



# **Regular Town Council Meeting**

**Monday, December 13, 2021 at 7:00 pm**

**Town Hall Council Chambers**

## **1. Convening of the Meeting**

Jeremy A. Gabrielson

## **Introduction of Newly-Elected Town Councilors and School Board Members**

On November 2, 2021 three town councilors and three school board members were elected for three-year terms beginning on December 13, 2021. A subsequent town council race recount on November 11, 2021, requested by the fourth place candidate, upheld the results announced on election evening.

The Town Clerk will administer the Oath of Office.

### **Town Council**

Jeremy A. Gabrielson

Susan A. Gillis

Timothy S. Reiniger

### **School Board**

Heather W. Altenburg

Kathleen G. Curry-Sparks

Elizabeth K. Scifres

## **2. Roll Call by the Town Clerk**

Nicole Boucher

Jeremy A. Gabrielson

Susan A. Gillis

Caitlin R. Jordan

Penelope A. Jordan

Gretchen R. Noonan

Timothy S. Reiniger

**3. The Pledge of Allegiance to the Flag**

**4. Item #1-2022 Election of the Town Council Chairman**

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 2022 Town Council held a caucus on November 15, 2021. The results of the caucus for chairman and committee assignments will be voted on at this organizational/regular meeting.

The caucus recommends Jeremy A. Gabrielson.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council elects Jeremy A. Gabrielson to serve as chairman for 2022.

**5. Town Council Reports and Correspondence**

**6. Finance Committee Report**

Review of the dashboard and financial reports ending November 30, 2021.

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

**8. Town Manager's Monthly Report**

Matthew E. Sturgis

**9. Review of Draft Minutes of the meeting held on November 8, 2021 and Special Meeting on December 1, 2021**

**10. Item #2-2022 Adoption of the Town Council Rules**

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 council will review the rules for the conduct of meetings. Any town councilor may propose changes or additions for council review and action.

**11. Consent Calendar Item #3-2022 - Item #20-2022**

The consent calendar provides for Item #3-2022 - Item #20-2022 to be considered en bloc. Any town councilor may ask for any item to be considered separately. At the

discretion of the chairman, any item removed from the consent calendar may be considered before or after the consideration of the items remaining on the consent calendar.

Consent Agenda Item #3-2022 - Item #20-2022 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.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #3-2022 - Item #20-2022 as presented.

**12. Item #3-2022 Appointment of Finance Committee**

Nicole Boucher as chairman and the Council as a whole to serve as the finance committee.

**13. Item #4-2022 Appointment of the Ordinance Committee**

Penelope A. Jordan as chairman and Caitlin R. Jordan and Gretchen R. Noonan as members.

**14. Item #5-2022 Appointment of an Appointments Committee**

Nicole Boucher as chairman and Susan A. Gillis and Timothy S. Reiniger as members.

**15. Item #6-2022 Appointment of Representative to the Greater Portland Council of Governments General Assembly, Metro Coalition and Executive Committee**

Susan A. Gillis, General Assembly and Metro Coalition  
Matthew E. Sturgis, Executive Committee

**16. Item #7-2022 Appointment of a Representative to the PACTS Policy Committee**

Matthew E. Sturgis

**17. Item #8-2022 Appointment of a Representative to the MMA Legislative Policy Committee and MMA Convention Delegate**

Timothy S. Reiniger

**18. Item #9-2022 Appointment of a Representative to the Thomas Memorial Library Foundation**

Gretchen R. Noonan

**19. Item #10-2022 Appointment of a Representative to the Portland Jetport Noise Advisory Committee**

Penelope A. Jordan

**20. Item #11-2022 Appointment of a Representative to the Thomas Jordan Grants**

## **Subcommittee**

Susan A. Gillis to 12/2024

(Already appointed)

Penelope A. Jordan to 12/2022

Caitlin R. Jordan to 12/2023

### **21. Item #12-2022 Appointment of the Vice Chairman of the Museum at Portland Head Light**

Nicole Boucher

Council Chairman Jeremy A. Gabrielson serves as chairman per the by-laws.

### **22. Item #13-2022 Appointment to the ecomaine Board of Directors**

Timothy S. Reiniger to 12/31/2024

### **23. Item #14-2022 Appointments to the Building Oversight Committee**

Nicole Boucher

Gretchen R. Noonan

On October 13, 2021 Councilors Nicole Boucher and Gretchen R. Noonan were appointed as interim representatives to the school Building Oversight Committee, pending election of the new council. The recommendation at the caucus was to remain with Councilors Boucher and Noonan for continuity.

### **24. Item #15-2022 Code of Ethics**

Town Council Rules provide that each council member will annually sign an attestation that they have read and understand the Code of Ethics for the Town Council. Any town councilor may propose changes or additions for council review and action.

The Town Clerk will arrange signing by each council member.

## **Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the Code of Ethics for 2022 with the signatures of the town council to be placed on file.

### **25. Item #16-2022 Schedule of Council Meetings for 2022**

The proposed meeting and workshop dates were reviewed at the November 15, 2021 caucus. Council meetings and workshops are included in the meetings calendar on the town's website. Any changes or additions including date, time and place will be noted on the calendar.

## **Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the 2022 meeting schedule and the FY 2023 budget review schedule as presented.

**26. Item #17-2022 Purpoodock Club Liquor Licenses**

The Purpoodock Club is requesting approval of the annual special amusement permit and malt, vinous and spirituous license, and mobile service bar.

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

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the special amusement permit and malt, vinous and spirituous license, and mobile service bar for the the Purpoodock Club located at 300 Spurwink Avenue as presented.

**27. Item #18-2022 Edward Jones Lease Extension**

The town manager is recommending Lease Amendment 4 with Edward Jones at 343 Ocean House Road.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the proposed Lease Amendment 4 with Edward D. Jones & Co., LP D/B/A Edward Jones for the property located at 343 Ocean House Road. Said lease extension provides for an additional period of 5 years commencing on March 1, 2022 and expiring on February 28, 2027 with base rent increases and other provisions as presented. The town manager is authorized to sign the lease on behalf of the Town.

**28. Item #19-2022 Acceptance of Grants from the Maine Bureau of Highway Safety**

Finance Director John Quartararo has provided memorandums relating to grants to the police department from the Maine Bureau of Highway Safety and recommends the following.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council accepts and appropriates the following grant awards from the Maine Bureau of Highway Safety:

- 1) Click It or Ticket grant in the amount of \$5,000 account 0725-4450. Grant period November 15, 2021 to September 15, 2022. The grant will reimburse staff costs during enforcement operations.
- 2) Distracted Driving Enforcement grant in the amount of \$5,000 account 0725-4452. Grant period November 15, 2021 to September 15, 2022. The grant will reimburse staff costs during enforcement operations. The police department's operating budget will provide match requirements as allowed by the terms of the grant.

## **29. Item #20-2022 American Rescue Plan Act of 2021 Grant**

Finance Director John Quartararo has provided a memorandum and is recommending the following.

On November 8, 2021 the town council approved the authorization of the American Rescue Act Funding Resolution and Spending Plan. The resolution accepted and amended the projects listed in Appendix A.

### **Draft Motion**

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award of \$982,600 from the American Rescue Plan Act of 2021 with a final spend date of December 31, 2024.

The following appropriations are approved:

#### **A. Kettle Cove Drainage Project**

\$400,000 Account 2000-5101

#### **B. Surf Road Stormwater Management Project**

\$475,000 Account 2000-5108

#### **C. IT Infrastructure - CETV**

\$10,166 Account 2030-4040

#### **D. Fire/EMA First Responders Compensation Adjustment (starting 12/19/2021)**

\$97,434 Departments 0230 & 0231

**Total \$982,600**

At each fiscal year-end through June 30, 2024, any unexpended appropriations will automatically carry forward to the next fiscal year until the projects are completed or the funding expires.

## **30. Public Hearing - Planning Board's Recommendation Relating to Wireless Amendments**

Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of 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 May 10, 2021 the town council referred to the ordinance committee a request to propose amendments to add wireless infrastructure as a use to the zoning ordinance. The ordinance committee recommendations were referred to the planning board on July 12. On August 9 the council referred to the planning board review of 5G wireless amendments as proposed by the ordinance committee.

Both wireless amendment packages have been merged into one wireless amendment package. The two objectives of the package is to add essential services as a permitted use in all zoning districts and 5G amendments to ease regulatory barriers to improve telecommunication services in town. The planning board voted (7-0) on October 19 to send the amendments to the town council for consideration.

On November 8, 2021 the council referred the wireless amendment package to public hearing on December 13.

The council may approve the amendments or refer to a subsequent meeting for action, refer to workshop or the ordinance committee.

**31. Item #21-2022 Consideration of the Planning Board's Recommendation Relating to Wireless Amendments**

Following the public hearing, the town council may approve the amendments or refer to a subsequent meeting for action, refer to workshop or the ordinance committee for further review.

**32. Item #22-2022 Property Tax Assistance Program Report**

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 January 14, 2019 the town council adopted Chapter 27 Property Tax Assistance Ordinance. The ordinance requires the tax assessor to submit a report to the town council annually no later than December 31st.

**Sec. 9. Annual Report to the Town Council**

The Tax Assessor shall report in writing to the Town Council no later than December 31st of each year the projected payments, number of eligible applicants requesting assistance for the program fund, and any surplus or shortage of program funds as described in Sec. 3.

Town Assessor Clinton Swett has provided a report for council review and will be present to answer any questions.

Mr. Swett would also like to take the opportunity to update the council and public on the status of the 2022-2023 revaluation.

Draft Motion:

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the tax assessor relating to the 2022 property tax assistance program as required by Chapter 27 Property Tax Assistance Ordinance Sec. 9 Annual Report to the Town Council.

**33. Item #23-2022 Annual Appointments to Boards and Committees**

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 Appointments Committee is recommending the following residents to serve on various town boards and committees. New appointments are effective January 1, 2022.

Two vacancies remain on the Personnel Appeals Board.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the recommendations of the Appointments Committee as follows. New terms are effective January 1, 2022.

**34. Item #24-2022 Scheduling of the Citizens Petition Referendum Relating to Town Center Affordable Housing 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 chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

A citizens petition, entitled Cape Elizabeth Citizen Petition to Send Town Center Affordable Housing Amendments to Referendum, was filed with the Town Clerk on November 2, 2021 following a vote of the town council relating to the town center affordable housing amendments on October 13, 2021. See below reference.

As required by charter, the petition was filed within 20 days of the enactment of the ordinance. A sufficient number of signatures were verified to meet the requirement of the Charter to send the question to referendum. The town council held a public hearing on December 1, 2021, within 30 days from the date of the filing of the petition. On December 13, within 14 days after the public hearing, the council will schedule the vote.

Staff recommends scheduling the referendum vote on Tuesday, June 14, 2022 to coincide with the already-scheduled school budget vote and state primary.

### **Draft Motion**

ORDERED, the Cape Elizabeth Town Council schedules the referendum vote resulting from the Citizens Petition entitled Cape Elizabeth Citizen Petition to Send Town Center Affordable Housing Amendments to Referendum to the election scheduled for Tuesday, June 14, 2022.

### ARTICLE VIII

#### Initiative and Referendum

Sec. 1. Petition for overrule of ordinance. All ordinances, except emergency ordinances passed pursuant to Article II, Section 12 shall be subject to overrule by a referendum.

If, within 20 days after the enactment of any such ordinances, a petition signed by not less than 10% of the registered voters of the Town of Cape Elizabeth is filed with the town clerk requesting its reference to a referendum, the council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk and shall, within 14 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. Pending action by referendum, the referred ordinance shall be suspended from going into operation until it has received an affirmative vote of the majority of the voters voting on said question.

### **35. Item #25-2022 Fort Williams Park Committee Recommendation to Continue Pay and Display**

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 November 18, 2021 the Fort Williams Park Committee voted (6-0) to recommend continuing pay and display parking at Fort Williams Park with the following fee increases:

2-hours \$4.00 to \$5.00

Season Pass \$15.00 to \$20.00

### **Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to continue pay and display parking at Fort Williams Park with the following rate increases:

2-hours \$4.00 to \$5.00

Season Pass \$15.00 to \$20.00

The new fees are effective 4/2022.

