

Dear members of the School Board

I followed along closely with the SBAC's work and understand the School Board members deliberately did not, giving SBAC space to conduct its work. However, echoing some prior concerns that I had about the SBAC and raising some new ones, I feel it is very important to explain the ways in which I believe the SBAC failed in some of its key responsibilities and share some concerns that I now have about the integrity of the actions of a few members of the SBAC. I think this context is critical as you evaluate the SBAC recommendation and to give you context as you weigh the Board's decisions about how to proceed.

SBAC FAILED TO SATISFY ITS CHARGE

(1) SBAC was charged as follows: "***With feedback from the Town financial team and community, make a Building Plan recommendation for selection, further development, and referendum submission.***" The SBAC willfully ignored community feedback.

You may be aware by now, but the SBAC outright ignored a huge amount of feedback, including from its own second survey that showed the strongest support for Option E, with 41% of surveyed voters preferring it (vs 17% preferring Option B), over 220 emails in support of Option E (vs 3? In support of Option B), numerous public comments at meetings in support of Option E, and its own "feedback mechanism" in which more than 253 wrote in with feedback, 79.4% of whom indicated they would choose one of the options that had a new building (E/F/G); with only 12 respondents (5.6%) indicated support for Option B.

Shockingly, the SBAC also ignored its own work. At the May 9, 2024 meeting in which the SBAC made a recommendation, the facilitator presented the following slide in which the SBAC members individually ranked how well each option met the six priorities ***they had*** identified as critically important for the project. Option E is the clear winner and yet this fact received almost no discussion by the group:

Lower scores meet the ranking criteria better

Individual criteria may score from 9 to 27

Minimum possible score is 54; maximum is 162

	Option B	Option C	Option E
	Total	Total	Total
Likely to pass	17	21	17
Meets educational needs/21st century learning	21	17	12
Impact on taxpayers	17	19	18
Safety	18	16	12
Long-term value	19	18	14
Minimizes disruption to students	19	25	14
Total	111	116	87

What did SBAC rely on? Perhaps they were persuaded by the three emailed comments they received from the public, one of which was read at the May 9th hearing, which decried Option E because the bond vote from 2022 failed by a margin of 62%. A bond vote on an entirely different project, with entirely different estimated tax impacts. They definitely ignored the fact that Option B received 17% support in the SBAC survey and fewer supporters than “none of the above.” In other words: more people prefer “nothing” than preferred Option B. More likely, as I will address further below, the vote by some members of the SBAC for the only option that was nearly “renovation only” was a foregone conclusion for which no counter-evidence would have mattered.

(2) SBAC was charged with: "***Explore funding options and alternative funding sources.***" On this count SBAC's finance committee was distracted by other topics and failed to complete this critical work.

There were some [initial meetings](#) of the Finance Subcommittee in which discussions were had that made it appear the SBAC was going to undertake this critical work of finding creative funding solutions, discussing meaningful strategies for getting the costs and tax impact to an affordable level for whatever the desired solution. For example, the finance sub-committee discussed [developing cost models and associated funding strategies and models](#). Then, even more, SBAC Finance work laid out some ideas for helpful areas of work: "[Research the economic environment and how this will influence major construction projects – trends, impacts, etc . May want to bring in expert to provide insights as well. Include an aspect of delayed investment in solutions; Research other school project.](#)"

In 2023, the SBAC finance committee worked hard to admire of the problem of cost and, and engaged in repeated attempts, let by Larry Benoit to “set a budget” despite the owner’s rep insistence that the work of the SBAC was to identify needs first. They also decided to look at the *first year tax impact* (of a 20 to 30 year bond) and determined that we could bond in two tranches (something already widely discussed in the 2022 bond referendum analysis).

