

CAPE ELIZABETH TOWN COUNCIL AGENDA
Regular Meeting # 13-2008
Cape Elizabeth Town Hall
Monday, July 14, 2008
7:30 p.m.

Roll Call by the Town Clerk

					Present
Mary Ann Lynch, Chairman	2 Olde Colony Lane	232-1048	12/2010		X
David J. Backer	2 Rugosa Way	253-0529	12/2009		X
Cynthia Dill	1227 Shore Road	767-7197	12/2008		late
Sara W. Lennon	54 Cranbrook Drive	741-5139	12/2009		X
Paul J. McKenney	5 Katahdin Road	899-0045	12/2010		absent
James S. Rowe	127 Oakhurst Road	799-5825	12/2009		X
Anne E. Swift-Kayatta	14 Stone Bridge Road	767-5754	12/2008		X

Pledge of Allegiance to the Flag

Minutes of Meetings: June 26, 2008

MOTION to approve as presented with a noted correction: D. Backer.

SECOND: A. Swift-Kayatta.

VOTE: 5 in favor – 0 opposed.

Reports and Correspondence

Councilor Rowe announced that Councilor McKenney was reelected to a second term as President of the Greater Portland Council of Governments.

Town Manager's Report

None for the period.

Citizens' Discussion of Items Not on the Agenda

None for the period.

Public Hearing: Windmill Proposals

Chairman Lynch opened the public hearing at 7:33pm.

W. Downes, 15 Olde Colony Lane, suggested contacting the PUC to learn whether there is any potential for overload if a number of turbines exist in close proximity. He spoke on the visual impact that tall towers would have on the Town's rural character and also suggested that properties with windmills should be reclassified as business use.

Councilor Dill arrived at 7:45pm.

The following citizens spoke publicly to advocate for Town Council approval of the windmill ordinance proposals.

J. Roberts, 185 Fowler Road
A. Carney, 21 Angell Point Road
A. Lishness, 21 Cottage Farms Road, Alternative Energy Committee member
G. Hurtubise, 3 Singles Road
P. Salve Bothel, 90 Ocean House Road
D. Sanford, 1 Charles Road
J. Wilson-Sanford, 1 Charles Road
J. Vreeland, resident Town of Scarborough
R. Greig, distributor/installer of wind turbines
W. Briggs, 3 Mountain View Road, Alternative Energy Committee member
State Senator P. Bartlett
T. McInerney, 29 Old Fort Road
W. Roos, 36 Kettle Cove Road
B. Slack, 36 Scott Dyer Road
S. Bothel, 90 Ocean House Road
R. Craig, 38 Kettle Cove Road
C. Dittrich, 500 Ocean House Road

The public hearing was closed at 8:45pm.

Item # 96-2008 Windmill Proposals

Discussion: Councilor Dill gave an overview of these referral items.

MOTION: C. Dill to amend its zoning ordinance for purposes of allowing a wind energy system for purposes of municipal use and amending the definitions in Sec. 19-1-3, paragraph 2 under the title Wind Energy System to read: A structure or structures that may include a wind turbine, a tower, footings, electrical infrastructure, and associated equipment and structures intended to produce electrical power primarily for consumption by the local government.

SECOND: J. Rowe

VOTE: 6 in favor – 0 opposed.

MOTION: J. Rowe to refer further the residential windmill issue to Town Council workshop.

SECOND: S. Lennon

VOTE: 6 in favor – 0 opposed.

Public Hearing Proposed Fiscal Year 2009 School Budget

The public hearing was opened at 8:40pm.

T. Bucci thanked the Town Council for their support of the Cape Elizabeth schools, teachers and children.

D. Hillman, 22 Cranbrook Drive, described the outcome of local research he has conducted in relation to how residents feel about the school budget.

W. Roos, 36 Kettle Cove Road, encouraged the passage of the school budget as presented.

T. Dunham, 12 Becky's Cove Road, expressed concern on how the increased budget limit could impact residents on fixed incomes and setting a spending precedence in forthcoming budget years.

The public hearing was closed at 8:47pm.

Item # 97-2008 School Budget

MOTION: D. Backer to set the school budget validation vote for Tuesday, July 22, 2008. The polls shall be open at Cape Elizabeth High School from 7:00 a.m. prevailing time to 8:00 p.m. prevailing time and the warrant for said vote shall be signed by the Municipal Officers.

SECOND: A. Swift-Kayatta.

VOTE: 6 in favor – 0 opposed.

MOTION: C. Dill to adopt the language set forth therein.

SECOND: S. Lennon.

Discussion: Manager McGovern did confirm at the request of Councilor Dill that the proposed budget does reflect a 6% spending increase.

