
COUNCIL REMAINING QUESTIONS ON SCHOOL CONSTRUCTION REFERENDUM

April 2, 2025

The following answers were assembled by Town and School Department staff:

1. How will we address tax impacts on seniors and families that are living pay check to pay check?

The Town Council adopted a goal to *“Explore new revenues or programs to maintain high levels of service, while still providing town wide property tax stabilization and tax relief for vulnerable populations.”* While efforts are ongoing on the Town level, there are also significant discussions at the State level to address property tax burden. The Town Council will next discuss potential property tax relief programs at the May workshop.

2. Some people are constantly saying that in the existing construction plan we could save \$11,000,000 dollars in site work - could somebody explain whether this is possible?

Site work is required to have the necessary site program. The site work in the project is for both the Middle School and Pond Cove Elementary School. It addresses separate parent and bus drop off loops, queuing for parents that drop off and pick up, stormwater, additions, and the new build. Neighbors to the schools will be consulted regarding the final site design.

Please note that building close to the existing building school is not less expensive as the coordination with current utilities, protection of the staff, students and visitors will cost more and have a greater impact. Constructing the new school right next to the existing Middle School becomes close to being a renovation project and renovation projects can be more complex and more costly. We might expect the site work costs added to the increased protections to the existing facility may actually cost more than the proposed site work for the proposed plan.

3. The \$12 - \$15 million what is this figure over the projected years if we consider inflation?

We believe this question is referring to our School Facility Funds (CIP/Maintenance/Repair) that for the FY26 proposed school budget equal \$1,290,000. At a 2.5% yearly inflation rate, recognizing yearly increasing costs, this dollar figure becomes \$1,692,592 in FY37.

We are utilizing our school facilities funding plan for short and long-term infrastructure planning, in order to allocate budgetary funding for necessary repairs, maintenance, and improvements to our school buildings. These types of plans, for schools and municipalities alike, typically include replacing aging infrastructure like worn-out flooring, windows, roofs, and doors, as well as upgrades to systems like safety, heating, plumbing, and electrical, along with ensuring compliance with accessibility standards such as the Americans with Disabilities Act (ADA),

For Cape Elizabeth, the school facilities funding plan has become especially important due to the aging infrastructure across the town's three school buildings. When the school project referendum passes to build a new middle school, we can immediately pivot to utilizing these budgetary facility funds primarily on CEHS and Pond Cove Elementary.

This is where experts have suggested a critical shift: resetting the clock on the town's infrastructure by focusing on replacing the most outdated and problematic school building. In doing so, the town can prioritize addressing the most important needs in the existing schools.

Once a new middle school is approved, the town's facilities team will have the bandwidth to tackle the needs at the two other schools immediately, without the pressure of ongoing emergency repairs at the Middle School. This means elements in our facility funding plan may be completed before ground is even broken for the new middle school.

4. How does this project protect programming - people say it will impact teachers because of the tax impact year over year, have you created some sort of safety net for ensuring programming needs will be met?

The educational goal of building a new middle school is to provide learning spaces that allow for highly effective teaching approaches to occur and to enhance our educational programming. This benefits both our amazing students and our wonderful teachers. Our approach each year as we build a budget is to analyze our programming to determine if what we are offering is meeting the needs of our students and how we can improve and/or shift resources. Offering an outstanding education to all students remains our number one priority and therefore our aim is that programming will not be compromised due to tax increases associated with this project.

We believe we have also demonstrated to the community that we bring forward fiscally responsible school budgets that continue to meet the educational programming needs for our students. For example, this school year (2024-2025) the property tax increase was a modest 2.51% and the expenditure increase of 3.74% was the lowest in Cumberland County.

5. Please show the tax impact over 5 years starting in 2027 that includes school construction and project average annual tax increases, so people can have the whole picture.

Table 1 shows the estimated tax dollars per home based on property values. Increases occur incrementally between 2027 and 2032 and then remain flat until the bond payoff in 2057. An interest rate of 4% was applied based on guidance from Joe Cuetara, of Moors & Cabot, on March 26, 2025.

Table 1

Approximate effect of \$86.5 million School Bond on Property Taxes annually (at a 4% interest rate)

Property Value	Current mill rate	Current Propety Tax	Annual Property Tax increase for Project							
			2026	2027	2028	2029	2030	2031	2032	2033
\$500,000	\$11.00	\$5,500	\$0	\$77	\$154	\$154	\$149	\$72	\$72	\$0
\$750,000	\$11.00	\$8,250	\$0	\$116	\$231	\$231	\$223	\$107	\$107	\$0
\$1,000,000	\$11.00	\$11,000	\$0	\$154	\$308	\$308	\$297	\$143	\$143	\$0
\$1,500,000	\$11.00	\$16,500	\$0	\$231	\$462	\$462	\$446	\$215	\$215	\$0
\$2,000,000	\$11.00	\$22,000	\$0	\$308	\$616	\$616	\$594	\$286	\$286	\$0

Annual Tax Increase Percentage: 0.0% 1.4% 2.8% 2.8% 2.7% 1.3% 1.3% 0.0%

6. What is the contingency plan relative to critical needs and security being addressed if the bond does not pass?

If the bond does not pass, our team will immediately meet to consider our options moving forward in order to meet our educational needs, our facility needs, and our safety needs. The School Board would then work to determine what option or options to pursue. As for security, we have tried over the last several years to make security upgrades at all three schools and will continue to do so.

