


MEMO

Date: March 30, 2022

To: Matthew Strugis, Town Manager

From: John Quartararo, Finance Director 

Re: School Construction Bond Order \$650,000

CC: Debra Lane, Town Clerk, Christopher Record, School Superintendent and Marcia Weeks, School Business Manager

The School Board, through Kimberly Carr, Board Chair and Philip Saucier, Finance Chair are asking that the Town Council authorize a bond order for \$650,000. The purpose of the funds is for the development of the full schematic design for the construction of Pond Cove/Middle School. This amount would be in addition to the \$300,000 bond order approved April 12, 2021 for the building concept design. The two bond orders total \$950,000 and are below the \$1 million limit for the project without going to referendum.

The School Board took up this matter at its March 8, 2022 meeting and while the drafted resolution was for \$699,000, the Board adopted the resolution for \$650,000. Included with this memo are a written request dated March 8, 2022 from the School Board and a bond order prepared by James Saffian, Esq. the Town's bond counsel.

Council Chair Gabrielson scheduled a council workshop for April 4, 2022 to allow the School Department and Board to present details of the school construction project and an explanation concerning the use of these funds. The school representatives will respond to questions raised by the council members and/or the public. I also plan to attend the meeting to address questions raised concerning the issuance of the short-term and long-term debt.

I anticipate working with the Town's financial advisor, Joseph Cuetara, Moors and Cabot, Boston for the issuance of a bond anticipation note (BAN) this spring. Assuming that the referendum approving the school construction project passes, proceeds from another bond anticipation note would retire this BAN. If the referendum does not pass, proceeds from a bond issue would pay off the BAN. The school department's annual budget would pay the replacement bond.

Any BANs issued under authority of the referendum approval of the school construction project would be retired from the proceeds of a permanent financing bond. Generally, when the Town knows all project costs the Town would issue a permanent financing bond at or near the completion of the project.

Included with this memo are the following items:

1. School Board request for bond authorization dated March 8, 2022
2. Draft School Board resolution for March 8, 2022 meeting
3. School Board agenda for March 8, 2022 meeting
4. Draft bond order prepared by Town's bond counsel
5. Draft Town Council minutes for April 12, 2021 meeting, item# 65-2021
6. Memo dated April 5, 2021 concerning \$300,000 school construction bond order
7. Approved \$300,000 bond order concerning \$300,000

Cape Schools Open Minds
and Open Doors

Community · Academics · Passion · Ethics

Marcia Weeks
Business Manager

Michelle McClellan, CAS
Assistant Superintendent

Del Peavey
Director of Special Services

CAPE ELIZABETH SCHOOLS

320 Ocean House Road
Cape Elizabeth, Maine 04107
Phone: (207) 799-2217 Fax: (207) 799-2914

Christopher Record, Ph.D.
Superintendent of Schools
crecord@capeelizabethschools.org

March 8, 2022

Subject: \$650,000 Bond Authorization

Dear Town Council:

The Cape Elizabeth School Board is requesting the Town Council authorize the bonding of up to \$650,000. With an approved bond order, the Town will be able to issue short-term financing of the project pending a referendum vote on the project in November 2022.

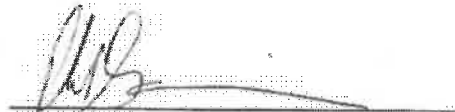
The intent is to finance the full cost of the schematic design for the new construction of Pond Cove / Middle School. A competitive RFQ process resulted in the selection of Colby Company and Simons Architects. The Town Council previously authorized expenditures of up to \$300,000 (and the issuance of bonds therefore) for the preliminary concept design.

Thank you very much for your consideration.

Sincerely,



Kimberly Carr
School Board Chair



Phillip Saucier
School Board Finance Chair

CR/af

**Resolution Regarding
Full Schematic Design for New Elementary School / Middle School Project**

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Cape Elizabeth School Department proposes to construct a new elementary and middle school to replace the current Pond Cove Elementary School and Cape Elizabeth Middle School (the "Project"); and

WHEREAS, at the request of the School Department, the Town Council previously authorized expenditures of up to \$300,000 (and the issuance of bonds therefore) for the preliminary concept design for the Project; and

WHEREAS, the School Department now intends to pursue the full schematic design for the Project;

NOW THEREFORE, be it hereby Resolved by the Town of Cape Elizabeth School Board as follows: That the Superintendent shall request that the Town Council approve additional expenditures of up to \$699,000 (and the issuance of bonds therefore) for the full schematic design for the Project.

