



Cape Elizabeth Town Council

DRAFT Special Meeting Minutes

Monday, August 22, 2022 7:00 p.m.

Town Hall Council Chambers

Jeremy A. Gabrielson, Chair
Nicole Boucher
Susan A. Gillis
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan
Timothy S. Reiniger

Chair Gabrielson convened the meeting at 7:00 p.m.

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk

Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Citizen Opportunity for Discussion of Items Not on the Agenda

None

Public Hearing – Vote Authorizing Expenditures of up to \$115,943,324 to Design, Construct and Equip a New Elementary School and a New Middle School and to Renovate Cape Elizabeth High School and Issuance of the Town’s General Obligation Bonds Therefor and Vote Authorizing Expenditures of up to \$5,000,000 in the form of Gifts and Grants to pay for Additional Auditorium Seating, Solar Panels and Other Miscellaneous Improvements to Enhance the New Elementary School and New Middle School

Introduction – School Board Chair Kimberly Carr and Superintendent Christopher Record

Chair Gabrielson opened the public hearing at 7:20 p.m.

Scott Clark, 6 Brentwood Road the proposed project ignores the finances of many Cape Elizabeth families. The school bond is independent of any other budget increases. Consider neighbors who can’t afford to pay these increases.

Al Romano, 4 Fernwood Lane echoes the comments of Mr. Clark. Defer the vote.

Stephanie Anderson, 24 Merrimac Place two issues facing the town; school infrastructure and diversity in housing stock. Increased taxes will make Cape Elizabeth less affordable. Send back to the school board. The focus should be on repurposing and rehabilitating current buildings.

Philip Kaminsky, 8 Gladys Road some pieces of the current school can still be used and you won’t be able to afford new. The process is flawed – until bids come in you don’t know the cost. Establish a budget of what the town can afford –start over.

Matt Grymik, 48 Spurwink Avenue the right decision and best interest for families and the community is new schools. Supports a referendum.

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Jenna Pfueller, 42 Longfellow Drive has lost a home but still supports the schools. Building new schools is economically and environmentally for the best. Major projects need to be addressed.

Larry Sterne, 1 Columbus Road taking the middle ground. Hard to imagine families moving into town with higher tax bills. Consider a phase-in approach. Why didn't Cape Elizabeth seek state funding?

Lisa Hallee, 14 Davcarley Road has no kids but support education. How did we end up with this plan? Why aren't the current facilities adequate? Look at a budget first – the process is flawed.

Diana Doiron, 73 Starboard Drive representing residents of Cape Colonial Village. Incomes are not keeping up with expenses. Think in phases – also need a savings plan for future projects.

Tammy Walter, 1095 Sawyer Road on the verge of having to make a decision to move because of increased taxes.

Linda Banister, 9 Woodcrest Road with questionable enrollment the plan is exorbitant and unrealistic for a population for a town this size. Does not support a referendum.

Eric Sharpe, 14 Davcarley Road time to look at what is going on with inflation, revaluation, older homes, increased interest rates, and enrollment declining. Project is overstepping for this time and impact on people in the town.

Jessica Sullivan, 441 Mitchell Road flawed process. Decide what the town could afford. Improvements are needed but not ready for a referendum. Regroup, start with budget and come back.

John Voltz, 33 Philip Road there is not a no-cost option. It's a difficult decision. Have to rely on experts. Send to referendum.

Alan Ray, 532 Spurwink Avenue turn back to the school board. Project is too big and too much.

Elizabeth Biermann, 19 Trundy Road should follow the DOE guidelines for building schools. There has been community feedback and involvement with information available to all. Let the voters decide if the cost is worth it.

Eliza Jarquin, 48 Cross Hill Road consider people that may be forced out. Start with a budget and work back.

Jill Shaw, 25 Davcarley Road don't understand why we didn't apply for state funding. Never heard of funding outside of the system. Look at the process again.

