

**TOWN OF YARMOUTH
MINUTES OF THE TOWN COUNCIL MEETING**

Meeting: 1-23/24
Date: July 25, 2023
Time: 7:00 PM
Place: American Legion Cabin, 196 Main Street and Remote Video Access.

This meeting began at 7:00 PM

1st Order of Business: Roll Call of Members. All present via video meeting
Roll Call of Members P = Present A = Absent T= Tardy R =Remote

A Michelle Cromarty
P Meghan Casey
P Heather Abbott
P David Craig, Chair
P Karen Orenstein
P Randall Bates
P Zoe Wolf

2nd Order of Business: Approval of the Minutes of Meeting 16-22/23 and Special Meeting 16A-22/23 held June 15, 2023.

Motion to approve offered by Councilor Humphrey, seconded by Councilor Abbott.
Approved 7-0 on a roll call vote.

Public comment period: None

Item No. 1: To hear the reports of the Council Chair, committees, delegates, liaisons, and the Town Manager.

Councilor Bates reported on the Ped/Bike Committee,
The Town Manager reported on the Clam Festival.

Item No. 2: To hold a public hearing and act upon issuance of a full-time malt spirituous and vinous liquor licenses and Special Amusements Permit to Brickyard Hollow, and issuance of a Special Amusements Permit to Gather.

Motion offered by Councilor Wolf, seconded by Councilor Casey:

Be it ordered that issuances of full-time malt spirituous and vinous liquor licenses and Special Amusements Permit to Brickyard Hollow, and issuance of a Special Amusements Permit to Gather, are all hereby approved.

Motion approved 6-0 on a roll call vote.

Item No. 3: To receive a Certificate of Accreditation for the Yarmouth Police Department from the Maine Law Enforcement Accreditation Program, and to adopt a resolution thereon.

After presentations by Ed Tolan, Executive Director of the Maine Chiefs of Police Association and Sean O’Leary of the Maine Law Enforcement Accreditation Program the following motion was offered by Councilor Bates, seconded by Councilor Abbott:

Whereas, the people of Yarmouth rely upon and appreciate the outstanding services and protection provided by the Yarmouth Police Department, and

Whereas, the Yarmouth Police Department, its officers, staff, and leadership have committed themselves to excellence in public service that reflects community values of equity, fairness, inclusion, diligence, compassion, care, and professionalism, and

Whereas, the Yarmouth Police Department has recently voluntarily enrolled in a rigorous self-evaluation and independent Accreditation review by the Maine Law Enforcement Accreditation Program (MLEAP) first established in 2020, which review includes 162 standards of assessment, and

Whereas, the MLEAP has completed its review of the Yarmouth Police Department including examination and testing against standards of excellence and transparency relating to a wide range of issues including, but not limited to hiring and training practices, written policies and procedures compliant with the requirements of the Maine Criminal Justice Academy, and use of force, de-escalation, duty to intervene, bias, profiling, civil rights, property and evidence management, patrol and investigative reporting, and

Whereas, the Maine Law Enforcement Accreditation Program recently found the Yarmouth Police Department in full qualification and merit to receive Accreditation, and confers such Accreditation today and,

Whereas, that in addition to the many specific review conclusions the Accreditation Assessment Report calls out three observations in its final summary that include:

1. “[Chief Daniel Gallant’s] dedication to the law enforcement community and the Town of Yarmouth is seen in his leadership.”
2. “The personnel that make up the Yarmouth Police Department are professional, friendly, personable, and are truly an asset to the agency. There is pride in their work, and all of the staff work toward the departmental goals.”
3. “It is obvious that the Yarmouth Police Department possesses wide community support.”

Now Therefore, Be it Resolved by the Yarmouth Town Council in town council assembled, that the Yarmouth Police Department Certificate of Accreditation as

presented by the Maine Law Enforcement Accreditation Program is hereby accepted with pride and gratitude, and

Be it Further Resolved that the following officers, leaders, and staff are hereby recognized and congratulated with the sincere thanks of the Town of Yarmouth for this outstanding achievement and their individual and collective commitments to excellence and professionalism in law enforcement and service to the people of Yarmouth:

- Chief Daniel Gallant,
- Lieutenant Kevin Pedersen,
- Sergeant Michael Pierce,
- Sergeant Brian Andreasen,
- Officer Joshua Robinson
- Officer Derek Lucas
- Officer Shawn Miles
- Office Derik Miller
- Officer David Mulry
- Officer Joseph Jaynes
- Officer Sophia Swiatek
- Detective Timothy Farris
- Officer Ayaovi Alognon
- Administrative Assistant Olivia Homer
- Harbormaster, William Owen
- And former Chief Michael Morrill

And, Be it Further Resolved that the Town Council reaffirms its determination to provide resources, consistency, clear community standards, and transparency in both priority and policy setting, and to joining with Yarmouth Police Department for positive engagement with Yarmouth community to advance and strengthen the bonds of mutual trust, support, and respect.

