



Regular Town Council Meeting

Monday, August 9, 2021 at 7:00 pm

Cape Elizabeth Town Hall - Council Chambers

Councilors and members of the public attending the meeting are asked to wear a mask. Thank you.

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

Councilor Gabrielson, Finance Committee Chairman

Attachments:

- **Appropriation Control July 2021** (Appropriation_Control_July_2021.pdf)
- **Expense Distribution July 2021** (Expense_Distribution_July_2021.pdf)
- **Revenue Control July 2021** (Revenue_Control_July_2021.pdf)
- **Revenue Distribution July 2021** (Revenue_Distribution_July_2021.pdf)

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

Matthew E. Sturgis, Town Manager

8. Review of Draft Minutes of the meeting held on July 12, 2021

Attachments:

- **Town Council Minutes July 12, 2021** (Town_Council_Minutes_July_12__2021.pdf)

9. Public Hearing - Planning Board Recommendation to Amend Chapter 19 Zoning Ordinance Relating to the Size of High Tunnel/Greenhouse Agricultural Buildings

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.

Attachments:

- **Memo Planning Board Re: Amend Chapter 19 Relating to Size of High Tunnel/Greenhouse Agricultural Buildings 6-21-2021** (Memo_PB_Agricultural_Amendment_06_21_2021.pdf)
- **Memo William H. Jordan Farm 5-3-2021** (Memo_William_H._Jordan_Farm_05-03-2021.pdf)

10. Item #112-2021 Planning Board Recommendation to Amend Chapter 19 Zoning Ordinance Relating to the Size of High Tunnel/Greenhouse Agricultural Buildings

On May 10, 2021 the town council referred a request from the William H. Jordan Farm to the planning board to increase the size of high tunnel/greenhouse agricultural buildings, Sec. 19-9-2.

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.

On July 12, the town council voted to schedule a public hearing on August 9.

Due to the subject of the request, Councilors Caitlin Jordan and Penelope Jordan have abstained from discussion and voting on this item due to a conflict of interest.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves a recommendation from the planning board to amend Chapter 19 Zoning Ordinance relating to the size of high tunnel/greenhouse agricultural buildings to increase the size from 2,000 to 3,000 sq. ft. in size.

Article IX. SITE PLAN REVIEW

Sec. 19-9-2. APPLICABILITY

B. Activities Not Requiring Site Plan Review

3. Agricultural buildings as follows: (Effective June 10, 2010)

c. Any barn, greenhouse, or storage shed with a building footprint that does not exceed 3,000 sq. ft. in size.

11. Consent Calendar Item #113-2021 - Item #119-2021

The consent calendar provides for Item #113-2021 - Item #119-2021 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 #113-2021 - Item #119-2021. (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 #113-2021 - Item #119-2021 as presented.

12. Item #113-2021 The Well at Jordan's Farm Renewal Liquor License

Well, LLC, Jason Williams DBA The Well at Jordan's Farm located at 19 Wells Road is seeking renewal of the malt liquor (beer), wine and spirits licenses.

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

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor (beer), wine and spirits licenses for Well, LLC, Jason Williams DBA The Well at Jordan's Farm located at 19 Wells Road as presented.

Attachments:

- **Well LLC** (Well_LLC.pdf)

13. Item #114-2021 Acceptance of a Police Department Grant from the Coronavirus Emergency Supplemental Funding (CESF) Program

The Windham Police Department has received a grant in the amount of \$218,292 from

the Maine Department of Public Safety on behalf of 10 police departments and the Cumberland County Sheriff's Office. The funds are from the U.S. Department of Justice and reimburse COVID-related costs. The Cape Elizabeth Police Department participated in the joint grant and has been awarded the share of \$12,325.00.

Draft Motion

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award from the Maine Department of Public Safety in the amount of \$12,325.00 into account 0725-4464. The grant is being administered by the Windham Police Department. Said funds will reimburse the purchase of COVID-related supplies and related items as allowed by the terms of the grant. The purchasing period of the grant ends January 31, 2022.

