



Cape Elizabeth Town Council

DRAFT Minutes Monday, June 14, 2021

7:00 p.m.

Zoom Online

James M. "Jamie" Garvin, Chairman
Nicole Boucher
Valerie J. Deveraux
Jeremy A. Gabrielson
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan

The meeting via Zoom, an online video and audio conferencing platform, was convened at 7:00 p.m. by Chairman Garvin.

In response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) Governor Mills signed [LD 2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency](#), which is now PL 2019, c. 617.

Part G enacts Title 1, section 403-A, Public proceedings through remote access during declaration of state of emergency due to COVID-19. It authorizes conducting public proceedings through telephonic, video, electronic or other similar means of remote participation with specific conditions. The section is repealed 30 days after the termination of the state of emergency.

The Cape Elizabeth Town Council will meet as necessary to continue the town's work via an online platform as allowed by State authorization during the state of emergency due to COVID-19. The platform will allow for public comment as outlined in the Town Council Rules. The public is reminded they should continue to provide questions and comments to the town council relating to business of the town via email or mailing correspondence to their attention to town hall.

Roll Call by the Town Clerk
All members of the town council were present.

Debra M. Lane, Town Clerk
Maureen O'Meara, Town Planner
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

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Town Council Reports and Correspondence

Councilor Noonan reported she met with Jay Brandeis from the Cape Community Ice Rink group at Gull Crest and spoke with Elisa Tarlow regarding the proposed town center project.

Councilor Boucher noted she also spoke with Elisa Tarlow regarding the project.

Councilor Deveraux congratulated the CEHS Class of 2021. Congratulations to Debra Lane, Assistant Town Manager and Town Clerk on 35 years of service to the town.

Chairman Garvin reported meetings with Jay Brandeis and Chris Hooper regarding their ideas for the next phase for community skating opportunities, Mike Friedland (The Lumbery) regarding challenges for small businesses, Sara Lennon, Paul Farrow and Tony Owens regarding the proposed zoning amendments and affordable housing project in the town center. Thank you to Debra Lane, election staff, town and school departments for carrying out their work on elections.

Finance Committee Report

Finance Chairman Jeremy Gabrielson reviewed the dashboard ending 5/31/2021 and noted the town council and school board joint workshop on Tuesday, June 15 at 6:30 p.m. via Zoom relating to long-range capital planning.

The auditors are beginning the FY 2021 audit. If councilors have specific questions for the auditors, please contact Chairman Garvin or Matthew Sturgis.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Presentation – Town Center Traffic Study

Tom Errico of T.Y. Lin presented the Town Center Transportation Study dated June 2020. The report provided fact-finding and information on traffic moving through the Shore Road/Scott Dyer Road/Route 77 intersection.

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The item will be discussed at a future workshop and/or within budget discussions; how the project prioritizes with other fiscal demands and/or within budget discussions and how the project prioritizes with other fiscal demands.

Town Manager's Monthly Report

Matthew E. Sturgis

As the fiscal year comes to a close, the council will be pleased to know that the fiscal health of the Town is robust. Property tax collection is currently at 99.64% of the anticipated amounts, which is .13% greater than the average amount collected at this time historically. Additionally, excise taxes are currently at 114% of anticipated, with just over two weeks remaining in the month. Building permit revenue is also at a historic level, while expenditures are also at less than anticipated due to a mild winter. This is all to say in comparison to where the Town was last year at this time, with significant uncertainty in many areas, the Town has weathered the pandemic well financially. My thanks is extended to the many department heads and front line employees for their hard work to accomplish this as a goal for fiscal year 2021.

As we prepare to close the fiscal year and begin fiscal year 2022, the tax office will be closed at noon on June 30th to close the books and be ready to start the New Year July 1st.

Also on July 1st the new short term rental zoning amendments become effective. Applications are coming in to the Code Enforcement Office, and the short term rental monitoring service in use by the Town will be sending out correspondence to those offering short term rentals in Cape Elizabeth to remind them of the requirement to have a permit to legally operate. The Town's website currently has a lead story regarding the new regulations which links you to a new "Short Term Rental Page" on the site. The page has a link to the application, frequently asked questions, a link to applying for a homestead exemption, and other needed details for short term rentals.

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On Monday, June 21 Community Services summer camp begins, and there are approximately 185 campers attending, which is a full house. The camp will be mask optional as of June 30th due to the recent Executive decision by Governor Mills. The camp will still strictly adhere to the cleaning and sanitizing processes established last summer. Here is hoping to a safe and fun filled summer for the campers.

Respectfully submitted,

Matthew E. Sturgis
Town Manager

Review of Draft Minutes on May 3, 2021 (Special) and May 10, 2021

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the minutes of the virtual meetings held on May 3, 2021 and May 10, 2021 as written.

(7 yes) (0 no)

Present – Finance Director John Quartararo

Consent Calendar Item #91-2021 – Item #94-2021

Item #94-2021 was removed from the consent calendar for further discussion.

Moved by Penelope A. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves Item #91-2021, #92-2021, and #93-2021 as presented.

(7 yes) (0 no)

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**Item #91-2021 Acceptance of the Ed McDonald Safety Enhancement Grant for
the Public Works Department**

ORDERED, the Cape Elizabeth Town Council accepts and appropriates an award of \$867.10 from the Maine Municipal Association Workers Compensation Fund's Ed MacDonald Safety Enhancement Grant towards the purchase of a set of "dump loks." The grant will pay 2/3 of the purchase costs to the maximum of the grant award. The Public Works Department's operating budget is responsible for the local share. The grant period is May 1, 2021 to May 1, 2022.

**Item #92-2021 Consideration of Recommended Amendments to the Purchasing
Policy and Establishing a Policy to Ensure Certain Policies are Reviewed on a Regular
Basis**

ORDERED, the Cape Elizabeth Town Council approves the recommended changes to the Purchasing Procedure policy and establishes a Policy Concerning the Distribution and Review of Town Policies, effective immediately. The next review date for both policies is June 14, 2026.

See attachments.

Item #93-2021 Short-Term Borrowing for School Project

ORDERED, the Cape Elizabeth Town Council approves short-term financing of \$300,000 for the School Department's School Concept Project per the Policy Short-Term Financing of Bonded Capital Projects adopted May 10, 2021 and the following additional policy requirements:

1. Project name – School Concept Project
2. Sponsor – Cape Elizabeth School Department
3. The use of the Towns cash resources will not have a detrimental impact on the Town's Finances.
4. The request of \$300,000 does not exceed the policy limit of \$500,000.
5. The maturity date for this authorization is one-year from the date of approval, subject to additional extensions per the policy.

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6. The estimated date of issuance of the permanent financing is dependent upon the anticipated referendum in June 2022.
 - a. If the referendum is approved the short-term financing would be paid off by a bond anticipation note for the bond amount approved by the referendum.
 - b. If the referendum is not approved, the authorized \$300,000 in bonds would be issued during the summer of 2022.

