



Cape Elizabeth Town Council

DRAFT Minutes Monday, December 12, 2022

7:00 p.m.

Town Hall Council Chambers

Nicole Boucher
Susan A. Gillis
Jeremy A. Gabrielson
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan
Timothy S. Reiniger

The meeting was convened at 7:00 p.m. by Chair Jeremy A. Gabrielson.

Introduction of Newly-Elected Town Councilors and School Board Members Oath of Office Administered by the Town Clerk

Town Council

Penelope A. Jordan

School Board

Philip R. Saucier

Caitlin S. Sweet

Roll Call by the Town Clerk

All members of the town council were present except Councilor Caitlin R. Jordan.

Chief Paul Fenton, Police Department
Debra M. Lane, Town Clerk
Maureen O'Meara, Town Planner
Jay Reynolds, Director of Public Works
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Item# 1-2023 Election of the Town Council Chairman

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

ORDERED, the Cape Elizabeth Town Council elects Jeremy A. Gabrielson to serve as chair for 2023.

(6 yes) (0 no)

Town Council Reports and Correspondence

Councilor Penelope Jordan encourages residents to look out for their neighbors in these challenging economic times. Residents have challenges with heat, housing and food and should be aware of programs that may assist. Resources include LIHEAP, local fuel assistance, Thomas Jordan Trust, Judy's Pantry, Opportunity Alliance, 211 – step forward if you need help.

Mr. Sturgis indicated Cumberland County will soon be announcing heating assistance funds. The town should have more information by early next week.

Councilor Reiniger provided an overview of 4 bills that MMA will be putting forward in the new legislative session. The bills include amendments to the property tax stabilization program, general welfare program, the effective date of LD 2003 relating to affordable housing and expanding TIF's.

Finance Committee Report

Finance Chair Boucher reviewed the recent dashboard. Pay and display and PHL gift shop revenues are up. Expenditures are tracking as anticipated for this time of year.

Citizen Opportunity for Discussion of Items Not on the Agenda

John Voltz, 33 Philip Road encourages the town manager's report be posted in advance of the meeting.

Senator Anne Carney, 21 Angell Point Road is working with the legislature to address heating and housing. Resources include Homeless Prevention 533-5937 and Home Energy 533-5900 both through Opportunity Alliance, MaineHousing, 211Maine and Senator Carney's office M-F 5-8, 287-1515.

Kevin Justh, 9 Spruce Lane urged council goals to include effective communication, transparency and engaging the public.

Town Manager's Monthly Report

Matthew E. Sturgis, Town Manager

As we come into the holiday season, I wanted to take the opportunity to extend the best of holiday wishes, and a happy, healthy, and much improved 2023.

As both Christmas and New Year's days fall on a Sunday, the Town Office will not be open on December 26 and January 2. Please look to the Town website for the holiday hours for the recycling center, Thomas Memorial Library, Community Services, and the Donald L. Richards pool and fitness center.

This coming Saturday, December 17, the police departments of Cape Elizabeth, South Portland, and Scarborough will be serving in a united mission to feed our neighbors, with their Pack the Pantries event. This will be a pop-up food drive and fundraiser benefiting the [South Portland Food Cupboard](#), [Judy's Pantry](#), and the [Scarborough Food Pantry](#). In addition to the nonperishable foods donated to "pack the pantries", the police and volunteers hope to raise critical funds for the pantries. Local businessperson and philanthropist, Eddie Woodin, has issued a challenge match to the three pantries to raise \$15,000 for their missions to feed their neighbors.

It is easy to give online or stop by any of the three public safety buildings on Saturday, December 17 9-11 a.m. with nonperishable foods or cash (or checks payable to the South Portland Food Cupboard). All funds raised and food collected will be shared with all three pantries serving South Portland, Scarborough and Cape Elizabeth.

Last Thursday the Town had a bid opening for the request for proposals to the segment 7 and 8 Town center sidewalk project. We received four bids, with the apparent low bid coming in under the identified budget. This construction will take place this summer, and is the culmination of a project that began in the planning stages five years ago and is receiving 75% funding through federal funding provided through PACTS (Portland Area Comprehensive Transportation System).

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Review of Draft Minutes November 14, 2022

Moved by Penelope A. Jordan and Seconded by Timothy S. Reiniger

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on November 14, 2022 as written.

(6 yes) (0 no)

Item# 2-2023 Adoption of the Town Council Rules

Moved by Susan A. Gillis and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the Town Council Rules as presented.

(6 yes) (0 no)

See attachment.