In 2024, things starting going off the rails. The Finance committee took a turn and started quizzing the architects about [HVAC and heat pumps](#). Then on February 8, at the behest of co-chair of the finance committee, Mr. Benoit, the finance committee questioned [birth rates](#), and the committee viewed a presentation by NESDEC's own PhD who evaluates enrollment data across New England. Mr. Benoit was very concerned that, after *his own investigation* into birth rates in Maine, that NESDEC was surely wrong. After the February 8 meeting, [NESDEC corrected him](#), but it took up even more time for discussion at another meeting on February 25th. Lest the School Board think, Mr. Benoit dropped it there, you'd be wrong again, Mr. Benoit again pursued birth rate analysis on [April 23rd](#) at another finance committee meeting. Ms. Jordan was co-chair of all these meetings and never disagreed about the scope of work, the appropriateness of the repeated inquiries, nor redirected the committee to work on other matters. When I raised these concerns in a public meeting I was firmly informed that everyone on the committee is entitled to the process and information they feel they need to make a decision. Apparently even if that information is meant to distract and detract from the committee's charge.

In addition, the *finance* committee covered such topics as heating and cooling, the cost of mini splits, which Mr. Benoit argued with our architects would be much better based on no expertise that was shared with the community. First of all, the final project hadn't been agreed upon – and detailing out the very specific elements of a building design felt distracting and rose to the level of an obsession with the hours of meeting time this consumed. Mr. Benoit multiple times raised the issue of his “back of the envelop” calculations being more accurate than our owner's reps analysis Mini-splits and insisted at times that Option B needed it, then Option E, and then neither and then both.

Finally, after the SBAC sent the second survey to people SBAC released a tax calculator – the work of which was discussed at SBAC finance committee meetings, but appears to have been completed by town staff. It was later revealed to be incorrect after it went live. However, the primary purpose of the tax calculator appeared to be to educate citizens on the impact of the reevaluation and then conflate that with the building options and their respective costs. At worst this terrified taxpayers, at best it confused them because it was wrong in the end and made it appear that some taxpayers were seeing a 40% tax increase because of one of the school options.

What the community asked for repeatedly from SBAC, was an estimate of long-term costs for each proposed building option. Instead of relying on our Architects and Owners Rep, who provided these number, members of the finance committee had endless discussions about the inapplicable concept of “net present value”, most especially Mr. Hussey. Such discussions are “inapplicable” because Cape Elizabeth can borrow below the rate of inflation, [making such an analysis completely wrong](#). However, despite the fact that even our bonding representative, Joe Cuterea agreed that “net present value” was the incorrect analysis to compare projects and long term costs, Mr. Hussey continued to repeat this metric in public meetings as though it was a correct way to compare project costs in the long term. It was May before there were any long-term costs of each option that were even vaguely agreed upon by the committee, just before their final recommendation.

Lastly, the closest the SBAC committee got to discussing “creative financing” was a misguided attempt at the 11th hour, just moments before they voted on their final recommendation, to stated that they would find a way to build Option E and have a tax impact of less than 10%. I was so confused because I actually thought THIS was the work of the SBAC, especially the finance subcommittee. If only the SBAC had taken their work seriously and not been distracted by issues beyond the scope of their charge – perhaps they could have in fact completed this critical financing work.

GOOD FAITH OF SBAC MEMBERS

I have been patient and tried to extend grace, knowing each SBAC member is just a human, and we all make missteps or errors in judgment – just as any one of us does. Any one of the following items I am going to highlight may seem mostly harmless if reviewed in isolation, but together they reflect a system and pattern that points to a committee that conducted much public business behind closed doors. There are open meeting laws for a reason, and when it appears a group of folks is routinely attempting to work around them, or ignore those laws, then it undermines the credibility of both the process and the result. Moreover, the information I received, makes it appear as though certain committee members had a predetermined commitment to any option that resembled B and instead of doing work to find the right solution, per the SBAC Charge, instead tried to use information to undermine and shape the work of the committee.

Lastly, in early March, when I became concerned about the nature of the completely irrelevant work being undertaken by the SBAC finance subcommittee in particular, I sent a records request to the town and after literal months of hearing nothing but multiple follow-ups by me, I was not given these documents until May 1. I wish I had them earlier so it didn't look like a strategic document grab at the last minute, but this is simply when I got records of the [SBAC Finance SubCommittee Co-Chair's Work](#). I could not pick just one document to share to show that there is a strong inference here that members of the SBAC have been working behind closed doors, ignoring public meetings laws, and working in bad faith to pursue the charge of the committee. It is the totality of the documents which focus on non-finance related topics, solicits feedback on work for the SBAC to be reviewed in advance by known opponents of the last bond referendum, and discusses substantive items over email. I was disheartened by these emails and I just wish all the time and energy that was spent trying to undermine the work of the committee or focus on enrollment, birth rates, square footage (before the design phase), or mini-splits, could have been used to create financing solutions so we can meet the needs of the community AND our students.

