



Regular Town Council Meeting

Monday, September 11, 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://cetv.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.

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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 Chair Nicole Boucher

Attachments:

- [Appropriation Control August 2023](#)
- [Expense Detail August 2023](#)
- [Revenue Control August 2023](#)
- [Revenue Detail August 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. Update on the Revaluation

Matthew E. Sturgis, Town Manager

Attachments:

- [Town Manager's Update on the Revaluation 09 11 2023](#)

8. Review of Draft Minutes of the meeting held on August 14, 2023

Attachments:

- [Town Council Minutes August 14, 2023](#)

9. Item #113-2023 Request from Councilor Reiniger Regarding the Zoning Ordinance Violation 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.

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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Councilor Reiniger has requested consideration to direct town staff to move for and secure a voluntary dismissal of the Cape Elizabeth lawsuit against The Lumbery.

Attachments:

- [Councilor Reiniger Email 08 31 2023](#)
- [The Lumbery Fact Sheet Provided by Town Attorney Costigan](#)

10. Item #114-2023 General Assistance Appendices - Set to Public Hearing

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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New General Assistance maximums have been announced for October 1, 2023 - September 30, 2024. It is in order to schedule a public hearing to consider adopting the appendices A-H and the Recovery Residence Housing Maximums.

It is anticipated Appendix C Housing Maximums will not be adopted as in prior years.

Draft Motion

ORDERED, the Cape Elizabeth Town Council sets to public hearing on Wednesday, October 11, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road the proposed General Assistance Maximums, Appendices A - H for October 1, 2023 - September 30, 2024 and the Recovery Residence Housing Maximums.

Attachments:

- [2023-2024 GA Maximums Appendix A](#)
- [2023-2024 GA Maximums Appendix B](#)
- [2023-2024 GA Maximums Appendix C](#)
- [2023-2024 GA Maximums Appendices D, E, F](#)
- [2023-2024 GA Maximums Appendix G](#)
- [2023-2024 GA Maximums Appendix H](#)
- [2023-2024 GA Maximums Recovery Residences](#)

11. Item #115-2023 Request from the Ad-Hoc Housing Diversity Study Committee to Extend the Deadline

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 Ad-Hoc Housing Diversity Study Committee voted 7-0 on August 28 to request an extension of the report deadline to the Town Council from September 30, 2023 to December 31, 2023.

The reasons cited for the extension:

- 1: The change to our work plan from having to adjust meetings and speakers resulting from the expiration of the remote participation policy at the end of 2022 until a new policy and technology was available to support it, and
- 2: A desire to push the survey until early fall to achieve maximal participation, including adequate time to prepare the best possible survey form.

Draft Motion

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Ad-Hoc Housing Diversity Study Committee to extend the report deadline from September 30, 2023 to December 31, 2023. In addition, the charge of the committee is amended to reflect the change.

Attachments:

- [HDSC Request for Deadline Extension 08 29 2023](#)
- [Draft Charge Amendment HDSC](#)

12. Item #116-2023 Request from the Cape Arena Group Regarding Electricity Expenses

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 Manager Matthew Sturgis will provide a memo outing the CAG's request for the Town to assume the electricity charges for the community ice arena.

Attachments:

- [Memo Town Manager CAG Request 09 11 2023](#)

13. Item #117-2023 Recommendation from the Ordinance Committee Regarding a Pesticide 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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On March 13, 2023 the Town Council referred to the Ordinance Committee review of the proposed Cape Elizabeth Residential Pesticide Use Ordinance which has been submitted for referendum and scheduled for November 7, 2023. The Ordinance Committee determined there was little opportunity to provide minor, clarifying amendments to the referendum ordinance. However the Ordinance Committee has prepared an alternate ordinance that could be considered by the Town Council following the November vote.

On August 8, 2023 the Ordinance Committee voted (3-0) to recommend revisions to the referendum ordinance as an alternate.

Draft Motion

ORDERED, the Cape Elizabeth Town Council schedules a public hearing on Wednesday, October 11, 2023 at 7:00 p.m. at the Cape Elizabeth Town Hall 320 Ocean House Road for revisions to the referendum ordinance entitled "Cape Elizabeth Residential Pesticide Use Ordinance." Such revisions were drafted by the Ordinance Committee dated August 15, 2023. It is further recommended that following the public hearing, further action is held pending the referendum vote on November 7, 2023.

Attachments:

- [Memo Ordinance Committee Pesticide Alt Ord 08 15 2023](#)
- [Pesticide Alt Ord Draft 08 15 2023 Redlined](#)
- [Pesticide Alt Ord Draft 08 15 2023 Clean Copy](#)
- [Healthy Landscape and Turf Maintenance Policy 08 09 2023](#)
- [Town Council Minutes March 13, 2023](#)

14. Item #118-2023 Recommendation from the Ordinance Committee Regarding 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 January 9, 2023 the Town Council referred to the Ordinance Committee a request for a zoning amendment to allow an artist studio as an approved use in the RA District. The request was from Stefan Rurak, 11 Spruce Lane.

On August 8, 2023 the Ordinance Committee voted (3-0) to recommend Home Business Amendments.

Draft Motion

ORDERED, the Cape Elizabeth Town Council refers to the Planning Board recommended amendments to Chapter 19 Zoning Ordinance Home Business Amendments as recommended by the Ordinance Committee draft dated August 15, 2023.

Attachments:

- [Memo Ordinance Committee Home Business Amendments 08 15 2023](#)
- [Home Business Amendments 08 15 2023](#)
- [Town Council Minutes January 9, 2023](#)

15. Item #119-2023 Request from Councilor Reiniger to Refer to a Town Council Workshop Relating to Attracting and Retaining Non-Residential Small Businesses

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.

Councilor Reiniger has requested consideration of scheduling a Town Council workshop to review town policies, organizational structures, and ordinances relating to attracting and retaining non-residential small businesses with goal of identifying specific steps that can be taken by the Town Council and town boards and staff.

Attachments:

- [Councilor Reiniger Email 08 31 2023](#)

16. Item #120-2023 Consideration to Change the First Half FY 2024 Real Estate Tax Due Date

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.

At the September 6 workshop, Tax Assessor Clinton Swett provided a revaluation update. It was determined that in order to finalize the revaluation, the FY 2024 tax commitment will be delayed until the end of September. It was suggested taxpayers be given an additional week to pay before interest begins.

On May 15, 2023 the FY 2024 due dates for real estate taxes were fixed for October 16, 2023 and April 16, 2024.

Draft Motion

ORDERED, the Cape Elizabeth Town Council fixes the first half tax due date for FY 2024 from October 16, 2023 to October 23, 2023. Said tax due dates were originally established on May 15, 2023 Item #75-2023.

Excerpt Town Council Special Meeting Minutes

May 15, 2023

Item #75-2023 Proposed Fiscal Year 2024 General Fund Budget Summary Motion Concerning Property Taxes

Moved by Nicole Boucher and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council having held a public hearing on Monday, May 8, 2023 does hereby adopt the following items concerning property taxes:

Fix October 16, 2023 and April 16, 2024 as the dates upon each of which one-half (1/2) of such tax is due and payable 36 M.R.S. §505 (2);

Interest to accrue upon taxes due and unpaid after each date at the interest rate of 8% per annum 36 M.R.S. §505 (4);

Authorize the Tax Collector and Town Treasurer to accept or decline prepayments of taxes not yet committed or prior to any due date, and pay no interest thereon 36 M.R.S. §506, and

Fix the interest rate for taxes paid in excess of the assessment 6% per annum 36 M.R.S. § 506-A.

(7 yes) (0 no)

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.

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.

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.