Item #94-2021 Recommended Amendments to the Thomas Memorial Library Policies

Present – Thomas Memorial Library Director Rachel Davis

Moved by Penelope A. Jordan and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council approves the recommendations from the Thomas Memorial Library Committee to amend and/or establish the following policies including General Use Policy, Food & Beverage Policy, Computer Use and Internet Policy and Safe Child & Vulnerable Adults Policy, effective immediately.

Moved by Gretchen R. Noonan and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council lay on the table Item #94-2021 to a date certain: July 12, 2021. In addition the item will be scheduled for a workshop prior to the July meeting.

(6 yes) (1 no Councilor Deveraux)

Item #95-2021 Recommendation from the Ordinance Committee Relating to a New Standing Committee – Diversity, Equity and Inclusion Committee

Introduction – Ordinance Committee Chairman Penelope Jordan

Moved by Penelope A. Jordan and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council sets to public hearing and vote on Monday, July 12, 2021 at 7:00 p.m. at the Cape Elizabeth Town Hall the recommendation from the ordinance committee to establish a 7-member committee: Sec. 4-1-7 D. Diversity, Equity and Inclusion Committee.

(7 yes) (0 no)

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Item #96-2021 Fort Williams Park Master Plan Recommendations Overview

Introduction and Overview

Jim Kerney, Chairman Fort Williams Park Committee

Todd Richardson – Richardson Associates

Kathy Raftice – Director of Fort Williams Park

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council refers the Fort Williams Park Master Plan Recommendations to a future workshop (tentatively August 2021).

(7 yes) (0 no)

**Item #97-2021 Recommendation from the Ordinance Committee Relating to
Town Center Affordable Housing Amendments**

Introduction – Ordinance Committee Chairman Penelope Jordan

Public Comment

Sara Lennon, 54 Cranbrook Drive encouraged the town council to count the number of emails for and against the proposed town center project. What is the substantial public benefit?

Curt Kelly, 374 Mitchell Road asked if the proposed project is Section 8 housing. How did the project become a town council discussion? How does the project benefit the town?

Moved by Penelope A. Jordan and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council refers to workshop on Tuesday, June 22, 2021 at 7:00 p.m. continued discussion on affordable housing. The public is invited and encouraged to participate. Staff is asked to review correspondence from the public and prepare Q&A from commonly asked questions, gather documents and reports re: housing trends and diversified housing, and invite experts to provide additional information on the subject.

(7 yes) (0 no)

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**Item #98-20201 Consideration of a Collective Bargaining Agreement between the
Town of Cape Elizabeth and the Cape Elizabeth Police Benevolent Association**

Introduction – Mr. Sturgis

Moved by Jeremy A. Gabrielson and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the collective bargaining agreement between the Town of Cape Elizabeth and the Cape Elizabeth Police Benevolent Association effective July 1, 2021 – June 30, 2024 and the Memorandum of Agreement, as presented.

(7 yes) (0 no)

Moved by Nicole Boucher and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council approves the changes to its MainePERS Plan for the Cape Elizabeth Police Benevolent Association effective July 1, 2021, for future service only, as presented. The Town agrees to:

- a) Provide Special Plan 3C to its police officers who work 15 or more hours per week for service rendered after June 30, 2021. Service for police officers rendered before July 1, 2021 remains under Special Plan 2C.
- b) Continue to exclude all other employees, including police officers who work less than 15 hours per week and its elected/appointed officials from participating in the plan.
- c) To authorize Matthew Sturgis, Town Manager to sign the Amended Agreement between the Town and the Maine Public Employees Retirement System.

(7 yes) (0 no)

Note: The collective bargaining agreement for public works employees will be considered at a special meeting on June 22, following the workshop.

Citizens may at this point in the meeting raise any topic that is not on the agenda that pertains to Cape Elizabeth local government.

None

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Following up on Item #94-2021 – A workshop was scheduled for Tuesday, July 6 at 7:00 p.m. If Rachel Davis is unable to attend, July 7 is a backup date.

Moved by Nicole Boucher and Seconded by Caitlin R. Jordan
ORDERED, the Cape Elizabeth Town Council adjourns at 9:50 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Attachment Item #92-2021 June 14, 2021

**Town of Cape Elizabeth
Purchasing Procedure
Amended June 14, 2021**

The purpose of establishing a formalized purchasing procedure for the Town of Cape Elizabeth is twofold. The primary objective is to ensure that the goods and services purchased by the Town are of the quality needed by the individual departments and are secured at the lowest possible price. A second objective is to purchase goods and services in such a way that it will be clear to everyone that all qualified vendors have an equal opportunity to do business with the Town.

It is important to have a purchasing procedure which provides sufficient flexibility to allow Department Heads to make individual small purchases and purchases of an emergency nature. The procedure outlined below shall be followed except in bona fide emergencies. In cases when a Department Head deviates from the established procedure, he or she shall provide a written notice to the Town Manager's Office stating why the established procedure was not followed.

I. General Provisions

- A. Department Heads are authorized to make purchases not to exceed \$1,499.99 in accordance with the procedure outlined in Section II and without prior approval of the Town Manager's Office.
- B. Prior approval from the Town Manager's Office shall be obtained for all purchases from \$1,500.00 in value to \$9,999.99 in value in accordance with the procedure outlined in Section III.
- C. All purchases and contracts in excess of \$9,999.99 shall require use of the procedure outlined in Section IV.
- D. No contract or purchase shall be subdivided to avoid the provisions of this policy.

- E. At the beginning of each budget year, the Department Heads shall supply the Town Manager a list of estimated annual requirements of frequently used supplies, thereby fostering group purchasing.
- F. Purchasing for similar items such as office supplies, books, parts, library magazine subscriptions, cleaning supplies, etc. may be done through obtaining a single year-long bid providing for a predetermined discount from a catalogue or list price. Purchasing for such items may also be accomplished by taking advantage of the discount provided to the Maine Division of Purchases or through other statewide cooperative purchasing agreements or through utilizing school department bulk prices.
- G. The Town makes use of credit cards for online purchasing and for reducing the number of checks needing to be written. The use of a Town credit card is a privilege that can be revoked by the Town Manager if abused.
 - a. No municipal credit card may be used for any personal purchases.
 - b. All credit card invoices shall be paid only with documented backup showing that items on the credit card invoice have been received.
 - c. This backup material is for every item on the credit card invoice including all meal and accommodation receipts.
 - d. In all instances, it must be clear what item is being purchased with any listing on a credit card invoice.
 - e. Credit cards may not be used for the purchase of services so as to ensure that proper tax reporting may occur.
 - f. Abuse of credit card privileges is subject to disciplinary proceedings and the loss of credit card usage privileges.
- H. Whenever possible, purchases of technology hardware and software shall be coordinated through the Cape Elizabeth School Department thus taking advantage of their bulk purchase prices.
- I. Fuel purchases, such as heating oil, propane, gasoline and diesel fuel, shall be coordinated through a group bid or through a bid price for the year. When obtaining a bid price for the year, at least three vendors shall submit a bid on the date that the unit price is fixed.