In this short amount of time I have before your business meeting, I cannot go back to each meeting where, **during the recorded meeting**, SBAC member after SBAC member was openly conducting business on their phones during meetings and stating that they were receiving information about the committee's work during public meetings. In fact, I complained about one of these instances because it so clearly gives special access to the friends of the committee member who is willing to field text messages during a public hearing and feels beyond inappropriate. The conduct was so egregious that Matt Sturgis sent a [letter](#) on February 27 cautioning folks to stop using their phones during meetings.

The behavior seems to reach a crescendo when at the [SBAC Meeting May 2, 2024 \(1 hr 20 min\) - Watch Video](#) during the break, where Tim Thompson is attending remotely, Mr. Benoit walks over to Mr. Hussey and says something to him and then Mr. Hussey checks his phone (click the link). Then Mr. Hussey places a call and Tim Thompson can clearly be heard over the microphone on the phone call stating that "he texted Larry too". Then Mr. Hussey rushes off to take the rest of the call, while Mr. Benoit walks over to Mr. Dunham (who is also a recipient of emails in the emails I FOAA'd) and proceeds to have a lengthy, and possibly substantive conversation by the looks of the engagement.

Then at the days before the SBAC's final recommendation draw near, the SBAC pulls the survey expert, [Bruce Lockwood email](#) into the conversation and he makes inappropriate observations such as: "The timing and results of the tax revaluation did not help this project at all. While I believe a school building project can be passed, I also think concessions and compromises are going to have to be made for any project to move forward without significant state funds and/or funds from other sources." Also, "Anecdotally, I strongly believe Cape Elizabeth residents as a whole want a high-quality school district. Again, anecdotally, I think residents feel there are numerous ways to achieve this. My interpretation of the data suggests residents are willing to support some level of school building project. Given the data from the 2024 survey, I doubt residents will pass Conceptual Design E unless there is significant movement in current opinions. Some concessions and compromises will have to take place to create a project the Cape Elizabeth Community as a whole will pass. As one member of the public commented last Thursday, we all want the Bentley if we can afford it, but sometimes we have to settle for the Honda Pilot, which is a very good solid vehicle." As Gretchen Noonan noted during public comment on May 9, these comments are not professionally appropriate. In my mind this reflect a deep bias that was overshadowing or misinforming the SBAC.

On the eve of the May 9 recommendation meeting, Michael Hussey drafted a 7 page [manifesto](#) detailing his support for Option B. In doing so, he circumvented the agreed upon protocol and gave his fellow committee members 24 hours to stew in his [faulty math](#) and flawed reasoning.

And now, last night at the Town Council (May 13) meeting (the recording of which I cannot yet link to), members of SBAC appeared at a Town Council meeting where the SBAC decision was not listed as an agenda item, and in a coordinated fashion that would seem to require violations of public meetings laws, community members plus the two town councilors from the SBAC committee - made a clearly coordinated plea in favor of Option B - but this hasn't even come to the school board for consideration. Making it clear in my mind that some sort of town politics and gamesmanship is at issue, NOT the straightforward work of a committee in charge of finding a building solution to serve the needs of Cape Elizabeth students.

Honestly, I could (and maybe should) go on and detail the specific things that were said of deep concern. Like at the May 9th meeting when Tim Thompson addressed "student disruption" one of the key issues of concern raised by the community and discussed by the SBAC. However, what Mr. Thompson was asking about was the "disruption" of student's access to a field for after school activities in Option E. He definitely did not mention the substantial 2-3 years of disruption required under option B for students who have already had the greatest educational interruption in generations.

I am saddened that so much time has been expended by an organized effort by some SBAC members to collude behind closed doors, and so little focus was given to some of the most critical pieces of puzzle in how to finance such an important and expensive project. I sincerely hope there is a lot of good work to be taken from the SBAC's efforts but I caution you to be wary about the recommendations reached by those on the committee as they do not appear to be

representative of the feedback they received. I do think they SBAC failed in some substantial ways to meet the charge it was given.

Regards,
Elizabeth Biermann (19 Trundy Road)