



# Regular Town Council Meeting

Monday, January 10, 2022 at 7:00 pm

via Zoom

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to lower your hand.

## **COVID-19 Update**

Public proceedings by remote access for Town Council meetings are authorized by the Town of Cape Elizabeth's Remote Participation Policy adopted August 30, 2021 and the Order Declaring a Limited Emergency adopted August 30, 2021. The Order enacted as an Emergency was extended on December 13, 2021 until March 31, 2022. The Order may be further extended by vote of the Town Council.

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

Town Council Chairman Jeremy A. Gabrielson

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

Jeremy A. Gabrielson, Chairman

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 Committee Chairman Nicole Boucher

#### **Attachments:**

- **Appropriation Control December 2021** (Appropriation\_Control\_December\_2021.pdf)
- **Expense Distribution December 2021** (Expense\_Distribution\_December\_2021.pdf)
- **Revenue Control December 2021** (Revenue\_Control\_December\_2021.pdf)
- **Revenue Distribution December 2021** (Revenue\_Distribution\_December\_2021.pdf)

### **6. Presentation - Update from Cape Community Arena Group (CCAG)**

The Cape Community Arena Group (CCAG), the nonprofit formerly known as Cape Community Ice Rink (CCIR), would like to provide an update to the town council relating to a proposed four-season arena to be located on Town property – land adjacent to the public works facility at Gull Crest.

The initial concept was presented at the August 2, 2021 town council meeting, followed by continued discussions on September 13 and October 6.

**7. Citizen Opportunity for Discussion of Items Not on the Agenda**

(Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. 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**

December 13, 2021

**Attachments:**

- **Town Council Minutes December 13, 2021** (Town\_Council\_Minutes\_December\_13\_\_2021.pdf)

**10. Consent Calendar Item #33-2022 - Item #37-2022**

The consent calendar provides for Item #33-2022 - Item #37-2022 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 #33-2022 - Item #37-2022 Opportunity for Public Comment. (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. 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 #33-2022 - Item #37-2022 as presented.

**11. Item #33-2022 Use of Fort Williams Park for Beach to Beach 10K Road Race August 6, 2022**

On December 16, 2021 the Fort Williams Park Committee approved (5-0) the use of Fort Williams Park for the Beach to Beacon 10K Road Race. The race is scheduled for Saturday, August 6, 2022. In addition the committee approved (5-0) a fee of \$27,500 (the same rate as 2020) with an additional \$2,400 contingent on the parade ground use for tent and dinner.

Note: If Beach to Beach needs additional time for the race e.g. rolling start with staggered fields, they will need to come back to the town council for permission to extend the race hours and road closures.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to approve the use of Fort Williams Park for the Beach to Beach 10K Road Race, and associated activities, as presented. The race is scheduled for Saturday, August 6, 2022. The 2022 fee is \$27,500 plus an additional \$2,400 for use of the parade ground for the VIP dinner (if the space is used).

**Attachments:**

- **Fort Williams Park Use Request Beach to Beach 10K 08 06 2022** (FWP\_Use\_Request\_BtoB\_10K.pdf)
- **FWP Committee Minutes 12 16 2021** (FWP\_Committee\_Minutes\_December\_16\_2021.pdf)

**12. Item #34-2022 Acceptance of ARPA 2021 Grant for Cape Care**

Finance Director John Quartararo has prepared a memo explaining the Cape Care ARPA 2021 grant.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council accepts and appropriates to Department 0639, Cape Care a grant award of \$110,550 from the American Rescue Plan Act of 2021 administered by the Maine Department of Health and Human Services for the period October 1, 2021 through August 31, 2022.

**Attachments:**

- **Memo Finance Director Cape Care ARPA Grant 12 15 2021** (Memo\_Finance\_Director\_Cape\_Care\_ARPA\_Grant12\_15\_2021.pdf)

**13. Item #35-2022 Acceptance of United States Tennis Association, Inc. Grant for Community Services**

Finance Director John Quartararo has provided a memo relating to a grant awarded to Community Services in the amount of \$1,860.00 from the United States Tennis Association, Inc. (USTA).

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council accepts a grant award of \$1,860.00 from the United States Tennis Association, Inc. and appropriates that amount to Department 0637 Community Services - Youth Programs. Said funds will be spent out, for expenses allowed by the grant, by the end of the current fiscal year ending June 30, 2022.