7. What planning is being put in place to address the 1934 building and limit financial impact of any changes to CE tax payers, and how will we ensure it does not sit unused and deteriorating?

The Council will be discussing the 1934 building in April/May workshops to consider forming a committee to determine reuse plans if the school construction referendum passes. There are two to three years available to arrive at a feasible plan for the building before students would begin moving into a new school building.

As part of the school project systems will be disconnected from the existing building. The building will be made water tight at any openings created by the removal of the middle school. This phase of the project can be adjusted if the reuse or timeline of future occupancy has been determined.

8. What is the updated Annual Budget Pro-Forma?

The fiscal year 2026 budgets for school and town are still in draft form and being worked on by the School Board and Town Council until a Council vote on May 12th. The latest projections for next year's budget are included in Table 2- Town Budget Pro Forma.

Table 2

	FY 2026 BUDGET	% CHANGE FY25 TO FY26
TAX RATE VALUATION BASIS	\$ 3,841,890,800	0.13%
EXPENSES		
MUNICIPAL EXPENSES	\$ 19,550,647	4.67%
TIF	182,903	12.71%
OVERLAY	100,000	-89.76%
COUNTY TAX EXPENSE	2,188,380	3.49%
SCHOOL EXPENSES	36,552,456	3.12%
TOTAL EXPENSES	\$ 58,574,386	2.08%
REVENUES		
MUNICIPAL REVENUES	\$ 9,159,584	-14.14%
SCHOOL REVENUES	3,654,644	-10.82%
TOTAL REVENUES	\$ 12,814,228	-13.22%
TAXES TO BE RAISED		
MUNICIPAL	\$ 10,391,063	29.71%
TIF	182,903	12.71%
OVERLAY	100,000	-81.09%
COUNTY	2,188,380	3.49%
SCHOOL	32,897,812	4.94%
TOTAL TAXES TO BE RAISED	\$ 45,760,158	8.52%
TAX RATES		
MUNICIPAL	\$ 2.78	27.26%
COUNTY	0.57	2.52%
SCHOOL	8.56	3.66%
TOTAL TAX RATE	\$ 11.91	8.28%

*Property value growth estimates are based on current single family home construction permits. Values will be updated for construction that occur before April 1, 2025.

9. Given the language of the Charter, is it legally permissible for the Town Council to have any input (outside of our voices as citizens to the School Board) about the proposed new school design and plan? For example, could we say “Scrap your 7-0 vote for the approved design and bring us back a new design or else we won’t put the bond question on the ballot?”

In June of 2024 the School Department sought legal clarifications on the roles and responsibilities of the School Board and Town Council in regard to placing a school building proposal on the referendum ballot. That opinion from DrummondWoodsum Law is as follows:

June 6, 2024

Via email

Christopher Record, Superintendent of Schools
Cape Elizabeth School Department
320 Ocean House Rd
Cape Elizabeth, ME 04107

RE: School Board and Town Council Responsibilities for School Construction Project
Financing

Dear Chris,

You have asked that we advise on the legal roles and responsibilities of the School Board and Town Council in regard to placing a school building proposal on the referendum ballot. In connection with this opinion, we have reviewed applicable provisions of the Cape Elizabeth Town Charter (the “Charter”), Maine statute, and the School Building Advisory Committee (the “SBAC”) charging document. As more fully discussed below, the Town Council has the discretion to call the project referendum and to determine the amount of bonds it requests the voters to authorize for that project. The School Board, however, has final authority to approve the building plan, make construction decisions and sign contracts, as well as authority to approve municipal disbursements for the project from bond proceeds. Given this bifurcation of authority, for both legal and practical reasons, the two bodies must operate in tandem for the construction project financing. Without a cooperative and coordinated effort, it is difficult to see how the one body may proceed without the other’s concurrence.

