Agenda

Read the full agenda

Agenda

Regular Town Council Meeting

Monday, April 8, 2024 at 7:00 pm

Town Hall Council Chambers

Live on CETV/Hybrid Meeting

Hybrid Meeting - Members of the Public May Participate Remotely During Public Comment Opportunities

To view the meeting livestream: https://cetv.capeelizabeth.org/ and push watch in the upper right hand corner

Live broadcast on CETV, livestream and remote participation are offered as a convenience when the technology is available and operational in the given meeting space. If the technology is not available or in the event there is a disruption in service and the communication can't be restored the expectation is the meeting will continue.

Join Zoom Meeting
ID: 98800618809

(US) +1 564-217-2000

Join Zoom Meeting

1. **Convening of the Meeting**
   Town Council Chair Timothy S. Reiniger

2. **Roll Call by the Town Clerk**
   Timothy S. Reiniger, Chair
   Stephanie P. Anderson
   Jeremy A. Gabrielson
   Susan A. Gillis
   Caitlin Jordan Harriman
   Penelope A. Jordan
   Timothy L. Thompson

3. **The Pledge of Allegiance to the Flag**
4. **Town Council Reports and Correspondence**
5. **Finance Committee Report**
   Finance Chair Timothy L. Thompson

   Attachments:

   - Finance Report March 2024
   - Financial Dashboard March 2024
   - Town Revenue Report 03 31 2024
   - Town Expenditure Report 03 31 2024

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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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7. **Town Manager's Monthly Report**
   Matthew E. Sturgis

8. **Review of Draft Minutes**
   March 11, 2024 - Regular Meeting
   April 1, 2024 - Special Meeting

   Attachments:

   - Town Council Minutes March 11, 2024
   - Special Town Council Minutes April 1, 2024

9. **Consent Calendar Item #64-2024 - Item #70-2024**

The consent calendar provides for Item #64-2024 - Item #70-2024 to be considered en bloc. Any town councilor may ask for any item to be considered separately. At the discretion of the chair, 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. Consent Agenda Item #64-2024 - Item #70-2024

Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present.

When recognized by the chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #64-2024 - Item #70-2024 as presented.

10. **Item #64-2024 Consider Renewal Liquor License and Special Amusement Permit for Tostones Cafe**

Adaime & Rea LLC DBA Tostones Cafe is seeking a renewal liquor license (malt liquor(beer), wine and spirits) and a special amusement permit.

No concerns have been reported by police, fire and codes.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the renewal liquor license (malt liquor(beer), wine and spirits) and special amusement permit for Adaime & Rea LLC DBA Tostones Cafe located at 337 Ocean House Road.

Attachments:

- Tostones Cafe

11. **Item #65-2024 Consider Authorizing the Signing of an MOU with the Town of Scarborough - MNRCP Sawyer Road Grant**

The Town of Cape Elizabeth has been awarded a $1.59M grant from the Maine Natural Resources Conservation Program (MNRCP) to remove a portion of Sawyer Road in the Spurwink Marsh in partnership with the Town of Scarborough.

Joint Workshops were held with the Town of Scarborough on March 16, 2022 and February 7, 2024. On December 11, 2023, Item #22-2024, the Cape Elizabeth Town Council authorized the cash match and acceptance of the grant.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the Memorandum of Understanding with the Town of Scarborough for the MNRCP Sawyer Road project.

Attachments:

- Memo Town Planner MOU 03 26 2024
- Draft MOU Cape Elizabeth and Scarborough 03 13 2024

12. **Item #66-2024 Consider Authorizing a Grant from the Maine Department of Agriculture, Conservation and Forestry for Tree Maintenance**

Public Works Director Jay Reynolds and Tree Warden Jeff Tarling are recommending the Town seek a grant from the Maine's 2024 Project Canopy Grant program. The grant would be used to supplement the Town's street tree maintenance program.

Draft Motion

ORDERED, the Cape Elizabeth Town Council authorizes Town staff to secure a grant application through Maine's 2024 Project Canopy Grant Program for tree maintenance for an estimated $10,000 grant application.

Attachments:

- Memo PWD Director Project Canopy Grant Program 03 21 2024
- Memo Tree Warden Project Canopy Grant Program 03 14 2024
- 2024 Project Canopy Grant Program Guidelines

13. **Item #67-2024 Consider a Renewal License with the Canterbury at the Cape Condominium Association**

On December 12, 2016, the Town Council accepted a license agreement with the Canterbury at the Cape Condominium Association allowing public access to trails on their open space, for which the town accepted maintenance responsibilities. The Canterbury Association is now offering a renewed 10-year license.

The Conservation Committee voted (6-0) on March 12, 2024 to recommend to the Town Council acceptance of the license.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Conservation Committee to accept with sincere appreciation the Trail License Agreement with Canterbury at the Cape Condominium Association for a period of ten (10) years, or until such sooner time as the License is revoked by the Licensor, in its sole discretion, or surrendered by Licensee.

Attachments:

- Memo Conservation Committee Canterbury Trail License 03 27 2204
- Draft Canterbury Trail License Agreement 2024

14. **Item #68-2024 Consider Referring a Draft Vision/Directional Statement for Housing to Workshop**

Following discussion at the March 13, 2024 council workshop, Councilor Jordan has prepared a draft policy statement for the directional vision for housing. The recommendation is to refer the item to workshop.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to workshop a draft vision/directional statement to guide implementation of housing in Cape Elizabeth.

Attachments:

- Draft Vision/Directional Statement for Housing (Jordan)

15. **Item #69-2024 Consider Recommendations from the Appointments Committee Regarding Vacancies on the Board of Assessment Review and Diversity, Equity and Inclusion Committee**

The Appointments Committee met on February 28 and March 25, 2024 to conduct interviews for vacancies on the Board of Assessment Review and Diversity, Equity and Inclusion Committee.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Appointments Committee to appoint the following citizens to serve on various boards. Said terms are effective immediately.

Board of Assessment Review

A term until 12/31/2026

Jim Walsh, 53 Wildwood Drive (unexpired term of Douglas McFadd)

Diversity, Equity and Inclusion Committee

A term until 12/31/2026

Nancy DellaMattera, 8 Blueberry Road (unexpired term of Valerie Franks)

Attachments:

- Applications

16. **Item #70-2024 Appointment of Election Wardens and Clerks**

Town Clerk Angela Frawley has provided an outline of the state law regarding the appointment of election wardens and clerks.

Nominations for election clerks may be submitted by the municipal, county or state committees of the parties, by the municipal clerk or by any registered voter in the municipality or county. The list serves as a resource for when the municipal clerk schedules election officials for an election. If needed, the clerk may select officials not listed.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Town Clerk to appoint the following who may be considered to serve the Town of Cape Elizabeth as election wardens, and who may also serve as deputy wardens. Said appointments are effective immediately and until successors are sworn.
Christian Cutter
Carol Anne Jordan
Debra Lane
Thomas Perkins
James Walsh
Jessica Proctor
Melissa Newsome

IT IS FURTHER ORDERED: The Cape Elizabeth Town Council approves the following who may be considered to serve the Town of Cape Elizabeth as election clerks for a period of 2 years and until successors are sworn.

Democrat
Jodi Breau, Margaret Deslaurier, Sheila Heatley, Carol Anne Jordan, Donna Lamberth, Barbara Lamson, Becky Malley, Hope S. McCarthy, Gail Perkins, Thomas Perkins, Jessica Proctor, Heather L. Stone, Tom Stoughton, Kathy Cotter

Republican
Lois Bamford, Wayne Brooking, Kathy Maxwell, Scott Berry, Debra Harney, James Rowe, James Walsh, Linda Winker

Unenrolled
Christian Cutter, Jennifer Falk, Carolyn Gray, James Walsh, Martha Parowski, Carmen Weatherbie

Attachments:

- Memo Town Clerk 03 18 2024 Appointment of Election Wardens and Clerks

17. **Public Hearing - Process Submission Amendments**

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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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On November 13, 2023, the Town Council referred to the Ordinance Committee Process Submission Amendments. At the February 15, 2024 Ordinance Committee meeting, the committee voted (2-0 Anderson, Thompson) to forward to the Town Council.

On March 11, 2024 the council scheduled a public hearing for April 8.

Process submission provisions provide for amendments in Chapter 19 Zoning Ordinance, Chapter 16 Subdivision Ordinance and the Planning Board Rules.

Attachments:

- Memo Ordinance Committee Project Submission Amendments 02 27 2024
- Proposed Project Submission Amendments 10 10 2023 Zoning/Subdivision/Planning Board Rules

18. **Item #71-2024 Consider Proposed Process Submission Amendments**

Draft Motion

ORDERED, the Cape Elizabeth Town Council following a public hearing on Monday, April 8, 2024 does hereby approve Process Submission Amendments in Chapter 19 Zoning Ordinance, Chapter 16 Subdivision Ordinance, and the Planning Board Rules as presented.

Attachments:

- Memo Ordinance Committee Project Submission Amendments 02 27 2024
- Proposed Project Submission Amendments 10 10 2023 Zoning/Subdivision/PB Rules

19. **Item #72-2024 Opportunity for Public Comments Relating to the FY 2025 Budget**

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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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The Town Council welcomes public comment on the FY 2025 budget. Municipal budget workshops were held on March 18 and March 21. This is another opportunity for public comment early in the budget process.

Monday, April 22, 6:00 p.m. School Board Presentation of the School Department Budget
Tuesday, April 23, 6:00 p.m. Finance Committee Budget Wrap Up (if needed)
** A special Town Council meeting to schedule the budget public hearing for Monday, May 6, 7:00 p.m. will be held on 4/22 or 4/23)**
Monday, May 13, 7:00 p.m. Town Council Meeting - Vote on the FY 2025 Budget

Attachments:

- Proposed FY 2025 Municipal Budget

20. **Item #73-2024 Request from Councilor Anderson to Consider a Donation to Project Graduation 2024**

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present.

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Councilor Anderson has agreed to sponsor, on behalf of Project Graduation 2024 co-chairs Greg Gordon, Anita Davidson, Dana Staples, Jea Chung and Jay Patry, a request for a donation from the town in the amount of $10,000. The overnight event is scheduled for June 2 - June 3, 2024.

Attachments:

- Memo Councilor Anderson Project Graduation 2024 Funding Request

21. **Item #74-2024 Consider Scheduling a Public Hearing on Pesticide Ordinance Amendments**

Opportunity for Public Comment. Limited to 15 minutes; 3 minutes per person. Time may be extended by majority vote of the councilors present.

When recognized by the chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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On February 12, 2024 the Town Council referred to the Ordinance Committee the "Alternative Pesticide Ordinance," now called the Pesticide Amendments.

The Ordinance Committee discussed the amendments at meetings held on February 15, March 6 and March 25, 2024.

On March 25, 2024 the Ordinance Committee voted (2-0) to recommend the Pesticide Amendments to the Town Council.

Draft Motion

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, May 13, 2024 at 7:00 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road proposed amendments to Chapter 28 Residential Pesticide Use Ordinance as recommended by the Ordinance Committee.

Attachments:

- Memo Ordinance Committee Pesticide Ordinance Amendments 03 28 2024
- Draft Pesticide Ordinance Amendments 03 28 2024
- Pesticide Ordinance Comparison 04 01 2024

22. **Item #75-2024 Consider Scheduling a Public Hearing to Update the Floodplain Management Ordinance**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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On February 12, 2024 the Town Council referred the Floodplain Ordinance to the Ordinance Committee.

The Ordinance Committee reviewed the ordinance on March 6, 2024 and voted (2-0) to send the draft to the Town Council for consideration. The recommendation is to repeal and replace the current ordinance (Chapter 6 Article VI Floodplain Management Ordinance). Adoption of the ordinance will include adoption of updated floodplain maps.

Draft Motion
ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, May 13, 2024 at 7:0 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road to repeal and replace the Floodplain Management Ordinance and floodplain maps with updates as recommended by the Ordinance Committee.

Attachments:

- Memo Ordinance Committee Floodplain Ordinance 03 27 2024
- Draft Floodplain Ordinance

23. **Item #76-2024 Consider Referring ADU Amendments to the Planning Board**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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Councilor Anderson requested this item to amend Chapter 19 Zoning Ordinance relating to ADU zoning amendments. Councilor Anderson's request dated February 26, 2024 states that CEO Ben McDougal has identified 3 clarifying amendments for Accessory Dwelling Units.

At the Town Council workshop on March 13, 2024, the council discussed forwarding the amendments to the Planning Board.

On March 25, 2024 the Ordinance Committee considered the amendments. The amendments allow an existing accessory structure to be converted into an ADU. The committee agreed to include a provision that prohibits the use of the ADU as a Short Term Rental. The Ordinance Committee voted (2-0) to recommend the ADU amendments to the Town Council.

Draft Motion
ORDERED, the Cape Elizabeth Town Council refers the 2024 ADU amendments recommended by the Ordinance Committee to the Planning Board for review and report back to the council.

Attachments:

- Memo Ordinance Committee 2024 ADU Amendments
- Draft ADU Amendments 03 26 2024

24. **Item #77-2024 Request from Councilor Gillis to Consider Placing a Non-Binding Referendum on the November 5, 2024 Ballot Re: Affordable Housing Referendum Question**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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Councilor Gillis has agreed to sponsor Cynthia Dill's request to add a non binding referendum question to the November 5, 2024 ballot related to affordable housing at Gull Crest.

See memo from Councilor Gillis dated March 25, 2024.

Attachments:

- Memo Councilor Gillis 03 24 2024 Affordable Housing Referendum Question
- Draft C. Dill 04 01 2024 Non-Binding Referendum Question Gull Crest Housing

25. **Item #78-2024 School Budget Validation Referendum Warrant**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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Town Clerk Angela Frawley has prepared the election warrant for the June 11, 2024 School Budget Validation Referendum for council approval. The question of approving the school budget is provided in state law. The non-binding expression of opinion is not required by law however was added by the council in the early years of the school budget going to voters. It is the council's decision whether to retain the question.

Draft Motion
ORDERED, the Cape Elizabeth Town Council approves the School Budget Validation Referendum Election Warrant for Tuesday, June 11, 2024. Said election will be held at the Cape Elizabeth High School. Polls open at 7:00 a.m. and close at 8:00 p.m.

Attachments:

- School Budget Warrant June 11, 2024

26. **Item #79-2024 Consider Appointing the Town Council as the Search Committee for a New Town Manager**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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The Town Council met in executive session on April 1, 2024 to discuss the new town manager search process following the resignation of Matthew E. Sturgis on May 8, 2024.

Draft Motion
ORDERED, the Cape Elizabeth Town Council designates the Town Council as a whole as the search committee for a new town manager.

27. **Item #80-2024 Consider Approving a Request for Proposals to Hire a Search Consultant for a New Town Manager**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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Draft Motion
ORDERED, the Cape Elizabeth Town Council approves an RFP for a consultant to assist with the search for a new town manager.

Attachments:

- Draft RFP Search Consultant for a New Town Manager

28. **Item #81-2024 Enter into Executive Session to Discuss the Hiring and Contract for an Acting Town Manager and Request of a Hardship Property Tax Abatement**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

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Draft Motion
ORDERED, the Cape Elizabeth Town Council enters executive session pursuant to 1 M.R.S. § 405 (6)(A) to discuss the hiring and contract for an acting town manager and 1 M.R.S. § 405(6)(F) to discuss a request for a hardship property tax abatement.

29. **Item #82-2024 Consider the Appointment and Contract for an Acting Town Manager**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

A member of the public wishing to speak via remote access must click on the Zoom link or call and use the Raise Hand function. When connecting by phone, dial *9 to Raise Hand and the same to Lower Hand. Please mute the microphone and turn off the video until you are invited to speak. When recognized by the chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent. After speaking, to view the remainder of the meeting exit Zoom and return to the CETV Livestream or CETV cable Channel 3.

Following executive session, it is anticipated the Town Council will consider the appointment and contract for an acting town manager.

30. **Item #83-2024 Consider a Request for a Hardship Property Tax Abatement**
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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

A member of the public wishing to speak via remote access must click on the Zoom link or call and use the Raise Hand function. When connecting by phone, dial *9 to Raise Hand and the same to Lower Hand. Please mute the microphone and turn off the video until you are invited to speak. When recognized by the chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent. After speaking, to view the remainder of the meeting exit Zoom and return to the CETV Livestream or CETV cable Channel 3.

Following executive session, it is anticipated the Town Council will consider a request for a hardship property tax abatement.

31. **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 chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent.

A member of the public wishing to speak via remote access must click on the Zoom link or call and use the Raise Hand function. When connecting by phone, dial *9 to Raise Hand and the same to Lower Hand. Please mute the microphone and turn off the video until you are invited to speak. When recognized by the chair, the speaker shall give their name and address or local affiliation, if the affiliation is pertinent. After speaking, to view the remainder of the meeting exit Zoom and return to the CETV Livestream or CETV cable Channel 3.

32. **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 chair, the speaker shall give their name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments.

A member of the public wishing to speak via remote access must click on the Zoom link or call and follow the procedures stated at the top of the agenda. When recognized by the chair, the speaker shall give their name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. After speaking, to view the remainder of the meeting exit Zoom and return to the CETV Livestream or CETV cable Channel 3.

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 chair 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 chair, the speaker shall give their name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments.

A member of the public wishing to speak via remote access must click on the Zoom link or call and follow the procedures stated at the top of the agenda. When recognized by the chair, the speaker shall give their name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. After speaking, to view the remainder of the meeting exit Zoom and return to the CETV Livestream or CETV cable Channel 3.

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 chair.