Cape Elizabeth School Board
Tuesday March 8, 2022 - Town Hall Council Chambers
6:30 p.m. - Regular Business Meeting
MINUTES ([Video Link](#))

Strategic Plan Goals:

Health and Well-Being

Our schools will provide a supportive learning environment in which physical, social, and emotional well-being are valued and promoted.

Global Competency

Our students will be personally responsible, aware, empathetic, and engaged local and global citizens.

Multiple Pathways and Definitions of Success

Our schools will value, promote, and celebrate multiple pathways and definitions of success.

Safe, Sustainable, and Effective Facilities

Our schools will be safe and effective facilities. They will be updated and maintained to meet the needs of students and staff in accordance with long-term financial planning.

Environmental Responsibility

The school department will prioritize environmental responsibility, including stewardship and sustainability.

Roll Call:

Kimberly Carr, *Chair*
Heather Altenburg, *Vice Chair*
Kathleen Curry-Sparks
Jennifer McVeigh
Phil Saucier
Cynthia Voltz
Ellie Gagne, *Student Representative*

Superintendent Christopher Record, Ph.D.

Absent

Elizabeth Scifres
Student Representative Kathyne Clay

MINUTES

Call to Order/Pledge of Allegiance

1. **Adjustments to Agenda – NONE**
2. **Approval of School Board Minutes**
 - a. **February 8, 2022 – Regular Business Meeting minutes**

Motion: Ms. Saucier Second: Ms. Curry-Sparks Vote: Approved 6-0

b. February 15, 2022 – Budget Workshop minutes

Motion: Ms. Altenburg Second: Ms. Voltz Vote: Approved 6-0

c. March 1, 2022 – Budget Workshop minutes

Motion: Ms. Altenburg Second: Ms. McVeigh Vote: Approved 6-0

3. **Comments from Public on Agenda Items** (per SB BEDH) – None [3:39 mins in the recording]
4. **Comments from Student Representatives** – [4:18 in] Ellie Gagne reported briefly on student activities and achievements, academic topics, and student concerns.
5. **Presentations - Honoring Students**
 - **Swim** - [7:16 in] Captains Ali Bragg, Maddie Mahoney, Keegan McKenney, Ethan Smith, Stewart Kelley, and Darby Kline spoke briefly about the boys' and girls' teams winning their respective State Swimming & Diving 2022 (Class B) Championship. *They posed for a group photo following their presentation.*
 - **Alpine ski** - [10:14 in] Dana Schwartz and Eoin Murphy, senior captains of the boys' & girls' alpine ski team spoke briefly about the season and thanked those who were involved in making it possible. At the State Championships, the boys' team placed 1st and the girls' team placed 2nd. Other seniors present this evening were: Cody LaBonty and Tiernan Lathrop. First year coach, Sarah Plummer, also recognized the team's efforts. *They posed for a group photo following their presentation.*
 - **Debate** - [14:09 mins] team representatives were unable to attend this evening, due to scheduling conflicts.
6. **Administrative & Staff Reports:** *See also agenda materials for written DLT reports.*
 - a. **Portland Arts & Technology High School (PATHS) Update** - [14:48 in] Kevin Stilphen, Director of PATHS, presented briefly about the variety of programs offered and their alignment with higher education and future employment. Finn Bridge, a current first-year student in the carpentry program, spoke about his new learnings. *A group photo was taken following the presentation.*
 - b. **Business Manager's Report** - [28:06 in] Ms. Weeks reported a "reasonable and efficient spending pattern" as of February 28. February 2022 School Nutrition program service: 11,678 lunches and 4,106 breakfast meals. Peter Esposito applied for and was awarded a state *Supply Chain Assistance Grant* [\$29,991].

