

CAPE ELIZABETH TOWN COUNCIL MINUTES

Regular Meeting # 7-2007

Monday, May 7, 2007

7:30 p.m.

Roll Call by the Town Clerk

Paul J. McKenney, Chairman	5 Katahdin Road	899-0045	12/2007	PRESENT
David J. Backer	2 Rugosa Way	253-0529	12/2009	PRESENT
Cynthia Dill	1227 Shore Road	767-7197	12/2008	PRESENT
Sara W. Lennon	54 Cranbrook Drive	741-5139	12/2009	PRESENT
Mary Ann Lynch	2 Olde Colony Lane	232-1048	12/2007	PRESENT
James S. Rowe	127 Oakhurst Road	799-5825	12/2009	PRESENT
Anne E. Swift-Kayatta	14 Stone Bridge Road	767-5754	12/2008	PRESENT
Michael K. McGovern, Town Manager				PRESENT
April D. Tracy, Town Clerk				PRESENT

Pledge of Allegiance to the Flag

Review of Minutes of Meetings # 5 and 6

MOTION: A. Swift-Kayatta

SECOND: S. Lennon

VOTE: 7-0

Ordered that the Cape Elizabeth Town Council accept minutes with the suggested changes being made by the Town Clerk for the final record.

Reports and Correspondence

Chairman McKenney acknowledged the various e-mails he had received from citizens regarding the budget. He thanked the Recycling Committee for their continued work in educating the public in recycling; noting an article they had sent to the Town Council.

Town Manager's Report

See Attached.

Citizens Discussion of Items Not on the Agenda

Col. Chris Hayden from the Maine Civil Air Patrol donated a lithograph of the Portland Head Light with two Civil Air Patrol Planes flying over. He then gave a brief history of the Civil Air Patrol. Chairman McKenney thanked Col. Hayden for his presentation and the lithograph.

Michael Ott, representing the Kids Turf Committee:

Mr. Ott said that the mission of the Committee from the beginning was to provide a positive place for kids and adults of Cape Elizabeth. He stated that the lines on the turf field are not gender bias. Boys and girls soccer, football and boys lacrosse will have permanent lines. The Public Works Department will paint lines for field hockey and girls lacrosse; however, both boys and girls sports will share the field equally. He said that from the beginning, the turf committee's suggestions for the field were based on facts, economics and common sense. All recommendations thus far have been approved by the Town Manager, the Public Works Department, Community Services, the turf field vendor and the engineer for the project. Communication of all decisions started in February. The turf field group initially asked the vendor for five sets of lines; however, the vendor advised the group not to put so many lines down, because a field having that many lines sewn in would not last very long. They opted to take the girls lacrosse lines out because they are ever changing. The lines they did decide on are the sports that will create the most wear and tear, thus having them permanently installed would create less work and cost for

the Public Works Department. Mr. Ott said the Turf Committee spoke with many different communities and vendors about the lines and was always thinking for the long term. He thanked the Town Manager for his professionalism and all the help he has provided. He said that both members of the School Board and Town Council were people with good intentions and that the Turf Committee has good intentions too and he would like to continue to work together on this project.

Public Hearings:

Introduction by Finance Chairman Mary Ann Lynch. Proposed Fiscal Year 2008 Municipal, County, School and Community Services Budget
Nancy Marshall, 10 Wildwood Drive

Ms. Marshall is a senior citizen who lives in the community. She stated that her grandchildren go to public school in Cape Elizabeth and that a quality education is a birth right. She also stated that individuals who are on social security are not on a fixed income and that seniors do help to support education by paying their taxes. She also let the council know that she appreciates all their work.

Patricia Brigham, 34 Rock Crest Drive

Mrs. Brigham spoke of efficiency and maintenance in regards to the school budget. She said the needs of the students are ever changing and just because the enrollment of the school declines does not mean they need to cut teaching positions. It may be needed on another end, for example, the growing English Language Learners program needs have to be met. There are also needs in the health services area.

Geoff Hindall, 6 Jewett Road

Mr. Hindall has two children in the Cape Elizabeth school system. He and his family moved here from California because the schools there were being tax capped into ruins. He said he was a prosecutor and during a trial, a jury is not allowed to make an opinion until they hear all the facts. This is why he feels the 2.5% pledge should not be renewed.