- J. Health insurance coverage shall be placed out for bid at least once every five years and as often as every three years.
- K. The Town's routine engineering services shall be placed out for competitive review at least once every five years and as often as every three years.
- L. The Town's audit services and legal services shall be placed out for competitive review as determined by the Town Council.
- M. The Town's worker's compensation, property, accident and liability coverages are provided as membership programs through the Maine Municipal Association's related risk services programs. These programs shall be reviewed by professional external parties at least once every five years to ensure that continued membership in these programs is in the best interest of the Town.
- N. The Town has sufficient ability to purchase services and goods on tax-exempt basis therefore casual purchases by employees, board and committee members should be limited. Reimbursements for casual purchases up to \$25.00 may include the sales tax paid. Sales taxes for purchases over \$25.00 may be reimbursed for the sales tax on \$25.00 of the purchase. For purposes of this section, a purchase is an individual sales receipt and is not cumulative over multiple sales receipts.

II. Purchases of \$500.00 and under \$1,500.00

A. Purchase under \$500.00 may be authorized by a Department Head without a purchase order or other procedures.

B. Field Purchase Order

The Department Head shall prepare a field purchase order for any purchase greater than \$499.99 and less than \$1,500.00. The following information shall be included on field purchase orders:

1. Date prepared
2. Vendor name and address

3. Purchase order number
4. Account to be charged to
5. Description
6. Unit measurement
7. Quantity to be purchased
8. Amount of the purchase
9. Signature of receiving party
10. Signature of Department Head
11. Evidence of an attempt to acquire additional estimates or a statement of why no attempt was made to acquire additional estimates.

C. The department may give one copy to the vendor, if the vendor requests or requires, attach one copy to the invoice when submitted for payment, and shall keep one for departmental records.

D. The department is responsible for inspecting and testing of all merchandise, purchases or services provided.

III. Purchasing Procedure for \$1,500.00 and under \$9,999.99

- A. The Department Head shall follow the same procedure as in Section II except that they shall e-mail the Town Manager for approval to purchase the item. All such e-mail requests shall contain information on at least three bids, quotes or proposals received. The Town Manager may standardize the form and content of approval requests.
- B. The Town Manager shall review the request and notify the Department Head of approval to purchase the item(s). The Department Head may subsequently order the item, and when the invoice is received, shall attach the manager's initialed approval or approval email.

IV. Bid Procedure for Purchases over \$9,999.99

- A. Department Heads shall inform the Town Manager of necessary purchases exceeding \$9,999.99 in value, up to two months before the merchandise or service is needed.

- B. Department Heads shall inform the Town Manager the quantity needed and prepare any draft specifications necessary.
- C. The Town shall issue invitations to bid to all known qualified vendors in the Greater Portland area and outside the area when it is in the best interest of the Town.
- D. The Town Manager may publish invitations to bid in general circulation newspapers in the Greater Portland area or in a trade publication when it is in the best interest of the Town.
- E. All sealed bids shall be submitted to the Town Manager's Office by a specified date and time and shall be clearly identified as bids on the envelope. Each sealed bid shall include the statement "**Sealed bid for XXXX, to be received by (Date) (Time). Not to be opened until (Date) (Time)**". Bids received without this statement on the envelope shall be deemed nonresponsive and shall not be opened nor considered.
- F. Bids shall be opened in public at the date, time and place specified in the invitation. The Town Manager or his designated representative will conduct the bid opening. A second Town employee shall maintain a record of attendees and tabulate the results. The Town Manager or designee shall announce the apparent low bidder, subject to verification of the bid proposal.
- G. A tabulation of all bids and the bids themselves shall be available for public inspection. Depending upon the needs of the Town, public inspection may be set by appointment. Requests for copies of proposals may be made upon payment of the costs of copying. Materials deemed confidential by the bidder may not be copied and circulated to the public.
- H. The Town Manager shall accept the lowest responsible bid meeting specifications or may reject all bids. After consultation with the Department Head, in determining the lowest responsible bid meeting specifications, the Town Manager shall consider the following:
 - 1. Adherence and responsiveness to the bid specifications;

2. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
3. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
4. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
5. The quality of performance of previous contracts or services;
6. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
7. The quality, availability and adaptability of the supplies, or contractual services to the particular use required;
8. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
9. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
10. The number and scope of conditions attached to the bid;
11. The life cycle and scope of conditions attached to the bid;
12. In the event of a tie bid, quality and service being equal, the contract shall be awarded to a local vendor or if there is not a single local vendor, then a tie shall be resolved by drawing lots in public; and
13. The Town reserves the right to reject or accept any or all bids and to waive any informality when it is deemed in the best interest of the Town to do so.

V. Exempt from Purchase Order Procedure

The following items do not need purchase order paperwork for each invoice.

- A. Utility bills and fuel bills
- B. Expense reimbursement
- C. Office equipment maintenance and repairs
- D. Outside equipment maintenance except major repairs valued at \$1,000 or more
- E. Equipment operating lease payments if the original operating lease is approved
- F. Invoices for identical reoccurring purchases such as uniform rental, cleaning service, alarms service etc. These items shall be bid at least every three years.
- G. Service contract payments except for authorization of actual contracts.

VI. Joint Bidding Process

The Town shall participate in the Greater Portland Council of Governments joint services program whenever it is deemed in the best interest of the Town to do so. This determination of participation shall be made jointly by the Department Head and the Town Manager. The Town may also participate with other communities and entities in joint bids.

VII. Excess Town Equipment, Vehicles and Real Property

- A. Excess equipment, vehicles or real property may be sold through a sealed bid process. Municipal and school department employees may participate as a bidder on the same basis as the public. Any employee submitting a bid is barred from participating in the opening of and/or tabulation of the bids and the decision to award the bid. The term participating does not prevent the bidding employee from attending a public opening of the bids received.

- B. No Town equipment, vehicles or real property may be sold without the authorization of the Town Manager unless the decision is reserved to the Town Council, in which case the Town Manager will make a recommendation to the Town Council.
- C. Any equipment, vehicle or real property with a bid value in excess of \$1,000 may be sold only upon authorization of the Town Council.
- D. Vehicle and equipment trade-ins are exempt from this procedure

VIII. Purchases Over \$100,000

- A. Any purchase or service contract in excess of **\$100,000** shall be approved by the Town Council.
- B. The request to the Town Council for approval should include the following:
 - 1. Statement of the budget appropriation and available balance.
 - 2. Copy of the solicitation for the request for proposals (RFP) and where and when the solicitation was publicized.
 - 3. Bid opening attendees.
 - 4. Bid tabulation.
 - 5. Department Head's recommendation and justification for award.
 - 6. If the lowest bid is not accepted, a statement as to why that bid is not the lowest responsible bid.
 - 7. The Department Head or Town Manager may provide other information to assist the Town Council in their approval.