7. Superintendent [31:00 in]

- a. **Covid Update** - One case identified so far this week. *Spoken more about in Item 8a.*
- b. **Building Project Update** - Last evening's *Public Forum* [March 7] was well attended. The next *Public Forum* will be held on April 7 [CEMS Library] and is expected to be in-person and open to the public
- c. **Budget Update** - Well into the process at this point; waiting on insurance rates, on-going negotiations, and heating contracts are next to be finalized and will have some implications
- d. **Enrollment Numbers** - Down some students from the prior year at this time. Dr. Record reported having encouraging conversations with families who intend to bring their children back to Cape Elizabeth next school year.

8. New Business

- a. **Consideration to approve an update to the Covid-19 Mitigation Measures based upon Maine CDC and District Planning Committee recommendations, as presented by Superintendent Record** - [36:13 in] Superintendent Record presented an overview of Cape's Covid-19 journey and recommended, based on MCDC guidance, that Cape Elizabeth Schools make masks optional for students and staff beginning on Monday, March 14, 2022. This includes CE school transportation. He added that everyone will be supported in their mask choice. Social distancing will continue but so will increased interaction between peers. Visitors and volunteers will begin to be welcomed back. Pooled testing will continue; case numbers and positivity rates will continue to be monitored. The district will adjust to any Maine CDC recommendations going forward.

Motion: Mr. Saucier Second: Ms. Curry-Sparks Vote: Approved 6-0

- b. **Consideration to approve the 2022-2023 School Year Calendar** - [1:02:37 in] Superintendent Record reviewed the process to develop the calendar and provided an overview of the changes: On August 31, Grades 5 & 9 will begin in a shortened day format. Sept 1 is the first day for grades 1-12. Staff-only professional learning days precede many holidays/vacation weeks, in an effort to get more full weeks of learning. November 7 and 8 (Election Day) are for parent teacher conferences.

Motion: Ms. Altenburg Second: Ms. Voltz Vote: Approved 6-0

- c. **Consideration to approve the resolution captioned “Resolution Regarding Full Schematic Design for New Elementary School / Middle School Project”, attached hereto as Exhibit A Schematic - [1:11:15 in]** Superintendent Record presented an overview on the Building Project’s history to date, comparing new building construction versus renovation. He recommended the Board support the schematic design investment in order to among other things provide greater visuals and opportunities for clearer conversations within the community before the November referendum. *Exhibit A Schematic*, in this evening’s packet, references an amount up to \$699,000. After further discussions with Colby Co Engineering, the Superintendent believes this amount can be reduced. He recommended that the *Exhibit A Schematic* amount be Amended to instead read “...an amount up to \$650,000...” [1:28:37 in] Calen Colby, representing Colby Co Engineering and Simons Architects [also a Cape Elizabeth resident] answered some questions related to cost norms.

A Motion to consider new business Item 8c was first made by Ms. Voltz and Seconded by Ms. McVeigh. Following discussion, a **Motion to Amend** the ‘Exhibit A Schematic’ to read “...expenditures of up to \$650,000...” was made by Ms. Altenburg and Seconded by Mr. Saucier. Approved 6-0 [Ms. Scifres absent]. [~ 1:33:19 in]

Motion: Ms. Altenburg Second: Mr. Saucier Vote: Approved 6-0

- d. **Consideration to approve the Superintendent’s recommendations for administrator contract renewals through June 30, 2024** [According to 20-A M.R.S.A. § 13303(1)A, the deadline for notice of renewal/non-renewal to [administrators] whose contracts expire in 2022 and have been employed for more than two years is March 1.] - [1:37:20 in]

Nathan Carpenter	CEHS Asst. Principal
Troy Eastman	CEMS Principal
Sarah Forrey-Pettit	PCES Asst. Principal
Jason Manjourides	PCES Principal
Kyle Morey	CEMS Asst. Principal
Del Peavey	Director of Special Services
Jeff Thoreck	Athletic Administrator

Motion: Ms. Altenburg Second: Mr. Saucier Vote: Approved 6-0

- e. **Consideration to approve the Superintendent’s recommendations for administrator contract renewals for the 2022-2023 school year** [According to 20-A M.R.S.A. § 13303(1)B, the deadline for written notice of renewal/non-renewal to principals whose contracts expire in 2022 and have been employed for two years or less is April 1.] - [1:40:04 in]

Troy Patterson	Educational Technology Director
John Springer	CEHS Principal

Motion: Ms. Altenburg Second: Mr. Saucier Vote: Approved 6-0

- f. Second Reading: Policy **BBAB – Student School Board Representative and BBAB-R – Student School Board Representative (Policy Guidelines)** - [1:42:10 in] Ms. McVeigh briefly reviewed changes, adding there were no comments from the public.