Motion Approved 6-0 on a roll call vote.

Item No. 4: To hold a public hearing and act upon a recommendation of the Planning Board regarding a proposed Zoning Map amendment at Map 31 Lot 36 (Libby)

Following a public hearing, no motion was offered and the Council agreed by consensus to move the matter to the August 3 workshop agenda.

Item No. 5: To authorize issuance of Tax Anticipation Notes and award bids therefore.

Motion offered by Councilor Casey, seconded by Councilor Bates:

VOTED by the Town Council for the Town of Yarmouth, Maine as follows:

- (1) That under and pursuant to 30-A M.R.S. § 5771, there be and hereby is authorized the issuance of up to \$4,000,000 principal amount of a Tax Anticipation Note (the “Note”) of the Town in anticipation of the receipt of taxes for the municipal fiscal year which commences July 1, 2023 and ends June 30, 2024; and
- (2) Said Note shall be dated on or about August 10, 2023 and shall mature on or about June 30, 2024, shall be signed by the Town Treasurer and countersigned by the Chair of the Town Council, shall bear interest at the rate of 5.43% based upon a 30/360-day year, shall be payable at Bath Savings Institution, and shall otherwise be in such form and bear such details as the signers may determine; and
- (3) That said Note is hereby sold and awarded to Bath Savings Institution pursuant to its proposal dated July 5, 2023; and
- (4) That the Chair of the Town Council and Treasurer of the Town are hereby authorized to, each individually in the event the other is unavailable, execute all documents reasonably necessary to accomplish the purpose of this vote, as the parties to the transaction may require.

Motion Approved 6-0 on a roll call vote.

Item No. 6: To act upon a request for appropriations to replace a culvert on Whitcomb’s Way.

Motion offered by Councilor Craig, seconded by Councilor Abbott:

Be it ordered that the following sums are hereby appropriated from the indicated accounts to fund the replacement of the culvert carrying Whitcomb’s Creek under Whitcomb’s Way (aka the Treatment Plant Road)

TIF Fund Allocations (to be allocated to each of the 3 districts)	\$90,000
Surplus Appropriation	\$57,984

Motion Approved 6-0 on a roll call vote.

Item No. 7: To hold a public hearing and act upon amendments to Chapters 305 and 401 of the Yarmouth Town Code (Shellfish Management Ordinance, and Fees and Permits Ordinance).

On a motion offered by Councilor Bates, seconded by Councilor Casey:

Be it Ordained be the Yarmouth Town Council in town council assembled that Chapters 305 and 401 of the Yarmouth Town Code are hereby amended consistent with a draft set of amendments presented at this meeting, a copy of which to be set forth in full in the Minutes of this meeting.

Motion Approved 6-0 on a roll call vote.

Amendment 1 Ch 305 Art II A “Civic Licenses”

Be it Ordained by the Yarmouth Town Council in Town Council assembled that Chapter 305 of the Yarmouth Town Code is hereby amended at Article II (A) to read as follows:

A. LICENSES

A Municipal Shellfish Digging License is required, except for Depuration Harvesting authorized by the Commissioner of the Maine Department of Marine Resources pursuant to Title 12, M.R.S.A., Section 685. It is unlawful for any person to dig or take shellfish from the shores and flats of this Municipality without having a current license issued by this Municipality as provided by this Ordinance. Resident and non-Resident children under the age of sixteen (16) shall not be required to obtain a recreational license but shall otherwise be subject to the provisions of this Ordinance.

A Commercial Digger must also have a valid State of Maine Commercial Shellfish license issued by the Department of Marine Resources.

