

CAPE ELIZABETH TOWN COUNCIL MINUTES
Special Meeting # 14-2009
Cape Elizabeth Town Hall
Wednesday, August 26, 2009
7:30 p.m.

Roll Call by the Town Clerk

		Present	Absent		
James S. Rowe, Chairman	127 Oakhurst Road	X		799-7467	12/2009
David J. Backer	2 Rugosa Way	X		253-0529	12/2009
Penelope A. Jordan	349 Fowler Road	X		671-5341	12/2010
Sara W. Lennon	54 Cranbrook Drive	X		741-5139	12/2009
Paul J. McKenney	5 Katahdin Road	X		899-0045	12/2010
David S. Sherman, Jr.	74 Hunts Point Road	X		749-2668	12/2011
Anne E. Swift-Kayatta	14 Stone Bridge Road	X		767-5754	12/2011
Michael K. McGovern, Town Manager		X			
Debra M. Lane, Town Clerk		X			

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Swift-Kayatta reported that she and several councilors attended the town's employee recognition luncheon held on August 20, 2009. Congratulations to those employees who received service awards and thank you to all employees for their service.

Chairman Rowe recently attended the District 2 Cumberland County Budget Advisory caucus. Representatives to District 2 will be Tom Coward, City Councilor South Portland and Matt Robinson, Town Council Chairman Gorham.

Citizen Opportunity for Discussion of Items Not on the Agenda

Town Manager's Report

Review of Minutes of Meeting held August 10, 2009

Moved by David J. Backer and Seconded by Paul J. McKenney

Ordered the Cape Elizabeth Town Council approves the minutes of Meeting #14-2009 held August 10, 2009 as presented.

(7 yes) (0 no)

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Item# 127-2009 Appointments Committee Recommendation

Intro – Paul McKenney, Appointments Committee Chairman

Moved by Paul J. McKenney and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council approves the recommendation of the Appointments Committee to appoint the following citizens to serve on the Municipal Operations Review Committee.

Richard Bauman	56 Cross Hill Road
Bill DeSena	11 Wainwright Drive
Glenn Kersteen	299 Mitchell Road
Mary Ann Lynch	2 Olde Colony Lane
Jean Ginn Marvin	49 Cranbrook Drive
Tim Thompson	6 Pine Ridge Road
Michael Vaillancourt	55 Stonybrook Road

(7 yes) (0 no)

Note: Chairman Rowe has appointed David Sherman and Penelope Jordan to serve as the Town Council representatives.

Item# 128-2009 Bond Refunding Resolution

Intro – Manager McGovern

Moved by Anne E. Swift-Kayatta and Seconded by David S. Sherman, Jr.

Ordered:

TOWN OF CAPE ELIZABETH, MAINE
TOWN COUNCIL VOTE AUTHORIZING THE ISSUANCE OF
UP TO \$5,850,000 OF GENERAL OBLIGATION REFUNDING BONDS

WHEREAS, the Town has outstanding certain 1998 General Obligation Refunding Bonds (the “1998 Bonds”) which were issued to refund the Town’s 1994 general obligation bonds which in turn were issued to pay the costs of improvements and additions to and equipping of the Town’s Elementary and Middle Schools, the costs of acquiring the Thomas Jordan Trust Land and the costs of renovations to the Town Hall and Thomas Memorial Library; and

WHEREAS, the Town has outstanding certain 1999 General Obligation Bonds (the “1999 Bonds”) which were issued to pay the costs of (1) renovations to the Donald Richards Community Pool and (2) construction of a new public works garage, athletic fields and related infrastructure improvements; and

WHEREAS, the 1998 Bonds maturing in the years 2008 to 2014, in the principal amount of \$2,915,000 and the 1999 Bonds maturing in the years 2009 through 2019, in the principal amount of \$2,850,000 (the “Callable Bonds”) are subject to early redemption on or after October 15, 2009; and

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WHEREAS, it appears that refunding of the Callable Bonds would result in a significant net present cash flow savings to the Town and that it is, therefore, advisable to issue bonds of the Town to refund the Callable Bonds.

NOW, THEREFORE, it is

VOTED: That 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 for the refunding of the Callable Bonds and the costs and expenses related thereto, including interest to the redemption date and call premium, if any, the Town Council of the Town of Cape Elizabeth hereby authorizes the Treasurer to borrow on behalf of the Town up to \$5,850,000 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 bonds of the Town in the aggregate principal amount not to exceed \$5,850,000, such bonds to be signed by the Treasurer, countersigned by the Chairman of the Town Council and attested by the Town Clerk.