Consent Calendar – Item #3-2023 – Item #16-2023

Moved by Timothy S. Reiniger and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #3-2023 – Item #16-2023 as follows.

(6 yes) (0 no)

Item# 3-2023 Appointment of the Finance Committee

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

Item# 4-2023 Appointment of Ordinance Committee

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

Item# 5-2023 Appointment of an Appointments Committee

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

**Item# 6-2023 Appointment of Representative to 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

Item# 7-2023 Appointment of Representative to PACTS Policy Committee

Matthew E. Sturgis

**Item# 8-2023 Appointment of Representative to MMA Legislative Policy Committee
and MMA Convention Delegate**

Timothy S. Reiniger

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Item# 9-2023 Appointment of Representative to Thomas Memorial Library Foundation

Gretchen R. Noonan

Item# 10-2023 Appointment of Representative to Portland Jetport Noise Advisory Committee

Susan A. Gillis

Item# 11-2023 Appointment of Representatives to Thomas Jordan Grants Subcommittee

Penelope A. Jordan to 12/2025

(Already appointed)

Caitlin R. Jordan to 12/2023

Susan A. Gillis to 12/2024

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

Nicole Boucher

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

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

Matthew E. Sturgis, Alternate

(Already appointed)

Timothy S. Reiniger to 12/31/2024

Item# 14-2023 Code of Ethics

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.

See attachment.

Item# 15-2023 Schedule of Council Meetings for 2023

ORDERED, the Cape Elizabeth Town Council approves the 2023 meeting schedule and FY 2024 budget review schedule as presented.

		Regular Meeting	Workshop Meeting	
2023	January	9	4	
2023	January		18	Joint Workshop with School Board (Beginning at 6:00 p.m.)
2023	February	13	6	
2023	March	13	20, 23	Workshops are Budget Review Sessions (Beginning at 6:00 p.m.)

2023	April	10	24, 25	Workshops are Budget Review Sessions (Beginning at 6:00 p.m.) <i>School Budget presentation on 4/24</i>
2023	May	8	3	May 8 Regular Council Meeting and Public Hearing on the FY 2024 Budget
2023	May	15		Special Council Meeting – Vote on the FY 2024 Budget
2023	June	12	5	
2023	July	10		
2023	August	14		
2023	September	11	6	
2023	October	11	4	Regular Council Meeting (Wednesday after the Monday Holiday)
2023	November	13		Regular Council Meeting
2023	November		14	Annual Town Council Organization Caucus for 2024
				Schedule Orientation of New Council Members
				Review of 2024 Meetings & FY 2025 Budget Calendars
2023	December	11		Regular Council Meeting – Organizational Meeting for 2024
2023	December		13	Workshop – Council Goals and Discussion & FOAA

Item #16-2023 Renewal Liquor License – Tacos Y Tequila

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.

Item #17-2023 Annual Appointments to Boards and Committees

Moved by Nicole Boucher and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council approves the recommendations of the Appointments Committee as presented. New terms are effective January 1, 2023 and unexpired terms are effective immediately.

(6 yes) (0 no)

Board	Recommended Appointment	Term Expires	Address
Board of Assessment Review	Douglas McFadd	12/31/2023 (unexpired term)	25 Broad Cove Road
Board of Assessment Review	David B. Scheffler*	12/31/2025	12 Pheasant Hill Road
Board of Zoning Appeals	Joseph Barbieri	12/31/2025	3 Harriman Farm Road
Board of Zoning Appeals	Diana Chapman	12/31/2025	4 Westfield Road
Board of Zoning Appeals	Doreen Blanc Rockstrom	12/31/2025	5 Warbler Drive
Community Services	Christine Syska	12/31/2025	59 Starboard Drive
Community Services		12/31/2025	
Conservation Committee	Matthew Craig	12/31/2025	6 Farm Hill Road
Conservation Committee	Stacey Dietsch	12/31/2025	2 Park Circle
Conservation Committee	Michelle Boyer	12/31/2025	333 Fowler Road

Diversity, Equity and Inclusion Committee	Regan St. Pierre	12/31/2025	10 Tall Pine Road
Diversity, Equity and Inclusion Committee		12/31/2025	
Energy Committee	Richard A. Parker	12/31/2025	17 Southwell Road
Energy Committee	Ian Sample	12/31/2025	82 Ocean House Road
Energy Committee	Vince Faherty	12/31/2023 (unexpired term)	10 Whale Back Way
Fort Williams Park Committee	Kenneth D. Pierce	12/31/2025	35 Oakhurst Road
Fort Williams Park Committee	Lauren Springer	12/31/2025	4 Cottage Lane
Personnel Appeals Board		12/31/2023 (unexpired term)	
Personnel Appeals Board	Leonard Cole*	12/31/2025	25 Maple Lane
Planning Board	Andrew T. Gilbert	12/31/2025	32 Aster Lane
Planning Board	James H. Huebener*	12/31/2025	13 Kettle Cove Road
Recycling Committee	Tim Trachimowicz	12/31/2025	1 Granite Ridge Road
Recycling Committee	Becky Fernald	12/31/2025	313 Mitchell Road
Recycling Committee	Greg Stewart	12/31/2025	16 Olde Colony Lane
Riverside Cemetery Committee	Rev. Dr. Frances Bagdasarian	12/31/2025	55 Stonegate Road
Thomas Memorial Library Committee	Tim Blackstone	12/31/2025	8 Wabun Road
Thomas Memorial Library Committee	Elizabeth Elliott	12/31/2025	1 Baker Road
Thomas Memorial Library Committee	Patience Maloney	12/31/2025	47 Columbus Road

***Serving third consecutive term**

New appointments effective 1/1/2023

Unexpired terms effective upon appointment

Item #18-2023 Appointment of Registrar of Voters

Moved by Gretchen R. Noonan and Seconded by Susan A. Gillis

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

(6 yes) (0 no)

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

Moved by Susan A. Gillis and Seconded by Penelope A. Jordan

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:

- 1) 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.
- 2) The second parcel consists of approximately 1.55 acres to be conveyed in fee located in the westerly portion of the proposed development.

(6 yes) (0 no)

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

Public Comment

Charlotte, 5 Birch Knolls asked why the committee wouldn't be approved.

Tim Thompson, 6 Pine Ridge Road favors the size of the committee to 5 citizen members. More may be needed if they establish subcommittees. The needs of the high school should also be fixed.

Kevin Justh, 9 Spruce Lane favors a narrower committee. Keep communications open, hold public forums and televise meetings.

The town council discussed possible edits to the draft charge. Mr. Sturgis was directed to work with Superintendent Record to edit the charge for council and school board review. The school board is scheduled to review the charge at the meeting tomorrow evening.

Discussion Topics

- 3 or 5 citizen members
- Whether to include the high school
- Add to the charge develop funding scenarios and recommendations
- Determine who the Owner's Rep reports to
- Text edits as discussed by the council
- Should the council and school board review the amended charge at separate or joint meetings

**Item #21-2023 Follow Up Request for Amendment for the Solar Power Installation
Project**

Introduction – David Littell, Attorney Representing the Town

Public Comment

John Voltz, 33 Philip Road and member of the Energy Committee is encouraged by the progress made and work of the town's attorney. Favors a quick path forward – time matters.

Richard Parker, 17 Southwell Road and member of the Energy Committee favors the agreement. Consideration should be given to schedule, performance and communication. The Energy Committee would like to see a staff person and town councilor be the point of contact to ensure things move along.

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to finalize the negotiations with Encore for the amended agreement for the solar project at the landfill.

(6 yes) (0 no)

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

Introduction – Ordinance Chair Penelope Jordan

Mr. Sturgis recognized Chief Fenton and the Officers for their work on this report.

The Ordinance Committee recommended no further action.

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

Introduction – Town Planner Maureen O’Meara

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

ORDERED, the Cape Elizabeth Town Council refers a recommendation from the Ordinance Committee regarding stormwater amendments as follows:

- 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.

(6 yes) (0 no)

Item# 24-2023 Acceptance of Gifts and Donations for 2022

Moved by Timothy S. Reiniger and Seconded Nicole Boucher

ORDERED, the Cape Elizabeth Town Council accepts with gratitude various donations received in 2022.

(6 yes) (0 no)

See attachment.

Item #25-2023 Review of Remote Participation Policy

It was a consensus to further review the remote participation policy at a workshop in January.

Item #26-2023 Consideration of Extending the Limited Emergency for Remote Meetings

Public Comment

John Voltz, 33 Philip Road said to preserve maximum flexibility.

Moved by Jeremy A. Gabrielson and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council tables to the workshop in early January (1/4/2023) the Order Declaring a Limited Emergency Adopted by the Cape Elizabeth Town Council on August 30, 2021 which has been extended until December 31, 2022.

