



Regular Town Council Meeting

Monday, July 10, 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
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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 your microphone and turn off the video until you are invited to speak. First and last name must appear to be recognized. Attendees will be invited to speak for 3 minutes. 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
Finance Committee Chair Nicole Boucher

Please note: June 30, 2023 is the end of the FY 2023 fiscal year. The reports included with the agenda are not the final year-end reports. Additional accounts payable and accounts receivables will be booked for year-end.

Attachments:

- [Appropriation Control June 2023](#)
- [Expense Distribution June 2023](#)
- [Revenue Control June 2023](#)
- [Revenue Distribution June 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. 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.

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

- 8. Review of Draft Minutes**
June 12, 2023 Regular Meeting

Attachments:

- [Town Council Minutes June 12, 2023](#)

- 9. Presentation - Town Engineer Stephen Harding**
The Town Engineer will present the report regarding a site feasibility study for affordable housing development purposes at the town-owned Gull Crest property as authorized by the Town Council April 10, 2023.

Attachments:

- [Gull Crest Affordable Housing Feasibility Report July 2023 Sebago Technics](#)

- 10. Update on Ad-Hoc Housing Diversity Study Committee Status - Chair Kevin Justh**
The Ad-Hoc Housing Diversity Study Committee charge states that three status report will be provided to the Town Council. The third and final status report is due June 30 with the final report due to the Town Council by September 30.

- 11. Consent Calendar Item #95-2023 - Item #97-2023**
The consent calendar provides for Item #95-2023 - Item #97-2023 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 #95-2023 - Item #97-2023 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 #95-2023 - Item #97-2023 as presented.

- 12. Item #95-2023 Inn by the Sea Liquor License and Special Amusement Permit Renewal**
Inn by the Sea is seeking renewal applications for a Special Amusement Permit and Hotel - Food Optional (Class I-A) malt liquor (beer), wine and spirits.

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

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the renewal Special Amusement Permit and Hotel - Food Optional (Class I-A) malt liquor (beer), wine and spirits for Inn by the Sea, LLC located at 40 Bowery Beach Road.

Attachments:

- [Inn by the Sea](#)

- 13. Item #96-2023 Transfer of CIP Projects Funds for the Town Center Fire Station Floor**
The Facilities Department ran into problems with the concrete floor in the Town Center Fire Department Garage. These problems added \$25,440 to the project costs. The problems were unknown and were not foreseeable when the budget request was made nor when the project was bid. To cover the additional costs, a transfer is recommended in the amount of \$24,529.30 to account 2030- 4062 FD Resurface Garage Floor. See memo dated June 8, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council authorizes the transfer in of \$24,529.30 into project 2030-4062 FD Resurface Garage Floor and the transfer out of \$18,000 from project 2030-5251 CC Rental Building Repairs and \$6,529.30 from project 2030-5286 FD Firehouse Brickwork. At the end of this fiscal year these three projects will be closed and any unspent appropriation returned to the General Fund.

Attachments:

- [Memo Finance Director Interproject Transfer Resurface FD Garage Floor 06 08 2023](#)

- 14. Item #97-2023 Recommendation from the Fort Williams Park Committee Regarding Fort Williams Park**
On June 15, 2023, the Fort Williams Park Committee voted (4-0) to submit to the Town Council a request to allocate funds for Bernstein, Shur to complete a review of the current legal status of Fort Williams Park and provide recommendations on how to preserve the park in perpetuity.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to seek legal review of the current legal status of Fort Williams Park and provide recommendations on how to preserve the park in perpetuity.

Attachments:

- [FWPC Minutes June 15, 2023](#)

- 15. Public Hearing - Proposed Amendments to Chapter 19 Zoning Ordinance to Comply with LD 2003**
Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present.

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On June 12, 2023 the Town Council voted (4-2) to schedule a public hearing on July 10 relating to proposed amendments to Chapter 19 Zoning Ordinance to comply with LD 2003, "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions" and to amend the draft amendments to reduce the maximum square feet for an ADU from 1800 sq. ft. to 1100 sq. ft. (page 21 line 15).

Per the June 12 discussion, a vote this evening is not anticipated.

Following a public hearing for ordinance amendments, next steps may include referral back to committee (e.g. Ordinance, Planning Board), refer to Council workshop, schedule a vote for another meeting, schedule another public hearing.

Attachments:

- [LD 2003 Ord Amendments 06 26 2023](#)
- [LD 2003 Ordinance Committee Draft Statement of Findings 01 30 2023](#)
- [Memo Planning Board LD 2003 Amendments 05 17 2023](#)
- [Memo Town Planner LD 2003 Amendments Comp Plan Analysis 06 15 2023](#)

- 16. Item #98-2023 Proposed Amendments to Chapter 19 Zoning Ordinance to Comply with LD 2003**
Per the June 12 discussion, a vote this evening is not anticipated.

Following a public hearing for ordinance amendments, next steps may include referral back to committee (e.g. Ordinance, Planning Board), refer to Council workshop, schedule a vote for another meeting, schedule another public hearing.

- 17. Item #99-2023 Consideration of a New Policy for the Thomas Memorial Library - Complaints Policy**
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 Thomas Memorial Library Committee is recommending a new policy - Complaints Policy. The Committee voted (7-0) on June 14, 2023 to recommend the policy to the Town Council for adoption.

The red-lined copy are changes made by the Committee from the draft provided by Rachel Davis, staff to the committee.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Thomas Memorial Library Committee to approve a new Complaints Policy.

Attachments:

- [TML Complaints Policy Draft 06 14 2023](#)
- [TML Complaints Policy Draft Red-lined 06 14 2023](#)
- [TML Draft Minutes 06 14 2023](#)

- 18. Item #100-2023 Refer to Public Hearing Proposed Amendments to Chapter 7 Dogs**
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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At the May 8, 2023 Town Council Meeting, Police Chief Fenton provided a recommendation from the Animal Control Officer Maggie Maxwell to amend Chapter 7 Dogs to amend the referral provision of the ordinance streamlining and de-escalating enforcement notification. The Council voted to refer the recommendation to the Ordinance Committee.

On June 8, 2023 the Ordinance Committee voted (2-0) to recommend the ordinance be revised to allow notification to be in person or in writing.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to public hearing on Monday, August 14, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall a recommendation from the Ordinance Committee to amend Chapter 7 Dogs Sec. 7-1-7 Management of Dogs on Municipal Property (e) 1 to streamline the process.

Attachments:

- [Memo Ordinance Committee Proposed Amendments to Chapter 7 Dog Ordinance 06 08 2023](#)
- [Proposed Amendments to Chapter 7 Dog Ordinance 06 08 2023](#)

- 19. Item #101-2023 Renewal of the Spurwink Rod & Gun Club License**
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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Pursuant to Chapter 24 Shooting Ranges Sec. 24-6-1 (Annual Inspection) and Sec. 24-6-2 (Renewal), please see the report submitted by Chief Paul Fenton dated June 27, 2023. Chief Fenton recommends granting a three (3) year license renewal.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the 3-year renewal of the license for the Spurwink Rod and Gun Club located at 1250 Sawyer Road as presented.

Attachments:

- [Report Chief Fenton Spurwink Rod and Gun Club License Renewal 06 27 2023](#)

- 20. Item #102-2023 Request for Reconsideration -Item #92-2023 6/12/2023 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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Excerpt from Town Council Rules Sec. 3 Rules of order and debate

After a vote is taken, it shall be in order for any member who voted on the prevailing side of a vote to have a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

Councilor Gillis, who voted on the prevailing side, has requested a reconsideration of Item #92-2023 held June 12, 2023.

Excerpt - Town Council Draft Minutes June 12, 2023

Item #92-2023 Proposed Bond Order to Fund the Costs of Design & Engineering for the School Project

Public Comment

Tom Dunham, 11 Beckys Cove Lane is the bond for anticipated need or already-spent funds.

Usually this is not a bond, but pay-as-you-go. Come up with a reasonable budget and then proceed to engineering and soft costs.

John Voltz, 33 Philip Road urges swift passage of the bond amount. Have been impressed with the committee's thoughtful work.

Tim Dew, 56 Stonegate Road haven't heard the SBAC talk about this. This is a surprise, \$1M you have to go to the town, this is kind of silly.

Tim Thompson, 6 Pine Ridge Road there is confusion to where the initial \$400,000 estimate came from to now a suggested \$950,000 bond. Starting with a budget at the beginning makes a lot of sense.

Mary Ann Lynch 2 Olde Colony Lane this item has never come up with the SBAC. Are decisions being made outside of the committee? Before voting, this should go before the SBAC.

Moved by Penelope A. Jordan and Seconded by Caitlin R. Jordan

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.

(5 yes) (1 no Councilor Reiniger)

Attachments:

- [Memo Finance Director Reconsideration of Bond Order 07 06 2023](#)
- [Proposed School Project Bond Order 06 12 2023](#)

- 21. Item #103-2023 Enter into Executive Session - Update on Pending Litigation Relating to Code Violations at The Lumbery, 287 Ocean House 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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The Town Council will enter executive session to receive an update on pending litigation for code violations at The Lumbery, 287 Ocean House Road.

Draft Motion

ORDERED, the Cape Elizabeth Town Council enters executive session pursuant to 1 M.R.S. §405 E and H to receive an update on pending litigation for code violations at 287 Ocean House Road, The Lumbery.

- 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 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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- 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 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.