



Regular Town Council Meeting

Monday, November 13, 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.

Join Zoom Meeting

ID: 91082012412

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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 Chair Nicole Boucher

Attachments:

- [Finance Report 11 13 2023](#)
- [Town Revenue Report October 2023](#)
- [Town Expenditure Report October 2023](#)

6. Report - Short Term Rentals

Assistant CEO Jake Deslandes will be present to report on short term rentals.

Attachments:

- [Memo CEO 2023 Short Term Rental Update](#)

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.

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8. Town Manager's Monthly Report

Town Manager Matthew E. Sturgis

9. Review of Draft Minutes

October 11, 2023 Regular Meeting

Attachments:

- [Town Council Minutes October 11, 2023](#)

10. Public Hearing - Proposed Amendments to the Zoning Ordinance Relating to 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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Attachments:

- [Memo Ordinance Committee LD 2003 Amendments 10 26 2023](#)
- [LD 2003 Draft Statement of Findings](#)
- [Memo Town Manager ADU, Demolition, Absorption in Market 11 9 2023](#)
- [Memo Ordinance Committee Status Report LD 2003 9 21 2023](#)
- [M Costigan Comments Required LD 2003](#)

11. Item #133-2023 Consideration of Proposed Amendments to the Zoning Ordinance Relating to LD 2003

On October 11, 2023, the Ordinance Committee submitted a status report to the Town Council relating to their review of the LD 2003 amendments. The Town Council voted to schedule a public hearing and vote for November 13, and schedule a council workshop on November 1 (or thereabouts).

The council workshop was held on November 1, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council following a public hearing on Monday, November 13, 2023 does hereby approve the proposed amendments to Chapter 19 Zoning Ordinance relating to LD 2003 amendments as proposed by the Ordinance Committee.

Attachments:

- [Memo Ordinance Committee LD 2003 Amendments 10 26 2023](#)
- [LD 2003 Draft Statement of Findings](#)
- [Memo Town Manager ADU, Demolition, Absorption in Market 11 9 2023](#)
- [Memo Ordinance Committee Status Report LD 2003 9 21 2023](#)
- [M Costigan Comments Required LD 2003](#)

12. Item #134-2023 Request from Councilor Reiniger to Dismiss the Lawsuit Against The Lumbery

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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At the October 11, 2023 meeting, Councilor Reiniger requested an item to dismiss the lawsuit against The Lumbery.

13. Item #135-2023 Proposed Home Business 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 September 11, 2023, the Town Council referred to the Planning Board Home Business Amendments developed by the Ordinance Committee. The Planning Board reviewed the amendments at a workshop on October 3. Following a public hearing on October 16, the Planning Board voted (7-0) to forward recommendations to the Town Council.

It is in order for the amendments to be set to public hearing. However the council could decide to refer to a council workshop for further discussion.

Draft Motion

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Monday, December 11, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall or refers to a town council workshop amendments to Chapter 19 Zoning Ordinance relating to proposed home business amendments.

Attachments:

- [Home Business Amendments 10 03 2023](#)
- [Memo Planning Board Home Business Amendments 10 24 2023](#)

14. Item #136-2023 Proposed 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.

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On June 12, 2023, the Town Council referred to the Planning Board amendments to update submission deadlines and digital submission of materials. The Planning Board reviewed the amendments package at workshops held on June 6, September 5 and October 3. Following a public hearing on October 16, the Planning Board voted (7-0) to forward recommendations to the Town Council which includes amendments to the Zoning Ordinance, Subdivision Ordinance and the Planning Board Rules.

It is in order to refer the amendments to the Ordinance Committee.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to the Ordinance Committee Project Submission Amendments to Chapter 19 Zoning Ordinance, Chapter 16 Subdivision Ordinance, and the Planning Board Rules as recommended by the Planning Board.

Attachments:

- [Memo Planning Board Project Submission Amendments 10 24 2023](#)
- [Project Submission Amendments 10 10 2023](#)

15. Item #137-2023 Consider Acknowledging Enactment by Voters to Adopt a Cape Elizabeth Residential Pesticide Use Ordinance and Adoption of the 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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Town Charter

Article VIII Initiative and Referendum

Sec. 3. Petition for enactment of ordinance. Subject to the provisions of Section 1, not less than 10% of the registered voters of the town may at any time petition over their personal signatures for the enactment of any proposed lawful ordinance by filing such petition including the complete text of such ordinance with the town clerk. The council shall call a public hearing to be held within 30 days from the date of filing of such petition with the town clerk and shall, within 30 days after said public hearing, designate a time and place for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the referendum vote, such ordinance shall be enacted by the council. **Such ordinance shall take effect on the 10th day after the conclusion of such referendum provided a majority of those voting thereon shall have voted in the affirmative.**

Any such proposed ordinance shall be examined by the town attorney before being submitted to referendum. The town attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions and to assure accuracy in its text and references and clearness and preciseness in its phraseology, but the attorney shall not materially change its meaning and effect.

On November 7, 2023, voters of Cape Elizabeth voted to approved a citizen petition to enact a Cape Elizabeth Residential Pesticide Use Ordinance (2291 Yes 1493 No 612 Blanks). Passing by a majority vote, it is in order for the Town Council to acknowledge the enactment by the voters and to adopt the ordinance effective on November 17, 2023. The Town will also ensure required filings with the Maine Board of Pesticides Control.

Draft Motion

ORDERED, the Cape Elizabeth Town Council acknowledges the enactment by the voters of Cape Elizabeth on November 7, 2023 adopting a Cape Elizabeth Residential Pesticide Use Ordinance. Following the enactment by voters, it is Further Ordered the Cape Elizabeth Town Council adopts the Ordinance effective November 17, 2023, pursuant to the Town Charter Article VIII Sec. 3. In addition, the Town will file any required notices with the Maine Board of Pesticides Control.

Attachments:

- [Certification of Election Results November 7, 2023](#)
- [Pesticide Use Ordinance Full Text](#)
- [November 7, 2023 Specimen Ballot](#)

16. Item #138-2023 Proposed Carry Forward Balances

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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Carry forward balances are recommended from FY 2023 to FY 2024.

Memo - Finance Director Kristie Bradbury dated November 8, 2023.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves and authorizes a total of \$358,042 to be carried forward from the FY 2023 budget to the FY 2024 budget as recommended by Finance Director Kristie Bradbury. For total amounts - General Fund \$353,822.00 and Riverside Cemetery Perpetual Care Fund \$4,220.00.

Administration \$9,000.00

- o 0110-2009 Conferences and Meetings \$1,000.00
- o 0110-2016 Records Preservation \$8,000.00

Legal and Audit \$4,000.00

- o 0135-2010 Legal Services \$4,000.00

Elections \$21,000.00

- o 0140-1002 Part Time Payroll \$15,000.00
- o 0140-2005 Postage \$1,000.00
- o 0140-2021 Equipment Rental \$5,000.00

Boards and Commissions \$4,000.00

- o 0150-2081 Special Committees \$4,000.00

Debt Service \$40,000.00

- o 0180-5012 Capital Lease \$40,000.00

Police \$135,000.00

- o 0210-1001 Full Time Payroll \$19,000.00
- o 0210-1003 Overtime \$48,000.00
- o 0210-2008 Training \$38,000.00
- o 0210-3005 Minor Equipment \$30,000.00

Dispatch \$4800.00

- o 0220-2010 Contracted PSAP \$4800.00

Fire \$32,200.00

- o 0230-2033 Radios \$25,000.00
- o 0230-3004 Uniforms \$3,000.00
- o 0230-3005 Minor Equipment \$550.00
- o 0230-3006 Misc. Supplies \$3650.00

Public Works \$33,822.00

- o 0310-2039 Pavement Markings \$33,822.00

Parks & Grounds \$70,000.00

- o 0330-2035 Building Repair - FWP \$30,000.00
- o 0330-2036 Stonewall Repair - FWP \$40,000.00

TOTAL - GENERAL FUND \$353,822.00

Riverside Cemetery Perpetual Care \$4220.00

- o 0860-2032 Marker Repairs \$1,105.00
- o 0860-2036 Stonewall Repairs \$3,115.00

TOTAL RIVERSIDE CEMETERY - PERPETUAL CARE \$4,220.00

GRAND TOTAL CARRY FORWARD AMOUNTS \$358,042.00

Attachments:

- [Memo Finance Director Carry Forwards 11 08 2023](#)
- [Memo Finance Director FY 2023 Carry Forward \(Supplemental\) 11 13 2023](#)

17. 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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18. 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.