IX. Construction Contracts

- A. Any contract for the construction, major alteration or repair of any municipal facility involving a total cost in excess of \$25,000, except contracts for professional, architectural, landscape architectural and engineering services, shall be awarded by competitive bids. Plans and specifications shall be prepared for all contracts over \$25,000.

B. The review criteria for award of bids is outlined in Sec. IV of this policy.

C. The Town Manager may utilize a list of pre-qualified bidders.

D. On projects with an estimated professional service cost of over \$15,000 for the design of buildings, site plans, or other engineering projects, the Town Manager shall select, without prejudice and on an equal basis, a prime professional who may be an architect, landscape architect or an engineer.

E. The professional so retained for a project shall perform only those services for which he or she is competent and shall utilize the services of other qualified professionals as required to provide a proper and complete professional service to the Town.

F. In the selection of professionals, the Town Manager shall obtain at least three proposals for all work anticipated to cost in excess of \$15,000. The Town Manager may publish invitations in a general circulation newspaper in Greater Portland when he or she deems that it is in the best interest of the Town to do so.

G. The review criteria for proposals are as outlined in Sec. IV of this policy.

X. Authority to obligate contracts

A. The Town Manager shall be the sole Town employee authorized to obligate the Town to:

1. A contract for the purchase of goods or services or
2. A grant contract between the Town and a grantor agency, except as provide in subsection B below

B. Grant contracts may be signed by Department Heads if:

1. The grantor agency requires a Department Head signature,
2. The Town Manager has reviewed and approved the grant contract beforehand, and

C. Grants must be presented to and accepted by the Town Council.

History:

Amended:	8/8/2011
Amended:	6/14/2021
Review date:	6/14/2026

Attachment Item #92-2021 June 14, 2021

**Town of Cape Elizabeth
Policy Concerning the Distribution and Review of Town Policies
Adopted June 14, 2021**

This policy lays out the collection and distribution of policies approved by the Town Council to Town Councilors and Department Heads, and the posting of such policies on the Town's website for public access. This policy also requires the Town Council review to town policies within five years from the most recent date of approval. Any policy not reviewed within that five-year timeframe will remain in force until reviewed and an order documenting the review is approved.

I. Definitions

- A. Town policies – for purposes of this policy, the term “town policies” are those policies that approved by the Town Council.

- B. Administrative policies – for purposes of this policy, the term “administrative policies” are those policies, standard operating procedures or procedure statement drafted and enforced by administrative staff not approved by the Town Council. Administrative policies are not included in this policy.

II. Collection and distribution of policies

- A. The Town Manager is responsible for the collection of all town policies in hard copy and electronic format. Given the potential difficulty of researching the Town's records to locate and document all such policies, the staff shall complete this task within one year from the date of this policy's initial adoption. Town Manager is responsible to maintain an up-to-date record of town policies and an index of town policies that includes the policy title, subject matter and date(s) of approval.

- B. The Town Manager is responsible for distributing either electronic or hard copies of town policies to Town Councilors, and department heads and providing access for the public through the Town's website.

III. Review and updating town policies

- A. The Town Council will review each town policy within five years of adoption or the most recent date of review. The Town Council's review will be documented through an order as provided in section B. Any policy not reviewed within that five-year timeframe will remain in force until reviewed and an order documenting the review is approved.
- B. During the review process, the Town Council may amend, make no changes or repeal a town policy. The Town Council will adopt an order that states the policy was reviewed, document any change or that the policy was repealed. The review date will be documented on the policy.
- C. The Town Manager is responsible to track the actions of the Town Council to ensure the town policies are reviewed within the five-year timeframe.
- D. Any town councilor may request the review of a town policy through the Town Manager or Town Council Chairman.
- E. Staff may bring forward recommendations for updates to a town policy when necessary or appropriate.

History:

Adopted: 6/14/2021
Review: 6/14/2026

Attachment Item #98-2021 June 14, 2021

MEMORANDUM OF AGREEMENT

NOW COME the Town of Cape Elizabeth (hereinafter "the Town") and the Cape Elizabeth Police Benevolent Association (hereinafter "the Union") and agree as follows:

1. The Town and the Union are parties to a Collective Bargaining Agreement (hereinafter "the CBA") which will take effect on July 1, 2021.
2. During negotiations for this CBA, the Town indicated an intention to add a fourth sergeant's position.
3. If a fourth sergeant's position is added by July 1, 2022, the bidding process clause in Article V Section 3. b will be removed from the contract entirely.

Town of Cape Elizabeth

Date

For the Union

Date

AGREEMENT BETWEEN

The Town of Cape Elizabeth, Maine

and

The Cape Elizabeth Police Benevolent Association

July 1, 2021 to June 30, 2024

This Agreement is made and entered into this ____ day of March, 2021 by and between The Town of Cape Elizabeth, hereinafter referred to as the "Town" and the Cape Elizabeth Police Benevolent Association, hereinafter referred to as the "Association".

Article I
Preamble

Pursuant to the provisions of Chapter 9-A, Revised Statutes of Maine, Title 26, as enacted by the Maine Legislature in 1969 and as amended, entitled "An Act Establishing the Municipal Public Employees Relations Law". This Agreement is made and entered into by and between the Town of Cape Elizabeth, Maine and the Cape Elizabeth Police Benevolent Association representing the Cape Elizabeth regular, permanent Police Officers.

In order to establish mutual rights and obligations, to preserve proper employee morale and to promote effective municipal operations, the Town of Cape Elizabeth, Maine and the Cape Elizabeth Police Benevolent Association herein bind themselves in mutual agreement as follows:

Article II
Recognition

Section 1. The Town hereby recognizes that the Association is the sole and exclusive bargaining representative of all regular, permanent Police Officers of the rank of Sergeant and below in the Cape Elizabeth Police Department for the purposes of bargaining for wages, hours of work, working conditions and other terms and conditions of employment but not including any regularly scheduled part-time Police Officers.

Section 2. The Association hereby recognizes that the Town shall, except as otherwise specified in this Agreement, retain all right and authority to manage and direct the operations of the Town Departments and working force, including the right to plan, direct and control department activities, to schedule and assign work to employees, to determine means, methods, procedures and equipment, to maintain the efficiency of the Departments and their employees, to determine the manning of jobs, to create, revise and eliminate jobs, to establish and require observance of reasonable rules and regulations governing the conduct and performance of its employees provided that they are not inconsistent with the provisions of this Agreement, to formulate and adopt ordinances and other regulations incidental to management of the affairs of the Town, to hire and promote employees in accordance with the provisions, procedures, and requirements of the Town of Cape Elizabeth Personnel Code as it may be amended from time to time and to maintain order. In the event of an imminent lay-off of employees, the Town agrees to meet with the Association to confer and discuss the intended action, at least thirty (30) days prior to the effective date of said action.

