



CAPE ELIZABETH TOWN COUNCIL MINUTES
Regular Meeting # 15-02-03
Monday, May 12, 2003
7:30 p.m.

Present Absent

John E. "Jack" Roberts, Jr., Chr.	185 Fowler Road	X	767-4526	6/2005
Henry N. Berry III	110 Two Lights Rd.	X	799-6500	6/2003
Penelope P. Carson	36 Trundy Road	X	799-8029	6/2003
Carol Fritz	1 Stirrup Road	X	767-3737	6/2003
MaryAnn Lynch	2 Olde Colony Lane	X	767-5788	6/2004
John W. McGinty	86 Brentwood Road	X	767-0139	6/2004
Anne E. Swift-Kayatta	14 Stone Bridge Road	X	767-5754	6/2005

Student Representatives:

Rhiannon Gill	X
Alex Weaver	X

Michael McGovern, Town Manager	X
Jacqueline N. Coy, Town Clerk	X

Pledge of Allegiance to the Flag

Presentations:

Resolutions were presented to Henry N. Berry III and Penelope P. Carson for their many years of outstanding work and dedication as Town Councilors for the Town of Cape Elizabeth.

Resolution was presented to Assistant Town Manager Debra M. Lane for all her work, contributions, and dedication as Town Clerk for 16 years in the Town of Cape Elizabeth.

Reports and Correspondence

Town Clerk Coy reported that there is going to be a Special Referendum Election on June 10, 2003. It is for a \$60 million bond issue to stimulate economic growth and job creation through investments in research and development, municipal infrastructure and facilities, the Maine Farms for the Future Program and affordable housing, in anticipation of approximately \$134,150,000 in federal and private funds.

Town Manager McGovern thanked everyone for the successful election on May 6, 2003. He recognized Harry Proudman, CETV coordinator, and the Yosua brothers for the great job they did for the Football Boosters Auction on May 3.

He updated everyone on the Route 77 paving this spring and the Revaluation process through the Assessor's office.

Mr. McGovern also announced that the Memorial Day parade and festivities will start at 9 a.m. at the corner of Fowler Road and Route 77. Jim Cox has done a wonderful job as coordinator.

Citizens' Discussion of Items Not on the Agenda

Christopher Lynch, 880 Shore Road: He stated that because of the new valuations, homeowners should think about refinancing because the interest rates are so low now.

Minutes of Meetings # 13-02-03 held April 14, 2003 and #14-02-03 held April 28, 2003 and continued to April 30, 2003.

Moved by M. Lynch and seconded by H. Berry

Ordered the Cape Elizabeth Town Council approves the minutes of Meetings #13-02-03 held April 14, 2003 and #14-02-03 held April 28, 2003 and continued to April 30, 2003.

(7 yes)(0 no)

Public Hearing on Budget: No Speakers

Item # 114-02-03 Municipal, School, Community Services and County Budgets

Moved by M. Lynch and seconded by H. Berry

Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 12, 2003, does hereby adopt the General Fund Budget for Fiscal Year 2004 with gross expenditures of \$24,330,000 and gross revenues of \$6,641,724 and with the amount of \$17,688,276 to be raised from taxation, and to fix Tuesday, October 7, 2003, and Tuesday, April 6, 2004, as the dates upon each of which one-half of such tax is due and payable, with interest to accrue upon taxes due and unpaid after each such date at the rate of seven percent (7.0%) per annum. In accordance with 36 M.R.S.A. Section 506, the Tax Collector and Town Treasurer are authorized to accept prepayment or decline prepayment of taxes not yet committed or prior to any due date and pay no interest thereon. In accordance with 36 M.R.S.A. Section 506-A, a taxpayer who pays an amount accepted by the tax collector and town treasurer in excess of that finally assessed shall be repaid the amount of overpayment plus interest from the date of overpayment at the minimum annual rate per annum set by the State of Maine.

Ordered, the following amounts are hereby fixed as the gross appropriation for each department and agency for **Fiscal Year 2004**:

	Education	\$15,315,320
	Community Services	864,137
	County Government	814,655
110	Administration	416,500
120	Assessing,Codes/Planning	266,328
121		