Attachments:

- **Memo Finance Director Re: Maine Department of Public Safety COVID Grant 7-8-2021** (Memo_Finance_Director_Police_Dept_COVID_grant_Windham_PD_7-8-2021.pdf)

14. Item #115-2021 Carry Forward Balances from Fiscal Year 2021

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves and authorizes a total of \$470,002 be carried forward from the FY 2021 budget into the FY 2022 budget as follows: General Fund \$311,287; Riverside Cemetery Perpetual Care Fund \$115.00 and Fort Williams Park CIP Fund \$158,600 in the following accounts and amounts:

Administration

0110-2004 Printing and Advertising \$8,000.00
0110-2009 Conferences and Meetings \$3,000.00
0110-2016 Records Preservation \$12,000.00
0110-3001 Office Supplies \$1,000.00
0110-4021 Technology Equipment \$18,000.00

Total \$42,000.00

ACP

0120-2009 Conferences and Meetings \$733.00
0120-2011 GIS Improvements \$814.00
0120-2062 Miscellaneous Contractual \$14,000.00

Total \$15,547.00

Boards and Commissions

0150-2081 Special Committees \$5,000.00
0150-2090 Volunteer/Staff Appreciation \$1,400.00

Total \$6,400.00

Employee Benefits

0170-1033 Salary/Wages Adjustments \$7,000.00

0170-1035 Wellness Program \$3,400.00

0170-2010 HR Professional Services \$3,000.00

Total \$13,400.00

Police

0210-1003 Overtime \$56,000.00

0210-2008 Training \$53,800.00

0210-3004 Uniforms \$5,000.00

0210-3005 Minor Equipment \$10,000.00

Total \$124,800.00

Dispatch

0220-2010 Contracted PSAP \$7,200.00

Public Works

0310-2039 Pavement Markings \$33,460.00

0310-3038 Storm Drain Materials \$2,700.00

Total \$36,160.00

Parks & Grounds

0330-2019 Trees/Plants - FWP \$4,360.00

0330-2035 Building Repair - FWP \$23,210.00

0330-2036 Stonewall Repair - FWP \$21,210.00

Total \$48,780.00

Human Services

0410-2123 Preble Street Resource \$5,000.00

Contributions

0520-5053 Family Fun Day \$12,000.00

Total General Fund \$311,287.00

Riverside Cemetery Perpetual Care

Stonewall Repairs \$115.00

Total Riverside Cemetery Perpetual Care \$115.00

Fort Williams Park - CIP

0865-4005 Master Plan \$23,600.00

0865-4015 Retaining Wall \$50,000.00

0865-4033 Battery Blair Wall Stabilization \$85,000.00

Total Fort Williams Park CIP \$158,600.00

Grand Total Carry Forward Amounts \$470,002.00

Attachments:

- **Memo Finance Director Re: Carry Forward Balances FY 2021 to FY 2022 8-2-2021** (Memo_Finance_Director_FY_2021_Carry_Forward_8-2-2021.pdf)

15. Item #116-2021 FY 2021 CIP Projects Budget Adjustments

Finance Director John Quartararo is suggesting an offset of eight CIP projects that were overdrafts in FY 2021 from two sources; inter-project transfer and an inter-department transfer. In addition, it is suggested to budget \$50,000.00 in additional funds for the Public Safety Communications Tower in the event there are any contingencies that add to the cost. The funding would come from the appropriation of excess State Revenue Sharing funds during FY 2021.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the following order:

The transfer of FY 2021 funds from the following projects:

1. 2000-4009 Roadway and Drainage Improvements \$114,825.64
2. 2001-5290 Tool Carrier Replacement \$11,435.00

3. 2090-5316 2019 Comprehensive Plan \$3,117.45

Total project transfers out \$129,378.09

The transfer of FY 2021 funds into the following projects:

1. 2000-4005 Paving and Drainage Improvements \$3,380.69
2. 2000-4036 Hemlock Hill Drainage Improvements \$4,499.39
3. 2000-5339 Scott Dyer Rd Improvements – Phase 3 \$106,945.56
4. 2000-5421 Public Safety Communications Tower \$11,435.00
5. 2090-4114 Greenbelt Trail Improvements \$3,117.45

Total project transfers in \$129,378.09

The transfer from the FY 2021 Public Works Department (0310) of \$9,372.90 to the

following

FY 2021 projects:

1. 2001-4136 Grounds Equipment \$7,720.64
2. 2003-5107 Shore Rd Preliminary Engineering & Design \$1,652.26

