dyer Road (Map U45 Lot 004) Woodlands Senior Living of Cape Elizabeth LLC

125 Scott Dyer Road (Map R05 Lot 005) Jacqueline L. Berg f/k/a Jacqueline B. McKeagney

Item #138-2019 Consideration of Accepting Drainage [Easements](#) for the Hemlock Hill Drainage Project

Public Works Director Robert Malley has provided copies of two drainage easements signed by Hemlock Hill Property owners in conjunction with the Hemlock Hill Road Drainage Project.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts the following drainage easements as agreed to by the property owners and the Town of Cape Elizabeth with thanks to the property owners for their cooperation.

9 Hemlock Hill Road (Map U33 Lot 074 001) Benjamin F. & Rian M. Branch
11 Hemlock Hill Road (Map U33 Lot 074 002) Maureen M. Clancy

Item #139-2019 General Assistance [Appendices](#)

It is recommended the town council set to public hearing the General Assistance Ordinance Appendices (A-F and H) as recommended by the Maine Municipal Association effective October 1, 2019 – September 30, 2020.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Wednesday, November 13, 2019 at 7:00 p.m. at the Cape Elizabeth Town Hall the General Assistance Ordinance Appendices (A-F and H) as recommended by the Maine Municipal Association effective October 1, 2019 – September 30, 2020.

Item #140-2019 Appointment to School Building Committee

Chairman Garvin received a request from Superintendent Wolfrom requesting two representatives from the town council to serve on the newly-formed ad hoc school Building Committee. The committee has been established for the purpose of reviewing the school needs assessment report, determining priorities, determining the scope of a possible bond, and making a recommendation to the school board.

It was a consensus at the September 24 workshop to recommend that Chairman Garvin and Councilor Adams be considered to represent the council on the Building Committee.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council appoints Chairman Garvin and Councilor Adams as town council representatives to serve on the newly-formed school Building Committee.

Item #141-2019 Implementation Steps – Comprehensive Plan

The Comprehensive Plan was adopted on July 8, 2019. A workshop was held on September 24 relating to implementation steps for the recommendations as outlined in the comprehensive plan.

It was a consensus of the town council to begin assigning task so that committees and staff can begin working on and scheduling recommendations into the work load understanding some tasks will take more time than others.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council refers the following for review and recommendations:

#30 & #82 Refer to the Ordinance Committee

#30

Evaluate reducing the minimum lot size for existing, vacant, nonconforming lots to allow construction on infill lots of between 5,000 sq. ft. and 10,000 sq. ft. in size that will be served by public sewer and water and will comply with the Mandatory Affordable Housing provisions for low-income housing.

#82

Review the regulation of existing, nonconforming lots (infill lots) and recommend ordinance revisions that allow nonconforming lots a reasonable opportunity to be built upon and/or buildings expanded to meet the needs of modern households while also protecting the character of neighborhoods.

#47 Refer to the Planning Board

Retain the current, stringent Resource Protection Regulations, Shoreland Zoning, Floodplain Management Ordinance, Great Pond Overlay District and cluster development requirements.

#48 Refer to the Planning Board

Review and update the Resource Protection Permit standards to emphasize avoidance and minimization of wetland alterations.

#51 Refer to the Ordinance Committee

Consider town action to require residents to minimize pesticide use and take advantage of programs such as the Cumberland County Soil and Water Conservation District (CCSWCS) Healthy Yardscaping Initiative.

#64 - The town council may consider adopting a "sentiment" to consider the Vulnerability Assessment report as part of water access improvements.

#72 Refer to the Conservation Committee

Assign names to significant unnamed bodies of water and streams.

#86 Refer to the Ordinance Committee

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.

Item #142-2019 Municipal Election Warrant

The municipal election for town council, school board and Portland Water District Trustee will be held on Tuesday, November 5, 2019. It is in order for the town council to approve the warrant.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the municipal election warrant for Tuesday, November 5, 2019 as presented.

TOWN OF CAPE ELIZABETH

**MUNICIPAL ELECTION
WARRANT**

TUESDAY, NOVEMBER 5, 2019

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.

Voting for two members of the Town Council to serve a three-year term until December 12, 2022.

Voting for two members of the School Board to serve a three-year term until December 12, 2022.

Voting for one member to serve a five-year term on the Portland Water District Board of Trustees.

Election to be held on Tuesday, November 5, 2019, at the Cape Elizabeth High School Gymnasium.

Polls open at 7:00 a.m. and Close at 8:00 p.m.

Absentee Ballot Processing:

Absentee ballots will be processed at 9:00 a.m. Saturday, November 2, 2019 at Town Hall. If requested, inspection time is 9:00 - 10:00 a.m.

Absentee ballots will be processed on Election Day, on the hour every hour beginning at 7:00 a.m. until close. The Cape Elizabeth Town Democratic Committee, the Cape Elizabeth Town Republican Committee, and the 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 at Town Hall, 320 Ocean House Road. Town Hall is open Mondays 7:30 a.m. - 5:00 p.m. and Tuesday - Friday, 7:30 a.m. - 4:00 p.m. The Registrar is also available on Election Day at the polls 7:00 a.m. - 8:00 p.m. Proof of residency and identity is required.

Municipal Officers of Cape Elizabeth, Maine

Dated at Cape Elizabeth this 16th day of October 2019.

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

Item #143-2019 **Portland Head Light Hardscaping Pedestrian [Improvements](#)**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

John Mitchell, Mitchell & Associates will be present to provide an overview of proposed pedestrian hardscape improvements at Fort Williams Park near the Portland Head Light.

The project was reviewed by and approved by the Fort Williams Park Committee on September 26, 2019.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to refer the proposed pedestrian improvements, as presented by Mitchell & Associates in the October 7, 2019 memo, to the planning board, and to approve the installation of the proposed pedestrian improvements, with funding for the project in an amount not to exceed \$90,000 to be provided by the Portland Head Light Fund. Said project was reviewed by and approved by the Fort Williams Park Committee by unanimous vote on September 26, 2019.

Item #144-2019 **[Proposed](#) Commercial Vehicle Fees at Fort Williams Park**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

During the commercial vehicle rate change discussions on February 11, 2019, it was recommended the town council provide advance notice of rate changes so that coach companies and others can plan accordingly.

The Fort Williams Park Committee is recommending commercial vehicle fees for Fort Williams Park for the next three years; 2020, 2021, and 2022.

The town council will consider the recommendation from the Fort Williams Park Committee.

Item #145-2019 **Consideration of Accepting the [Purchase](#) of a Parcel of Land in Conjunction with the Hemlock Hill Drainage Project**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

[Link](#) to Survey

The town manager is recommending the town purchase 1.62 acres identified in the town assessor's records as Map U33 Lot 54 B from Judith and Peter Bennett for the town's use for the management of storm water. The need for the purchase results from the Hemlock Hill storm water project.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to sign a quit claim deed on the town's behalf in purchasing a portion of Map U33 Lot 54 B from Judith and Peter Bennett for a purchase price of \$10,000 with additional legal fees related to the transaction not to exceed \$1,500 paid for by the town. The source of funding for the purchase price and legal fees is the capital improvement budget.

Item #146-2019 [21 Ivie Road](#) – Tax Acquired Parcel

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

The town manager is recommending the town council convey an orphan lot which was foreclosed upon for the non-payment of property taxes in July 1958. The lot is identified as “part of Lot 101” recorded in the Cumberland County Registry of Deeds Book 2418 Page 462 and identified in the town assessing records as Map U04 Lot 022.

As a result of a field inspection and review by town staff, the conclusion is there are no town infrastructure needs that require this parcel to be held nor is there a need to hold the parcel for open space or Greenbelt needs.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council conveys the town-owned property identified in the Cumberland County Registry of Deeds as “part of Lot 101” and identified in the town assessing records as Map U04 Lot 022 to Julie Halter via a municipal quit claim deed, and as compensation, all legal expenses related to the transaction to be paid for by Dr. Jeffrey and Julie Halter, 21 Ivie Road. In addition, the town manager is authorized to sign a quit claim deed on behalf of the town as drafted and deeded acceptable by the town attorney.

Item #147-2019 Consideration of Authorizing the Energy Committee to Entertain Requests for Proposals for a Solar Project on the Town’s Landfill

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

It was a consensus of the town council at the October 2 workshop with the energy committee to consider requests for proposals for a solar project at the town’s landfill as recommended by the energy committee.

The RFP would invite interested developers to submit a proposal to build a solar PV (photovoltaic) project on the town’s landfill adjacent to the recycling center. The developer would build and finance the project and the town would provide the landfill site and purchase power generated by the project. The goal is to provide energy for the town and school buildings, while taking advantage of federal and state programs and incentives for an alternative energy supply, thus lowering energy costs paid by the town.

Town staff will review questions relating to zoning, whether site plan review is needed and what the town and developer’s liability is when the project is built.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council authorizes the energy committee to draft a request for proposals for a solar PV (photovoltaic) project at the town’s landfill. Said project will require the developer to build the project and sell energy to the town with the town providing the landfill for the location of the project. The RFP will be issued by the town manager and staff. The energy committee will oversee the process to review the submitted proposals and make a recommendation to the town council.

Item #148-2019 Recommendation to Fill the Unexpired Term on the Energy Committee

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

On August 13, 2019 Jennifer Healy resigned from the energy committee. The position has been advertised and the appointments committee has held interviews.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council confirms the recommendation of the appointments committee to appoint John Voltz, 33 Philip Road to the energy committee. Said term shall commence immediately and expires 12/31/2020.

Item #149-2019 State of Maine Bicentennial Celebration Committee Charge

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

On September 9, 2019 the town council established an ad hoc Maine Bicentennial Celebration Committee.

Applications are available at www.capeelizabeth.com or by contacting the town clerk. The deadline to submit applications is Friday, October 18, 2019.

The town manager has prepared a committee charge for town council review.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the committee charge for the ad hoc Maine Bicentennial Celebration Committee.

Maine Bicentennial Celebration Committee

The Cape Elizabeth Town Council is forming the Maine Bicentennial Celebration Committee which is to be a temporary advisory ad hoc committee to serve until December 31, 2020.

Committee Purpose/ Guidance to the Committee

The purpose of the committee is to provide leadership in celebrating the bicentennial of the State of Maine. The charge is written broadly in order to provide independence to the committee in their review and in their deliberations.

The committee shall submit updated reports to the town council as needed, and/or as permissions or funding is sought.

Committee Membership

The Maine Bicentennial Celebration Committee will consist of five persons. The town council, following a recommendation from the appointments committee, will appoint two citizens. Three other members of the Committee will consist of one Town Council member, one School Board member, and one appointee of the Cape Elizabeth Historical Preservation Society. The committee may form subcommittees and recruit citizens to join the subcommittees who are not members of the full committee.

Any citizen wishing to serve on the full committee may apply on-line at www.capeelizabeth.com or may receive an application from the town clerk at 799-7665. The deadline to submit applications is Friday, October 18, 2019.

Committee Budget

There is no budget provided at the outset for the committee. If the committee identifies needed resources, the town manager shall forward any financial request to the town council.

Item #150-2019 Registration Appeals Board Nominations

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

State law provides for a Registration Appeals Board, M.R.S. Title 21-A §103, in the event a person is aggrieved by the decision of the registrar of voters, that person may appeal to the board.

The board consists of 3 members and 2 alternates. The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party that nominates the member. The municipal officers shall appoint the persons nominated by the municipal committees. The third member is nominated by the town clerk and appointed by the municipal officers.

When a municipal committee nominates a member, it shall also nominate an alternate board member who serves if the member nominated by the municipal committee is or becomes unable to serve.

Nominations

The Democratic Town Committee has nominated Kimberly J. Monaghan, 6 Russet Lane and alternate Karen M. Hessel, 45 Wildwood Drive.

The Republican Town Committee has nominated Timothy L. Thompson, 6 Pine Ridge Road, and alternate Nancy E. Thompson, 6 Pine Ridge Road.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council confirms nominations to the Registration Appeals Board as presented. The terms are effective immediately and expire October 16, 2022.

Kimberly J. Monaghan, 6 Russet Lane
Karen M. Hessel, 45 Wildwood Drive (Alternate)
Timothy L. Thompson, 6 Pine Ridge Road
Nancy E. Thompson, 6 Pine Ridge Road (Alternate)

Item #151-2019 Metro Regional Coalition Council Resolution

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

Cape Elizabeth is one of seven communities (Falmouth, Gorham, Portland, Scarborough, South Portland and Westbrook) in the Metro Regional Coalition through the Greater Portland Council of Governments.

The Metro Regional Coalition has been monitoring the affordable housing crisis in Greater Portland. Chris Hall, General Counsel & Director of Regional Initiatives of GPCOG provided an overview to the town council at the October 2 workshop. The overview included a report to the Coalition from Frank O'Hara relating to the housing crisis.

Members of the Metro Regional Coalition have been asked to consider adopting a resolution entitled Metro Regional Coalition Council Resolution Regarding the Housing Affordability Crisis in the Greater Portland Region.

Item #152-2019 Authorization for Banking Relationship

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.)

A public bid opening was held on September 25, 2019 for deposits ripening on October 1 and October 15, 2019 totaling \$5.2M.

After reviewing the bank proposals, the town manager and finance director have agreed to award the two certificates of deposit to Katahdin Trust Company at 1.86% for a 12-month term. The finance director is seeking approval to open an account with Katahdin Trust Company.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council hereby authorizes the Town of Cape Elizabeth to open and maintain a banking relationship at Katahdin Trust Company with authorized signers; Matthew Sturgis, Town Manager; Debra Lane, Town Clerk; and John Quartararo, Finance Director.

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

Adjournment