



Cape Elizabeth Town Council Minutes

Thursday -November 6, 2014 - 7:00 p.m.

Cape Elizabeth Town Hall

Jessica L. Sullivan, Chairman

Caitlin R. Jordan

Molly MacAuslan

Katharine N. Ray

David S. Sherman, Jr.

Jamie Wagner

James T. Walsh

Meeting Opening by Jessica Sullivan, Town Council Chairman

Roll Call by the Town Clerk

All members were present.

The Pledge of Allegiance to the Flag

Presentation of Ralph T. Gould Award to David Weatherbie

Councilor Sherman presented the Ralph T. Gould Award for outstanding citizenship to David Weatherbie, 14 Stonegate Road. David was honored for his work on the TD Bank Beach to Beacon Road Race and his contributions to the youth of our community include the Cape Elizabeth Education Foundation and coaching track. David's family and friends were also present.

Appreciation to Outgoing Councilor David S. Sherman, Jr.

Councilor Sherman's fellow councilors recognized and thanked him for his service. The town presented him with a framed picture of the front of town hall.

Update on Senior Citizens Advisory Committee

Chairman Brett Seekins provided a progress report of the committee's work and preliminary observations. Members of the committee also in attendance were Patricia Bredenberg, William Marshall, and Barbara Page.

Update on Council Goals for 2014

Chairman Sullivan reviewed the progress of goals to date.

Town Council Reports and Correspondence

Councilor Jordan reminded residents that the Appointments Committee is seeking applicants for various boards and commissions. The deadline is Friday, November 7.

Councilor Walsh thanked the election staff for their work and noted the 250th Anniversary Committee's kick off reception at the Inn by the Sea on November 1st.

Councilor Sherman thanked his fellow councilors, past and present, and the citizens for the opportunity to serve. He also recognized 6 years of working with the school board with all budgets passing. Additional thanks to Michael McGovern, the town's management team and Maureen O'Meara, Town Planner.

Chairman Sullivan thanked everyone involved with the library project. The 250th Anniversary Committee officially kicked off the celebration at the November 1st reception at Inn by the Sea. Congratulations to Kathy Ray for her re-election and welcome to newly-elected Patty Grennon. Thank you to the election staff for their work.

Councilor MacAuslan thanked everyone involved with the library project and to the voters for approving the project. The capital campaign continues for fixtures.

Debra Lane, Town Clerk recognized the hard work of the election staff and thanked all of the town and school departments for their assistance during the election.

Finance Committee Report

Finance Chairman Walsh noted the monthly report is within the council packet.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Town Manager's Monthly Report

Mr. McGovern commented that the meeting has begun with the celebration of community. Congratulations to Councilor Sherman for his work on the council. Thank you to the police department for their work during the recent visit of President Obama. The town is celebrating 50 years since the acquisition of Fort Williams Park; 12/1/1964.

Review of Draft Minutes of Previous Meetings

The draft minutes from the meeting held October 6th will be reviewed at the December meeting.

Item #132-2014 Roosters

Public Hearing – Roosters

Chairman Sullivan opened the public hearing at 8:08 p.m.

Joe Gajda, 13 Spoundrift Lane is in favor of a logical solution. He referenced points brought up in a previous meeting by Chief Williams.

Penny Pollard, 3 Peabbles Point Lane is concerned that 1 or 2 complaints will change the rural character of the community.

Joe Gajda, 15 Farm Hill Road agrees with the restriction on small lots only, not impacting the farming community.

Leona Fitzgerald, 60 Long Point Lane is not in favor of the proposal. It's "too much of a blanket coverage." Noise should be the attempted solution. An exemption application should be in place for those already owning roosters.

Patrick Kennedy, 17 Farm Hill Road is not in favor of the proposal. He feels small lots can accommodate roosters.

Beth Angle, 3 Young Lane said the town should "embrace agriculture." Roosters are a "daytime" sound. If the town doesn't allow roosters, what is the next animal to go?