Article III Dues Deductions

The Town shall deduct regular bi-weekly dues upon receipt of signed authorization from any member of the Association (a copy of which is to be retained by the Town) and a certified statement from the Treasurer of the Association as to the amount of dues. All such forms shall be supplied by the Association and be satisfactory to the Town. The Town shall forward all such dues so collected to the Treasurer of the Association by the 10th of each month succeeding the month in which deductions were made. The Association shall indemnify and save the Town harmless against all claims and suits which may arise by reason of any action taken in making deductions of said dues and remitting the same to the Association pursuant to this Article.

Article IV Hours of Work and Overtime

Section 1. The regular work week for Police Officers shall be forty (40) hours and all hours worked in excess of forty (40) per week or ten (10) or eight (8) hours per day shall be paid at the rate of 1 1/2 times the base hourly, but not for both. (Base hourly rate determined by dividing the base weekly wage rate by 40 hours) In determining amount of hours worked, sick leave taken under Article X will be included. In addition, holiday and vacation time will be included as well.

Section 2. Regular, permanent Police Officers shall be given the first opportunity to work any extra and replacement shifts, on a rotating basis to equalize the opportunity for such work among the regular permanent employees. In the event that any regular, permanent Police Officer refuses such extra or replacement work, he shall be treated for purposes of rotation as having taken such work. In the event that no regular permanent employee is willing to work such extra or replacement shift, part-time employees may be used, but if no part-time employee is willing to do so, the duty shall be performed according to the rotating force list.

Section 3. All employees' work schedules shall provide a 15 minute rest period during each half shift worked which shall be scheduled at the middle of each half shift whenever possible. All employees shall be granted a lunch period during each work shift which shall be scheduled at the middle of each shift whenever feasible.

Section 4. Any regular, permanent employee called to work at a time outside of, and not within one hour of, his or her regularly scheduled shift shall be paid for a minimum of four (4) hours worked.

Section 5. Any regular, permanent employee required, during his otherwise off-duty time, to appear at the Maine District, Superior, Administrative or U. S. District Court, quasi-judicial hearings and administrative agency proceedings, arising out of the performance of duty shall be compensated for the hours to spent, computed to the nearest half-hour, at the rate of 1 1/2 times his base hourly rate for a minimum of four (4) hours per appearance. Any employee shall turn over to the Town all witness fees and all payments paid directly to him by the Maine District, Superior or U. S. District Courts as or because of the employee being a witness. The Association agrees to work with the Town in reforming the Court schedules and reimbursement procedures.

Article V
Wages

Section 1. All weekly amounts shown on Article V. are weekly amounts and pay checks shall be issued biweekly. At the time of employment (or for current employees, at the time for signing of this collective bargaining agreement), the chief of police shall determine relevant prior full time law enforcement experience that shall determine the step at which employees shall begin and follow through their careers with Cape Elizabeth. The prior experience shall be used for determining pay levels, but not for seniority. For all employees as the date of execution hereof, their pay levels will be set taking into account their entire tenure within department, even if the service was interrupted. The following base weekly wage, representing a 2% increase for each year of the Agreement, shall be in effect during the term of this Agreement:

	Effective July 1, 2021 2%	Effective July 1, 2022 2%	Effective July 1, 2023 2%
Police Officers			
After 4 months	\$953.39	\$972.46	\$991.91
After 1 st year	\$996.71	\$1016.64	\$1036.32
After 2 nd year	\$1058.09	\$1079.25	\$1100.58
After 3 rd year	\$1098.64	\$1120.61	\$1143.02
After 5 th year	\$1154.95	\$1178.05	\$1201.61
After 10 th year	\$1194.34	\$1218.23	\$1242.59
After 15 th year	\$1206.28	\$1230.41	\$1255.02
After 20 th year	\$1218.35	\$1242.72	\$1267.57
Community Service Step	\$107.46	\$109.61	\$111.80
Sergeants			
Upon Appointment	\$1352.57	\$1379.62	\$1407.21
After 10 Years in Any Full Time Capacity	\$1372.09	\$1399.53	\$1427.52
After 15 Years in Any Full Time Capacity	\$1385.81	\$1413.53	\$1441.80
After 20 Years in Any Full Time Capacity	\$1399.67	\$1427.66	\$1456.21
Community Service Step	\$107.46	\$109.61	\$111.80

Section 2. Educational Incentive Pay. To encourage professional and academic development, the Town agrees to implement an educational incentive pay plan as set forth in this section. Any regular permanent employee covered by this Agreement shall be entitled to weekly educational incentive pay as follows:

Degree Earned	Effective 1-July-21	Effective 1-July-21	Effective 1-July-23
Associates Degree	21.98	22.42	22.87
Bachelor's Degree	43.34	44.21	45.09
Master's Degree	64.97	66.27	67.60

Optional course work intended to lead to a degree or a professional designation, or for a specific course related to one's work, may be reimbursed provided the employee earns a passing grade. Reimbursement shall be at no higher than 10% above the resident rate charged by the University of Southern Maine per credit hour for the same level course. No reimbursement shall be granted unless the employee received written signed approval from the chief of police prior to the commencement of the course. The Town may withhold approval if sufficient funds have not been budgeted or if the course being taken does not relate to the training plan agreed upon during the employee's most recent evaluation. Any course reimbursement under this paragraph shall be reimbursed to the Town out of separation pay if the reimbursement shall have been within 6 months of the date of separation. The liability of the employee shall not exceed the amount of separation pay. The Town does not pay for mileage or for other expenses related to optional course work. Books or course material will be purchased by the Town.

Section 3. Temporary Assignment Pay.

a. When during any consecutive seven (7) day period a Patrol Officer works as shift supervisor replacing a Sergeant, for 32 hours or more and working the ten (10) hour schedule; or for 36 hours or more for a Patrol Officer working the eight (8) hour schedule, the officer shall receive the entrance pay rate for a Sergeant for the hours worked as the shift supervisor.

b. On shifts when no sergeant is regularly assigned, all officers shall have an annual opportunity to bid to work on said shifts. The assignment shall be made by the Chief of Police. Once assigned, the officer in charge shall remain in charge regardless of the seniority of other officers on the shift unless a sergeant is working the shift. Other officers filling in for the officer in charge when the officer in charge is absent shall not be entitled to the temporary assignment pay for the officer in charge, except when they are filling in for a sergeant on an assigned shift for at least five consecutive days as provided for Article V, Sec. 3 a.. The temporary assignment pay for the officer in charge is \$ 2.02 per hour effective July 1, 2021 and \$ 2.06 per hour effective July 1, 2022 and \$ 2.10 per hour effective July 1, 2023.

c. The Town may from time to time establish a "detective" assignment to serve at the pleasure of the chief of police. The detective assignment shall be compensated at a rate of an

additional \$2.02 per hour effective July 1, 2021 and \$2.06 per hour effective July 1, 2022 and \$2.10 per hour effective July 1, 2023.

Section 4. Community Service Step.