VOTE: 5 in favor – 1 opposed

(Rowe)

In accordance with the provisions of the school consolidation act, it is proposed to amend the FY 2009 budget adopted on May 27, 2008 in Items # 70-74-2008 to read:

- A. Ordered, the Cape Elizabeth Town Council, having held a public hearing on Monday, May 12, 2008, **and on Monday, July 14, 2008** does hereby adopt the General Fund Budget for Fiscal Year 2009 with gross expenditures of ~~\$30,783,101~~ **\$31,046,184** and gross revenues of \$7,819,002 and with the amount of ~~\$22,964,099~~ **\$23,227,182** to be raised from taxation, and to fix Thursday, October 2, 2008, and Thursday, April 2, 2009, 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 eleven percent (11.00%) 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 2009**:

110	Administration	515,605
120	Assessing/Codes/Planning	348,743
130	Town Council	4,100
135	Legal and Audit	66,000
140	Elections	17,436

150	Boards and Commissions	20,055
160	Insurance	87,000
170	Employee Benefits	854,200
180	Debt Service	1,198,897
210	Police Department	1,080,362
215	Animal Control	19,384
220	Dispatching	285,072
225	WE Team	24,065
230	Fire Department	274,300
235	Fire/Police Unit	9,259
240	Misc. Public Protection	155,680
250	Emergency Preparedness	2,259
310	Public Works Department	1,014,227
320	Refuse Disposal	825,283
410	Human Services	26,484
510	Library	425,469
520	Contributions	7,950
530	Public Information	41,240
600	Facilities Management	149,281
610	Town Hall	27,000
615	Library Building	32,500
620	Town Center Fire Station	17,100
630	Police Station	40,500
635	Cape Cottage Fire Station	6,000
640	Parks & Town Lands	58,926
641	School Grounds	146,997
645	Fort Williams Park Maintenance	162,729
655	Richards Pool/Fitness Center	322,432
660	Trees	19,397
710	Intergovernmental	20,658
715	Capital Projects	497,500
	Municipal Subtotal	8,804,090
	Education	<u>19,919,120</u>
		19,656,037
	Community Services	1,080,963
	Cumberland County	1,010,011
	Local Homestead Exemption	232,000
	Total	<u>31,046,184</u>
		30,783,101

VOTED: The Town of Cape Elizabeth hereby agrees to accept the following estimated state and federal funds:

Education

Adult Education Subsidy: \$27,500
State Education Subsidy: \$3,075,610
Title IA: \$49,630
Title IIA: \$51,700

Municipal

State Revenue Sharing \$685,000
MDOT Block Grant \$ 96,500
Misc. State to Municipal \$ 30,000

Title IID:	\$725
Title IVA:	\$5,530
Title V:	\$3,072
Local Entitlement:	\$380,000
Food Service State Subsidy	\$50,000

#1 VOTED: Cost Center Summary. That the Town of Cape Elizabeth appropriate ~~\$8,830,527~~ **\$8,916,350** for Regular Instruction; ~~\$2,321,456~~ **\$2,364,763** for Special Education; **\$49,694** for Career and Technical Education; ~~\$582,451~~ **\$601,070** for Other Instruction; ~~\$2,122,205~~ **\$2,262,539** for Student and Staff Support; **\$598,436** for System Administration; **\$950,436** for School Administration; **\$627,389** for Transportation; ~~\$2,007,632~~ **\$1,982,632** for Facilities Maintenance; **\$1,565,811** for Debt Service; **\$0** for All Other Expenditures.

#2 VOTED: State/Local EPS Funding Allocation. That the Town of Cape Elizabeth appropriate **\$14,581,012.39** for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and that the Town of Cape Elizabeth raise **\$11,505,402.50** as the Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

Explanation: The Town's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that the Town must raise in order to receive the full amount of state dollars.

#3 VOTED: Non-State Funded Debt Service. That the Town of Cape Elizabeth raise and appropriate **\$1,565,811** for the annual payments on debt service previously approved by the legislative body for non-state-funded school construction projects, non-state funded portions of school construction projects and minor capital projects in addition to the funds appropriated as the local share of the Town's contribution to the total cost of funding public education from kindergarten to grade 12.

Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the Town's long-term debt for major capital school construction projects and minor capital renovation projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or other legislative body.

#4 VOTED: Additional Local Funds. That the Town of Cape Elizabeth raise and appropriate ~~\$3,139,011.61~~ **\$3,402,094.61** in additional local funds, which exceeds the State's Essential Programs and Services funding model by ~~\$2,761,807.17~~ **\$3,024,890.17**.

The School Board recommends an appropriation which exceeds the State Essential Program and Services model for the following reasons:

The state's funding model does not support all of the costs of the schools because it includes only those costs considered essential by the state Essential Programs and Services (EPS) model.