Crystal Kennedy, 17 Farm Hill Road said this proposal is not "meeting in the middle." The town should be a good neighbor. "Elvis" the rooster is no longer with his family; he started to attack the family dog.

Penny Jordan, Jordan's Farm 21 Wells Road asked the town council to step back and take a look at the long-term ramifications. What animals will be next to go?

After hearing no further comments the hearing was closed at 8:31 p.m.

Moved by Katharine N. Ray and Seconded by James T. Walsh

ORDERED, the Cape Elizabeth Town Council amends Chapter 12 Miscellaneous Offenses as follows:

CHAPTER 12

MISCELLANEOUS OFFENSES

Sec. 12-1-2. Animal Control. No owner or person having charge of any horse, cow, ox, swine, goat or other grazing animal shall turn such animal into, or permit the same to go at large in any street, highway or public place within the town. A rooster may not be kept on a lot of less than 40,000 sq. ft. in size.

Moved by Caitlin R. Jordan and Seconded by James R. Wagner

ORDERED, the Cape Elizabeth Town Council tables this item.

(2 yes) (5 no Councilors MacAuslan, Ray, Sherman, Sullivan, Walsh)

Original Motion:

(5 yes) (2 no Councilors Jordan and Wagner)

Item # 133-2014 School Bonding Request

Intro – Finance Chairman Walsh

Moved by James T. Walsh and Seconded by David S. Sherman, Jr.

ORDERED, the Cape Elizabeth Town Council sets a public hearing for Monday, December 8, 2014 at 7:00 p.m. at the Cape Elizabeth Town Hall a proposal from the Cape Elizabeth School Board to bond several projects in 2015. The draft motion for action in December is as follows. (7 yes) (0 no)

TOWN OF CAPE ELIZABETH, MAINE

TOWN COUNCIL VOTE

AUTHORIZING EXPENDITURE FOR VARIOUS SCHOOL PROJCECTS AND THE ISSUANCE OF UP TO \$1,750,000 IN BONDS TO FINANCE SUCH PROJECTS

VOTED: That the Cape Elizabeth Town Council hereby authorizes the expenditure of the following amounts for the following school projects (each a “Project” and together the “Projects”):

Project 1. The sum of up to \$800,000 for repair and replacement of roofs at the Cape Elizabeth High School and for costs and expenses related thereto.

Project 2. The sum of up to \$175,000 for repair and replacement of roofs at the Cape Elizabeth Middle School and costs and expenses related thereto.

Project 3. The sum of up to \$175,000 for repair and replacement of roofs at the Cape Elizabeth Pond Cove Elementary School and costs and expenses related thereto.

Project 4. The sum of up to \$275,000 for upgrading electrical systems at the Cape Elizabeth High School and costs and expenses related thereto.

Project 5. The sum of up to \$325,000 for repair and replacement of heating, ventilation and air conditioning equipment at the Cape Elizabeth Middle School and costs and expenses related thereto.

VOTED: That if the costs of any Project are less than the amount approved by the preceding votes, any surplus funds from that Project may be applied to any other approved Project, provided that the total amount expended on any Project shall not exceed \$1,000,000.

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 votes 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 \$1,750,000 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 \$1,750,000, 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 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 during the term any of the Bonds are outstanding, the Treasurer be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities (not to exceed 20 years from the date of issuance of the original Bonds) and all other details of such refunding bonds, including the form and manner of their sale and award. The Treasurer be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Treasurer and the Chairman of the Town Council, and shall be sealed with the seal of the Town, attested to by its Clerk.
- VOTED: That the Treasurer is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, Bond Purchase Agreements, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the issuance of the Bonds, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer such approval to be conclusively evidenced by his execution thereof.
- VOTED: That the Treasurer be and hereby is authorized to engage Moors & Cabot, Inc. as financial advisor to the Town in connection with the issuance and sale of the Bonds.
- VOTED: That the Treasurer be and hereby is authorized to select the underwriter for the Bonds heretofore authorized and the Treasurer be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.
- VOTED: That the Treasurer be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds for sale be and hereby is approved.
- VOTED: That the Treasurer be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.
- VOTED: That the Bonds heretofore authorized shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said Bonds of one maturity may be exchanged for an equal aggregate principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof (or such other minimum denomination as the Treasurer shall approve) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same.
- VOTED: That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds, and the Treasurer be and hereby is

authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

VOTED: That the Treasurer and Chairman of the Town Council from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to bear the original signature of the Treasurer and Chairman of the Town Council.