**36. Item #26-2022 Fort Williams Park Committee Recommendation to Increase Commercial Vehicle Fees**

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 November 18, 2021 the Fort Williams Park Committee voted (6-0) to propose rates for commercial vehicles at Fort Williams Park for 2023-2025.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to set the following commercial vehicle rates for Fort Williams Park 2023 - 2025 as follows:

**2023**

Vans & Limos\* Single Visit \$25.00 Season \$3,250

Minibuses\* Single Visit \$50.00 Season \$6,500

Trolleys Single Visit \$75.00 Season \$10,000

Motor Coaches\*\* >30 Seats Per Trip \$210.00 Volume Discount \$180.00

**2024**

Vans & Limos\* Single Visit \$30.00 Season \$3,500

Minibuses\* Single Visit \$60.00 Season \$6,750

Trolleys Single Visit \$85.00 Season \$10,150

Motor Coaches\*\* >30 Seats Per Trip \$220.00 Volume Discount \$190.00

**2025**

Vans & Limos\* Single Visit \$35.00 Season \$4,000

Minibuses\* Single Visit \$65.00 Season \$7,500

Trolleys Single Visit \$95.00 Season \$11,350

Motor Coaches\*\* >30 Seats Per Trip \$230.00 Volume Discount \$195.00

\*Maine residential facility vans & minibuses are exempt from fees.

\*\*Motor Coach Volume Discount triggers at 75 visits for any operator (and is represented under season pass pricing for each years). No Season Pass option.

**37. Item #27-2022 Consideration of Proposed Use of Fort Williams Park - South Portland/Cape Elizabeth Rotary Winterfest Fireworks**

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.

At the November 18, 2021 Fort Williams Park Committee meeting, the South Portland/Cape Elizabeth Rotary requested use of the park for Winterfest fireworks on Saturday, January 29, 2022 at 5:30 p.m. The committee approved the request 5-0 (Lauren Springer was excused from the meeting early).

#### **Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee for the South Portland/Cape Elizabeth Rotary to host Winterfest fireworks in Fort Williams Park on Saturday, January 29, 2022 at 5:30 p.m. Details as outlined to be coordinated with town staff and Rotary members.

#### **38. Item #28-2022 Consideration of Amending the Personnel Code to Add Juneteenth to the List of Paid Holidays**

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.

Juneteenth was declared a Federal holiday in 2021. June 19, 2022 will be the first time it will be recognized as a paid holiday for Maine state workers.

The town manager is recommending a discussion whether to proceed with amending Chapter 3 Personnel Code to add Juneteenth as a paid holiday for employees.

See page 3-14 of the Personnel Code.

#### **Article II Benefits**

##### **Sec. 3-2-1 Holidays**

Paid holidays for all employees shall be as follows:

New Year's Day

Martin Luther King, Jr. Day

President' Day

Patriots' Day

Memorial Day

Independence Day

Labor Day  
Columbus Day  
Veterans' Day  
Thanksgiving Day  
Thanksgiving Friday  
December 25

**39. Item #29-2022 Update from the Town Manager Relating to the Results of an RFP for Equipment in the Council Chambers Needed for Hybrid Meetings**

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 will provide an update on the results and findings from the RFP relating to equipment/technology for the council chambers that would enable hybrid meetings should the council decide to move forward with the project.

**40. Item #30-2022 Wireless Infrastructure Market Augmentation (Wima) Study Oversight**

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 August 9, 2021 the town council authorized an RFP for Wima ( Wireless Infrastructure Market Augmentation) study.

The town has signed a contract with Wireless Expertise LLC to perform the Wima (Wireless Infrastructure Market Augmentation) study and the consultant has begun the work. It is recommended the ordinance committee have oversight of the Wima study.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council refers oversight of the Wima (Wireless Infrastructure Market Augmentation) study to the ordinance committee.

**41. Item #31-2022 Acceptance of Annual Gifts and Donations**

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.

It is proposed to accept gifts and donations received in 2021.

### **Draft Motion**

ORDERED, the Cape Elizabeth Town Council accepts gifts and donations received in 2021 with appreciation.

#### **42. Item #32-2022 Consideration of Extending the Limited Emergency for Remote Meetings**

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.

At a special meeting held on August 30, 2021 the town council approved a remote participation policy. In addition, due to COVID-19, a limited emergency was approved until October 15, 2021 and subsequently amended October 13, 2021 extending the emergency until December 31, 2021, allowing the town council and boards and committees to meet remotely effective immediately during the limited emergency (provided boards approve the remote participation policy). Remote meetings remain in force until the emergency is amended or rescinded.

The town council will consider whether to extend the limited emergency for remote meetings.

#### **43. 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.

#### **44. 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.