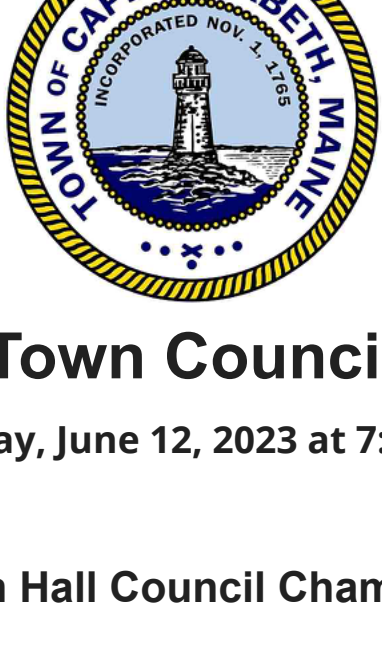




Regular Town Council Meeting

Monday, June 12, 2023 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://cstv.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.

Zoom Meeting
ID: 97254941084

Join Zoom Meeting

Telephone: (US) +1 646-931-3860

Enter First and Last Name

To offer comments during public comment opportunities. When the chair introduces the opportunity for public comments for an item you wish to speak to, click 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.

1. Convening of the Meeting

Town Council Chair Jeremy A. Gabrielson

2. Roll Call by the Town Clerk

Jeremy A. Gabrielson, Chair
Nicole Boucher
Susan A. Gillis
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan
Timothy S. Reiniger

3. The Pledge of Allegiance to the Flag

4. Town Council Reports and Correspondence

5. Finance Committee Report

Councilor Nicole Boucher, Finance Committee Chair

Attachments:

- [Financial Dashboard May 31, 2023](#)
- [Appropriation Control May 2023](#)
- [Expense Distribution May 2023](#)
- [Revenue Control May 2023](#)
- [Revenue Distribution May 2023](#)

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.

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.

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7. Town Manager's Monthly Report

Matthew E. Sturges

Attachments:

- [Town Manager's Report 06 12 2023](#)

8. Review of Draft Minutes

May 8, 2023 Regular Meeting
May 15, 2023 Special Meeting
May 30, 2023 Special Meeting

Attachments:

- [Town Council Minutes May 8, 2023](#)
- [Town Council Minutes May 15, 2023 Special](#)
- [Town Council Minutes May 30, 2023 Special](#)

9. Presentation from Charlie Kennedy, EMA Director

Attachments:

- [Emergency Operations Plans Presentation 06 12 2023](#)

10. Consent Calendar Item #80-2023 - Item #84-2023

The consent calendar provides for Item #80-2023 - Item #84-2023 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 #80-2023 - Item #84-2023 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 #80-2023 - Item #84-2023 as presented.

11. Item #80-2023 Consideration of Acceptance of Anonymous Donation to the Thomas Memorial Library Through Impact Asset Donor Advisor Fund

Finance Director John Quartararo is recommending acceptance of an anonymous donation through Impact Asset Donor Advisor Fund for the Thomas Memorial Library in the amount of \$3,000.00. See memo dated May 15, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council accepts a gift of \$3,000 from an anonymous donation through Impact Asset Donor Advisor Fund to the Thomas Memorial Library without restrictions for the use of the funds. The Council appropriates these funds into Fund 46 - Library Fund - Department 890 - Library Agency and revenue account R0503. The Town accepts the funds with gratitude.

Attachments:

- [Memo Finance Director Acceptance of Anonymous Donation to the Thomas Memorial Library 05 15 2023](#)

12. Item #81-2023 Consideration of Acceptance of Bequest from Joanne A. (McDonough) Leete to the Thomas Memorial Library

Finance Director John Quartararo is recommending acceptance of a bequest from the Estate of Joanne A. (McDonough) Leete to the Thomas Memorial Library in the amount of \$10,000.00. See memo dated May 15, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council accepts a bequest of \$10,000 from the Estate of Joanne A. (McDonough) Leete to the Thomas Memorial Library without restrictions for the use of the funds. The Council appropriates these funds into Fund 46 - Library Fund - Department 890 - Library Agency and revenue account R0503. The Town accepts the funds with gratitude.

Attachments:

- [Memo Finance Director Bequest of Joanne A McDonough Leete 05 15 2023](#)

13. Item #82-2023 Consideration of Acceptance of a Grant Award from the MMA Worker's Compensation Fund Ed MacDonald Safety Grant Program

Finance Director John Quartararo is recommending acceptance of a grant award for the Police Department from the Maine Municipal Association's Worker's Compensation Fund's Ed MacDonald Safety Grant Program in the amount of \$3,000.00. See memo dated May 15, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award of \$3,000.00 from the Maine Municipal Association Worker's Compensation Fund's Ed MacDonald Safety Grant Program into expense account 0726-4451 and revenue account R0928. The grant will reimburse \$3,000 of the total cost of \$4,299.00 for the purchase of 4 mats for the Police Department's Training Facility. The balance will be paid from the Police Department's operating budget. The grant period is May 1 2023 to May 1, 2024.