Explanation: The additional local funds are those locally raised funds over and above the Town's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual debt service payment on non-state-funded school construction projects and the non-state-funded portion of school construction projects and minor capital projects that will help achieve the Town's budget for educational programs.

- #5 VOTED: Total School Budget Summary. That the Town of Cape Elizabeth authorize the School Board to expend ~~\$19,656,037~~ **\$19,919,120** for the fiscal year beginning July 1, 2008 and ending June 30, 2009 from the Town's contributions to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.
- #6 VOTED: Adult Education. That the Town of Cape Elizabeth appropriate for Adult Education, the sum of **\$203,808** and the Town of Cape Elizabeth raise as the local share, the sum of **\$82,951**; with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program.
- #7 VOTED: Special Funds. That the town of Cape Elizabeth hereby appropriates, in addition to the school budget amounting to ~~\$19,656,037~~ **\$19,919,120** the sum of **\$1,125,092**, said amount being the estimated amount expected to be received as revenues from the school lunch program, CEEF Grants, Title IA, Title IIA, Title IID, Title IVA, Title V and Local Entitlement Funds. If the actual revenues shall be less than the appropriated funds, then the appropriation shall be lowered to an equivalent level.
- #8 VOTED: Additional Unanticipated State School Subsidy. That the town of Cape Elizabeth will reduce the additional local appropriation raised pursuant to Maine Revised Statutes, Title 20-A, §15690(3) for public schooling by the amount of any unanticipated state general purpose aid received for the fiscal year beginning July 1, 2008 and ending June 30, 2009.

In addition the State of Maine directly assumes the cost for the employer share of teacher retirement. The estimated amount is \$1,998,000.

VOTED: ~~The school budget validation vote shall be held on June 10, 2008 which is ten business days from the date of adoption of this budget excluding Saturdays and Sundays.~~
The school budget validation vote shall be on Tuesday, July 22, 2008. The polls shall be open at Cape Elizabeth High School from 7:00 a.m. prevailing time to 8:00 p.m. prevailing

time and the warrant for said vote is hereby approved and shall be signed by the Municipal Officers.

There was a 3 minute recess at 9:05 pm.

Item # 98-2008 Efficiency Maine Grant Application

MOTION: A. Swift-Kayatta to authorize the town manager and the town council chairman to sign the grant application for a tower and an anemometer for the school grounds.

SECOND: J. Rowe.

VOTE: 6 in favor – 0 opposed.

Item # 99-2008 Hydrogen Vehicle Demonstration

MOTION: A. Swift-Kayatta to approve a request from Maine Clean Communities and the Hydrogen Energy Center to have a demonstration of hydrogen vehicles at Fort Williams Park on Monday, August 11, 2008 and possibly on August 10th.

SECOND: C. Dill.

VOTE: 6 in favor – 0 opposed.

Item # 100-2008 Fort Williams Park Arboretum Demonstration Site

Discussion: The “Ad hoc Arboretum at Fort Williams Park Committee” made up of private citizens presented a conceptual plan for the development of a proposed arboretum

MOTION: C. Dill to authorize that the town manager to file an application to the Planning Board for site plan review of a proposed arboretum at Fort Williams Park as described in a memorandum dated July 14, 2008 from the independent “Ad hoc Arboretum at Fort Williams Park Committee.”

SECOND: J. Rowe.

VOTE: 6 in favor – 0 opposed.

Item # 101-2008 Shore Road Pathway Committee Update

MOTION: C. Dill to acknowledge receipt of the update from the Shore Road Pathway Committee.

SECOND: A. Swift-Kayatta.

VOTE: 6 in favor – 0 opposed.

Item # 102-2008 Comprehensive Plan Update

MOTION: A. Swift-Kayatta to schedule a public hearing on Monday, August 11, 2008 at 7:30 p.m. at the Cape Elizabeth Town Hall on the proposed amendments to the Comprehensive Plan as recommended by the town planner.

SECOND: J. Rowe.

VOTE: 6 in favor – 0 opposed

Item # 103-2008 Trout Brook Watershed Community Fee Utilization Plan

MOTION: Chairman Lynch moved that the Town Council revise the Trout Brook Community Fee Utilization Plan as described in a memorandum from the town planner dated June 26, 2008.

SECOND: A. Swift-Kayatta.

VOTE: 6 in favor – 0 opposed.

Item # 104-2008 Keith Weatherbie

MOTION: D. Backer to accept the unanimous recommendation to name the track and field at the front of Cape Elizabeth High School as the “Keith R. Weatherbie Track and Field.”

SECOND: A. Swift-Kayatta.

VOTE: 6 in favor – 0 opposed.