(6 yes) (0 no)

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

Adjournment

Moved by Nicole Boucher and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council adjourns at 9:24 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Attachment Item #2-2023

Town of Cape Elizabeth
Town Council Rules
Approved December 12, 2022

Article I Scheduling of Meetings

Section 1. Regular meetings Regular meetings of the Cape Elizabeth Town Council are held in the Town Hall at 7:00 p.m., on the second Monday of each calendar month. When the meeting date falls on a holiday, the regular meeting is held on the following Wednesday, at the same time and place. The date and/or location of any regular meeting may be changed by an order or resolve passed at a previous meeting upon the vote of five members of the council, provided, however, that any change in date will still provide for one regular meeting in each month. Any meeting may be postponed by the chairperson due to severe inclement weather. The chairperson shall reschedule the meeting to the earliest possible date.

Section 2. Special meetings Special meetings may be called by the chairperson, and in case of the chairperson's absence, disability, or refusal, special meetings may be called by three members of the Town Council. Notice of such meeting shall be served in person, electronically by e-mail, by telephone communication directly to the Town Council member or left at the residence of each member of the Town Council at least 48 hours before the time for holding said special meeting, unless all members of the council sign a waiver of said notice. An e-mail notice shall not serve as the sole notice unless prior to the meeting the recipient acknowledges receipt of the e-mail. The call for said special meeting shall set forth the matters to be acted upon and nothing else shall be considered at such special meeting.

Article II Agenda and Meeting Preparation

Section 1. Deadline to submit materials No item shall be in order for action at any meeting of the Town Council unless such item shall be filed in the office of the town clerk on or before noon of the first business day of the month for the regular meeting of the Town Council, and before noon of the business day prior to the day of any other meeting.

Section 2. Agenda preparation The town manager, with the advice and consent of the chairperson shall prepare the agenda, which shall include the order of business. Any Town Council member or the town manager may sponsor items to be included in the agenda. The agenda may include reports from municipal boards and commissions that recommend Town Council action. Unless otherwise provided by ordinance, items submitted from citizens or others for inclusion in the agenda must be sponsored by a Town Council member or by the town manager. Sponsorship of an agenda item by the town manager or by a Town Council member shall not be deemed to be support on the merits of the sponsored item.

Section 3. Consent calendar The agenda may include a consent calendar providing for multiple items to be considered en bloc. When any item is included as part of a proposed consent calendar, any Town Council member may ask for any item to be considered separately. At the discretion of the chairperson, any item removed from the consent calendar may be considered before or after the consideration of the items remaining on the consent calendar.

Section 4. Agenda order The order of the agenda for meetings shall be as follows:

Convening by the Chairperson
Roll Call by the Town Clerk
The Pledge of Allegiance to the Flag
Presentations of any Town Council Recognitions
Town Council Reports and Correspondence
Other Reports on the Advance Agenda not Requiring Council Action
Citizens Discussion of Items Not on the Agenda-1st Opportunity
Town Manager's Report
Review of Minutes of Previous Meetings
Public Hearings
Agenda Items
Citizens Discussion of Items Not on the Agenda-Second Opportunity
Agenda Items Requiring Executive Sessions
Adjournment

Following any public hearing the Town Council shall consider the subject of the public hearing prior to moving forward to any additional item on the agenda.

Section 5. Agenda distribution The agenda shall be distributed to the members of the Council and made available to the public by the Wednesday preceding the date of the regular Council meeting and as soon as possible before a time set for any other meeting. Agendas shall be posted on the municipal website concurrent with distribution to the Town Council. Background material on issues before the Town Council shall be submitted electronically whenever feasible. Background material available electronically shall be posted on the municipal website unless the material relates to an item to be reviewed in non-public session.

Section 6. No new items after 10:00 p.m. No new item may be taken up for consideration at a Town Council meeting after 10:00 p.m.

Section 7. If meeting does not have a quorum If a meeting is adjourned because of the lack of a quorum, at least 24 hours notice of the time and place of holding another meeting shall be given to all members who are not present at the meeting from which adjournment is taken, unless such absent members sign a waiver of said notice.

Section 8. Electronic presentations Any person desiring to include as part of a presentation any material that requires projection shall provide the presentation to the town clerk by noon of the date of any meeting so that the presentation may be preloaded and ready to project. A copy of the presentation will also be maintained as a public record.

Article III Participation at Meetings and Conduct of Meetings

Section 1. Types of meetings. The Town Council meets in either business meeting format or workshop meeting format.