Motion: Ms. McVeigh Second: Ms. Altenburg Vote: Approved 6-0

- g. Second Reading: Policy **AC - Nondiscrimination/Equal Opportunity and Affirmative Action** - [1:43:20 in] Ms. McVeigh briefly reviewed, adding that changes included legislative requirements related to familial status.

Motion: Ms. McVeigh Second: Mr. Saucier Vote: Approved 6-0

- h. Second Reading: Policy **ACAB - Employee Discrimination/Harassment and Title IX Sexual Harassment and ACAB-R - Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint (Procedures)** – [1:44:20 in] Ms. McVeigh said that changes included legislative changes related to familial status. *More information is available within the policy committee minutes.*

Motion: Ms. McVeigh Second: Ms. Voltz Vote: Approved 6-0

- i. **First Reading** – [1:45:11 in] Ms. McVeigh provided a brief overview of the policies being reviewed. Additional details are provided within the February policy committee meeting [minutes](#).

- i. Policy **BCB – Board Member Conflict of Interest**
- ii. Policy **BCC – Nepotism**
- iii. Policy **GBN – Family and Medical Leave** [ref to admin procedures GBN-R1 & GBN-R2] **Sexual Harassment**

9. School Board Agenda Requests – [1:49:03 in] NONE

10. Committee Reports: – [1:49:15 in]

- a. PATHS – Ms. Voltz briefly updated the Board.
- b. DEI – Dr. Record briefly updated the Board.
- c. Technology Committee – Ms. Voltz announced that a meeting is scheduled for tomorrow.
- d. Building Oversight Committee – Ms. Altenburg briefly updated the Bboard. April 7 will be the next public forum meeting.
- e. School Budget - Mr. Saucier shared that budget work continues. There are two more planned budget meetings before finalizing the proposed school budget and going to the Town Council.

11. Announcement of Upcoming Meetings [1:56:54 in]

- a. PATHS – March 10, 8:30 am WRVC
- b. Policy Committee – March **30, 3:00 pm** Town Hall, Jordan Conference Room
- c. School Budget Workshop – March 22, 6:30 pm CEHS Library
- d. Fiscal Subcommittee [Bldg Project] – March 31, 6:30 pm Zoom
- e. District Planning Committee – April 4, 6:30 pm Zoom
- f. School Budget Workshop – April 5, 6:30 pm CEHS Library
- g. Building Project Public Forum - April 7, 6:30 pm CEMS Library

12. Consideration to Adjourn - [1:58:29 in]

Motion: Ms. Curry-Sparks Second: Ms. Voltz Vote: Approved 6-0

TOWN OF CAPE ELIZABETH, MAINE

Vote authorizing expenditures of up to \$650,000
for cost of final design for New Elementary School / Middle School Project
and the issuance of bonds therefore

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Cape Elizabeth School Department proposes to construct a new elementary and middle school to replace the current Pond Cove Elementary School and Cape Elizabeth Middle School (the "Project"); and

WHEREAS, at the request of the School Department, the Town Council previously authorized expenditures of up to \$300,000 (and the issuance of bonds therefore) for the preliminary concept design for the Project; and

WHEREAS, the School Department now intends to pursue the final design of the Project;

WHEREAS, the School Department has requested that the Town authorize additional expenditures and a borrowing to finance the full cost of the final schematic design of the Project; and

NOW, THEREFORE, be it hereby voted by the Cape Elizabeth Town Council as follows:

VOTED: That the Town, acting by and through its School Department, be authorized to expend up to \$650,000 to fund the full cost of the final schematic design of the Project.

VOTED: In order to provide funds for the Project, the Treasurer, in the name of and on behalf of the Town, be and hereby is authorized to borrow up to \$650,000 and that to effect such borrowing, the Treasurer be and hereby is authorized to issue the Town's general obligation bonds (and notes in anticipation thereof) in the amount to not to exceed \$650,000, the proceeds of which loan are hereby appropriated to fund the costs of the Project.