Police Officers (including Sergeants)

Police officers shall be entitled to a Community Service Step upon their certification as a State Certified Emergency Medical Technician and provided this certification is maintained.

Police officers qualified for the Community Service Step shall receive the additional amount per week shown in Article V, Sec. I under "Community Service Step" commencing on certification. Police officers will be compensated for the time spent at required training. The Town shall assist in scheduling to facilitate the taking of the courses in conformance with other pay provisions within this contract. The Town and the Association agree that for the purpose of accomplishing Community Service Step training only, the Town may schedule part-time personnel to replace officers whose shift assignments conflict with classes.

Section 5. Overtime Computation. The Community Service step pay and the educational incentive pay shall be added to the base salary when computing the overtime rate of pay.

Article VI Special Jobs

Section 1. Special Jobs are defined as those non-patrol assignments not regularly performed such as private parties and functions, dances, sport and athletic events, road construction jobs performed by independent contractors and activities of a public assembly nature, but excluding municipal activities such as directing traffic at Town elections or on construction projects performed by Town employees.

Section 2. All special jobs shall be posted so that each regular, permanent Police Officer may get an opportunity to work his share of such extra time. Assignments of special jobs shall be made among the regular, permanent Police Officers on a rotating basis to provide equal opportunities for such work. In the event that any regular, permanent Police Officer refuses the assignment of a special job, he shall be treated for purposes of rotation as having taken such assignment. In the event that all regular, permanent Police Officers refuse any special job assignment, it may then be offered to part-time officers but if no part-time officer accepts such assignment, the assignment shall be filled according to the rotating force list.

Section 3. The performance of Special Jobs shall be paid for at the overtime rate with a 4-hour minimum. The scheduling and assignment of Special Jobs shall be at the discretion of the Chief of Police in accordance with Section 2, herein.

Article VII Seniority

Seniority shall be based upon the employee's last date of hire but no seniority or fringe benefits based upon the period of employment shall accrue until an employee has been employed on a regular, full-time

basis for a period of four (4) months. Seniority shall be a factor in all matters affecting promotion and work shift, and shall be the governing factor in reductions in work force, rehire and vacation preference. In the event it becomes necessary for the Town to lay off employees for any reason, employees shall be laid off in the inverse order of their seniority, by classification, with displacement rights. No new employee shall be hired until all employees on lay off status for not more than twelve (12) months desiring to return to work have been recalled.

The Town agrees to provide the Association with a seniority list of all employees governed by this Agreement with the employee with the greatest seniority listed first.

**Article VIII
Vacations and Family Leave**

Section 1. Each regular, permanent employee shall receive vacation with pay subject to scheduling by the Chief of Police in accordance with the following:

Vacation is earned from the first day of employment for employees of permanent standing. At the time of employment (or for current employees, at the time for signing of this collective bargaining agreement), the chief of police shall determine relevant prior full time law enforcement experience that shall determine the step at which employees shall begin and follow through their careers with Cape Elizabeth. The prior experience shall be used for determining level of vacation time, but scheduling shall be based upon seniority with the Cape Elizabeth Police Department.

The following hourly vacation accumulation rates shall be in place from the effective date of this contract.

	Per 40 Equivalent to Per Yr. 8 hour	
	Hours	Days
Date of Hire to the 5 th Anniversary of Date of Hire	1.84	12
5 th Anniversary of Date of Hire to 14 th Anniversary	2.61	17
14 th Anniversary of Date of Hire to 19 th Anniversary	3.38	22
19 th Anniversary to Separation	3.70	24

Vacation time may be granted only for time already accumulated. Vacation time cannot be given to another employee.

An employee may utilize vacation time if sick leave has become depleted. If an employee becomes sick while on vacation, the Town reserves the right, but has no obligation, to offer the employee the option of charging the previously scheduled vacation time to sick time.

At the end of each calendar year, an employee can carry over to the next year accumulated vacation time not to exceed 120 hours. The Chief of Police and the Town Manager shall approve any extension beyond this amount. As the Town believes it is in the best interest of both the Town and employees for vacation time to be taken each year, no extension may be granted by the Chief of Police and the Town Manager unless a specific use of the additional accumulated time has been identified. Vacation time shall not accumulate after an employee has been absent due to a Workers' Compensation injury after the lapsing of one (1) year from the first date of absence.

Accrued vacation leave shall be paid to a permanent employee in good standing upon separation from the service or to a beneficiary or estate upon death.

Section 2. Family Leave. The Town complies with the U. S. Federal Family and Medical Leave Act of 1993 as may be amended from time to time. Covered employees are those individuals who have at least twelve months service with the Town and who have worked at least 1250 hours of service during the 12 month period immediately preceding commencement of the leave.

Family leave may be taken to care for an employee's child after birth, adoption or foster care, to care for an employee's spouse, son or daughter, or parent who has a serious health condition, or for a serious health condition that makes an employee unable to perform their job.

The Town may require medical certification to support a request for leave because of a serious health condition. Up to 12 weeks of unpaid family leave is permitted in a twelve month period. The employee must provide 30 days advance notice when a leave is foreseeable. An employee may utilize accumulated sick leave and vacation time as a substitute for unpaid family leave.

During any family leave absence, the Town shall continue health insurance in the same manner as is provided for other qualified employees. The use of family leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave. Upon return from family leave, an employee shall be restored to their original or equivalent position.

Article IX Holidays

Section 1. The following holidays shall be paid holidays for all regular, permanent employees covered by this Agreement:

1. New Years Day
2. Martin Luther King's Birthday
3. Presidents' Day
4. Patriots' Day
5. Memorial Day
6. Independence Day
7. Labor Day
8. Veterans' Day
9. Columbus Day
10. Thanksgiving Day
11. December 25th

Two Floating Holiday

Section 2. All regular, permanent employees shall receive pay for each of the holidays listed above which they perform no work. Holiday pay will be the employee's current hourly rate times the number of hours an employee would have been regularly scheduled to work on that day if it had not been a holiday. Holidays will be calculated at the rate of eight (8) hours per holiday.

Section 3. Regular permanent police personnel who work shifts within the following hours shall receive time and one-half pay except on the Floating Holidays and except as below when employees shall receive double time for working during the indicated hours:

From 3:00 p.m. December 24th to 11:00 p.m. December 25th
From 3:00 p.m. New Year's Eve to 11:00 p.m. New Year's Day.
From 11:00 p.m. on the eve of Thanksgiving Day and the eve of July 4th to 11:00 p.m. on
Thanksgiving Day and July 4th.

Section 4. Beginning in January 2016, regular permanent Police Officers may elect to take up to 40 hours of their earned holiday time as pay instead of as time off. This shall be paid in the last payroll in December for the previous 12 months.

The chief of police retains the right to approve or disapprove the scheduling of compensatory holidays as in the manner of any other earned day off.