Section 2. Workshop Meetings The purpose of a workshop meeting is primarily for council dialogue involving reports and proposals from council members, committees and staff that may be considered at later Town Council meetings. The Town Council may give guidance to the chairperson and to staff at workshop meetings but no decisions may be made that require formal votes. Notwithstanding the prior sentence, the Town Council may vote on procedural motions at a workshop meeting to determine a conflict of interest, to enter into executive session and to adjourn. Prior to Town Council discussion on any item, members of the public may speak on each agenda item for not more

than three minutes each and up to a total of 15 minutes. If there are more speakers than the time available, the chairperson may allocate the speaking time in order to balance the debate. The public participation portion shall conclude when the Town Council begins its discussions.

Section 3. Rules of order and debate The chairperson presides over all meetings of the Town Council. No one shall speak until recognized by the chairperson. When speaking, the member shall respectfully address the chairperson, confine discussion to the question under debate, and avoid personalities. No member speaking shall be interrupted by another, but by a call to order, to correct a mistake or by the chairperson if there are technical issues with sound or video equipment.

The chairperson shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the council by motion regularly seconded, and no other business shall be in order until a question on appeal is decided.

The chairperson or a designee of the chairperson shall summarize every item on the agenda following its reading by title.

The chairperson shall call for and declare all votes, but if any member doubts a vote, the chairperson shall cause a return of the members voting in the affirmative and in the negative without debate. When a roll call is taken, the roll is called in alphabetical order, except that the chairperson shall be the final member to vote.

Every motion shall be reduced to writing, if the chairperson shall so direct.

Any member may require the division of a question.

When a question is under debate, the chairperson shall receive no motion but to:

- (1) adjourn
- (2) lay on the table
- (3) postpone to a day certain
- (4) refer to a committee or some administrative official
- (5) amend
- (6) postpone indefinitely, or
- (7) move the previous question

Motions shall have precedence in the order written above.

The chairperson shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, shall be decided without debate.

A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

All questions relating to priority of business to be acted upon shall be decided without debate.

In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Robert's Rules of Order," latest edition, shall be taken as authority to decide the course of proceedings.

After a vote is taken, it shall be in order for any member who voted on the prevailing side of a vote to have a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

Upon the motion for the previous question being made and seconded, the chairperson shall put the question in the following form: "Shall the main question be now put?" And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the council shall be forthwith taken upon all pending amendments, and then upon the main question.

No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment. All questions or order arising incidentally thereon must be decided without discussion whether appeal be had from the chair or not.

Section 4. Public Participation at Regular Town Council Meetings The public is welcome to participate at Town Council business meetings. The participation may take the following forms:

a. Participation at a public hearing and on other agenda items

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 chairperson, the speaker shall give their 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 chairperson or a majority of the Town Council may limit the total time of public comments to 15 minutes per agenda item. This time may be extended by a majority of the Town Council. The chairperson may decline to recognize any person who has already spoken on the same agenda item. Once the council has begun its deliberations on an item, no person shall be permitted to address the council on such item.

If the Town Council has previously held within ninety days a public hearing on a similar item, the chairperson or a council majority may limit or dispense with public comment at subsequent meetings when the item is considered.

b. Speaking at the meeting on topics not on the agenda

Persons wishing to address the council on an issue or concern local in nature not appearing on the agenda may do so 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 chairperson, the speaker shall give their name and address or name and local affiliation if the local affiliation is relevant prior to making other comments. All remarks should be addressed to the Town Council. 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.

Issues raised during the non-agenda item comment period may be immediately responded to with brief answers by the chairperson or by the town manager. After each comment period, the chairperson will indicate that each person who did not receive an immediate response will receive a follow-up response no later than one week from the meeting. Copies of responses will be provided to all Town Council members.

Section 5. Decorum Persons present at council meetings and workshop meetings shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Persons at business meetings may only address the Town Council after being recognized by the chairperson and only at the lectern.

Section 6. Conflict of interest Each Town Council member shall disclose any potential conflict of interest immediately after the chairperson introduces an item. The council member shall briefly explain their reason why they believe they may have a conflict of interest. The balance of the Town Council members after reviewing applicable statutes may by majority vote determine if the member has a conflict. If any member of the Town Council believes that another member has a statutory conflict of interest, they may raise a point of order at any time and the Town Council shall immediately suspend business to resolve the issue. If any member discovers part way into a discussion that they may have a conflict of interest, the council member may raise a point of order and the Town Council shall immediately suspend business to resolve the issue. All resolutions of conflict of interest issues may be by majority vote of the remaining Town Council members and after citing applicable statutory provisions. If the same issue is to be discussed at subsequent meetings, the recusal need not be revoted. The chairperson will announce to those present the previous decision to recuse the council member.

Section 7. Members must vote Unless a Town Council member has been recused from voting for reason of conflict of interest, the Town Council member must vote when the yeas and nays are called.