Item # 105-2008 Request for the Discontinuance of a Portion of Tiger Lily Lane

Discussion: P. Jordan, Wells Road, explained why she and her family members oppose the request which would affect important access to owned property, both now and in future generations.

MOTION: C. Dill to indefinitely oppose the request of Cross Hill, LLC as it appears in the packet.

SECOND: D. Backer.

VOTE: 6 in favor – 0 opposed.

Item # 106-2008 Proposed Amendments to Miscellaneous Offences Ordinance

Discussion: Chairman Lynch introduced reasons for introducing a portion of this Ordinance.

MOTION: J. Rowe to refer proposed miscellaneous amendments to the Ordinance Committee.

SECOND: C. Dill.

VOTE: 6 in favor – 0 opposed.

Item # 107-2008 Proposed Amendments to Floodplain Management Ordinance

MOTION: M. Lynch to refer the Chapter 6 updated draft flood plain ordinance of the Code of Ordinances to the Ordinance Committee.

SECOND: A. Swift-Kayatta.

VOTE: 5 in favor – 1 opposed. (Dill)

Item # 108-2008 Proposed Amendments to Health and Sanitation Ordinance

MOTION: C. Dill to schedule a joint workshop of the Town Council and the Recycling Committee to discuss the items described.

SECOND: S. Lennon.

VOTE: 6 in favor – 0 opposed.

MOTION: M. Lynch to refer the outcome of these discussions to the Ordinance Committee.

SECOND: S. Lennon.

VOTE: 6 in favor – 0 opposed.

Item # 109-2008 Carry Forward Balances

MOTION: J. Rowe recommends the General Fund balances as June 30, 2008, be carried forward into the current fiscal year as recommended by the town manager.

SECOND: C. Dill.

VOTE: 6 in favor – 0 opposed.

General Fund		
1102016	Records Preservation	\$ 4,189
1202011	GIS Improvements	\$ 6,261
1502066	Planning Board Projects	\$ 5,924
2104002	Police Donation Fund	\$ 10,282
5302004	Public Information Printing	\$ 2,000
6452036	Fort Williams Stonewall Repair	\$ 7,414
7154004	Cruiser Replacement	\$ 70,000
7154009	Roadway Improvements	\$ 219,800
7154010	Sidewalk Improvements	\$ 40,654
7154117	Revaluation	\$ 19,033
7155216	Spurwink Avenue Overlay	\$ 67,434
7200100	Street Openings	\$ 1,437
7200103	Library Copier	\$ 418
7200111	Comprehensive Plan Printing	\$ 4,264
1805010	Debt Stabilization Fund	\$ 72,043
	Appropriated for FY 2009	
	Budget	\$ 210,000
	Subtotal General Fund	\$ 741,153
2008 Bond		
8256002	Shore Road/Scott Dyer Road	\$ 100,000
8256003	Town Center Improvements	\$ 927,955
8256005	Spurwink Meeting House	\$ 300,000
8256103	Bleachers/Hannaford Field	\$ 332,900
8256003	Bond Miscellaneous	\$ 18,450
8256008	Greenbelt Improvements	\$ 148,393
8256010	School Safety/Security	\$ 105,588
8256011	School Classroom Furniture	\$ 118,041
	School Building	
8256012	Repair/Equipment	\$ 26,839
		\$ 2,078,166
Fort Williams Capital Fund		
8654008	Fort Williams Bleachers	\$ 7,923
8654011	Goddard Mansion	\$ 4,286
8654028	Interpretative Display	\$ 22,076

8654029	Battery Garesche Study	\$ 34,061
8654030	Fort Entrance Improvements	\$ 98,215
		\$ 166,561

Also Carried Forward
All Library Gifts
Special Fund Balances

Item # 110-2008 Interlocal Agreement to Apply for Fire Grants

MOTION: A. Swift-Kayatta recommends approval of this Interlocal agreement provided that it is understood that all regional grant applications and grant amounts received through this Interlocal agreement to which Cape Elizabeth is a party must be authorized by the Cape Elizabeth Town Council upon recommendation of the town manager.

SECOND: C. Dill.

VOTE: 6 in favor – 0 opposed.

MOTION: M. Lynch to authorize the approval of the application dated April 6, 2008 which provides for a “comprehensive, multi-jurisdictional, interdisciplinary emergency response training program to comply with state statutes, OSHA regulations and the DHS National Preparedness Goal.”.

SECOND: A. Swift-Kayatta.

VOTE: 6 in favor – 0 opposed.

Citizens Discussion of Items not on the Agenda

None for the period.

Adjournment - 9:50pm.

MOTION: D. Backer.

SECOND: A. Swift-Kayatta.

VOTE: 6 in favor – 0 opposed.

Respectfully submitted,

Ruth M. Noble
Town Clerk