



## **Regular Town Council Meeting**

**Monday, February 8, 2021 at 7:00 pm**

Please click the link below to join the webinar:

<https://zoom.us/j/91832944655>

Or iPhone one-tap :

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

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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 The section is repealed 30 days after the termination of the state of emergency.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. Presentation**

Chrissy Adamowicz from the Natural Resources Council of Maine (NRCM) will present an overview of the Extended Producer Responsibility (EPR) initiative. Ms. Adamowicz also presented to the Recycling Committee on November 5, 2020.

15 minutes has been allotted for the presentation.

**7. 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.

**8. Town Manager's Monthly Report**

Matthew E. Sturgis, Town Manager

**9. Review of Draft Minutes of the Meeting Held on January 11, 2021**

**10. Item #32-2021 Tabled From January 11, 2021 - Authorization of Transfer Funds - Account Series 0640 - 0660**

Draft Motion

ORDERED, the Cape Elizabeth Town Council takes Item #32-2021 off the table from January 11, 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 Finance Director John Quartararo recommended revamping of the budgets for the accounts within the 600 series. Due to technical audio difficulties,

Mr. Quartararo was unable to answer questions so the item was tabled.

Mr. Quartararo has provided a follow up memo and suggested motions. At the last meeting the council requested further information relating to consolidating the accounts relating to Fort Williams Park.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves \$594,457 of the approved FY 2021 budget from the following divisions; Parks (0640), School Grounds (0641), Fort Williams Park (0645), and Trees (0660) be transferred to a new division Parks and Grounds (0330) under the control of the Public Works Department; \$24,400 of the approved FY 2021 budget in division 0640 be transferred to a new CIP project in department 0715 titled "Greenbelt Trail Improvements" under the control of the Town Planner with advice of the Conservation Committee; and the remaining \$113,643 in division 0645 Fort Williams Park be under the control of Community Services.

Alternate Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves \$338,596 of the approved FY 2021 budget from the following divisions; Parks (0640), School Grounds (0641), and Trees (0660) be transferred to a new division Parks and Grounds (0330) under the control of the Public Works Department; \$24,400 of the approved FY 2021 budget in division 0640 be transferred to a new CIP project in department 0715 titled "Greenbelt Trail Improvements" under the control of the Town Planner with advice of the Conservation Committee.

#### **11. Public Hearing - Short Term Rental Amendments**

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 #42-2021 Short Term Rental Amendments**

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. Following the public hearing it is anticipated the town council will vote 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.

On March 8, Whereas statements will be suggested in the draft motion. The draft has been provided in advance of the vote.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council tables Item #42-2021 Short Term Rental Amendments to the March 8, 2021 Town Council meeting. It is anticipated the town council will vote on the amendments on March 8.

## **12. Public Hearing - Comprehensive Plan Amendment - Recommendation #86**

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 #43-2021 Comprehensive Plan Amendment - Recommendation #86

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. Following the public hearing it is anticipated the town council will vote 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.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council tables Item #43-2021 Comprehensive Plan Amendment - Recommendation #86 to the March 8, 2021 Town Council meeting. It is anticipated the town council will vote on the amendments on March 8.

## **13. Public Hearing - Fence Amendments**

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 #44-2021 Planning Board Recommendation Relating to Fence Amendments

On January 11, 2021 the town council referred to public hearing on February 8, 2021 planning board recommendations to amend Chapter 19 Zoning Ordinance related to fence amendments.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council adopts amends to Chapter 19 Zoning Ordinance related to fence amendments Sec. 19-1-3. Definitions and Sec. 19-7-12. Fences and Corner Clearances.

#### **14. Public Hearing - Town Farm District Parking Amendment**

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 #45-2021 Planning Board Recommendation Relating to Town Farm District Parking Amendment

On January 11, 2021 the town council referred to public hearing on February 8, 2021 a recommendation from the planning board to amend Chapter 19 Zoning Ordinance relating to Town Farm District parking amendments.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council adopts amends to Chapter 19 Zoning Ordinance relating to Town Farm District parking amendments Sec. 19-6-10 Town Farm District (TF).

#### **15. Public Hearing - Boards and Committees Amendment Relating to the Supervision of the Bottle Shed Located at the Recycling Center**

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 #46-2021 Ordinance Committee Recommendation Relating to the Supervision of the Bottle Shed Located at the Recycling Center

On January 11, 2011 the town council referred to public hearing on February 8, 2021 an ordinance committee recommendation to amend Chapter 4 Boards and Committee to add to the duties of the Recycling Committee establishing policies for the operation of the Bottle Shed and disbursement of proceeds.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council amends Chapter 4 Boards and Committees Sec. 4-1-7 H to add:

d. Establish policies to manage the Bottle Shed Charitable Donation Program and determine charitable disbursements.