130	Town Council	4,100
135	Legal and Audit	58,000
140	Elections	10,002
150	Boards and Commissions	15,833
160	Insurance	52,500
170	Employee Benefits	646,090
180	Debt Service	1,120,208
210	Police Department	830,783
215	Animal Control	31,329
220	Dispatching	224,364
225	WETeam	19,412
230	Fire Department	218,524
240	Misc. Public Protection	147,565
250	Emergency Preparedness	2,000
310	Public Works Department	756,130
320	Refuse Disposal	681,837
410	Human Services	28,833
510	Library	333,985
520	Contributions	450
530	Public Information	33,693
600	Facilities Management	115,176
610	Town Hall	18,800
615	Library Building	20,600
620	Town Center Fire Station	10,700
630	Police Station	24,300
635	Cape Cottage Fire Station	3,400
640	Parks	38,187
641	School Grounds	92,961
645	Fort Williams Maintenance	103,320
655	Richards Pool/Fitness Center	353,772
660	Trees	15,888
710	Intergovernmental	19,318
715	Capital Projects	621,000
Total		\$24,330,000

Ordered, the Cape Elizabeth Town Council hereby accepts the categories of funds listed below as provided by the State of Maine:

Category	Estimated Amount
Revenue Sharing	737,000
General Assistance	2,000
Veterans Exemption Reimbursement	10,500
Tree Growth Reimbursement	3,000
Local Road Assistance	92,000
Library Per Capita Grant	Eliminated Program

Snowmobile Registration Funds	450
Other State Funds	?
Homestead Tax Relief	200,000
Adult Education Subsidy	27,000
State Education Subsidy	1,777,360
Title IA	80,000
Title V	11,000
Title II A	50,000
Local Entitlement	250,000
Title IV A	7,400
Title II D	3,200

In addition the State of Maine directly assumes the cost for the employer share of teacher retirement. The estimated amount is \$1,724,942

Ordered, the Cape Elizabeth Town Council hereby appropriates from the Foundation Allocation for school purposes the sum of \$10,509,728.64 and the Town of Cape Elizabeth raises as the local share of the Foundation Allocation the sum of \$8,902,935.33.

Ordered, the Cape Elizabeth Town Council hereby raises in additional local education funds under the provisions of 20-A MRSA, Sec 15614, the sum of \$3,155,614.14.

Ordered, the Cape Elizabeth Town Council hereby authorizes the expenditure for the Fiscal Year beginning July 1, 2003, and ending on June 30, 2004, from the Foundation Allocation, the Debt Service Allocation, unexpended balances, local appropriations, State Subsidy and other receipts for the support of schools the sum of \$15,315,320.

Ordered, the Cape Elizabeth Town Council hereby appropriates for Adult Education, the sum of \$160,455.42 and the Town of Cape Elizabeth raises as the local share, the sum of \$29,962.02.

Ordered, the Cape Elizabeth Town Council hereby appropriates for School Debt Service, the sum of \$934,184 and the Town of Cape Elizabeth raises as the local share the sum of \$934,184

Roll Call Vote: (6 yes)(1 no) J. McGinty

Item #115-02-03 Sewer Fund Budget

Moved by M. Lynch and seconded by P. Carson to vote items # 115-02-03 through item # 121-02-03 en bloc

Ordered the Cape Elizabeth Town Council having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for Items #115-02-03 through item # 121-02-03.

Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Sewer Fund with expenditures of \$1,539,935 and gross revenues of \$1,539,935

Item #116-02-03 Riverside Cemetery Fund Budget

Ordered, the Cape Elizabeth Town Council having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Riverside Cemetery Fund with expenditures of \$ 49,412 and gross revenues of \$49,412.

Item #117-02-03 Museum at Portland Head Light Fund Budget

Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Portland Head Light Fund with expenditures of \$483,166 and gross revenues of \$523,200.

Item # 118-02-03 Spurwink Church Fund Budget

Ordered, the Cape Elizabeth Town Council having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Spurwink Church Fund with expenditures of \$ 10,390 and gross revenues of \$13,100.

Item # 119-02-03 Fort Williams Park Capital Fund Budget

Ordered, the Cape Elizabeth Town Council having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Fort Williams Park Capital Fund with expenditures of \$ 163,280 and revenues of \$163,280.

Item #120-02-03 Thomas Jordan Trust Fund Budget

Ordered, the Cape Elizabeth Town Council having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Thomas Jordan Trust with expenditures of \$20,300 and revenues of \$12,000.

Item # 121-02-03 Rescue Fund Budget

Ordered, the Cape Elizabeth Town Council having held a public hearing on Monday, May 12, 2003, does hereby adopt the Fiscal Year 2004 Budget for the Rescue Fund with expenditures of \$135,104 and revenues of \$135,000 with the excess of revenues over expenditures to be retained in the Rescue Equipment Replacement Fund.

(7 yes)(0 no)

Item # 122-02-03 Appointments Committee Report

Moved by P. Carson and seconded by H. Berry

Ordered the Cape Elizabeth Town Council to appoint the citizens recommended by the Appointments Committee.