Attachments:

- [Memo Finance Director MMA MacDonald Safety Grant 05 15 2023](#)

14. Item #83-2023 Acceptance of Cumberland County Heating Assistance Grant

On January 24, 2023 the Town completed a grant agreement with Cumberland County to provide Heating Assistance to eligible residents of Cape Elizabeth. During the grant period, the Town spent \$11,314.09 which has been reimbursed by Cumberland County.

Grant applications were administered by Jane Anderson and Community Services. Thank you to Jane and the Department for their assistance.

It is in order for the Town to accept the grant award. See Finance Director memo dated June 1, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council accepts a grant award of \$50,000.00 from Cumberland County to provide heating assistance to the eligible residents of Cape Elizabeth for the period January 24, 2023 through April 15, 2023. It is further ordered to appropriate these funds into Fund 3 Grant Fund Account 0719-4228 and Revenue Account R0998.

Attachments:

- [Memo Finance Director CC Heating Assistant Grant 06 01 2023](#)

15. Item #84-2023 Acceptance of MMA Risk Management for Flagpole Damage at Fort Williams Park

On May 18, 2023 the Town received a payment of \$25,000.00 from MMA Risk Management for the cost of replacing a flagpole at Fort Williams Park that was damaged due to high winds on March 15, 2023.

It is in order to accept the insurance claim payment. See Finance Director memo dated May 31, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council accepts an insurance claim payment of \$25,000 (R0343) from MMA Risk Management for damage sustained to a flagpole at Fort William Park on March 15, 2023 and appropriates that amount to account 0870-2036.

Attachments:

- [Memo Finance Director MMA Claim Flagpole Damage 05 31 2023](#)

16. Item #85-2023 Affirmation of the Appointment of Fire Chief

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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Council-Manager Charter

Article II Town Manager

Sec. 1. 1. Appointments by town manager; removals. Appoint and remove, both subject

to approval of the council, the town clerk, town treasurer, police chief, fire chief, public works director and other department heads and prescribe their duties. The town manager shall also have the power to appoint the local health officer, and the manager shall act as health officer in the event of incapacity or absence of the local health officer.

Fire Chief Peter Gleeson has served the Town of Cape Elizabeth on the Fire Department for 47 years, 15 years as Chief. Chief Gleeson has announced his retirement as Chief at the end of this month.

Matthew Sturges, Town Manager is recommending the appointment of Stephen F. Young, 8 Golden Ridge Road to serve as the Town's next Fire Chief. Deputy Young has served the Cape Elizabeth Fire Department for 40 years, serving the past 13 years as Deputy Chief. In addition, he served on the Portland Fire Department for 26 years.

Draft Motion

ORDERED, the Cape Elizabeth Town Council affirms the Town Manager's appointment of Stephen F. Young to serve as Fire Chief for the Town of Cape Elizabeth effective July 1, 2023.

17. Item #86-2023 Consideration of Grant Match Funding Relating to Sawyer Road

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 Planner Maureen O'Meara has provided an overview of the joint effort of the Town of Cape Elizabeth and Town of Scarborough to address tidal flows on the Spurwink Marsh through removal of the portion of Sawyer Road/Street that sits in the marsh. See memo dated June 1, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council authorizes grant match funding for the Maine Natural Resource Conservation Program (MNRCP) of an amount up to \$250,000 for the continued joint effort with the Town of Scarborough to restore tidal flows on the Spurwink Marsh through the removal of the portion of Sawyer Road/Street that sits in the marsh. Funding for the grant match would be included in the FY 2025 municipal budget. It is further ordered that staff is authorized to submit additional grant applications which may be available for this project, with sum totals remaining within the authorized level of \$250,000.

Attachments:

- [Memo Town Planner Sawyer Road Grant Cash Match 06 01 2023](#)

18. Item #87-2023 Conservation Ordinance Amendments Relating to Events Provisions

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 May 9, 2023 the Conservation Committee voted (5-0) to forward a recommendation to the Town Council regarding amendments to [Chapter 18 Conservation Ordinance](#) relating to the events provisions. See memo dated May 10, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to the Ordinance Committee the recommendation of the Conservation Committee to amend Chapter 18 Conservation Ordinance relating to events provisions.

Attachments:

- [Conservation Ordinance Events Amendments 05 10 2023](#)
- [Memo Conservation Committee Conservation Ordinance Events Amendments 06 01 2023](#)

19. Item #88-2023 Consideration to Refer Project Submission 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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With the change to Town Hall office hours effective July 1st, the Planning Board is recommending that project submission deadlines be adjusted so they do not routinely fall on a Friday. In addition, at the onset of the pandemic the Planning Board adopted digital submission guidelines.

On May 16, 2023 the Planning Board voted (7-0) to request a referral from the Town Council to prepare a package of project submission amendments. The review may find other procedural items that may need updating. See memo dated May 18, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to the Planning Board review of project submission amendments and other relevant ordinance provisions and Planning Board Rules of Procedure with a report back to the Town Council.