VOTED: That the form, maturity, interest rates and other details of said bonds shall be as determined by the Treasurer and the Chairman of the Town Council by their execution thereof, but shall have their respective final maturity not later than the respective final maturity for the Callable Bonds and shall not be inconsistent with the provisions hereof. Such bonds may be issued as callable bonds, at the discretion of the Treasurer and Chairman of the Town Council.

VOTED: That the proceeds of such bonds, after payment of issuance costs, shall be used to pay the principal, interest and call premium on the Callable Bonds.

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 votes.

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").

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VOTED: That said bonds are hereby designated “qualified tax exempt obligations” under Section 265(b)(2) of 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 any or all of the bonds issued hereunder may be consolidated with and become a part of any other issue of general obligation bonds authorized and issued by the Town of Cape Elizabeth.

(7 yes) (0 no)

Item# 129-2009 Town Center Intersection

Intro – Chairman Rowe

7:44 p.m. Chairman Rowe opened the meeting to public comment as allowed in the Town Council Rules Section 4. Public Participation a. Participation at a public hearing and on other agenda items.

Gwyneth Maguire, 6 Olde Colony Lane

Ms. Maguire reaffirmed her favoring the light and improvements to the intersection to improve the safety for vehicles and particularly pedestrians e.g. children walking and biking to the town center schools, playgrounds and businesses.

Anton Wagner, 11 Todd Road

Mr. Wagner opposes the light, however does favor other changes. “The report doesn’t show improved safety.”

Christopher Straw, 597 Shore Road

Mr. Straw opposes the changes and recommends the council “use the Comprehensive Plan to guide your decisions.” The council should consider sending the issue to referendum.

Linda Johnson, 1235 Shore Road

Mrs. Johnson opposes the changes. “Now is not the time nor was it in 1968.” “Cut losses now or send to referendum.” There has not been ample opportunity for public input.

Mary Ann Lynch, 2 Olde Colony Lane

Ms. Lynch continues to favor the light and other recommended changes that will address vehicular and pedestrian issues. “Changes were recommended in the Comprehensive Plan.” She thanked the council for yet another opportunity for public comment.

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Carol Fritz, 1 Stirrup Road

Ms. Fritz remains opposed. “Two lights in the town center is overkill.” “The town needs to try reducing the speed limit to 25 mph.”

It was a consensus of the Town Council to limit public comment at 15 minutes, as provided by the Town Council Rules.

Moved by Paul J. McKenney and Seconded by David S. Sherman, Jr.

Ordered the Cape Elizabeth Town Council removes this item from the table.

(7 yes) (0 no)

Moved by David S. Sherman, Jr. and Seconded by Paul J. McKenney

Ordered the Cape Elizabeth Town Council authorizes the final design for the Shore Road/Scott Dyer Road/Route 77 intersection improvements and authorizes the Town Manager to proceed with the solicitation of bids.

(3 yes) (4 no David Backer, Penelope Jordan, Sara Lennon, Anne Swift-Kayatta)

Moved by David J. Backer and Seconded by Sara W. Lennon

Ordered the Cape Elizabeth Town Council requests the town manager to notify the Maine Department of Transportation that the Town of Cape Elizabeth wishes to terminate design of proposed improvements to the intersection at the center of town.

The Cape Elizabeth Town Council further requests the town manager to notify PACTS that the Town of Cape Elizabeth declines the PACTS authorized grant of \$363,566 for improvements to the town center intersection.

The Cape Elizabeth Town Council further authorizes the town manager to expend not to exceed \$25,000 from the 2008 bond issue to reimburse MDOT for design costs to date.

(5 yes) (2 no Paul McKenney and David Sherman)

Citizen Opportunity for Discussion of Items Not on the Agenda

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Adjournment

Moved by David S. Sherman, Jr. and Seconded by Anne E. Swift-Kayatta

Ordered the Cape Elizabeth Town Council adjourns at 9:06 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Future Meetings/Events

September 3, 2009: Town Council Workshop 7:30 p.m.

Library Report at the Thomas Memorial Library or Town Hall. The location of the workshop will be announced prior to the meeting date.

September 12, 2009: Lighthouses around the State will be open from 9 – 3. The Portland Head Light will participate in this event.

September 14, 2009: Town Council Meeting 7:30 p.m. including public hearing on the Goddard Mansion, Shoreland Zoning and the Shore Road Path.

Wednesday, October 14, 2009: Due to the Columbus Holiday on Monday, October 12, the regular Town Council Meeting will be held on Wednesday, October 14 at 7:30 p.m.