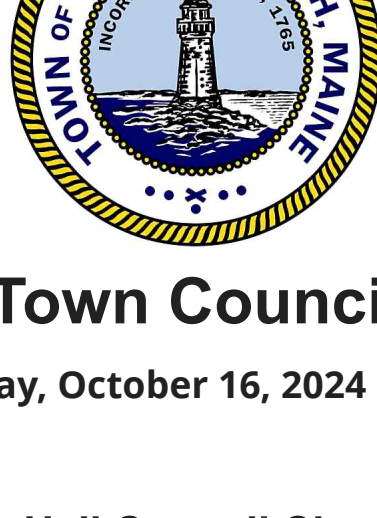




Regular Town Council Meeting

Wednesday, October 16, 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://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.

Join Zoom Meeting
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[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. Welcome and Oath of Office - Patrick W. Fox, Town Manager**

- 6. Finance Committee Report**
Finance Chair Timothy L. Thompson

Attachments:

- [Financial Report September 30, 2024](#)
- [Financial Dashboard September 30, 2024](#)
- [Town Revenue Report 09.30.2024](#)
- [Town Expenditure Report 09.30.2024](#)

- 7. 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.

- 8. Town Manager's Monthly Report**

- 9. Review of Draft Minutes**

September 4, 2024 - Special Meeting and Workshop

September 9, 2024 - Regular Meeting

Attachments:

- [Town Council Special Meeting and Workshop Minutes September 4, 2024](#)
- [Town Council Minutes September 9, 2024](#)

- 10. Consent Calendar Item #150-2024 - Item #154-2024**

The consent calendar provides for Item #150-2024 - Item #154-2024 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 #150-2024 - Item #154-2024

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 #150-2024 - Item #154-2024 as presented.

- 11. Item #150-2024 Renewal Liquor License - Tacos Y Tequila**

Tacos Y Tequila has requested a renewal liquor license. The current license expires November 11, 2024.

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

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor(beer), wine and spirits license from Tacos Y Tequila Cape Elizabeth Inc. located at 517 Ocean House Road.

Attachments:

- [Tacos Y Tequila](#)

- 12. Item #151-2024 Appointment of the Fair Hearing Officer**

The General Assistance Ordinance, Section 7.3 The Fair Hearing Authority, requires the municipal officers to appoint a Fair Hearing Authority (FHA). "The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with ensuring that GA is administered in accordance with state law and this ordinance."

The FHA may consist of the municipal officers, one or more persons appointed by the municipal officers or if designated by ordinance a municipal board of appeals.

Assistant Town Manager Debra Lane is nominating James T. Walsh to be reappointed to serve as the Fair Hearing Officer for a three-year term. The term expires December 31, 2024.

Draft Motion

ORDERED, the Cape Elizabeth Town Council reappoints James T. Walsh, 53 Wildwood Drive, to serve as the Fair Hearing Officer. The term expires 12/31/2027.

Attachments:

- [Fair Hearing Officer Nomination 10 16 2024](#)
- [GA Ordinance Article VII](#)

- 13. Item #152-2024 Appointment of the Registrar of Voters**

21-A M.R.S. §101 Requires the municipal officers to appoint a qualified registrar of voters by January 1st of each odd-numbered year. The registrar shall serve for 2 years and until a successor is appointed and sworn. The registrar may appoint deputy registrars who serve at the will of the registrar.

The recommendation is for Angela S. Frawley, Town Clerk to continue to serve as Registrar of Voters until January 1, 2027.

Draft Motion

ORDERED, the Cape Elizabeth Town Council reappoints Angela S. Frawley to serve as Registrar of Voters for a term to expire January 1, 2027 until a successor is sworn.

- 14. Item #153-2024 Amendment to Town Council Minutes - Item #131-2024 August 12, 2024 Relating to the Hockey Rink MOU**

On August 12, 2024, the Town Council approved a successor Memorandum of Understanding with the Cape Community Arena Group for the hockey rink at Gull Crest. The minutes included a copy of the MOU however the terms of the agreement as outlined in memos from Interim Town Manager McGovern (June 24 and August 5, 2024) were not included in the minutes.

Assistant Town Manager Debra Lane recommends amending the minutes to include the terms for an easier and more convenient way for the public and staff to access the details of the agreement between the Town and CCAg.

The agenda program is unable to highlight in red therefore the changes are in bold and italic.

Draft Motion

ORDERED, the Cape Elizabeth Town Council amends the minutes to Item #131-2024 held August 12, 2024 Consideration of a Memorandum of Understanding with the Cape Community Arena Group for the Hockey Rink at Gull Crest as follows:

Item #131-2024 Consideration of a Memorandum of Understanding with the Cape Community Arena Group for the Hockey Rink at Gull Crest

Moved by Timothy L. Thompson and Seconded by Caitlin J. Harriman

ORDERED, the Cape Elizabeth Town Council authorizes the Interim Town Manager to sign a proposed Memorandum of Agreement with the Cape Community Arena Group to supersede the prior MOU entered into on September 28, 2022. ***Both parties agree to the following:***

- The Town Council appropriates \$35,000 for electricity for the hockey rink for the 2024-2025 season with funds carried forward from FY 24 balances.***
- The Town will continue to provide water to the site at no cost to the arena group.***
- The Town Manager is authorized to seek site plan approval for the steps needed this year to operate the facility including showing current out buildings that are not on the approved site plan.***
- The Town Council authorizes the Town to apply to the Maine DEP for any permits and assume the cost of the permitting process.***
- The Town Council appropriates \$15,000 for all site plan review and DEP permit costs with the funds being provided as a carry forward balance from FY 2024.***
- The Town Council agrees the changing rooms will not be utilized until site plan approval is granted.***
- The Town Council requests that the netting be placed to a height of 20 feet around the rink.***
- The Town Council notes that in the longer term the CCAg wishes to cover the structure and provide additional seating. The successor MOU addresses fundraising for these improvements.***
- The successor MOU provides that the Town will continue to be responsible for the next two years for snow removal for the parking and for furnishing porta potties.***
- The successor MOU provides that the Town and CCAg work cooperatively on planning for major renovations including a roof, more seating and better storage for the Zamboni.***

Public Comment

Richard Parker, 17 Southwell Road, Energy Committee member

(7 yes) (0 no)

See attachment.