Fort Williams Advisory Commission:

Ellen Nadeau, 9 Apple Tree Lane Term Expires 1/1/2005

(Ms. Nadeau will serve the unexpired term of Dan Fisher)

Arts Commission:

Joan Frustaci, 8 Rosewood Drive Term Expires 1/1/2005

(Ms. Frustaci will serve the unexpired term of Lawrence Nelson)

Conservation Commission:

Carole Haas, 6 Locksley Road Term Expires 1/1/2004

(Ms. Haas will serve the unexpired term of Kevin Cameron)

(7 yes)(0 no)

Item # 123-02-03 Draft Vote Authorizing Addition to Pond Cove School

Chairman Roberts provided the opportunity for the following citizens to speak on the item:

Mary Townsend – 5 Pearl St. concerned on the school space and enrollment.

Kevin Kobel – 12 Waumbek Road – Stated that he believed that the new Municipal buildings were built without Residents' knowledge or approval, so why do the school projects all have to be approved and voted on?

Christopher Lynch – 880 Shore Road – questioned why the Kindergarten deferral to July was moved back to May.

At the request of Chairman Roberts, Marie Prager, Chairman of the School Board, reaffirmed the memo to the Town Council and School Board recommending the Town Council approve the building addition to Pond Cove at the May 12, 2003 meeting.

Moved by M. Lynch and seconded by J. McGinty

Ordered the Cape Elizabeth Town Council vote to table indefinitely the expenditure of up to \$1,475,000 for constructing and equipping a new Kindergarten facility at the Town's Pond Cove Elementary School and the issuance of up to \$1,475,000 in bonds to finance such expenditure.

(7 yes)(0 no)

Item # 124-02-03 Draft Vote Authoring Pond Cove School Addition after Referendum

Moved by A. Swift-Kayatta and seconded by H. Berry

Ordered the Cape Elizabeth Town Council authorize:

EXPENDITURE OF UP TO \$1,475,000 FOR
CONSTRUCTING AND EQUIPPING A NEW KINDERGARTEN
FACILITY AT THE TOWN'S POND COVE ELEMENTARY SCHOOL
AND THE ISSUANCE OF UP TO \$1,475,000 IN BONDS
TO FINANCE SUCH EXPENDITURE

VOTED: That the Cape Elizabeth Town Council hereby authorizes the expenditure of up to \$1,475,000 for relocating the Town's public kindergarten facilities, including the constructing and equipping of a new kindergarten facility at the Town's Pond Cove Elementary School, and for costs and expenses related thereto.

VOTED: Pursuant to the provisions of Section 5772 of Title 30-A of the Maine Revised Statutes and all other authority thereto enabling, and in order to provide funds for the school project authorized by the foregoing vote and the costs and expenses related thereto, the Town Council of the Town of Cape Elizabeth hereby authorizes the Treasurer to borrow on behalf of the Town up to \$1,475,000 in principal amount.

VOTED: That in order to effect the borrowing heretofore authorized, the Treasurer be and hereby is authorized to prepare, issue and sell notes or bonds of the Town in the aggregate principal amount not to exceed \$1,475,000, such notes or bonds to be signed by the Treasurer, countersigned by the Chairman of the Town Council and attested by the Town Clerk.

VOTED: The form, maturity, interest rate and other details of said notes or bonds shall be as determined by the Treasurer and the Chairman of the Town Council by their execution thereof, but shall have a final maturity not later than 20 years from date of issuance, and shall not be inconsistent with the provisions hereof. Such notes or bonds and any notes issued in anticipation thereof may be issued as callable notes or bonds in the discretion of the Treasurer and Chairman of the Town Council.

VOTED: That the Treasurer and the Chairman of the Town Council are hereby authorized on behalf of the Town to borrow money in anticipation of the issuance of said notes or bonds by the issuance and sale of notes and renewal notes in anticipation thereof, such notes and renewal notes to be in such form, have such maturity and bear interest at such rate as may be approved by the Treasurer and Chairman of the Town Council by their execution thereof.

VOTED: That the Chairman of the Town Council, the Treasurer and Clerk, and other proper officials of the Town be, and hereby are, authorized and empowered in its name and on its behalf, to do or cause to be done all such acts and things as may be deemed necessary or desirable in order to effect the issue and delivery of said bonds and notes hereinbefore authorized in the foregoing resolutions.