Total project transfers in \$9,372.90

Authorizes the supplemental appropriation of \$88,693.32 of FY 2021 State Revenue Sharing funds to the following FY 2021 projects:

1. 2000-5421 Public Safety Communications Tower \$50,000.00
2. 2002-5437 MS Field ADA Improvements \$18,495.31
3. 2002-5440 Village Green \$20,198.01

Total project transfers in \$88,693.32

Attachments:

- **Memo Finance Director Re: FY 2021 CIP Projects Budget Adjustments 8-2-2021** (Memo_Finance_Director_FY_2021_CIP_projects_budget_adjustments_8-2-2021.pdf)

16. Item #117-2021 Fort Williams Park CIP Fund

Finance Director John Quartararo is recommending a return of an inter-fund transfer of \$200,000 by the General Fund back to the Fort Williams Park Fund in FY 2021. The transfer will be sufficient to fund the requested carry forward projects totaling \$158,600.00. The original transfer to the General Fund was due to loss of revenues due to COVID-19 to balance the FY 2021 General Fund budget.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves and authorizes the return of an inter-fund transfer of \$200,000.00 received by the General Fund from the Fort Williams Park Fund for FY 2021.

Attachments:

- **Memo Finance Director Re: Fort Williams Park CIP Fund 8-2-2021** (Memo_Finance_Director_Fort_Williams_Park_8-2-2021.pdf)

17. Item #118-2021 Unpaid Sewer Charges

Finance Director John Quartararo recommends the town council set the interest rate for unpaid sewer charges and direct the Treasurer to take the necessary steps to collect outstanding sewer charges.

Draft Motion

ORDERED, the Cape Elizabeth Town Council pursuant to 30-A M.R.S. Section 3406 sets the interest rate for unpaid sewer charges at 6.00% and directs the Town Treasurer to

take the steps necessary to collect the outstanding sewer charges for property at 176 Ocean House Road, Cape Elizabeth, ME.

Attachments:

- **Memo Finance Director Re: Sewer Charges Due 7-30-2021** (Memo_Finance_Director_Sewer_Charges_Due_7-30-2021.pdf)

18. Item #119-2021 Abatement of FY 2020 Personal Property Tax

Finance Director John Quartararo is recommending an abatement of an uncollectible personal property tax for FY 2020, account O0010P C.A.G. Pizza, Inc. dba Ocean House Pizza, 337 Ocean House Road.

Draft Motion

ORDERED, the Cape Elizabeth Town Council pursuant to 36 M.R.S. Section 841 Subsection 3 abates the FY 2020 personal property taxes due for account O0010P, C.A.G. Pizza, Inc. dba Ocean House Pizza, 337 Ocean House Road, Cape Elizabeth, ME in the amount of \$293.23 due to absence and/or insolvency.

Attachments:

- **Memo Finance Director Re: Abatement of FY 2020 Personal Property Tax 8-3-2021** (Memo_Finance_Director_Abate_of_FY_2020_Personal_Property_Tax_8-3-2021.pdf)

19. Item #120-2021 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

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.

At the July 12, 2021 town council meeting the Ad-Hoc Civil Rights Committee provided a memo relating to their June 30 review in which they found 5 proposed names to be potentially problematic; S12 Ziggy Stream, S27 Hicks Beck, S29 Rebels Run, S53 Nigawes and P10 Saunkskwak. It was a consensus of the council to request staff provide potential names for the five bodies of water and bring the recommendations back to the council for action.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the naming of significant unnamed bodies of water and streams as recommended. The complete list appears in a memo from the Town Planner dated July 14, 2021.

Attachments:

- **Memo Town Planner Re: Water Body Names 7-14-2021** (Memo_Town_Planner_Water_Body_Names_7-14-2021.pdf)

20. Item #121-2021 Town Center Affordable Housing Amendments - Latest Draft Set for Public Hearing

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 July 12, 2021 the town council set to public hearing on September 13 Town Center Affordable Housing amendments with an anticipated vote no earlier than the October council meeting. In addition the council discussed holding a workshop prior to the public hearing and possibly after.

A workshop was held on August 2. The draft amendments have been updated to reflect the workshop discussion. It is recommended the council clarify the 8/3/2021 draft amendments is the version for public hearing on September 13.