Section 5. Regular permanent Police Officers shall receive compensatory time off (not holiday compensatory time) for any special holiday time specifically voted upon by the Cape Elizabeth Town Council, or by designation of the President of the United States, upon such conditions that all other regular employees receive such time off. This shall not include early or full day closings due to weather, heat conditions or employee recognition activities. Also, it will not include closings due to COVID pandemic.

Article X Sick Leave

Section 1. Sick Leave shall accrue to regular, permanent employees at the rate of eight hours for each calendar month of service cumulative to a maximum of 1120 hours. Sick leave may be used only in the following cases:

- a. Personal illness or physical incapacity of such a degree as to render an employee unable to perform the duties of the position.
- b. Attendance upon members of the family within the household of the employee when their illness requires care by such employee, not to exceed three (3) scheduled work shifts for any one such illness.

If requested by the Chief of Police, the employee shall furnish the Chief of Police a certificate from an attending physician at the expense of the Town.

Section 2. "Extra-hazardous Injuries." An employee covered by this Agreement who is injured on the job while performing extra-hazardous duties, shall receive, in addition to reimbursement paid or payable or loss of income under Workers' Compensation Act, an amount sufficient to bring him up to his base weekly salary while any incapacity exists for a maximum of twenty-six (26) weeks provided that such injuries are not found to have resulted from negligence of such employee. After the first twenty-six (26) weeks, the Town Council may extend the leave after review. All benefits will continue as if the employee was on a work basis.

Extra-hazardous injuries shall be defined as follows:

- a. Injuries sustained while pursuing, apprehending, arresting, detaining suspects, or conducting an investigation.

- b. Injuries incurred during the official operation of a police motor vehicle in emergency situations.
- c. Injuries incurred while standing on roadway directing traffic, provided the officers has not unreasonably neglected to wear safety equipment provided the officer when available.
- d. Injuries sustained while actively engaged in suppressing riots, insurrections, and similar civil disturbances.
- e. Injuries sustained in any other authorized situation in which the officer, because he is a police officer, is exposed to conditions not confronted by the average Town employee other than firemen.

Section 3. Any regular, permanent employee who is separated in good standing from employment by the Town after employment for not less than ten (10) years will be compensated in cash for thirty percent (30%) of his accumulated sick leave at his final base hourly rate, and after not less than fifteen (15) years for fifty percent (50%) of his accumulated sick leave at his final base hourly rate. This payout shall only be on the first 960 hours of sick leave. If any employee shall die in the line of duty, then his or her estate shall receive 100% of the accumulated sick leave up to 1120 hours.

Beginning in January 2010 and thereafter between December 1st and December 15th of each year, an employee may elect to take up to 40 hours of unused accumulated sick pay in regular pay. This sick pay will not be computed as hours worked for purposes of overtime calculation or for any other purpose. It will be paid in regular time in the first payroll of January.

Article XI Bereavement Leave

Section 1. A regular, permanent employee shall be excused from work for up to 40 hours upon request as required due to death of his spouse, child, or stepchild residing in his household.

Section 2. A regular, permanent employee shall be excused from work for up to 24 hours upon request as required due to death of parents, brother, sister, brother-in-law, sister-in-law, grandparents, mother-in-law and father-in-law. It is intended that this time be used for the purpose of handling necessary arrangements and attendance at the funeral.

Section 3. The Chief of Police may make extension to bereavement leave upon request of the employee. Extensions may be of time and/or for other family members.

Article XII Association Activities

The Town agrees to the following Association activities on the Town premises without loss of pay:

1. Representatives of the Association may post Association notices on the bulletin board provided for same.
2. Representatives of the Association shall be allowed time off, with pay, for meetings with Town officials concerning Association negotiations and business, or transmitting Association notices,

provided said time does not interfere with work flow requirements as determined by the Chief of Police.

3. Representatives of the Association shall be allowed time off, with pay, during the regular work or shift hours to investigate grievances or to attend grievance hearings but not to exceed a total of two (2) hours per week except with written permission of the Police Chief.

Article XIII Clothing and Fitness Provisions

Section 1. The Town shall provide up to \$600 per year for the necessary acquisition and replacement of uniforms for employees covered by this Agreement who are required to wear uniforms and for business attire for positions requiring business attire. The initial purchase of uniforms shall be considered chargeable to the annual \$600 allowance. The Town shall repair or replace any article of the required uniform damaged during extra-hazardous duty. Additionally, the Town shall replace any article of the required uniform stolen while on duty, provided the theft of the uniform item did not result from the owner's negligence. All requests for repair or replacement of damaged or stolen uniforms shall be submitted within twenty-four (24) hours of the occurrence.

Section 2. The Town shall pay effective January I, 2013 for each Police Officer, when applicable, \$53.00 per month on account of uniform cleaning, payable in a lump sum on the first payday in each December.

Section 3. The Town shall provide up to \$270 per year to reimburse any employee for a fitness or health club membership. Reimbursement shall be upon Town receipt of a paid invoice.

Section 4. The Town shall develop a voluntary fitness testing program. Upon passing the Maine Criminal Justice Academy 40% standard, an employee shall receive a \$600 annual stipend. If employee passes on the 50% standard, they receive a \$700 annual stipend. The stipend shall be paid the first payday of December each year for employees then employed. Regarding the standard, at the option of the employee, the 1.5 mile run will be replaced by a 300 yard sprint.

Article XIV Insurance and Pensions

Section 1.

A. The Town participates in the Maine Municipal Employees Health Trust (MMEHT) Comprehensive Plan. Employees have the option of choosing the MMEHT Comprehensive Point of Service Plan (POS C), and effective January 1, 2016 may also choose from among the MMEHT PPO 500 plan and the MMEHT PPO 2500 plan. Single employees shall assume 10% of the cost of their health insurance premium. Employees who have coverage other than single coverage shall assume 20% of the total premium. Any employee who chooses the MMEHT PPO 500 plan or the MMEHT PPO 2500 plan will have established a Health Reimbursement Account into which the town shall provide reimbursement of deductibles and co-insurance for up to 70% of the applicable out of pocket maximum. The amount of the monthly premium paid by the employee shall not be included as part of the out of pocket expense.

Coverage will begin on the first day of the next month after employment begins provided the MMEHT has approved all required forms. The Town of Cape Elizabeth reserves the right to participate in a different medical insurance plan, with comparable or better benefits, costs and claims service. The Town also reserves the right to change the health insurance plans if mandated to do so by the federal or state governments. Upon leaving Town employment, federal COBRA requirements permit employees to continue on the Town policy at employee expense. MMEHT will notify departing employees of their options.

Any employee eligible for more than single coverage, but who opts for single coverage or no coverage, shall receive in lieu of coverage, \$136.47 in each two week paycheck or if an employee elects for no coverage and is eligible for family coverage, then that employee shall receive \$284.31 in each two week paycheck in lieu of coverage. If an employee elects for employee and children coverage and is eligible for full family coverage, then that employee shall receive \$102.36 in each two week pay check in lieu of coverage. All payments shall be prorated for part time employees. Any employee who opts for no coverage must annually show that evidence of coverage elsewhere. The payment shall not be considered part of compensation for purposes of retirement, life insurance and computing hourly wages. The employee shall be responsible for any tax liability. Affected employees must elect their coverage level once a year during the enrollment period or upon hiring. Coverage must be elected before they become effective. The buyout amounts referenced in this paragraph will be increased 2.0% on July 1, 2022 and an additional 2.0% on July 1, 2023.

