

CAPE ELIZABETH TOWN COUNCIL MINUTES

Regular Meeting # 2-03-04

Monday, July 14, 2003

7:30 p.m.

		Present	Absent	
Mary Ann Lynch, Chairman	2 Olde Colony Lane	X	767-5788	6/2004
David J. Backer	2 Rugosa Way	X	799-2397	6/2006
Carolyn M. Fritz	1 Stirrup Road	X	767-3737	6/2006
John W. McGinty	86 Brentwood Road	X	767-0139	6/2004
Michael D. Mowles, Jr.	423 Ocean House Road	X	741-2552	6/2006
John E. "Jack" Roberts, Jr	185 Fowler Road	X	767-4526	6/2005
Anne E. Swift-Kayatta	14 Stone Bridge Road	X	767-5754	6/2005

Town Manager Michael McGovern

X

Town Clerk Jacqueline Coy

X

Roll Call by the Town Clerk

Pledge of Allegiance to the Flag

Reports and Correspondence

Chairman Lynch reported that she received letters from Kathleen Walsh and George Entwistle III, stating that they are both resigning from the School Board. Mrs. Walsh will be returning to teaching, and Mr. Entwistle has been appointed an Assistant Superintendent elsewhere in Maine. Chairman Lynch wished them both well and thanked them for all the work they have done.

Councilor Mowles commented that we should all be proud of the Cape Elizabeth High School. They made Newsweek's Top Twenty. He also congratulated Officer Vaughn Dyer because of the article in the Portland Press Herald, relating to the display at the Police Station.

Councilor McGinty attended COG's assembly meeting. There was no new news to report from it.

Town Manager's Report

Mr. McGovern congratulated William H. Jordan, Sr., who is celebrating his 50th year with the Cape Elizabeth Fire Department. He will be presented a plaque soon.

He also thanked the State of Maine Department of Transportation and Blue Rock Industries for the work on Route 77, which is all but completed.

The Cottage Farms Road project is wrapping up. Mr. McGovern thanked Bob Malley for his work, and all the residents for their patience.

Just a reminder that the Beach to Beacon race is August 2nd. We tend to become complacent over the years, and now we have to focus on the event, and especially pay attention to the road signs and road closures that morning.

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Citizens' Discussion of Items not on the Agenda - NONE

Minutes of Meeting # 1-03-04 held June 9, 2003

Moved by A. Swift-Kayatta and seconded by M. Mowles

Ordered the Cape Elizabeth Town Council approves the minutes of the #1-03-04 meeting held June 9, 2003.

(7 yes)(0 no)

Item # 17-03-04 Receipt of the report from the Ad Hoc Committee on the Proposed School Construction projects, said report consisting of the summary of the meeting held June 23, 2003

Introduction by Councilor J. Roberts

Moved by M. Lynch and seconded by J. McGinty

Ordered the Cape Elizabeth Town Council takes receipt of the report from the Ad Hoc Committee on the proposed School construction projects, said report consisting of the summary of the meeting held June 23, 2003.

(7 yes)(0 no)

Item # 18-03-04 Authorization of expenditure and bonding of up to \$1,520,000 for constructing and equipping a new kindergarten wing at Pond Cove Elementary School subject to a citizen vote approving the expenditure and bonding on November 4, 2003.

TOWN OF CAPE ELIZABETH, MAINE
TOWN COUNCIL VOTE AUTHORIZING
EXPENDITURE OF UP TO \$1,520,000 FOR
CONSTRUCTING AND EQUIPPING A NEW KINDERGARTEN
FACILITY AT THE TOWN'S POND COVE ELEMENTARY SCHOOL
AND THE ISSUANCE OF UP TO \$1,520,000 IN BONDS
TO FINANCE SUCH EXPENDITURE

- VOTED: That the Cape Elizabeth Town Council hereby authorizes the expenditure of up to \$1,520,000 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 \$1,520,000 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 \$1,520,000, 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.

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- 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.

Moved by J. Roberts and seconded by M. Mowles

Ordered the Cape Elizabeth Town Council authorize expenditure and bonding of up to \$1,520,000 for constructing and equipping a new kindergarten wing at Pond Cove Elementary School subject to a citizen vote approving the expenditure and bonding on November 4, 2003 per the above resolution.

(7 yes)(0 no)

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Item # 19-03-04 Authorization of expenditure and bonding of up to \$7,930,000 for improvements, renovations and minor additions to Cape Elizabeth High School subject to a citizen vote approving the expenditure and bonding on November 4, 2003.