Attachments:

- [Memo Lane Item #131-2024 held August 12, 2024 10 01 2024](#)
- [Hockey MOU Packet 08 05 2024](#)

- 15. Item #154-2024 General Assistance Ordinance and Appendices Updates**

A few changes have been made to the General Assistance MMA Model Ordinance since the council last adopted the ordinance in 2021. The Town's GA Administrator Paige Kombakis has provided the comparison of changes. It is also time to review the annual GA Appendices.

It is recommended a public hearing be scheduled for November 13 to adopt the General Assistance Ordinance (9/2024) and Appendices (A,B, D-H and Recovery Residences) October 1, 2024 - September 30, 2025). The last few years the council has not adopted Appendix C Housing Maximums.

Draft Motion

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Wednesday, November 13, 2024 at 7:00 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road the General Assistance Ordinance (9/2024) and Appendices (A,B, D-H and Recovery Residences) October 1, 2024 - September 30, 2025.

Attachments:

- [GA Ordinance Changes 2021-2024 Kombakis](#)
- [GA Maximum Reference Sheets 2024-2025](#)
- [GA Appendices A,B,C-H, Recovery Residences 2024-2025](#)
- [GA Ordinance 2024 Clean Copy](#)
- [GA Ordinance 2024 Redline](#)
- [For Reference - GA Appendix C Housing Maximums 2024-2025](#)

- 16. Item #155-2024 Acceptance of a Conservation Committee Recommendation to Decline a Conservation Easement at 72 Two Lights 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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On September 9, 2024, the Town Council referred to the Conservation Committee the offer by Richard and Louise Sullivan to donate a conservation easement on a portion of the lot located at 72 Two Lights Road.

The Conservation Committee discussed the potential terms with Richard Sullivan at the meeting on September 10. Mr. Sullivan informed the committee the property was under contract and that the proposed easement would not allow public access. The committee and Mr. Sullivan could not identify a "public benefit" that could be conveyed in the easement. The Conservation Committee voted (6-0) on the following draft motion.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Conservation Committee to decline acceptance of a conservation easement on the Richard and Louise Sullivan property at 72 Two Lights Road due to a lack of a public benefit.

Attachments:

- [Memo Conservation Committee 72 Two Lights Road Easement 09 30 2024](#)
- [Conservation Committee Draft Minutes 09 10 2024](#)

- 17. Item #156-2024 Consideration of Contracting with GPCOG to Assist with the Facilitation of Business Outreach**

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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2024 Goals and Objectives

Promote the businesses in town.

- Engage business owners to identify ordinance provisions, and review planning board processes in order to improve efficiency and transparency.***

Councilor Anderson requested a scope of work from the Greater Portland Council of Governments to assist in the facilitation with business outreach. The proposal is in the amount of \$4,500.

If the Town Council is in favor of obtaining the services, the motion should include authorizing the town manager to sign the contract, and approve the funding source (undesignated fund balance). In addition GPCOG has requested one person be assigned as the point-of-contact.

Attachments:

- [GPCOG Scope of Work Business Outreach](#)

- 18. Item #157-2024 Consideration of Referring Contract Zoning in the Town Center 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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On September 9, 2024, the Town Council voted (7-0) to refer to workshop Chair Reiniger's request for proposed authorization for contract zoning in the Town Center District. The council will meet in workshop session on Wednesday, October 9.

Chair Reiniger is requesting the council consider referring the item to the Planning Board.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to the Planning Board pursuant to Sec. 19-10-3 Amendments proposed contract zoning in the Town Center.

Attachments:

- [Memo Reiniger Contract Zoning in the Town Center 08 29 2024](#)
- [Reiniger Contract Zoning Ordinance Proposal 08 29 2924](#)

- 19. Item #158-2024 Discussion Regarding the Position of Town Assessor**

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.

Council-Manager Charter (excerpt)

Article II Town Council

Sec. 3. Enumeration of powers. Without limitation of the foregoing, the council shall have the power to:

1. Appointments; removal. Appoint and remove for cause after hearing, the town manager and a town assessor. Appoint a town attorney or attorneys, who shall serve at the will of the council. Appoint, and remove for cause after hearing, the members of the board of assessment review, the planning board, and the board of zoning appeals which shall have such powers and perform such duties as are provided by the statutes of the State of Maine. Appoint, and remove for cause after hearing, trustees of the Thomas Memorial Library and the Riverside Cemetery, and determine the length of their terms.

Town Assessor Clint Swett has announced his resignation effective October 17, 2024. Mr. Swett has accepted the position of Assessor for the Town of Cumberland.

Pursuant to the Council-Manager Charter, the Town Council appoints the Town Assessor. Town Manager Patrick Fox will outline options to provide assessing services.

- 20. 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.

- 21. 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 not 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.