Section 8. Suspension of rules The rules shall not be dispensed with or suspended unless five of the members of the council consent thereto. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Article IV Miscellaneous Provisions

Section 1. Committees At the commencement of the council year, or as soon thereafter as possible, there shall be chosen the following committees, each committee to consist of such members of the council as the Town Council may designate:

1. Finance Committee
2. Appointments Committee
3. Ordinance Committee

The members of the council to serve on the appointments committee and ordinance committee shall be chosen by the council by a majority vote. All members of the council shall serve on the finance committee. Each member of the council, other than the chairperson, shall serve on either the appointments committee or the ordinance committee, and the chairperson shall be ex-officio a member of all standing committees. The chairperson of each of the Finance Committee, the Appointments Committee and the Ordinance Committee shall also be chosen by the full council by majority vote.

Section 2. When votes are effective All Town Council votes are effective immediately except that ordinance adoptions and amendments are effective as provided in the municipal charter.

Section 3. Chairperson In the absence of the chairperson, the finance committee chairperson shall assume the responsibilities of the chairperson. If both are absent, the remaining council members shall choose a chairperson pro-tem who shall have the responsibilities of the chairperson. The "chairperson" each year may ask that the position instead be referred to as "Town Council Chair,"

"Town Council Chairwoman," or "Town Council Chairperson." The Town Council shall respect the wishes of the incumbent chairperson.

Section 4. Orientation Between the annual municipal election and the 2nd Monday in December, the current chairperson assisted by the town manager shall organize an orientation session for any newly elected councilors and any continuing councilors who may wish to attend.

Section 5. Partisanship "The Council-Manager Charter of the Town of Cape Elizabeth" provides that elections for Town Council shall be conducted on a non-partisan basis and without party designations on the election ballot. To retain the non-partisan nature of the council, council members and others are asked to refrain from making statements announcing political party events or making other comments of a political partisan nature.

Section 6. Technology The Town Council utilizes technology to enable more access to local government. The use of messaging technology during Town Council meetings shall be limited to ensure that Town Council deliberations are conducted openly.

Revised: 12/10/1979, 5/14/1985, 12/9/1985, 2/8/1988, 5/25/1988, 10/11/1989, 6/10/1991, 12/9/1991, 6/9/2003, 12/11/2006, 1/8/2007, 8/9/2010, 12/12/2011, 12/9/2013, 4/9/2018, 9/12/2022

Attachment Item #14-2023

Approved by the Town Council

December 12, 2022

Town of Cape Elizabeth Code of Ethics for the Town Council

Statement of Policy

The proper operation of the government of the Town of Cape Elizabeth (hereinafter "Town") requires that elected members of the Town Council (hereinafter "Councilors") be fair, impartial and responsive to the needs of the people they serve and to each other in the performance of their functions and duties; that decisions and policies be made in proper channels of the Town's governmental structure; that public office not be used for personal gain, family gain, or third party gain; and that Councilors shall maintain a standard of ethical conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, this Code of Ethics is hereby adopted as the standard of ethical conduct for the Town Council.

Section 1. Title

This policy shall be known as the Code of Ethics for the Cape Elizabeth Town Council.

Section 2. Legal Standards

It is the duty of every Councilor to support the Constitution of the United States and the Constitution of the State of Maine. There are also certain provisions of the general statutes of the State of Maine, which, while not set forth herein, should be considered an integral part of this Code of Ethics. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as they may be amended, are incorporated into this Code of Ethics by reference to the extent applicable:

- 17 MRSA § 3104 Conflict of Interest; Purchases by the State
- 17-A MRSA § 456 Tampering with Public Records or Information
- 17-A MRSA § 602 Bribery in Official and Political Matters
- 17-A MRSA § 603 Improper Influence
- 17-A MRSA § 604 Improper Compensation for Past Action
- 17-A MRSA § 605 Improper Gifts to Public Servants
- 17-A MRSA § 606 Improper Compensation for Services
- 17-A MRSA § 607 Purchase of Public Office
- 17-A MRSA § 608 Official Oppression
- 17-A MRSA § 609 Misuse of Information
- 17-A MRSA § 903 Misuse of Entrusted Property
- 30-A MRSA § 2605 Conflicts of Interest
- 30-A MRSA § 5122 Interest of Public Officials, Trustees or Employees

Section 3. Conflicts of Interest

All Councilors must be fair and impartial in carrying out their duties and responsibilities. All Councilors must ensure that their official actions are not intended to create actual or the potential for personal or financial gain, either directly or indirectly, for themselves, family members, personal friends, or other related parties. Any actual or potential conflicts between personal interests (financial, personal relationships, or otherwise) and Town business must be fully disclosed in a timely fashion to the Town Council. If the Town Council determines that an actual conflict of interest does exist, then the Councilor shall be recused from officially participating in any discussion or decision-making action on the issue.