TOWN OF CAPE ELIZABETH, MAINE
TOWN COUNCIL VOTE AUTHORIZING
EXPENDITURE OF UP TO \$7,930,000 FOR
IMPROVEMENTS, RENOVATIONS AND MINOR ADDITIONS
TO THE CAPE ELIZABETH HIGH SCHOOL AND THE ISSUANCE OF UP TO \$7,930,000 IN BONDS
TO FINANCE SUCH EXPENDITURE

- VOTED: That the Cape Elizabeth Town Council hereby authorizes the expenditure of up to \$7,930,000 for improvements, renovations and minor additions to the Cape Elizabeth High School, including improvements and additions to the cafeteria, upgrading of life safety systems, improvements to the building entrance, related equipment, 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 \$7,930,000 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 \$7,930,000, 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.

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- 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 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.

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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.

Moved by J. Roberts and seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council authorizes expenditure and bonding of up to \$7,930,000 for improvements, renovations and minor additions to Cape Elizabeth High School subject to a citizen vote approving the expenditure and bonding on November 4, 2003 per the above resolution.

(7 yes)(0 no)

Item # 20-03-04 Approval of the warrant for the November 4, 2003 votes on the school projects

TOWN OF CAPE ELIZABETH
WARRANT FOR REFERENDUM
November 4, 2003

COUNTY OF CUMBERLAND, SS.

To Neil Williams, a constable of Cape Elizabeth.

You are hereby directed to notify the voters of Cape Elizabeth of the referendum questions described in this warrant.

Voting on whether to approve incurring bond indebtedness of \$1,520,000 for Pond Cove Elementary School renovations.

Voting on whether to approve incurring bond indebtedness of \$7,930,000 for Cape Elizabeth High School renovations.

Election to be held on Tuesday, November 4, 2003, at the Cape Elizabeth High School Gymnasium.

Polls open at 7:00 A.M. and close at 8:00 P.M. Absentee ballots may be processed through Election Day, on the hour, beginning at 7:00 A.M. (Pursuant to M.R.S.A. Title 21-A Section 759 sub 7).

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The Registrar of Voters is available to accept new registrations and corrections to the voter list at Town Hall, 320 Ocean House Road. Town Hall is open Mondays, 7:30 A.M. – 5:00 P.M., and Tuesday – Friday, 7:30 A.M. – 4:00 P.M. Proof of residency and identity is required.

Moved by J. Roberts and seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the warrant for the November 4, 2003 votes on the school projects.

(7 yes)(0 no)

Item # 21-03-04 Approval of the ballot question for the vote on the kindergarten project

Shall the Town expend up to \$1,520,000 for improvements and additions to and equipping of the Pond Cove Elementary School for the purpose of relocating the kindergarten from the high school to the elementary school and incur indebtedness by the issuance of bonds for such purpose in the amount of \$1,520,000 pursuant to vote of the Town Council dated July 14, 2003? (This will be followed by an explanation of current indebtedness and yes and no arrows)

Moved by J. Roberts and seconded by M. Mowles

Ordered the Cape Elizabeth Town Council approves the ballot question for the vote on the kindergarten project.

(7 yes)(0 no)

Item # 22-03-04 Approval of the ballot question for the vote on the high school project

Shall the Town expend up to \$7,930,000 for improvements and additions to and equipping of the Cape Elizabeth High School and incur indebtedness by the issuance of bonds for such purpose in the amount of \$7,930,000 pursuant to vote of the Town Council dated July 14, 2003? (This will be followed by an explanation of current indebtedness and yes and no arrows)

Moved by J. Roberts and seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the ballot question for the vote on the high school project.

(7 yes)(0 no)

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Item # 23-03-04 Approval of the establishment of a building committee for the kindergarten and high school projects.

Introduction and overview given by Chairman M. Lynch

Moved by J. Roberts and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the establishment of a building committee for the kindergarten and high school projects per the draft circulated.

(7 yes)(0 no)

Item # 24-03-04 Approval of a warrant for a special election to fill two vacancies on the Cape Elizabeth School Board caused by the resignations of Kathleen F. Walsh and George H. Entwistle III

TOWN OF CAPE ELIZABETH
WARRANT FOR SPECIAL ELECTION
November 4, 2003

COUNTY OF CUMBERLAND, SS.

To Neil Williams, a constable of Cape Elizabeth.

You are hereby directed to notify the voters of Cape Elizabeth of the special election described in this warrant.

Voting to fill two vacancies on the Cape Elizabeth School Board for terms to expire in June 2005.

Election to be held on Tuesday, November 4, 2003, at the Cape Elizabeth High School Gymnasium.

Polls open at 7:00 A.M. and close at 8:00 P.M. Absentee ballots may be processed through Election Day, on the hour, beginning at 7:00 A.M. (Pursuant to M.R.S.A. Title 21-A Section 759 sub 7). The Registrar of Voters is available to accept new registrations and corrections to the voter list at Town Hall, 320 Ocean House Road. Town Hall is open Mondays, 7:30 A.M. – 5:00 P.M., and Tuesday – Friday, 7:30 A.M. – 4:00 P.M. Proof of residency and identity is required.