Draft Motion

ORDERED, the Cape Elizabeth Town Council clarifies the Town Center Affordable Housing Amendments dated August 3, 2021 is the version set for public hearing on Monday, September 13, 2021 at 7:00 p.m. at the Cape Elizabeth Town Hall. In the event the location of the meeting changes, the change will be announced on the town's website in advance of the meeting. A change could occur to allow for better social distancing.

Attachments:

- **Memo Town Planner Re: TC Affordable Housing Amendments Latest Draft 8-3-2021** (TC_AF_Hsg_staff_memo_8-3-2021_.pdf)
- **TC Affordable Housing Amendments Draft 8-3-2021** (TC_Aff_Hsg_Amdts_8-3-2021.pdf)

21. Item #122-2021 Set to Public Hearing - Amendment to the Tax Increment Financing 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.

Tax Increment Financing (TIF) has been requested for the Dunham Court project.

It is proposed to schedule a public hearing for Monday, September 13, 2021 at 7:00 p.m. on consideration of approval of amending the current Town Center tax increment financing district (TIF), removing Map R-2 Lot 4-6-3 and Lot 4-6-4 from the town center TIF, and establish a new Town Center Affordable Housing Tax Increment Financing District on Map R-2 Lot 4-6-3 and Lot 4-6-4.

Draft Motion

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, September 13, 2021 at 7:00 p.m. at the Cape Elizabeth Town Hall consideration of approval of amending the current Town Center tax increment financing district (TIF), removing Map R-2 Lot 4-6-3 and Lot 4-6-4 from the town center TIF, and establish a new Town Center Affordable Housing Tax Increment Financing District on Map R-2 Lot 4-6-3 and Lot 4-6-4. In the event the location of the meeting changes, the change will be announced on the town's website in advance of the meeting. A change could occur to allow for better social distancing.

22. Item #123-2021 Recommendation Regarding 5G Amendments and a Wima (Wireless Infrastructure Market Augmentation) Proposal from the Ordinance Committee.

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 a request to propose amendments to add wireless infrastructure as a use to the zoning ordinance.

At the July 14, 2021 ordinance committee meeting, the committee voted 3-0 to submit

5G wireless amendments to the town council. 1) It would be in order to refer the amendments to the planning board for review. 2) In addition the committee voted 3-0 to recommend the town council seek consultant expertise for a Wireless Infrastructure Market Augmentation (Wima) study. The council may consider the next step to refer to a workshop.

Attachments:

- **Memo Ordinance Committee Re: 5G Wireless Amendments/Wima RFP 7-20-2021** (Ord_to_TC_Wireless_7-20-2021_.pdf)
- **5G Amendments 7-7-2021** (5G_Amdts_7-7-2021.pdf)
- **Wima RFP Draft** (Wima_RFP_Draft.pdf)

23. Item #124-2021 Consider Requesting Input from Various Town Committees Regarding Town Council Goals

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.

During the April 27, 2021 finance committee meeting, the committee discussed council goals and the ongoing initiative to incorporate committee recommendations in council direction and decision making. Climate action goals and developing a "Don't Trash Cape" campaign were among suggested topics to obtain input from committees.

The town council will consider referring these topics to town committees for review and report back.

Attachments:

- **2021 Town Council Goals** (Town_Council_Goals_2021_Approved_03_08_2021.pdf)

24. Item #125-2021 Maine Municipal Association Annual Ballot

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.

The Maine Municipal Association's annual ballot has been distributed to members. It is recommended the town council authorize the town manager to vote on behalf of the town council the slate of officers as presented by the MMA Nominating Committee.

Draft Motion

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to vote on behalf of the town council the slate of officers for the 2022 Executive Committee as

presented by the Maine Municipal Association's Nominating Committee:

Vice-President – 1 Year Term (Vote for One)

Elaine Aloes, Chair of Selectboard, Town of Solon

Executive Committee Members – 3 Year Term (Vote for Three)

David Cyr, Town Manager, Town of Frenchville

Melissa Doane, Town Manager, Town of Bradley

Justin Poirier, Town Manager, Town Administrator, Town of Chebeague Island

Attachments:

- **MMA Proposed Slate of Nominees for 2022 Executive Committee** (MMA_Proposed_Slate_of_Nominees_2022.pdf)
- **MMA Voting Ballot** (MMA_Voting_Ballot.pdf)

25. 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.

26. 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.