**Attachments:**

- **Memo Finance Director USTA Grant 12 30 2021** (Memo\_Finance\_Director\_USTA\_Grant\_12\_30\_2021.pdf)

**14. Item #36-2022 Consolidating, Retitling and Closing Certain CIP Projects**

Finance Director John Quartararo is recommending the consolidation, retitling and closing of certain CIP projects as outlined in the January 3, 2022 memo.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council authorizes the following consolidation, retitling and closing of certain CIP Projects:

CIP project 2000-4005 be retitled as Paving and Roadway Improvements, and project 2000-4009 be retitled as Drainage Improvements; that projects 2000-4013 Drainage Improvements and 2000-4014 Sidewalk Rpr and Ped Improvements be consolidated as 2000-4014 and retitled as Sidewalk Repairs & Improvements; that 2030-4131 Town Cntr Bldg Repairs and 2030-5310 Town Hall - Main Stair Upgrade be consolidated as 2030-4131 and retitled as Town Hall Repairs and Improvements, that the following projects be closed 2000-5421 Communication Tower - balance \$18,056.79, 2001-4154 Trailer - balance \$3,499.05, 2030-4052 Library Improvements \$77,198 and 2002-5410 FWP Central Lot Project with the balance of \$14,772.56 returned to Portland Head Light Fund.

**Attachments:**

- **Memo Finance Director Consolidating, Retitling and Closing Certain CIP Projects 01 03 2022** (Memo\_Finance\_Director\_Consolidating\_CIP\_Projects\_01\_03\_2022.pdf)

**15. Item #37-2022 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 the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

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

Town Manager Matthew Sturgis and Town Clerk Debra Lane are nominating James T. Walsh to serve as the Fair Hearing Officer for a three-year term. A memo has been

provided relating to the nomination.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council appoints James T. Walsh, 53 Wildwood Drive, to serve as the Fair Hearing Officer effective immediately. The term will expire 12/31/2024.

**Attachments:**

- **FHA Nomination** (FHA\_Nomination\_01\_2022.pdf)

**16. Item #38-2022 Thomas Memorial Library Policies**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

The Thomas Memorial Library Committee is recommending amendments to the Collection Development Policy and the adoption of two new policies: Petition and Passive Engagement Policy and Programming Policy.

A copy of each policy is included in the council packet. Note: There is a red-lined version of the Collection Development Policy and a clean copy should the amendments be approved.

The Committee approved the recommendations on November 18, 2021 (5-0).

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the recommendations of the Thomas Memorial Library Committee to amend the Collection Development Policy and adopt the Petition and Passive Engagement Policy and Programming Policy.

**Attachments:**

- **Memo TML Director New and Revised Policies 01 03 2022** (Memo\_TML\_Director\_New\_and\_Revised\_Policies\_01\_03\_2022.pdf)
- **TML Collection Policy Red-Lined 11 2021** (TML\_Collection\_Development\_Policy\_Red-Lined\_11\_2021.pdf)
- **TML Collection Policy Clean Copy** (TML\_Collection\_Development\_Policy\_Clean\_Copy\_11\_2021.pdf)
- **TML Petition and Passive Engagement Policy Proposed 11 2021** (TML\_Petition\_and\_Passive\_Engagement\_Policy\_Proposed\_11\_2021.pdf)
- **TML Programming Policy Proposed 11 2021** (TML\_Programming\_Policy\_Propos

ed\_11\_2021.pdf)

- **TML Committee Minutes 11 18 2021** (TML\_Committee\_Minutes\_November\_18\_2021.pdf)

**17. Item #39-2022 Discussion of Construction Related Noise Disruptions**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Chairman Gabrielson requested this item be included on the agenda. The town council received two citizen emails (12/2021) from the Reef Road neighborhood relating to construction noise.

Following discussion, next steps may include referral to a committee or workshop, or take no action.

**Attachments:**

- **Reef Road Citizen Emails 12 2021** (Reef\_Road\_Citizen\_Emails\_12\_2021.pdf)

**18. Item #40-2022 Adoption of the General Assistance Ordinance and Appendices**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

A public hearing on the general assistance ordinance and appendices was held on October 13, 2021. Following the public hearing the town council voted to table the item for further discussion at a workshop held on October 27.

At the workshop the council suggested/hoped for future proposed changes that MMA provide a red-lined version and note what is required by law to be included in the ordinance.

Based on past council votes, the council may want to consider not adopting Appendix C Housing Maximums which would allow a maximum benefit to be all for housing if deemed appropriate by the general assistance administrator.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council approves the General Assistance Model

Ordinance (9/2021) and Appendices (A,B, D-I) as recommended by the Maine Municipal Association effective October 1, 2021 – September 30, 2022.