Moved by A. Swift-Kayatta and seconded by M. Mowles

Ordered the Cape Elizabeth Town Council approves the warrant for a special election to fill two vacancies on the Cape Elizabeth School Board caused by the resignations of Kathleen F. Walsh and George H. Entwistle III.

(7 yes)(0 no)

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Item # 25-03-04 Approval of the annual liquor and other licenses for The Good Table, Inc.

Moved by J. McGinty and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves the annual liquor and other licenses for the Good Table, Inc.

(7 yes)(0 no)

Item # 26-03-04 Consideration of a request to place a football scoreboard at Gull Crest Field and to authorize an application to the Planning Board

Introduction and overview was given by Anthony Irace, 44 Brentwood Road, president of the High School Football Boosters

Moved by M. Mowles and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves a scoreboard sign at the Gull Crest Field and to authorize an application to the Planning Board for approval of the sign.

(6 yes)(1 no – C. Fritz)

Moved by A. Swift-Kayatta and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council amends the main motion to provide that the specific design of the sign shall also be approved by the Town Council.

(6 yes)(1 no – J. Roberts)

Moved by D. Backer and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council shall approve only the commercial part of the scoreboard.

(6 yes)(1 no – J. Roberts)

Vote on the main motion as amended.

Moved and Seconded to approve a scoreboard sign at the Gull Crest Field, to authorize an application to the Planning Board, and that the commercial part of the scoreboard shall be further reviewed and approved by the Town Council

(6 yes)(1 no – Fritz)

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Item # 27-03-04 Consideration of the approval of a quit-claim deed to John Peters and Stephen Peters for parcels Map U23, Lot 002 B and Map U43, Lot 35

Introduction by Manager McGovern

Moved by J. McGinty and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council approves a quit-claim deed to John Peters and Stephen Peters for parcels map U23, Lot 002 B and Map U43, Lot 35.

(7 yes)(0 no)

Item # 28-03-04 Consideration of setting a public hearing for August 11, 2003 on an amendment to the code of ordinances which would provide that council members would receive no remuneration for their services as members of the town council

Moved by C. Fritz and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council hereby sets a public hearing for Monday, August 11, 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.

(1 yes)(6 no –M. Lynch, D. Backer, J. McGinty,
M. Mowles, J. Roberts, A. Swift-Kayatta)

Moved by J. Roberts and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council hereby sets a Public Hearing for Monday, August 11, 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: The annual compensation of the Town Council shall be \$350.00 subject to an appropriation in the annual budget.

(7 yes)(0 no)

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Item # 29-03-04 Request to confirm the nomination of Dana Lee of Mechanic Falls as a candidate for vice president of the Maine Municipal Association

Moved by A. Swift-Kayatta and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council to confirm the nomination of Dana Lee of Mechanic Falls as a candidate for vice president of the Maine Municipal Association and to cast the MMA ballot.

(7 yes)(0 no)

Item # 30-03-04 Request to approve certain balances to be carried forward

Introduction by Manager McGovern

Moved by J. McGinty and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council approves certain balances to be carried forward per the list distributed prior to the meeting.

(7 yes)(0 no)

Citizens Discussion of Items Not on the Agenda - NONE

Item # 31-03-04 Request to enter executive session to review two applications for poverty abatements

Moved by A. Swift-Kayatta and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council enters executive session to review two applications for poverty abatements at 9:30 p.m.

(7 yes)(0 no)

Moved by J. McGinty and Seconded by M. Mowles

Ordered the Cape Elizabeth Town Council leaves executive session at 9:55 p.m.

(7 yes)(0 no)

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Item # 32-03-04 Poverty Abatements

Moved by J. McGinty and Seconded by J. Roberts

Ordered the Cape Elizabeth Town Council abates the amount of \$2,786.94, including \$38.42 in interest, for reasons of hardship subject to a confirmation that this will cure any other foreclosure proceedings against the property.

(7 yes)(0 no)

Moved by M. Mowles and Seconded by J. McGinty

Ordered the Cape Elizabeth Town Council grants a property abatement in the amount \$7264.47.

(7 yes)(0 no)

Adjournment

Moved by J. McGinty and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council to adjourn at 10:03 p.m.

(7 yes)(0 no)

Following the adjournment the Town Council met in workshop session to discuss the annual goals of the Town Council and such other matters as may be scheduled prior to the workshop

Next Regular Meeting is on Monday, August 11, 2003

Respectfully Submitted,

Jacqueline N. Coy
Town Clerk