If a Councilor has accepted money or other consideration from a citizen, group of citizens, business or other entity that has an interest in an issue before the Town Council, and if such money or other

consideration was received by the Councilor within a twelve-month period prior to Council taking any action on the issue in question, that Councilor should not participate in deliberations relating to that issue. This prohibition shall not apply to the sale of consumer goods or services at fair retail value. This conflict of interest provision does not prohibit a Councilor from acting as a private citizen, outside of any official duties.

Section 4. Gifts and/or Gratuities

The conduct of public business shall be free of any influence arising from gifts, favors, donations, or special privileges. It is the obligation of every Councilor to refuse personal gifts, favors, donations or special privileges in every instance where favor or special privilege would not have been extended but for the position of such Councilor; where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the Councilor; or where the gift is or may reasonably be considered to be designed to influence the actions of the Councilor.

Section 5. Appearance of Conflict of Interest and Improper Influence.

Councilors should conduct their official and personal affairs in such a manner as to avoid any appearance of conflict of interest and/or improper influence in the performance of their official duties. No Councilor shall seek personal or financial advantage by means of his/her public office, nor by his or her actions create the appearance of personal or financial advantage, or the appearance of personal or financial advantage on the part of relatives, personal friends or third parties having some affiliation with that Councilor. Councilors shall not directly or indirectly solicit any gift, gratuity or donation, or accept or receive any such gift if it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties or the gift or gratuity was intended to serve as a reward for any official action on their part.

To the extent any Councilor believes that there is the appearance of a conflict, the Councilor shall disclose the facts and circumstances giving rise to the possible conflict and to determine what, if any, steps should be taken to address it.

Section 6. Representing Third Party Interests Before Town Agencies

No Councilor shall either appear on behalf of any third party interest before the Council or any Town board, commission or other agency (individually, "agency", collectively, "agencies"), or represent a third party interest in any action, proceeding, or litigation in which the Town or one of its agencies is a party, without explicitly stating that he/she is appearing as a citizen or representative of a citizen as opposed to as a member of the Council. Nothing herein shall prohibit a Councilor, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Councilor, on behalf of his or her personal interest, from appearing before a Town agency. Notwithstanding the provisions of this Section 6, a Councilor may appear before an agency in his/her capacity as a Councilor while acting on behalf of the Town.

Section 7. Bias

If a Councilor believes that he/she is biased for or against an individual or entity that has a matter pending before the Council, and the Councilor believes that such bias will interfere with his/her ability to make a fair and impartial decision, then he/she shall recuse himself/herself from participating in any discussion or decision-making action on this issue.

Section 8. Standards of Conduct

The following specific standards of conduct further the policies and goals set forth in this Code of Ethics:

- A. Councilors shall take reasonable steps to preserve written communications in order to comply with Maine's "right to know" laws and, more specifically, a request made pursuant to the Freedom of Access Act ("FOAA"). To that end, Councilors shall preserve incoming and outgoing emails or other written communications that are subject to FOAA either (i) on their own

computers or filing system or (ii) by copying them to a Town-designated computer account, so that these communications are preserved and readily available in the event of a FOAA request.

- B. Councilors should conduct public business in as transparent a manner as possible. Although one-on-one conversations or meetings are legally permissible if not used to defeat the purpose of FOAA, to the extent information is exchanged that would be of value to the entire Council, such information should be shared at a public meeting.
- C. Councilors shall annually provide a list of any gifts received in the immediate prior year having a value of \$100 or greater, from any person or entity within the Town or having a matter pending before the Council, other than family members or close personal friends. In addition, if a person, business or other entity organized an event that benefitted the Councilor or his/her family or a related business in an amount of \$100 or more, the Councilor shall disclose the name of such person or entity. These disclosures shall be filed with the Town Clerk. For purposes of this section, "gifts" include payments made to a Councilor that exceed the fair market value of any goods or services provided in return.
- D. All Councilors shall be required to attest that they have read and understand this Code of Ethics and will comply with its provisions at the first meeting of the Council each year.