1. Charter bifurcation of authority.

As relevant to this issue, the Charter confers the following authority on the Town Council:

- “The administration of all fiscal prudential and municipal affairs of said town, with the government thereof, except the general management, care, conduct and control of the schools of said town, which shall be vested in a board of education.” Charter at Article 1, Section 2.
- “Exercise all the legislative, financial and other powers now or hereafter given by statute to inhabitants of towns acting in town meeting; and also exercise all of the powers now or hereafter given by statute to selectmen of towns and municipal officers of towns.” Charter at Article II, Section 7.
- “Exercise all of the powers given to the inhabitants of towns and to the selectmen and municipal officers of towns relating to borrowing of any kind.” Charter at Article II, Section 8.
- Issue bonds for a single capital improvement or capital expenditure exceeding \$1,000,000, provided that this authority is “suspended from going into operation,” until

“a separate vote . . . shall be submitted to a referendum vote at a time designated by the council.” Charter at Article VIII, Section 2.

The Charter confers the following authority on the School Board:

- As noted above, and as an exception to the Council’s general authority, the Charter directs that “the “general management, care, conduct and control of the schools” of the Town is “vested in a board of education.” Charter at Article I, Section 2.
- The School Board “shall have all the powers conferred and shall perform all the duties imposed by law upon school boards in regard to the care and management of the public schools of the town, except as otherwise provided in this charter.” Charter at Article IV, Section 5.

2. Statutory bifurcation of authority.

Maine statute authorizes a municipality to issue general obligation bonds “for any purpose for which it may raise money.” 30-A M.R.S. § 5772. This authority rests with the Town Council by virtue of the Charter provisions recited previously. *See* Charter at Article I, Section 2; Article II, Section 7; and Article II, Section 8.

Title 20-A of the Maine Revised Statutes establishes various forms of school administrative units, including municipal school units such as Cape Elizabeth. For purposes of school administration, the School Board is the “governing body with statutory powers and duties” for the Town as a school administrative unit under Title 20-A. 20-A M.R.S. §1(29).

As a general matter, school boards have statutory authority over the “management of the schools and . . . their custody and care.” 20-A M.R.S. § 1001(2). Notably, section 15006 provides that all “[m]oney appropriated for public schools for educational purposes may be paid from the treasury of a municipality by the treasurer” only when approved by the school board, or its appointed school finance committee. 20-A M.R.S. § 15006. In our opinion, this would include approving expenditure of bond proceeds the Town Council issues for a school construction project.¹

Chapter 609 of Title 20-A of the Maine Revised Statutes governs school construction. Under this Chapter, the responsibility for the oversight of a school construction project rests broadly with the school board. In our opinion, this statutory authority includes authority to select an architect and contractor, to approve project plans and contracts, and to make various project decisions, including authority to expend project funds. Authority to construct schools generally requires voter referendum approval. 20-A M.R.S. §§15904 and 15905-A.

¹ In the case of tax-exempt bonds, Federal tax regulations require that the issuer meet various requirements having to do with reasonable expectations of expending the bond proceeds and completing the project. These would seemingly require bond counsel to undertake to ascertain that the school officials’ intentions with respect to the project and the use of proceeds align with the municipal officials’ intentions in issuing the bonds. In our experience, these expectations are often explored as part of bond counsel’s due diligence and may be certified to in the Arbitrage and Use of Proceeds Certificate accompanying the bonds and supporting the bond opinion.

3. SBAC bifurcation of authority.

In January 2023, following months of discussion and various joint workshop meetings, the Town Council and the School Board each approved a document creating a school construction advisory committee known as the SBAC. This document charges that nine-member committee with the responsibility to assess school building needs and to advise the School Board and Town Council on a Building Plan and the funding required to address the school building needs. The SBAC charging document clearly delineated the roles of the Town Council and the School Board, and does so in a manner consistent with the requirements of the Charter and Maine statute:

The Committee shall consult with both [the Town Council and the School Board] regarding its work and recommendations. Final approval of any Building Plan, and of building design and construction decisions, including award of project contracts, shall be by the School Board and final approval of any referendum amount, and bond sale matters and other bond-related financial decisions shall be by Town Council. Further, approval of construction funding is subject to a referendum vote of the citizens of Cape Elizabeth. School Building Advisory Committee (Draft #5), adopted by Town Council on January 9, 2023, and by School Board on January 10, 2023.

In summary, both the Charter and Maine statutes require the bifurcation of authority set forth in the SBAC charging document. The Town Council has final authority over approval of “any referendum amount, and bond sale matters and other bond-related financial decisions.” The School Board has final authority to approve “any Building Plan, and of building design and construction decisions, including award of project contracts.” The construction project and funding are subject to town referendum approval. In our view, as a legal matter, these SBAC document provisions reflect the requirements of the Charter and Maine statutes. As such, the project cannot be financed and constructed without cooperation and coordination between the Town Council and the School Board.

I trust this is responsive to your inquiry. Please let me know if you have any further questions.

Very truly yours,



E. William Stockmeyer