VOTED: That the officers executing the Bonds be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

VOTED: That the Treasurer, Chairman of the Town Council 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, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds hereinabove authorized.

VOTED: That if any of the officers of the Town who have signed or sealed the Bonds shall cease to be such officers before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer; and also any such bonds or notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers of the Town, although at the nominal date of such Bonds any such person shall not have been such officer.

VOTED: That if the Treasurer, Chairman of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

VOTED: That the investment earnings on the proceeds of the Bonds, if any, and the excess proceeds of the Bonds (including premium), if any, be and hereby are authorized to be used to pay issuance costs for the Bonds, interest during construction, and debt service on the Bonds, in that order of priority.

VOTED: The Bonds herein authorized shall be either sold at public sale upon sealed bid, or by negotiated sale in such manner as the Treasurer deems appropriate and in the best interest of the Town, and the Treasurer be and hereby is authorized to provide that any of the Bonds herein authorized be made callable, with or without premium, prior to their maturity.

VOTED: That the Cape Elizabeth Town Council finds and determines that each of the five Projects described above is a separate, distinct and unrelated Project not involving a capital expenditure in excess of \$1,000,000 and therefore not subject to voter referendum under Article VIII Section 2 of the Town's Charter.

Item # 134-2014 Draft Agreement with Cape Elizabeth Historical Preservation Society

Intro – Mr. McGovern

Moved by Katharine N. Ray and Seconded by Martha MacAuslan

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to sign an agreement with the Cape Elizabeth Historical Preservation Society for care of municipal records as presented.

See attachment.

(7 yes) (0 no)

Item # 135 Annual Update of General Assistance Appendices

Public Hearing

Chairman Sullivan opened the public hearing at 9:08 p.m.
After hearing no comments the public hearing was closed.

Intro – Mr. McGovern

Moved by David S. Sherman, Jr. and Seconded by James T. Walsh

ORDERED, the Cape Elizabeth Town Council approves the annual General Assistance Appendices B and C for the period of October 1, 2014 – September 30, 2015 as presented.

(7 yes) (0 no)

Item # 136 Update on Mold in Town Hall Basement

Intro – Mr. McGovern

Present – Greg Marles, Director of Facilities & Transportation

Moved by James T. Walsh and Seconded by James R. Wagner

ORDRED, the Cape Elizabeth Town Council acknowledges receipt of the report from the town manager on mold issue in the basement of town hall and approves the expenditure of up to \$35,000 from the unassigned fund balance to relocate school and town computer services to the town center fire station as presented.

(7 yes) (0 no)

Item # 137-2014 Update on Bottle Shed Recycling Program

Intro – Mr. McGovern

Public Comment

Mr. Rea, 50 Starboard Drive, member of the Cape Elizabeth Lions' Club wanted to express the Club's desire to continue to benefit from proceeds from the bottle shed as they depend on the funding to help the youth of Cape Elizabeth and other programs.

Moved by James T. Walsh and Seconded by David S. Sherman, Jr.

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the town manager's report on the recycling program at the bottle shed with further details being recommended in the program to be considered at the December town council meeting.

(7 yes) (0 no)

Citizens Discussion of Items Not on the Agenda

None

Adjournment

Moved by David S. Sherman, Jr. and Seconded by James T. Walsh
ORDERED, the Cape Elizabeth Town Council adjourns at 9:22 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk