



Regular Town Council Meeting

Monday, July 11, 2022 at 7:00 pm

Town Hall Council Chambers

Live on CETV

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:

- **Appropriation Control 06 2022** (Appropriation_Control_06_2022.pdf)
- **Expense Distribution 06 2022** (Expense_Distribution_06_2022.pdf)
- **Revenue Control 06 2022** (Revenue_Control_06_2022.pdf)
- **Revenue Distribution 06 2022** (Revenue_Distribution_06_2022.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

June 13, 2022

Attachments:

- **Town Council Minutes June 13, 2022** (Town_Council_Minutes_June_13_2022.pdf)

9. Consent Calendar Item #103-2022 - Item #107-2022

The consent calendar provides for Item #103-2022 - Item #107-2022 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 #103-2022 - Item #107-2022 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 the consent calendar Item #103-2022 - Item #107-2022 as presented.

10. Item #103-2022 Inn by the Sea Liquor License and Special Amusement Permit

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.

Inn by the Sea is requesting approval of the annual liquor license and special amusement permit. No concerns have been raised by the police chief, fire chief and code enforcement officer.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the malt liquor (beer), wine and spirits on-premises license and special amusement permit for Inn by the Sea, LLC located at 40 Bowery Beach Road.

Attachments:

- **Inn By The Sea** (Inn_By_The_Sea.pdf)

11. Item #104-2022 The Good Table Liquor 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

chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Good Table, LLC DBA Good Table is requesting approval of the annual liquor license. No concerns have been raised by the police chief, fire chief and code enforcement officer.

During COVID-19 the State of Maine extended the deadline for some liquor licenses including for The Good Table. Although this license expires 10/12/2022, the State said the license can be considered at this time.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the malt liquor (beer), wine and spirits restaurant license for Good Table, LLC located at 527 Ocean House Road.

Attachments:

- **The Good Table** (The_Good_Table.pdf)

12. Item #105-2022 Update to Chapter 3 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 chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

During the FY 2023 budget review the town manager recommended an increase to the employee and employer's contribution to the defined contribution plan 401A from 7% to 8% of gross wages. The recommendation was approved with the FY 2023 budget on May 16, 2022. This item is to amend Chapter 3 Personnel Code to update the change.

Draft Motion

ORDERED, the Cape Elizabeth Town Council amends Chapter 3 Personnel Code Sec. 3-2-9 Retirement and Disability (c) to reflect the approved change to increase the employee and employer's contribution to the defined contribution plan 401A from 7% to 8% of gross wages.

Sec. 3-2-9 Retirement and Disability

(c) Defined Contribution Plan

The Town of Cape Elizabeth became a participant in the ICMA Retirement Corporation, Sec.

401A Money Purchase Plan in 1990. The Town will match effective on the employment date regular employees' contributions at 8% of gross wages level with employee's contributions to be paid through payroll deductions. Employees are fully responsible for any fees assessed to participants by the Plan and are responsible for choosing from among a number of investment options for the balances in their accounts. The withdrawal of funds is in accordance with federal regulations. Employees who participate in the MainePERS are not eligible for this defined contribution plan. (Rev. Eff. 01/10/11) (Rev. Eff. 7/11/2022)

Part-time employees who work a regular weekly schedule of 15 or more hours per week on a year-round basis are eligible for this program.

Attachments:

- **Chapter 3 Personnel Code (see page 24)** (Chapter_3_Personnel_Code.pdf)

13. Item #106-2022 Recommendation from the Appointments Committee to Fill a Vacancy on the Conservation 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 June 6, 2022 the Town received a resignation from Jim Tasse, Conservation Committee as he was moving out of town by the end of the month. The term expires 12/31/2022.

The Appointments Committee met on June 27, 2022 and voted (2-0) to recommend Stacey Dietsch, 2 Park Circle to serve the unexpired term. Ms. Dietsch had applied during the annual appointments process and is still interested in serving.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Appointments Committee to appoint Stacey Dietsch, 2 Park Circle to serve the unexpired term on the Conservation Committee until 12/31/2022. Said term is effective immediately.

Attachments:

- **Dietsch Application** (Dietsch_Board_Application.pdf)

14. Item #107-2022 Appointment of Registration Appeals Board Chair

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.

Title 21-A Section 103 requires municipalities with a population of 5,000 or more to have a Registration Appeals Board to hear appeals of persons aggrieved by a decision of the registrar to either remove a name from the voting list or refuse to place a name on the voting list.

Debra Lane, Town Clerk has prepared a memorandum nominating Anne E. Swift-Kayatta to continue to serve as the Registration Appeals Board Chair.

Draft Motion

ORDERED, the Cape Elizabeth Town Council confirms the nomination of the Town Clerk to appoint Anne E. Swift-Kayatta, 14 Stone Bridge Road to serve as the Chair of the Registration Appeals Board for a term until July 11, 2026 and until a successor is sworn

Attachments:

- **Memo Town Clerk Re: Registration Appeals Board Chair 07 05 2022** (Voter_Registration_Appeals_Board_Chair_Memo_July_5__2022.pdf)

15. Item #108-2022 Presentation - Safe in Maine Fund

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.

