



Regular Town Council Meeting

Monday, December 12, 2022 at 7:00 pm

Town Hall Council Chambers

Live on CETV

1. Convening of the Meeting

Chair Jeremy A. Gabrielson

Introduction of Town Councilors and School Board Members Elected on November 8, 2022

The Town Clerk will administer the Oath of Office.

Town Council
Caitlin R. Jordan
Penelope A. Jordan

School Board
Phillip R. Saucier
Caitlin S. Sweet

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

- Attachments:**
- List of Selectmen/Town Council
 - List of Town Council by Year

3. The Pledge of Allegiance to the Flag

4. Item #1-2023 Election of the Town Council Chair

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 2023 Town Council held a caucus on November 15, 2022. The results of the caucus for chair 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 chair for 2023.

- Attachments:**
- 2023 Town Council Caucus Results

5. Town Council Reports and Correspondence

6. Finance Committee Report

- Attachments:**
- Financial Dashboard 11 30 2022
 - Appropriation Control November 2022
 - Expense Distribution November 2022
 - Revenue Control November 2022
 - Revenue Distribution November 2022

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

November 14, 2022 Regular Meeting

- Attachments:**
- Town Council Minutes November 14, 2022

10. Item #2-2023 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.

Draft Motion
ORDERED, the Cape Elizabeth Town Council approves the Town Council Rules for 2023.

- Attachments:**
- Town Council Rules

11. Consent Calendar Item #3-2023 - Item #16-2023

The consent calendar provides for Item #3-2023 - Item #16-2023 to be considered en bloc. Any town councilor may ask for any item to be considered separately. At the discretion of the chair, any item removed from the consent calendar may be considered before or after the consideration of the items remaining on the consent calendar.

Opportunity for Public Comment. Consent Agenda Item #3-2023 - Item #16-2023

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 #3-2023 - Item #16-2023 as presented.

12. Item #3-2023 Appointment of Finance Committee

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

13. Item #4-2023 Appointment of the Ordinance Committee

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

14. Item #5-2023 Appointment of the Appointments Committee

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

15. Item #6-2023 Appointment of Representative to the Greater Portland Council of Governments General Assembly, Metro Coalition and Executive Committee

Jeremy A. Gabrielson, General Assembly and Metro Coalition
Matthew E. Sturgis, Executive Committee

16. Item #7-2023 Appointment of a Representative to the PACTS Policy Committee

Matthew E. Sturgis

17. Item #8-2023 Appointment of a Representative to the MMA Legislative Policy Committee and MMA Convention Delegate

Timothy S. Reiniger

18. Item #9-2023 Appointment of a Representative to the Thomas Memorial Library Foundation

Gretchen R. Noonan

19. Item #10-2023 Appointments of a Representative to the Portland Jetport Noise Advisory Committee

Susan A. Gillis

20. Item #11-2023 Appointment of a Representative to the Thomas Jordan Grants Subcommittee

Penelope A. Jordan to 12/2025

(Already appointed)
Caitlin R. Jordan to 12/2023
Susan A. Gillis to 12/2024

21. Item #12-2023 Appointment of the Vice Chair of the Museum at Portland Head Light

Nicole Boucher

Council Chair Jeremy A. Gabrielson serves as chair per the by-laws.

22. Item #13-2023 Appointment to the ecomaine Board of Directors

Matthew E. Sturgis, Alternate

(Already appointed)
Timothy S. Reiniger to 12/2024

23. Item #14-2023 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 2023 with the signatures of the Town Council to be placed on file.

- Attachments:**
- Code of Ethics
 - Code of Ethics 2023 Attestation

24. Item #15-2023 Schedule of Town Council Meetings for 2023

The proposed meeting and workshop dates were reviewed at the November 15, 2022 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 2023 meeting schedule and the FY 2024 budget review schedule as presented.

- Attachments:**
- Town Council Meeting Schedule 2023
 - Town Council Budget Review Schedule FY 2024

25. Item #16-2023 Renewal Liquor License - Tacos Y Tequila

Tacos Y Tequila is seeking a renewal liquor license. The current license expired 11/11/2022. A temporary license was issued by the State of Maine pending the renewal.

No concerns have been reported by the police chief, fire chief and code enforcement officer.

Draft Motion
ORDERED, the Cape Elizabeth Town Council approves the renewal malt liquor (beer), wine and spirits license for Tacos Y Tequila located at 517 Ocean House Road.

- Attachments:**
- Tacos Y Tequila Liquor License

26. Item #17-2023 Annual Appointments to Various Town 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 met on November 9 and November 17, 2022 interviewing applicants for town boards and committees. The Appointments Committee recommends the following appointments. Except for unexpired terms which are effective immediately, new terms begin on January 1, 2023.

Remaining openings will be advertised at the beginning of the year including Personnel Appeals Board (expires 12/31/2023), Community Services Committee (expires 12/31/2025) and Diversity, Equity and Inclusion Committee (expires 12/31/2025).

Draft Motion
ORDERED, the Cape Elizabeth Town Council approves the recommendations of the Appointments Committee to appoint residents to serve on various town boards and committees as presented.

- Attachments:**
- 2023 Recommended Appointments
 - 2023 Recommended Appointments Applications

27. Item #18-2023 Appointment of the Registrar of Voters

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.