- VOTED: That the Town covenants and certifies that no part of the proceeds of the issue and sale of the notes and bonds authorized to be issued by the foregoing resolutions (including any notes and bonds in renewal thereof) shall be used, directly or indirectly, to acquire any securities or obligations, the acquisition of which would cause such notes or bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").
- VOTED: That the Treasurer of the Town be authorized to covenant on behalf of the Town and for the benefit of the holders of the notes and bonds, that the Town will take whatever steps, and refrain from taking any action, as may be necessary or appropriate to ensure that interest on the notes and bonds will remain exempt from federal income taxes.
- VOTED: That said notes and bonds are hereby designated "qualified tax exempt obligations" under Section 265(b)(2) of the Code.
- VOTED: That this Bond Resolution shall constitute the Town's official declaration of intent for purposes of Section 1.150 of the Internal Revenue Regulations, and to the extent that any costs of the school facility project are paid by the Town from the general fund or other fund, such payments may be reimbursed from the proceeds of said notes or bonds.
- VOTED: That the notes and bonds authorized by this Bond Resolution may, if so determined by the Treasurer, be combined with any other notes or bonds duly authorized by the Town of Cape Elizabeth and together issued as a single bond issue in the aggregate amount of the notes and bonds so authorized.
- VOTED: That the question of incurring the expenditures and issuing the bonds and notes authorized by the foregoing votes be submitted to the voters of the Town of Cape Elizabeth in an advisory referendum election on November 4, 2003 and that the foregoing votes authorizing the expenditures and the issuance of bonds and notes shall not, without further vote of the Town Council, be effective unless approved by the voters in such referendum election.
(7 yes)(0 no)

Item # 125-02-03 Draft Vote Authorizing High School Project after Referendum

Moved by M. Lynch and Seconded by P. Carson

Ordered the Cape Elizabeth Town Council to submit the question of the high school renovation project, in particular, incurring expenditures and issuing bonds, to the voters of the Town of Cape Elizabeth in a referendum election to be held November 4, 2003.

Further Ordered that the exact amount of such referendum question be referred to a special subcommittee of the Council, including School Board members, with members to be appointed by the chairman of the Council; that the subcommittee should meet as necessary to review the project and report back to the full Council at a workshop to be held no later than July 10, 2003; and that the Council fix a number for the fall referendum question at its regular meeting on July 14, 2003.

(7 yes)(0 no)

Item # 126-02-03 Set Public Hearing on Eliminating Town Council \$350 Annual Pay

Moved by H. Berry and seconded by P. Carson

Ordered The Cape Elizabeth Town Council hereby sets a public hearing for Monday, June 9, 2003 at 7:30 p.m. at the Cape Elizabeth Town Hall to amend Chapter 1, Article II of the revised Official Code to read:

Sec. 1-2-3 Council Pay Members of the Town Council shall receive no remuneration for serving as members of the Town Council.

(7 yes)(0 no)

Item # 127-02-03 Fort Williams Park Master Plan

Moved by A. Swift-Kayatta and seconded by H. Berry

Ordered the Cape Elizabeth Town Council to acknowledge receipt of the Draft Update to the Fort Williams Park Master Plan with appreciation to the Fort Williams Advisory Commission and their consultant Land Use Consultants and to refer the draft to the Planning Board and to a future Town Council workshop meeting for further review.

(7 yes)(0 no)

Item # 128-02-03 Fort Williams Park Uses
Moved by P. Carson and seconded by H. Berry

Ordered the Cape Elizabeth Town Council to approve the following uses as recommended by the Fort Williams Advisory Commission:

USCG Change of Command Ceremony	June 26, 2003
Maine Army National Guard	June 28, 2003
National Assn. of Secretaries of State	July 27, 2003

(7 yes)(0 no)

Item # 129-02-03 Abatement Requests
Moved by A. Swift-Kayatta and seconded by P. Carson

Ordered the Cape Elizabeth Town Council to approve the following abatements of personal property taxes per the recommendation of the assistant town manager and the assessor:

Capital Associates International	\$247.38
Shear Madness	\$19.86

(7 yes)(0 no)

Citizen's Discussion of Items Not on the Agenda:

Sue Pierce of 59 Hunt's Point Road –Because there has been much conflict lately, she made the request that the Town Council and School Board work *together* to accomplish what is best for the Town.

Individual Council members and Manager McGovern voiced much praise for Councilor Henry Berry and Councilor Penny Carson.

Adjournment

Moved by P. Carson and seconded by H. Berry
Ordered the Cape Elizabeth Town Council adjourn at 9:30 p.m.
(7 yes)(0 no)

Upcoming Meetings

Informal Caucus of New Town Council- Thursday, May 15, 2003 6:00 p.m.

Memorial Day Parade- Council invited to assemble at 8:45 a.m. at Fowler Rd. and Route 77

First Meeting of 2003-2004 Town Council: June 9, 2003 7:30 p.m.

Respectfully Submitted,

Jacqueline N. Coy
Town Clerk