The Town pays 90% of the cost of the premium for those with single coverage. The Town pays 80% of the cost of the premium for those with dependent coverage.

B. The Town offers members of the Association the right to participate in a Section 125 Plan. Each year employees shall determine their level of participation. The rules of governing participation are as indicated in the Town Personnel Code in effect as of June 1, 2008.

Section 2. The Town shall continue to provide Police Professional Liability Insurance for all police personnel covered by this Agreement.

Section 3. Effective July 1, 2021, The Town of Cape Elizabeth offers participation in the Maine PERS Special Plan 3-C (25 years, 2/3 benefit) for all police officers and sergeants. Any officers and sergeants participating in this plan shall be responsible for any applicable buyback costs. Joining and buyback opportunities and deadlines are determined by MainePERS. The Town does permit employee funded buybacks in accordance with MainePERS regulations. The employee is responsible for the employee costs as determined by MainePERS.

Section 4. For non-MainePERS participants, the Town offers the ICMA Retirement Corporation Section 401A Money Purchase Plan. The Town will match regular employees contribution at a ten percent (10%) of gross wages level with the employee contribution to be paid through payroll deductions, Effective July 1, 2011 this amount shall be reduced to 7% for employees hired after July 1, 2011. The employee match is seven percent (7%.) Employees are fully responsible for any fees assessed to participants by the Plan and are responsible for choosing from among a number of investment options for the balances in their accounts.

Section 5. For employees in the ICMA Retirement Corporation Section 401A Money Purchase Plan, the Town shall offer, effective January 1, 1991, a disability plan with coverage similar to that provided by

the MainePERS. The Town contribution for the plan shall be limited to 1% of the annual base salary of an employee including the base wage, Community Service Step and educational incentive pay. The employee shall pay any balance due through payroll deductions.

Section 6. The Town shall continue to make available to employees the ICMA Retirement Corporation Section 457 Deferred Compensation Plan. Employees are responsible for their own investment option decisions.

Article W Complaints

Any citizen complaint against any regular, permanent Police Officer which will result in a detrimental entry in the personnel file of that employee shall be presented in writing and signed by the complainant, the employee involved and the Chief of Police.

Article WI Grievance Procedure

Section 1. Should the Association, or one of its members, feel aggrieved concerning the interpretation or application by the Town of any provision in this Agreement, the Association may seek adjustment of the grievance as follows:

- a. The Association, through an authorized steward, shall take up the grievance with the Chief of Police or his authorized representative.
- b. If the Association and the Chief of Police have not resolved the grievance within three (3) working days, and the Association wishes to continue the grievance process, the association shall submit the details of such grievance in writing to the Town Manager. Within five (5) working days thereafter, the Town Manager shall meet with the representatives of the Association for the purpose of adjusting or

resolving such grievance. The Town Manager shall render his decision within ten (10) working days after said meeting.

- c. In the event that the decision of the Town Manager rendered pursuant to (b) above is not acceptable to the Association, it may within ten (10) working days thereafter request that the matter be submitted to an arbitrator.

The Town and the Association shall mutually choose an arbitrator who shall not be a Town Official or employee, nor an Association member, official or representative. If the Town and Association fail to agree with five (5) working days upon a person to serve as the arbitrator, then either party may request the American Arbitration Association to appoint one.

- d. The arbitrator shall have no authority to add to, subtract from or modify the provisions of this Agreement. The decision of the arbitrator shall be binding as to the grievance submitted. The expenses of the arbitrator shall be shared equally by the parties.
- e. The time limits for processing of grievances may be extended by written consent of the parties. All references to working days in this article shall be interpreted to mean Monday through Friday not including holidays. All grievances shall be commenced not later than thirty (30) days after the occurrence of the event giving rise to the grievance, or within thirty (30) days after the time such event became known to the Association or to the employee or employees concerned, whichever shall be later.

Nothing in this Article shall diminish the right to any employee covered hereunder to present his own grievance as set forth in Chapter 9-A, Title 26, M.R.S.A.

Article VII Discipline

Section 1. Discipline of all personnel covered by this contract shall be in accordance with the Town of Cape Elizabeth Personnel Code, adopted by the Town on May 11, 1981, amended on June 22, 1982, and as may be further amended from time to time.

Section 2. The Town may adopt other changes in said Ordinance, not inconsistent with this Agreement, and shall advise and consult with the Association prior to their adoption.

Article XVIII Rules and Regulations

The Town may adopt and alter work rules, disciplinary rules and standards of performance and conduct, which shall not be inconsistent with the Agreement. The Town shall advise and consult with the Association prior to their adoption and shall post the same at least ten (10) days in advance of their taking effect.

Article XIX
Strikes, Slowdowns and Lockouts Prohibited

Section 1. The Association agrees that during the term of this Agreement, neither it nor its officers or members will engage in, encourage, sanction, support, or suggest any (1) strikes, (2) slowdowns, (3) mass absenteeism, (4) mass resignations, (5) picketing which would involve suspension of or interference with normal work of the department or other Town departments, or (6) any similar action which would involve suspension of or interference with the normal work of the department or other Town departments.

Section 2. In the event that Association members participate in such activities in violation of this provision, the Association shall notify those members so engaged to cease and desist from such activities and shall instruct the members to return to their normal duties. Any employee participating in these prohibited activities may be discharged by the Town.

Section 3. No lockout of Police Officers shall be instituted by the Town during the term of this Agreement.

Article XX
Miscellaneous

This Agreement constitutes the entire agreement between the Town and the Association and shall not be modified in any respect except by a writing approved and executed by both parties. The waiver of any breach or condition hereof by either party shall not bar the strict enforcement thereafter of all terms and conditions hereof.

Article XXI
Term of Agreement

Section I. The provisions of this Agreement shall be effective from July 1, 2021 and shall govern the rights of the parties until June 30, 2024. It shall automatically be extended for successive one year periods thereafter unless either party shall give the other written notice of its desire to negotiate a new Agreement at least one hundred twenty (120) days prior to June 30th in the year 2024 or thereafter, in which case negotiations shall begin no later than March 30th, 2024.

IN WITNESS THEREOF, The Town has caused this Agreement to be executed and its corporate seal to be affixed by Matthew Sturgis, its Town Manager, thereunto duly authorized by the Town Council of the Town of Cape Elizabeth and the Association has caused this instrument to be signed by _____, its President, both as of the day and year first above written.

Town of Cape Elizabeth
By: _____
Matthew Sturgis, Town Manager

Witness: _____

Cape Elizabeth Police Benevolent Association
By: _____
, President