VOTED: The bonds and notes in anticipation thereof shall be signed by the Treasurer, countersigned by the Chair of the Town Council and attested by the Town Clerk, all in the name of and on behalf of the Town.

VOTED: The form, maturity, interest rate, terms and other details of said bonds and loan agreement shall be as determined by the Treasurer and the Chair of the Town Council by their execution thereof, not inconsistent herewith.

VOTED: That to the extent available under Section 265(b)(2) of the Code, the Treasurer, with the advice of Bond Counsel, be and hereby is authorized to designate said bonds or notes in anticipation thereof as a "qualified tax exempt obligation".

VOTED: The bonds and notes in anticipation thereof shall be either sold at public sale, 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 and notes in anticipation thereof be made callable, with or without premium, prior to their maturity.

- VOTED: That the Town covenants and certifies that no part of the proceeds of the bonds or notes in anticipation thereof shall be used, directly or indirectly, to acquire any securities or obligations, the acquisition of which would cause such bonds or notes in anticipation thereof to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") or "private activity bonds" within the meaning of Section 141 of the Code.
- VOTED: That the Treasurer be and hereby is authorized, in the name of and on behalf of the Town and for the benefit of the holders of the bonds or notes in anticipation thereof, to covenant 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 bonds or notes in anticipation thereof will remain exempt from federal income taxes.
- VOTED: That the Treasurer be and hereby is authorized, in the name of and on behalf of the Town, to negotiate, execute, and deliver such contracts, agreements (including a bond purchase agreement), loan agreements, instruments, certificates and other documents as may be necessary or appropriate as determined and approved by the Treasurer in connection with the issuance of the bonds or notes in anticipation thereof, 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, in the name of and on behalf of the Town, to engage a financial advisor to the Town in connection with the issuance and sale of the bonds and to select an underwriter for the bonds and 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, in the name of and on behalf of the Town, 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 and notes in anticipation thereof, 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 or notes in anticipation thereof for sale be and hereby is approved.
- 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, in the name of and on behalf of the Town, 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 Chair 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 Chair of the Town Council.
- VOTED:** That the Treasurer be and hereby is authorized, in the name of and on behalf of the Town, 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, Chair 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 or loan agreement hereinabove authorized.
- VOTED:** That if any of the officers of the Town who have signed or sealed the bonds or notes in anticipation thereof shall cease to be such officers before the bonds or notes in anticipation thereof so signed and sealed shall have been actually authenticated or delivered by the Town, such bonds or notes in anticipation thereof nevertheless may be authenticated, issued, delivered and implemented with the same force and effect as though the person or persons who signed or sealed such bonds or notes in anticipation thereof had not ceased to be such officer; and also any such bonds or notes in anticipation thereof may be signed and sealed on behalf of the Town by those persons who, at the actual date of execution, shall be the proper officers of the Town, although at the nominal date of such execution, any such person shall not have been such officer.
- VOTED:** That if the Treasurer, Chair of the Town Council or Town Clerk are for any reason unavailable to approve and execute the bonds or notes in anticipation thereof or any other documents necessary or convenient to the issuance, execution and delivery of the bonds or notes in anticipation thereof, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, be and hereby 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 and notes in anticipation thereof, if any, and the excess proceeds of the bonds or notes in anticipation thereof (including premium), if any, be and hereby are authorized to be used to pay issuance costs for the bonds

or notes in anticipation thereof, interest during construction, and debt service on the bonds or notes in anticipation thereof.

VOTED: That the bonds or notes in anticipation thereof may, if so determined by the Treasurer, be combined with any other bonds or notes duly authorized by the Town of Cape Elizabeth and together issued as a single bond issue in the aggregate amount of the bonds or notes so authorized.

VOTED: That in lieu of issuing notes in anticipation of the bonds authorized hereby, the Town Manager is authorized to advance available funds from the Town's General Fund to the School Department to finance the costs of the Project, which advances will be established as an interfund loan, under such terms and conditions as the Town Manager shall establish, consistent with Town policy.

VOTED: That these votes shall constitute the Town's official declaration of intent for purposes of Section 1.150 of the Treasury Regulations promulgated under the Code, and to the extent that any costs of the Project are paid by the Town from the general fund or other fund, such payments may be reimbursed from the proceeds of said bonds or notes.