Cindy Garfield, 10 Abaco Drive

Mrs. Garfield agreed that the pledge should not be renewed and said that other towns are gaining ground on our education system.

Jana Zimmerman, 81 Oakhurst Road

Mrs. Zimmerman says she has a child in the 4th grade who has outdated text books. She said that the school board works very hard on putting together their budget and they take many variables into consideration. She said that the school board had taken a lot out of their initial budget. She noted that Yarmouth and Falmouth schools were both scoring higher MEA scores. She asked the council to support the 3.0% budget.

Dwight Ely, 5 Elysian Way, Scarborough

Mr. Ely is a teacher at the High School and spoke on behalf of the teachers and staff. He said the teachers and the staff want to be the top school in the Nation and they want to prepare the students in Cape Elizabeth for the top colleges in the Nation. He noted that Cape Elizabeth spends the least per capita on its students than any other city or town in the state. The goal is to have a blue ribbon school and to ensure that Cape Elizabeth provides a successful education to its students. He also noted some of the programs that would be removed if the budget was cut to a 2.5% increase.

David Hillman, 22 Cranbrook Drive

Mr. Hillman asked the council to support increase in the school budget. He noted that debates like these will soon be ending with the school consolidation process being underway in Augusta. He noted an article in the Portland Press Herald that stated the consolidation was going to pass. He said now is the time to do the things that we can and he suggested forming a task force in regards to the possible consolidation.

Proposed Bond Issue
Proposed Fiscal Year 2008 Special Funds Budgets
Proposed Adjustment in Building Permit Fee

Note: The vote on the proposed 2008 Municipal, County, School and Community Services Budgets is anticipated to occur at a special meeting on May 14, 2007.

It is proposed to vote at this May 7, 2007 meeting on the other budgets, the bond resolution and the building permit fee change. It is also proposed to consider at the May 7th meeting the other items listed below on this agenda.

Item # 78

Draft Bond Resolution

TOWN OF CAPE ELIZABETH, MAINE
TOWN COUNCIL VOTE AUTHORIZING
EXPENDITURE OF UP TO \$2,400,000 FOR VARIOUS
CAPITAL PROJECTS AND COSTS ASSOCIATED THEREWITH
AND THE ISSUANCE OF UP TO \$2,400,000 IN BONDS TO FINANCE SUCH
EXPENDITURE

VOTED: That the Cape Elizabeth Town Council hereby authorizes the expenditure of the following amounts for the following capital projects:

- (a) \$1,250,000 for certain Town Center improvements including a traffic light at the high school entrance, improvements to the Shore Road/Scott Dyer Road intersection, sidewalk improvements and additions, and drainage improvements
- (b) The sum of \$660,000 for certain capital projects including improvements to Spurwink Meeting House, acquisition of public works equipment, Greenbelt improvements and fencing for Hannaford Field.
- (c) The sum of \$150,000 for safety and security items for the Town's schools.
- (d) The sum of \$186,000 for classroom furniture.
- (e) The sum of \$125,200 for school building repairs and 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 projects authorized by the foregoing vote and the costs and expenses related thereto and for the costs and expense of borrowing, estimated to be \$28,800, the Town Council of the Town of Cape Elizabeth hereby authorizes the Treasurer to borrow on behalf of the Town up to \$2,400,000 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 \$2,400,000, 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 projects 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 investment earnings on the proceeds of the borrowed funds, if any, and the excess proceeds of the borrowing, if any, be and hereby are appropriated for the following purposes, such proceeds to be held and applied in the following order of priority:

1. To any costs of the projects in excess of the principal amount of the bonds or notes issued therefor;
2. In accordance with applicable terms and provisions of the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to the Town's General Fund.

VOTED: That the term "cost" or "costs" as used herein and as applied to any projects, or any portion of such projects, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the projects; (2) costs of construction, building, alteration, enlargement, reconstruction, renovation, improvement and equipping of the projects; (3) the cost of all appurtenances and other facilities either on, above or under the ground which are used or usable in connection with such projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of all lands, structures, real property interests, rights, easements and franchises acquired in connection with the projects; (7) the cost of all utility extensions and site development, (8) the cost of the specifications, surveys, engineering, feasibility studies, legal and other professional services; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest prior to and during construction and for a period following completion of construction not to exceed three years from the issue date of the bonds, and, to the extent permitted under the Code, following completion of construction of the projects, underwriters' fees and costs, legal and accounting fees and costs, application fees and other financing fees, the cost of reserves for payment of future debt service related to the financing transaction; and (11) the cost of all other expenses necessary or incident to the projects and the financing authorized hereunder.