- 1. Notwithstanding the above stated licensing requirements, for specific conservation or research activities sanctioned by the commission, both licensed and unlicensed volunteers, students, researchers, and agents authorized by the Town of Yarmouth are allowed to dig, count, sort or study shellfish growing areas and their environs including but not limited to assessment of habitat and resource, resource health and distribution, growing conditions, public health risks, academic or educational demonstration and measurements. but they may not otherwise take any shellfish without a license.*

All such research or demonstrations must be coordinated with the Shellfish Warden. Nothing herein waives or affects applicable Maine laws and regulations including, but not limited to possession of any shellfish of submarket size which requires a special license issued by the Department of Marine Resources.

Amendment 2 Ch 305 date of issuance (31 days after notification to DMR)

Be it Ordained by the Yarmouth Town Council in Town Council assembled that Chapter 305 of the Yarmouth Town Code is hereby amended at Article III to read as follows:

ARTICLE III A

A. LIMITATION OF DIGGERS.

Because shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with

good resource utilization. The following procedures will be followed to exercise the control:

1. Prior to May 1, the Yarmouth Town Council, with the approval of the Commissioner of Marine Resources and advice of the Shellfish Conservation Commission will establish the number of commercial and non-commercial licenses to be permitted.
2. The Yarmouth Town Council will notify the Town Clerk of Yarmouth in writing prior to May 1, of the number of licenses to be issued. No reservation will be accepted. Notice of the number of licenses to be issued and the procedure for application shall be published in a newspaper or combination of newspapers with general circulation which the municipal officers considered effective in reaching persons affected, not less than ten days prior to the period, or periods, of issuance and shall be posted in the municipal offices until the period(s) concludes.
 - (a) The Town Clerk shall issue commercial and recreational (renewal and new) licenses to residents and non-residents according to the number and type established by the Yarmouth Town Council.
 - (b) Commercial License Renewal: A commercial license may be renewed only on any municipal business day beginning 31 days following the date of notification to the Maine Department of Marine Resources of the number and type of license applications for the next licensing period are authorized between May 1 and May 15, annually, or in the 15 day period following the determination of the Town Council on the number of licenses which may be issued pursuant to this Article, whichever later. To be eligible to renew a license, a person must not have lost eligibility to hold a license pursuant to the license revocation provisions of Article VI.B hereunder.

Amendment 3 Ch 305 Article III B Alternative Licensing Procedure date of issuance (31 days after notification to DMR)

Be it Ordained by the Yarmouth Town Council in Town Council assembled that Chapter 305 of the Yarmouth Town Code is hereby amended at Article III B to read as follows:

ARTICLE III B

B. ALTERNATIVE LICENSING PROCEDURES.

In the event that the Yarmouth Town Council shall establish that no limit on non-commercial licenses shall be imposed, the Yarmouth Town Council following procedure shall govern the issuance of licenses notwithstanding the provisions of Article III. A.2.

1. Beginning on the 20th day of May, or on the 31st day following the date of notification to the Maine Department of Marine Resources of the number and type of license applications for the next licensing period are authorized, whichever date is the later, the Town Clerk of Yarmouth shall issue all resident recreational licenses to residents upon application, said licenses to be effective July 1.
2. Beginning on the 20th day of May, or on the 31st day following the date of notification to the Maine Department of Marine Resources of the number and type of license applications for the next licensing period are authorized, whichever date

is the later the Town Clerk shall issue, by lottery, non-resident recreational licenses to be effective July 1 as follows:

- a. The Town Clerk shall establish a waiting list by lottery for all non-resident applicants and shall issue licenses for not less than ten (10) non-resident applicants or an amount equal to ten percent (10%) of all resident recreational licenses sold, whichever is the greater.
- b. Any non-resident may enter his/her name after May 1 for the waiting list lottery to be held on May 20 or on the 31st day following the date of notification to the Maine Department of Marine Resources of the number and type of license applications for the next licensing period are authorized, whichever date is the later ~~(or, if May 20 is not a regular business day, the next business day thereafter.)~~ Any person may apply to be added to the waiting list at any time thereafter. The Town Clerk shall post all names on the waiting list.
- c. Any person notified by the Town Clerk that he/she has been selected from the waiting list and is qualified to apply for a non-resident, non-commercial license, shall make an application to the Town Clerk and pay the applicable license fee within fourteen (14) business days of the mailing of said notice of eligibility.

In the event that the person fails to make application, qualify, or pay the license fee within the prescribed time period, he/she shall be returned to the end of the waiting list.

3. **OPEN LICENSE SALES:**

When the Yarmouth Town Council determines that limiting commercial shellfish licenses for the following year is not an appropriate shellfish management option, the Yarmouth Town Clerk shall provide that:

- a. Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.
- b. For each commercial license category, the Town Clerk shall make available at least issue one license to nonresidents when six licenses are issued to residents and at least one more to nonresidents when four more additional licenses are issued to residents; thereafter, at least one nonresident license will be issued for every ten additional resident licenses issued.
- ~~c. Commercial and Senior citizen licenses issued shall not be counted in the calculation of licenses sold under this section.~~

Amendment 4 Ch 305 Article III. E Removal transitional clause regarding license year change and clarifying procedures for Open Commercial sales.

Be it Ordained by the Yarmouth Town Council in Town Council assembled that Chapter 305 of the Yarmouth Town Code is hereby amended at Article III. E. to read as follows:

E. LICENSE EXPIRATION DATE

~~Each license issued under authority of this Ordinance expires at midnight on the 30th day of April next following the date of issue, except Three-day Recreational licenses which shall expire in accordance with Article II.E of this Ordinance.~~

~~Notwithstanding the above provisions, e~~ **E**ach license issued under authority of this Ordinance expires at midnight on the 30th day of June in the calendar year next following the year of date of issue, except Three-day Recreational licenses which shall expire in accordance with Article II.~~E~~ **B** of this Ordinance.

~~Transitional Period: Effective March 21, 2019, all annual licenses issued in calendar year 2019 with an original expiration date of April 30, 2020 shall have an extended expiration date of June 30, 2020 and shall be valid until June 30, 2020 unless sooner suspended, revoked or surrendered.~~

Amendment 5 Ch 401- Fees and Permits: To Increase Recreational and Commercial License Fees effective May 2024.

Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 401 of the Yarmouth Town Code is hereby amended at Article XIV as follows to be effective as of May 1, 2024:

ARTICLE XIV

A. SHELLFISH LICENSE

In accordance with the Municipal Shellfish Ordinance, fees shall be as follows:

Resident Commercial: ~~\$500.00~~ \$600.00

Non-resident Non-reciprocating Commercial: ~~\$750.00~~ \$900.00

Resident Recreational: ~~\$40.00~~ \$50.00

Non-resident, Non-reciprocating Recreational: ~~\$80.00~~ \$100.00

Three-day Recreational license (pursuant to Article II.B): \$40.00

Resident/Non-resident Recreational license fees are waived for individuals of age 65 or older.

~~Effective with Resident and Non-Resident Commercial licenses issued or renewed in 2017, the fees shall be as follows:~~

~~Resident Commercial: _____ \$500.00~~

Provided, however, that the Commercial license fee shall be reduced up to \$300 for Conservation work in the prior license year as provided in Article V.B. of Chapter 305 of the Yarmouth Town Code (Shellfish Conservation Ordinance).

~~Non-Resident Commercial: _____ \$750.00~~

~~Provided, however, that the license fee shall be reduced up to \$300 for Conservation work in the prior license year as provided in Article V.B. of Chapter 305 of the Yarmouth Town Code (Shellfish Conservation Ordinance).~~

Item No. 8: To hold a public hearing and act upon a recommendation to allocate and appropriate remaining unallocated ARPA funds for roadway improvement project.

Motion offered by Councilor Casey, seconded by Councilor Abbott:

Be it Ordered that \$90,000 of authorized but yet unallocated ARPA (American Rescue Plan Act) funds are hereby appropriated and authorized to be spent for improvements to Portland Street from Route 1 to Winding Way.

Motion Approved 6-0 on a roll call vote.

Item No. 9: To hold an Executive Session, if needed, including action on the recommendations of the Nominating Committee.

No Executive Session.

On a motion offered by Councilor Casey, seconded by Councilor Craig the Council voted on a slate of nominations reported by the Nominating Committee*:

For the Police Services Advisory Committee	Term expiring Dec. 31,
Jennifer Willard	2023
Katrina Meade	2023
Lori MacDonald	2024
Mary Lynn Engel	2024
Jamie Orenstein*	2025*
Mary Lou Michael	2025
Susan Dreher	2025
Wiley Schumacher (Student Representative)	2024

*Councilor Orenstein abstained from the voting in the Nominations Committee on this applicant due to a conflict of interest.

For the Comprehensive Plan Steering Committee:

William "Tred" McIntyre n/a

Adjourned at 8:59 PM

Respectfully submitted,

Nathaniel J. Tupper
Town Manager