**16. Item #47-2021 Request for Street Name Change - Waltman Way to Tanglewood Place**

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.

Police Chief Paul Fenton, Addressing Coordinator pursuant to Chapter 22 Addressing Ordinance Section 22-3-1 is forwarding for consideration by the town council a request from Steve and Marsha Tonkovich to change Waltman Way to Tanglewood Place. Mr. & Mrs. Tonkovich state the developer never registered the address with the USPS and the address does not appear on geocoding. Rather than a time and paperwork intensive process to register, the home owners are asking for a new street name which will be registered with USPS if approved.

Waltman Way has no other homes on the road. The suggested name is not duplicative with the names of any other streets in Cape Elizabeth.

The proposal is in consult with the Tax Assessor Clinton Swett, Addressing Officer and Fire Chief Peter Gleeson.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the request of Steve & Marsha Tonkovich to change the street name of Waltman Way to Tanglewood Place pursuant to

Chapter 22 Addressing Ordinance and in accordance with Section 22-7-1 Notification and Inspection.

**17. Item #48-2021 Set to Public Hearing Traffic Ordinance Parking Amendments - Kettle Cove at Crescent Beach and Sea View Avenue/Glen Avenue**

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 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.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, March 8, 2021 at 7:00 p.m. via Zoom ordinance committee recommendations relating to Chapter 13 Traffic Ordinance parking amendments to Kettle Cove at Crescent Beach and Sea View Avenue/Glen Avenue.

**18. Item #49-2021 Acceptance of Village Green at Ocean House Commons**

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.

A memo has been provided by Stephen Harding, Town Engineer.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council accepts the Village Green at Ocean House Commons with the following conditions, and authorizes the town manager to sign the property deed on behalf of the Town as reviewed and approved by the town's attorney.

1. The developer's team shall undertake remedial steps to address the spacing gap between the bottom of the light poles and the top of the concrete light pole bases for the four lights along Ocean House Road.
2. The developer's team shall finalize the As-Built Plan of the Village Green improvements and install all Village Green property monumentation as shown on the approved plan.
3. The developer's team shall replace the four dead plantings by June 30, 2021 as have been previously identified.
4. The Town shall install additional plantings by June 30, 2021 in the location of electrical panel in accordance with the agreed upon plan developed by Sebago Technics.
5. The developer shall provide easement rights to the Town for the installation of a new connection to the existing Ocean House Commons domestic water line for the purposes of serving a future irrigation system to be installed by the Town for a portion of the Village Green property.
6. The developer's team shall repair by June 30, 2021 the storm drain pipe elevation entering the overflow catch basin from the Type F catch basin which receives flow from Focal Point #1.

**19. Item #50-2021 Consideration of Referring to the Planning Board Amendments to the Town Center District as Proposed with a New Multi-Family Development**

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 Szanton Company provided an overview to the town council at the February 1, 2021 workshop relating to a proposed multi-family development at Ocean House Commons located adjacent to the newly-constructed village green on Ocean House Road.

The development proposes 49 one-bedroom rental apartments; 10 at market rate and 39 affordable (up to 60% of area median income estimated at up to \$42,000 per year).

Current zoning would preclude the project from being built so the developer is requesting zoning amendment changes e.g. height, building footprint, and commercial space. In addition, the developer will be asking for a TIF to bridge the \$750,000 gap between sources and expenses.

It is in order to begin the process by referring the item 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 development of Town Center Affordable Housing Amendments. The amendments should preserve Town Center requirements to the extent feasible while also permitting an affordable housing project that provides a substantial public benefit. Recommended amendments should be returned to the town council by April 30, 2021. In addition, staff is directed to develop TIF District and Shared Parking proposals to be completed by May 1, 2021 for town council consideration.

**20. Item #51-2021 FY 2022 Budget - Preliminary Parameters**

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 manager has received recommended FY 2022 budget requests from department heads. The proposed municipal budget will be delivered to the town council by March 5, 2021. The town council will have an opportunity to provide preliminary budget parameters.

**21. Item #52-2021 2021 Town Council Goals**

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 met in workshop session on December 16, 2020, January 12 and February 1, 2021 to discuss 2021 goals.

Possible actions may be to vote on the goals or refer to workshop for further discussion.

**22. 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.

## **23. 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.