**Attachments:**

- **GA Appendices A-I 09 2021** (GA\_2021\_Appendices\_A-I\_Revised\_09\_2021.pdf)
- **GA Model Ordinance MMA 09 2021** (GA\_Model\_Ordinance\_MMA\_Revised\_09\_2021.pdf)

**19. Item #41-2022 Referral of Technical Amendments to the Ordinance Committee**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Periodically a package of technical amendments to the zoning and subdivision ordinances is prepared by the planning board for town council consideration. The last package was in 2015. Following a request from the planning board, the council voted on October 13, 2021 to direct the planning board to prepare technical amendments.

**Draft Motion**

ORDERED, the Cape Elizabeth Town Council refers recommended technical amendments from the planning board as outlined in the December 22, 2021 memo to the ordinance committee.

**Attachments:**

- **Memo Planning Board Technical Amendments 12 22 2021** (Memo\_Planning\_Board\_Technical\_Amendments\_12\_22\_2021.pdf)

**20. Item #42-2022 Cumberland County Hazard Mitigation Plan**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

Excerpt from the Cumberland County Emergency Management Agency

**Hazard Mitigation**

Mitigation is the work done to prevent or lessen damage from and adverse event. This can be as simple as ditching along a roadway that floods, or as complex as rebuilding roadways or changing zoning ordinances.

Cities and towns work with their local emergency managers and public works departments to determine the best use of funds and the most needed projects. Because all Cumberland County towns and cities participate in the Hazard Mitigation Plan, they are eligible to receive pre-disaster mitigation and hazard mitigation funding from the Federal Emergency Management Agency (FEMA).

The Cumberland County Hazard Mitigation Plan was revised in 2017 as part of a FEMA five-year update cycle. Each municipality provided a list on needed projects for the County Plan. CCEMA examined historical records, the expertise of the municipalities and the State mitigation plans to revise the Plan, which was approved by FEMA in March 2017.

Each municipality reviews its projects on a yearly basis, and this is used to do a yearly update to the Cumberland County Plan.

### **2022 Hazard Mitigation Plan**

The next iteration of the Hazard Mitigation plan (2022) has been drafted. FEMA Region 1 reviewers found that the plan meets the requirements under 44 CFR and the the County Hazard Mitigation plan for 2022 is "approvable pending adoption" by Cumberland County municipalities.

### **Link**

<https://www.cumberlandcounty.org/231/Hazard-Mitigation>

### **Draft Motion**

ORDERED, the Cape Elizabeth Town Council adopts the 2022 Cumberland County Hazard Mitigation Plan as presented and authorizes the town manager to sign the Resolution of Adoption on behalf of the Town of Cape Elizabeth.

### **RESOLUTION OF ADOPTION**

Whereas, the cities and towns of Cumberland County, in the State of Maine, recognize that natural hazards create a risk of harm to persons and damage to property; and

Whereas, the cities and towns of Cumberland County recognize that implementing certain measures may reduce the risk of harm to persons and damage to property resulting from these natural hazards;

Therefore, the City Councils and Select Boards hereby adopt the 2022 Cumberland County Hazard Mitigation Plan.

AUTHORIZING SIGNATURES for the Town of Cape Elizabeth, Maine.

**Attachments:**

- **Cumberland County 2022 Hazard Mitigation Plan** (CC\_Hazard\_Mitigation\_Plan\_2022.pdf)

**21. Item #43-2022 Update from the Town Manager Relating to the Results of an RFP for Technology Equipment in the Council Chambers**

Opportunity for Public Comment (Limited to 15 minutes; 3 minutes per person. Time may be extended by a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

On December 13, 2021 the town manager provided an update on the results of an RFP for equipment in the council chambers which would enable the technology for hybrid meetings and improvements to the sound system. It was a consensus of the town council that the town manager provide a funding proposal at the January 10, 2022 council meeting for consideration. The RFP estimates the project at \$64,000.

The Remote Participation Policy adopted August 30, 2021 allows meetings via remote methods for members (as allowed by applicable state law) of the Town Council, Planning Board and Board of Zoning Appeals and the public in the public proceedings or meetings of the body.

**22. 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 a majority of the town council.) Persons wishing to address the council shall indicate their desire using the Raise Hand function of the Zoom meeting. When recognized by the chairman, the speaker shall give his or her name and address or local affiliation, if the affiliation is pertinent.

**23. 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.