Belinda Ray, GPCOG Director of Strategic Partnerships will present an overview of the Safe in Maine Fund.

Attachments:

- **Safe in Maine Fund Overview** (Safe_in_Maine_Fund_Overview.pdf)
- **Safe in Maine Fund Operational Document** (Safe_in_Maine_Fund_Operational_Document.pdf)

16. Item #109-2022 Presentation - Fiscal Review In Anticipation of Potential Borrowing

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.

Joe Cuetara, Moors & Cabot will provide a fiscal review of the Town's finances.

A fiscal review is being under taken in anticipation of potential borrowing by the Town for both the School Project and Shore Road Rehabilitation Project.

Attachments:

- **Fiscal Review by Moors and Cabot** (Fiscal_Review_Moors_and_Cabot__Joe_Cuetara.pdf)

17. Item #110-2022 Shore Road Rehabilitation Project Update/Preliminary Design Review

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.

Staff-

Nikki Conant, Project Designer - Sebago Technics

Stephen Harding, Town Engineer

Maureen O'Meara, Town Planner

Jay Reynolds, Director of Public Works

Matthew Sturgis, Town Manager

An update on the Shore Road Rehabilitation Project will be provided by staff. The project located on Shore Road extends from the main entrance of Fort Williams Park to the South Portland boundary. The project is estimated at \$7.6M.

No action is requested at this time.

Attachments:

- **Public Notice Mailing - Shore Road Rehabilitation Project** (Shore_Road_Rehabilitation_Public_Notice.pdf)
- **Preliminary Engineer's Estimate Shore Road Rehabilitation Project** (Preliminary_Shore_Road_Estimate_06_16_2022.pdf)
- **Shore Road Rehabilitation Project Presentation** (Shore_Road_Rehabilitation_Project_Presentation_07_11_2022.pdf)
- **Shore Road Plans 2022-06-30** (Shore_Road_Plans_2022-06-30.pdf)
- **Shore Road Alternative Plans 2022-06-30** (Shore_Road_Alternative_Plans_2022-06-30.pdf)

2-06-30.pdf)

- **Shore Road Public Comments post 4-13-2022** (Shore_Road_Public_Comment_post_4-13-2022.pdf)

18. Item #111-2022 Request to Consider a Parking License Agreement & Construct Parking Behind Town Hall

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.

Mr. Greg Shinberg has provided a memo requesting the Town Council's consideration of a parking license agreement and construction of a parking behind Town Hall (constructed by Mr. Shinberg). Mr. Shinberg has a purchase and sale agreement to buy lots 3 & 4 in Ocean House Common.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to workshop a request by Greg Shinberg for a parking license agreement and allowance to construct parking behind Town Hall for preliminary plans to construct 20 condominiums on lots 3 & 4 in Ocean House Common.

Attachments:

- **Memo Greg Shinberg 06 29 2022** (Memo_Shinberg_Parking_License_Agreement_06_29_2022.pdf)

19. Item #112-2022 Consideration of Agreement Between the Town of Cape Elizabeth and the Cape Elizabeth Historical Preservation Society

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 Town Manager is recommending signing an agreement with the Cape Elizabeth Historical Preservation Society (CEHPS) for the occupancy of the Bachelor Officers' Quarters Building at Fort Williams Park and amending the records management agreement.

Draft Motion

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to sign an Agreement Between the Town of Cape Elizabeth and the Cape Elizabeth Historical Preservation Society to include the Bachelor Officers' Quarters Occupancy Agreement and Records Management Agreement.

Attachments:

- **Agreement Between Town of Cape Elizabeth and CEHPS** (Draft_Housing_Diversity_Study_RFP_10-29-2021.pdf)
- **Bachelor Officers' Quarters First Floor Floorplan** (Bachelor_Officers__Quarters_First_Floor_Floorplan.jpg)
- **Bachelor Officers' Quarters Second Floor Floorplan** (Bachelor_Officers__Quarters_Second_Floor_Floorplan.jpg)

20. Item #113-2022 Report of the Certification of the Citizen Petition to Create Community Housing - Plan B

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 Citizen Petition to Create Community Housing - Plan B was submitted on June 27, 2022. The certification has been completed. In sum, the number of signatures to move the petition to public hearing and referendum vote did not meet the number of signatures required by Charter. The details are outlined in a memo to the council dated June 29.

It is recommended the town council acknowledge receipt of the report from the town clerk.

Draft Motion

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the Town Clerk dated June 29, 2022 outlining the certification of the Citizen Petition to Create Community Housing - Plan B which failed to meet the required number of signatures of registered voters, per the Council-Manager Charter, to move the petition to public hearing and referendum vote. No further action is needed.

Attachments:

- **Memo Town Clerk Certification of the Citizen Petition to Create Community Housing - Plan B** (Citizens_Petition_June_2022_Memo_to_Town_Council.pdf)

21. 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.

22. 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.