Item # 79

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Sewer Fund with expenditures of \$1,508,148 and revenues of \$1,508,148.

Motion was made to vote on items # 79-85 en bloc.

MOTION: M. Lynch

SECOND: D. Backer

VOTE: 7-0

Ordered that the Cape Elizabeth Town Council vote on items #79-85 en bloc.

Motion was made to approve items # 79-85.

MOTION: M. Lynch

SECOND: J. Rowe

VOTE: 7-0

Ordered that the Cape Elizabeth Town Council approve items # 79-85 which includes the budgets for the Riverside Cemetery Fund, Spurwink Church Fund, Fort Williams Park Capital Fund, Thomas Jordan Fund, Rescue Fund and the Portland Head Light Fund.

Item # 80

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Riverside Cemetery Fund with expenditures of \$43,805 and revenues of \$31,000.

Item # 81

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Spurwink Church Fund with expenditures of \$9,896 and revenues of \$10,000.

Item # 82

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Fort Williams Park Capital Fund with expenditures of \$24,745 and revenues of \$32,000.

Item # 83

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Thomas Jordan Fund with expenditures of \$35,525, and revenues of \$35,525.

Item # 84

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Rescue Fund with expenditures of \$214,315 and revenues of \$165,000.

Item # 85

Ordered that the Cape Elizabeth Town Council adopt the recommended Fiscal Year 2008 Budget for the Portland Head Light Fund with expenditures of \$491,337 and revenues of \$532,400.

Item # 86

Ordered that the Cape Elizabeth Town Council adopt the recommended increase in building permit fees from .7% of the value of the improvement to 1.0% with the increased revenue to be placed in an infrastructure improvement fund.

It is proposed to change the fees effective **July 2, 2007** to read as follows:

Building Permit

- **Minimum fee up to \$2,500 value -- \$25.00**
- **Projects above \$2,500 value – 1% of the total estimated value of the building**
- **Late fee -- Double the full fee**

It is proposed to place 100% of the \$25.00 fees in the general fund.

It is also proposed to place 70% of the income from building permits above \$2,500 in estimated value in the general fund which is the revenue from the current fee at the \$7.00 level.

It is proposed to place 30% of the income from building permits above \$2,500 in estimated value in the Town Infrastructure Improvement Fund. .

Manager McGovern suggested that if the council wanted to have an earlier effective date that they perhaps make it for one week from this evenings meeting. Councilor McKenney gave a brief summary of what the changes would be.

Motion was made to approve the recommended increase in building permit fees and make the change effective on May 14, 2007.

MOTION: M. Lynch

SECOND: A. Swift-Kayatta

VOTE: 7-0

Ordered that the Cape Elizabeth Town Council approve the recommended increase in building permit fees and make the change effective on May 14, 2007.

Item # 87

It is proposed to refer to the Ordinance Committee proposed updates to the Town’s Construction Code and Fire Protection Code.

Manager McGovern also made the Council aware that Code Enforcement Officer Bruce Smith would also like to look at the Sewer Code as well.

MOTION: A. Swift-Kayatta

SECOND: D. Backer

VOTE: 7-0

Ordered that the Cape Elizabeth Town Council refer to the Ordinance Committee the proposed updates to the Towns Construction Code and Fire Protection Code.

Item # 88

It is proposed to amend the Spurwink Church Use Policy with the following additional language:

The Spurwink Church will be closed during calendar year 2009 for repairs.

Manager McGovern gave a brief introduction stating that the work was originally scheduled for 2008; however, people have already begun to book the church for 2008 and he feels that it would be better to take the time to plan out construction.

MOTION: A. Swift-Kayatta

SECOND: D. Backer

VOTE: 7-0

Ordered that the Cape Elizabeth Town Council amend the Spurwink Church Use Policy to include the following language: "The Spurwink Church will be closed during the calendar year 2009 for repairs."

Citizens' discussion of items not on the agenda

None

Adjournment

MOTION: C. Dill

SECOND: S. Lennon

VOTE: 7-0

TIME: 8:54P.M

Ordered that the Cape Elizabeth Town Council adjourn meeting # 7-2007.

The Town Council has scheduled a special meeting for Monday, May 14, 2007.