Cape Elizabeth Town Council

DRAFT Minutes Monday, April 12, 2021

7:00 p.m.

Zoom Online

James M. "Jamie" Garvin, Chairman
Nicole Boucher
Valerie J. Deveraux
Jeremy A. Gabrielson
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan

The meeting via Zoom, an online video and audio conferencing platform, was convened at 7:00 p.m. by Chairman Garvin.

In response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) Governor Mills signed LD 2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, which is now PL 2019, c. 617.

Part G enacts Title 1, section 403-A, Public proceedings through remote access during declaration of state of emergency due to COVID-19. It authorizes conducting public proceedings through telephonic, video, electronic or other similar means of remote participation with specific conditions. The section is repealed 30 days after the termination of the state of emergency.

The Cape Elizabeth Town Council will meet as necessary to continue the town's work via an online platform as allowed by State authorization during the state of emergency due to COVID-19. The platform will allow for public comment as outlined in the Town Council Rules. The public is reminded they should continue to provide questions and comments to the town council relating to business of the town via email or mailing correspondence to their attention to town hall.

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk
Maureen O'Meara, Town Planner
John Quartararo, Finance Director
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Noonan passed along her mother's appreciation to staff members Teresa Olsen, Tax Office and Janet Staples, ACP for their assistance with a recent transaction.

Finance Committee Report

Finance Chairman Jeremy Gabrielson reviewed the dashboard ending 3/31/2021. Upcoming budget workshops; April 26 (school budget presentation) and April 27 (wrap up and discussion of future capital projects).

Citizen Opportunity for Discussion of Items Not on the Agenda

None

**Page 4 Town Council Minutes Virtual Meeting
April 12, 2021**

Item #64-2021 Recommended Policy Relating to Short-Term General Fund Borrowing

Introduction – Finance Director John Quartararo

Moved by Penelope A. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council refers to workshop a recommended policy relating to short-term general fund borrowing to further review the policy answering questions such as criteria, maturity dates, duration of loan, authority of town manager, amount of capital available in the general fund.

(7 yes) (0 no)

Item #65-2021 School Construction Bond Order

Moved by Jeremy A. Gabrielson and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council authorizes a bond order in the amount of \$300,000 for funds to be utilized the pay for the development of a concept design for the construction of the Pond Cove/Middle School as prepared by the Town's bond counsel. The amount borrowed would be repaid by either the issuance of a bond or a larger bond that would be authorized by referendum. The School Department, through the school budget would be responsible for repaying the debt holder.

(5 yes) (2 no Councilors Deveraux and Penelope Jordan)

See attachment.

Item #54-2021 Tabled from March 8, 2021 Recommendation of the Ad-Hoc Civil Rights Committee

Presentation – Melanie Thomas and Keyla Alston-Griffin, Co-Chairmen

Present – Rachel Davis, Staff

Moved by Penelope A. Jordan and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council refers to the ordinance committee a recommendation from the Ad-Hoc Civil Rights Committee to establish a standing committee.

(7 yes) (0 no)

**Item #42-2021 Tabled from February 8, 2021 & March 8, 2021
Short Term Rental Amendments**

Public Comment

Scott Rockwell, 119 Old Ocean House Road asked for clarification whether the Rental Intensity clause (page 8, line 12) refers to children coming home to visit. Is their visit considered one of the two stays allowed within a 7-day period for hosted?

Moved by Penelope A. Jordan and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council approves the proposed amendments to Chapter 19 Zoning Ordinance Short Term Rentals as outlined in the 1/7/2021 draft, and the votes taken on March 8, 2021 to approve the Whereas statements and three amendments.

MEMO

Date: April 5, 2021

To: Matthew Strugis, Town Manager

From: John Quartararo, Finance Director

Re: School Construction Bond Order

CC: Debra Lane, Town Clerk and Marcia Weeks, School Business Manager

The School Board through Heather Altenburg, Board Chair and Philip Saucier, Finance Chair are asking that the Town Council authorize a bond order for \$300,000. The funds will be used to pay for the development of a concept design for the construction of Pond Cove/Middle School.