Attachments:

- [Memo Planning Board Referral of Project Submission Amendments 05 18 2023](#)
- [LD 2003 Amendments 05 17 2023](#)
- [LD 2003 Ordinance Committee Draft Statement of Findings](#)

20. Item #89-2023 Consideration of Planning Board Recommendations Relating to LD 2003 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 April 10, 2023 the Town Council referred to the Planning Board a package of amendments drafted by the Ordinance Committee to comply with LD 2003. In accordance with Sec. 19-10-3 of the Zoning Ordinance, the Planning Board has completed its review.

On May 16, 2023 the Planning Board voted (7-0) to recommend LD 2003 amendments to the Town Council for consideration with amendments made by the Planning Board on May 16, 2023 and additional consensus noted.

The Ordinance Committee has drafted findings that can be used as Whereas Statements at such time as the Town Council may consider a vote on LD 2003, see attached.

Draft Motion (with options)

ORDERED, the Cape Elizabeth Town Council (schedules a public hearing on July 10, 2023/ refers to a Town Council workshop/ refers to the Ordinance Committee) the LD 2003 amendments.

Attachments:

- [Memo Planning Board LD 2003 Amendments 05 17 2023](#)
- [LD 2003 Amendments 05 17 2023](#)
- [LD 2003 Ordinance Committee Draft Statement of Findings](#)

21. Item #90-2023 Consideration for Request of Funding for Survey Work of the Housing Diversity Study 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 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.

The Town Manager is recommending funding in the amount of \$32,100 in Unassigned Fund Balance to provide funding for survey services and online discussion board services for the Housing Diversity Study Committee in their continuing effort to meet the established charge of the Committee to gather public feedback. See memo dated June 7, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to sign contracts as recommended by the Housing Diversity Study Committee to meet the established charge to gauge public opinion about potential housing solutions. 1) Reconnaissance Market Research a division of ComEngage, in an amount not to exceed \$29,780, for a survey study 2) Viewshed, in an amount not to exceed \$7,300, to provide an online discussion forum. It is further ordered the funding shall be allocated from Unassigned Fund Balance.

Attachments:

- [Memo Town Manager HDSC Survey Funding Request 06 07 2023](#)
- [ReconMR Letter of Agreement 06 06 2023](#)
- [Viewshed Housing Discussion Forum Contract 06 01 2023](#)

22. Item #91-2023 Consideration to Amend the Charge of the Ad-Hoc Housing Diversity Study 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 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 a request from Councilor Reiniger, the Town Council held a workshop on June 5, 2023 to discuss Fort Williams Park; 1. With input from the Fort Williams Committee, the Town Attorney, and appropriate staff, develop legal methods, such as a permanent conservation easement, to ensure that Fort Williams Park is protected in perpetuity from housing-related development activity.

1. Amend the charge of the Housing Diversity Study Committee so as to remove the following town-owned properties from consideration as targets of planned housing development: Fort Williams Park, Plaisted Field, and the Lions Fields (216 Ocean House Road). Granting a permanent easement over Fort Williams Park is in violation of federal grant requirements. Given the restrictions, it was a consensus of the council to amend the Ad-Hoc Housing Diversity Study Committee's charge to remove Fort Williams from the list of town-owned land as a potential site for housing.

Draft Motion

ORDERED, the Cape Elizabeth Town Council amends the Ad-Hoc Housing Diversity Study Committee's charge as follows: (Proposed language in bold.)

Committee Charge

The Housing Diversity Study Committee is specifically charged with the following activities:

The donation of municipal land for affordable housing projects, including potential locations. **Except that given the restrictions due to grant requirements, Fort Williams Park should be removed from the list of town-owned properties as a site for potential housing.**

Attachments:

- [Ad-Hoc HDSC Charge Amendment 06 12 2023](#)
- [Fort Williams Park Dedication Memo 05 30 2005](#)
- [Statement of Policy Fort Williams Park 10 25 1976](#)

23. Item #92-2023 Proposed Bond Order to Fund the Costs of Design & Engineering for the School 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 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 proposed bond order to fund the costs of design and engineering for the school project entitled, **Vote authorizing expenditures of up to \$950,000 for cost of design and engineering for alternate school plans for Pond Cove/Middle Schools and the issuance of bonds therefore.**

Attachments:

- [Proposed Bond Order to Fund the Costs of Design & Engineering for the School Project 06 12 2023](#)

24. Item #93-2023 Updates to the Personnel Code

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 Manager is recommending updates to Chapter 3 Personnel Code. The changes are based on recommendations from Ad-Hoc Civil Rights Committee, changes needed for the operational changes of hours effective July 1, 2023 and updating to current legal status. Thank you to the Diversity, Equity and Inclusion Committee and Town Attorney Ann Freeman for their input. See memo dated June 6, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommended amendments to Chapter 3 Personnel Code as presented, effective immediately.

Attachments:

- [Memo Town Manager Personnel Code Changes 06 06 2023](#)
- [Chapter 3 Personnel Code Proposed Changes 06 12 2023](#)

25. Item #94-2023 Enter into Executive Session - Request for Abatement of Property Taxes

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.