Section 9. Enforcement

All Councilors shall comply with this Code of Ethics. If any member of the Town Council believes that a violation has occurred or if a conflict of interest exists, he/she shall report the matter to the Town Clerk, who shall distribute the report to the Town Council. Pursuant to the Town Charter, the Town Council shall be the judge of whether any violation of this Code of Ethics has occurred and shall determine the appropriate remedy or response.

Section 10. Authority

The Town Council adopts this Code of Ethics pursuant to 30-A MRSA 2605(7).

Section 11. Applicability

This policy shall apply to all members of the Cape Elizabeth Town Council.

Section 12. Effective Date

This policy was adopted effective October 6, 2014 and revised April 9, 2018.

Section 13. Amendment

This policy may be amended or revised by a majority vote of the Town Council.

Section 14. Severability

If any provision of this policy is found to be unenforceable or invalid, the remaining provisions shall remain in full force and effect.

Section 15. Conflict with other Policies, Ordinances, or Jurisdictions

Whenever a provision of this Code of Ethics conflicts with or is inconsistent with another provision of this Code, or conflicts with or is inconsistent with the Town Charter, any Town Ordinance, state statute or regulation, or any other applicable law, the more restrictive provision shall apply.

Attachment Item #24-2023
December 12, 2022

Gifts 2022

Local Fuel Assistance		
1/5/2022	Jessie Timberlake	\$ 1000.00
4/11/2022	Walsh Family Fund	\$ 500.00
Police Department		
9/2022	Anonymous-for the Fishing Club	\$ 100.00
Fire Department	Estate of Robert Anderson	\$250,986.00
Shore Road Path	Estate of Robert Anderson	\$250,986.00
Cape Elizabeth Garden Club	Wreaths for Municipal Buildings	
Thomas Memorial Library	Donor	Amount/In Memory of
1/8/2022	Howe Living Trust, Sandra Howe	\$ 100.00 Anne Poliner
1/11/2022	Michael & Camille Vande Berg	\$ 500.00
1/15/2022	Lynn Wilcox	\$ 50.00
1/25/2022	Kenneth Pierce	\$ 75.00 Anne Poliner
1/30/2022	Donna G. Taggart	\$ 100.00 Norma Wadman
1/30/2022	Gail Schmader	\$ 20.00 Norma Wadman
1/31/2022	Louise Sullivan	\$ 100.00 Norma Wadman
1/31/2022	Frank S. Strout	\$ 50.00 Norma Wadman
2/1/2022	Lois Bader	\$ 100.00 Norma Wadman
2/1/2022	Richard Lemieux	\$ 100.00 Norma Wadman
2/1/2022	Alan Rowell	\$ 100.00 Norma Wadman
2/5/2022	Mary Irace	\$ 25.00 Anne Poliner
2/8/2022	Marsh Agency	\$ 50.00 Norma Wadman
2/21/2022	Susan & Gregory Ketch	\$ 50.00 Norma Wadman
2/22/2022	Kevin McDonnell	\$ 100.00 Norma Wadman
2/24/2022	Thomas & Diana Allen	\$ 100.00 Norma Wadman
3/21/2022	Betina Francis	\$ 30.00 Joe Own
3/25/2022	Barbara Poliner	\$ 500.00 Anne Poliner
5/5/2022	Abigail Zimpritch	\$ 100.00 Zimpritch Fund
5/18/2022	LilliAnn Dittmer	\$ 50.00
5/18/2022	Thomas Memorial Library Foundation	\$ 5,000.00 Quarterly Grant
6/13/2022	Anonymous	\$ 10.00
6/29/2022	Thomas Memorial Library Foundation	\$ 5,000.00 Quarterly Grant
7/6/2022	Brentwood West Association	\$ 120.00 In Memory Books
8/20/2022	Nichole Page	\$ 50.00 Wifflepalooza
8/20/2022	Christopher & Sherri Supple	\$ 25.00 Wifflepalooza
8/20/2022	Sarah E. Cary	\$ 50.00 Wifflepalooza
8/20/2022	Peter & Janine Cary	\$ 100.00 Wifflepalooza
8/31/2022	Steve & Jean Lavallee	\$ 375.00 Wifflepalooza
9/22/2022	William D. & Gary G. Ehler	\$ 150.00 Norma Wadman
9/28/2022	Lions' Club of Cape Elizabeth	\$ 78.00 Michael Spadinger
10/1/2022	Judy B. Merrill	\$ 200.00
11/18/2022	Anonymous	\$ 40.00
11/22/2022	Thomas Memorial Library Foundation	\$ 4,000.00 Exterior Sign Installation
11/29/2022	Arnold D. & Mary Russell	\$ 500.00
12/2/2022	Anonymous	\$ 5.00