Included with this memo are a written request dated April 1, 2021 from the School Board and a bond order prepared by James Saffian, Esq. the Town's bond counsel. The bond order will allow the Town to issue bond anticipation notes or use a self-funded inter-fund loan from the General Fund to provide working capital. The amount borrowed would be repaid by either the issuance of a bond authorized by the order or a larger bond that would be authorized by referendum.

The School Department, through its budget would be responsible for repaying either the General Fund or the BAN debt holder.

Enc:

4/12/2021
Council order 65-2021

TOWN OF CAPE ELIZABETH, MAINE

Vote authorizing expenditures of up to \$300,000
for cost of concept design for the new construction of Pond Cove/Middle School
and the issuance of bonds therefore

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Cape Elizabeth School Department proposes to construct a new elementary and middle school to replace the current Pond Cove Elementary School and Cape Elizabeth Middle School (the "Project"); and

WHEREAS, the School Department has requested that the Town authorize a borrowing to finance the cost of the concept design for the Project; and

NOW, THEREFORE, be it hereby voted by the Cape Elizabeth Town Council as follows:

- VOTED:** That the Town, acting by and through its School Department, be authorized to expend up to \$300,000 to fund the costs of the concept design for the Project.
- VOTED:** In order to provide funds for the Project, the Treasurer be and hereby is authorized to borrow up to \$300,000 in the name of and on behalf of the Town and that to effect such borrowing, the Treasurer be and hereby is authorized to issue the Town's general obligation bonds (and notes in anticipation thereof) in the amount to not to exceed \$300,000, the proceeds of which loan are hereby appropriated to fund the costs of the Project.
- VOTED:** The bonds and notes in anticipation thereof shall be signed by the Treasurer, countersigned by the Chair of the Town Council and attested by the Town Clerk, all in the name of and on behalf of the Town.
- VOTED:** The form, maturity, interest rate, terms and other details of said bonds and loan agreement shall be as determined by the Treasurer and the Chair of the Town Council by their execution thereof, not inconsistent herewith.
- VOTED:** That to the extent available under Section 265(b)(2) of the Code, the Treasurer, with the advice of Bond Counsel, be and hereby is authorized to designate said bonds or notes in anticipation thereof as a "qualified tax exempt obligation".
- VOTED:** The bonds and notes in anticipation thereof shall be either sold at public sale, 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 and notes in anticipation thereof be made callable, with or without premium, prior to their maturity.
- VOTED:** That the Town covenants and certifies that no part of the proceeds of the bonds or notes in anticipation thereof shall be used, directly or indirectly, to acquire any securities or obligations, the acquisition of which would cause such bonds or notes in anticipation thereof to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") or "private activity bonds" within the meaning of Section 141 of the Code.

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 Chair 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 Chair 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, Chair 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 or loan agreement hereinabove authorized.
- VOTED: That if any of the officers of the Town who have signed or sealed the bonds or notes in anticipation thereof shall cease to be such officers before the bonds or notes in anticipation thereof so signed and sealed shall have been actually authenticated or delivered by the Town, such bonds or notes in anticipation thereof nevertheless may be authenticated, issued, delivered and implemented with the same force and effect as though the person or persons who signed or sealed such bonds or notes in anticipation thereof had not ceased to be such officer; and also any such bonds or notes in anticipation thereof may be signed and sealed on behalf of the Town by those persons who, at the actual date of execution, shall be the proper officers of the Town, although at the nominal date of such execution, any such person shall not have been such officer.
- VOTED: That if the Treasurer, Chair of the Town Council or Town Clerk are for any reason unavailable to approve and execute the bonds or notes in anticipation thereof or any other documents necessary or convenient to the issuance, execution and delivery of the bonds or notes in anticipation thereof, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, be and hereby 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 and notes in anticipation thereof, if any, and the excess proceeds of the bonds or notes in anticipation thereof (including premium), if any, be and hereby are authorized to be used to pay issuance costs for the bonds or notes in anticipation thereof, interest during construction, and debt service on the bonds or notes in anticipation thereof, in that order of priority.
- VOTED: That the bonds or notes in anticipation thereof may, if so determined by the Treasurer, be combined with any other bonds or notes duly authorized by the Town of Cape Elizabeth and