21 M.R.S. §101 Requires the municipal officers to appoint a qualified registrar of voters by January 1st of each odd-numbered year. The registrar shall serve for 2 years and until a successor is appointed and sworn. The registrar may appoint deputy registrars who serve at the will of the registrar.

Draft Motion
ORDERED, the Cape Elizabeth Town Council reappoints Debra M. Lane to serve as Registrar of Voters for a term to expire January 1, 2025.

- Attachments:**
- Appointment of Registrar of Voters

28. Item #19-2023 Request for Conditional Municipal Approval of Property to be Donated to the Town from the Carr Woods Condominium Project

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.

William A. Gerrish, Northeast Civil Solutions has provided a letter to the Town Council on behalf of applicants Andrew Carr and Ena Hanson requesting conditional municipal approval for property that is proposed to be donated to the Town of Cape Elizabeth relating to the proposed Carr Woods condominium development project.

The first parcel consists of a 10-foot wide easement located along the west side of Shore Road at the easterly limits of the proposed development (shaded in red on the plan).

The second parcel consists of approximately 1.55 acres to be conveyed in fee located in the westerly portion of the proposed development (shaded in green on the plan).

Draft Motion
ORDERED, the Cape Elizabeth Town Council grants conditional municipal approval of two separate parcels of land that are proposed to be donated by Andrew Carr and Ena Hanson. Applicants to the proposed Carr Woods condominium development project as follows:

- The first parcel consists of a 10-foot wide easement located along the west side of Shore Road at the easterly limits of the proposed development.
- The second parcel consists of approximately 1.55 acres to be conveyed in fee located in the westerly portion of the proposed development.

- Attachments:**
- Memo Carr Woods Conditional Municipal Approval for Donated Property 12 1 2022

29. Item #20-2023 Review of the Charge for the Joint Town Council and School Board School Building Advisory Committee

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 a draft School Building Advisory Committee charge. The School Board will review the charge at the December 13 School Board meeting.

The Town Council will discuss next steps.

- Attachments:**
- Draft School Building Advisory Committee Description 12 02 2022

30. Item #21-2023 Follow up Request for Amendment for the Solar Power Installation Project

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.

David Littell, Attorney for the Town has prepared an amendment for the solar power installation project agreement.

31. Item #22-2023 Ordinance Committee Report Regarding Parking in the Trundy Point Area

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 March 14, 2022 the Town Council referred to the Ordinance Committee a review of traffic and parking concerns on Reef Road in response to citizen concerns.

The Ordinance Committee met on May 11 and November 28, 2022. The committee's review included a parking report from Chief Fenton. On November 28 the Ordinance Committee voted 2-0 that no further action is recommended.

- Attachments:**
- Memo Ordinance Committee Reef Road Parking 12 01 2022
 - Ordinance Committee Minutes November 28, 2022

32. Item #23-2023 Ordinance Committee Report Regarding Consideration of Next Steps Relating to Stormwater 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.

On August 8, 2022 the Town Council referred to the Ordinance Committee development of Stormwater Ordinance amendments.

The Ordinance Committee discussed stormwater amendments on September 14, October 17 and November 28, 2022. On November 28 the committee voted 2-0 to send amendments to the Town Council for consideration.

Suggested next steps are to send the Chapter 25 Stormwater Ordinance amendments to a town council workshop or public hearing and send Chapter 16 Subdivision Ordinance and Chapter 19 Zoning Ordinance amendments to the Planning Board for review and report back to the council.

Draft Motion
ORDERED, the Cape Elizabeth Town Council refers a recommendation from the Ordinance Committee regarding stormwater amendments 1) refers to a town council workshop proposed amendments to Chapter 25 Stormwater Ordinance 2) refers Chapter 16 Subdivision Ordinance and Chapter 19 Zoning Ordinance amendments to the Planning Board for review and report back to the council.

- Attachments:**
- Memo Ordinance Committee Stormwater Amendments 12 01 2022
 - Draft Stormwater Amendments 12 01 2022 Redlined
 - Draft Stormwater Amendments 12 01 2022 Not Redlined
 - Ordinance Committee Minutes November 28, 2022

33. Item #24-2023 Acceptance of Gifts and Donations for 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 accepts with gratitude various donations received throughout 2022.

- Attachments:**
- Gifts 2022

34. Item #25-2023 Review of Remote Participation Policy

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 30, 2021 the Town Council approved the Remote Participation Policy which provides for hybrid meetings (when the technology is available) for the Town Council, Planning Board and Board of Zoning Appeals under certain circumstances, see the policy.

The policy will remain in force unless amended or rescinded. The policy will be reviewed annually at the Town Council's organizational meeting in December.

- Attachments:**
- Remote Participation Policy 08 30 2021
 - 1 M.R.S. 403-B Remote Participation in Public Proceedings

35. Item #26-2023 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 limited emergency has been extended as follows:

- 12/13/2021 to 3/31/2022
- 3/14/2022 to 6/1/2022
- 5/9/2022 to 8/31/2022
- 8/8/2022 to 12/31/2022

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

- Attachments:**
- Order Declaring Limited Emergency for Remote Meetings

36. 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.

37. 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.