Garth Altenburg, 31 Olde Colony Lane supports the process and supports a referendum vote. What about a circuit breaker program?

Cameron Brown, 4 McAuley Road design is excessive. Start over with a budget.

Monica Malcomson, 61 Hunter Place, educator. Kids don't need this Taj Mahal. The project doesn't make housing diversity. How can we improve our current spaces without starting new?

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Kathy Ray, 532 Spurwink Avenue send back to the school board. No budget was set. Set a budget that is fair to townspeople.

Pietrina Owen, 98 Spurwink Avenue, retired special education teacher. Send back to the school board. With increase costs such as heating oil, may have to return as a substitute. Be good stewards of the town's money.

Cynthia Voltz, 33 Philip Road, member of School Board. Personal remarks – fiscal challenges are recognized. Information about the project is available. Supports the referendum for the voters to have the opportunity to decide.

Jennifer Grymek, 48 Spurwink Avenue the process is inching along. Time for the next step – send to referendum.

Dheeraj Khare, 29 Trundy Road moved to Cape Elizabeth for the schools. This is a welcoming structure. Supports sending to the voters.

Mark Jordy, 41 Old Mill Road supports the schools. Some residents will find it difficult or impossible to pay the increases. Is there a moral obligation to consider the residents? Is there a middle ground – over time, spread it out – address the affordability.

Dan Matusko, 95 Fowler Road might drive me out of town.

Nick Garcia, 122 Ocean House Road new homeowner. Works two jobs – the thought of increased taxes is wearing on me.

Michael Cwiklinski, 2 Blueberry Road supports the referendum moving forward to let the voters decide.

Kevin Justh, 9 Spruce Lane it is a hard decision. Supports the project. Alternatives are also expensive.

Michelle Pezzuti-Morse, 10 Beverly Terrace supports sending to voters.

Scott Clark, 6 Brentwood Road unique about Cape Elizabeth is the total valuation of assessed property which is what the state uses for the school funding formula and funding for school buildings. We are too wealthy.

Cynthia Troiano, 8 Charles Road in the process of buying the family home. Increased taxes may potentially abort the plan. Lack of budget and timing – doesn't support the project.

Jeff Holden, 402 Pulpit Rock Road when children come back they find their coaches, mentors and teachers. Worried about young families and those trying to stay in town. Take another look, get creative.

Scott Mazuzan, 270 Fowler Road favors advancing to referendum.

After hearing no further comments the hearing was closed at 8:53 p.m.

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Item #131-2022 Vote Authorizing Expenditures of up to \$115,943,324 to Design, Construct and Equip a New Elementary School and a New Middle School and to Renovate Cape Elizabeth High School and Issuance of the Town's General Obligation Bonds Therefor

Public Comment

John Voltz, 33 Philip Road whatever path taken will have an impact and increase taxes.

Heather Altenburg, 31 Olde Colony Lane clarified the bond amount mentioned in the introduction of the item.

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council authorizes the expenditures of up to \$115,943,324 to design, construct and equip a new elementary school and a new middle school and to renovate Cape Elizabeth High School and issuance of the Town's General Obligation Bonds Therefor as presented.

Moved by Penelope A. Jordan and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council amends the motion to authorize expenditures of up to \$95,000,000 to design, construct and equip a new elementary school and a new middle school and to renovate Cape Elizabeth High School and issuance of the Town's General Obligation Bonds Therefor.

(1 yes) (6 no Councilors Gabrielson, Gillis, Caitlin Jordan, Gillis, Noonan and Reiniger)

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

ORDERED, the Cape Elizabeth Town Council amends the motion in the bond order, second to last page of the bond order, 5th Voted to read:

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

(7 yes) (0 no)

Original motion as amended:

(4 yes) (3 no Councilors Gills, Penelope Jordan and Reiniger)

See attached order as approved.

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

ORDERED, the Cape Elizabeth Town Council suspends the Town Council Rules (Article II Section 6) to take up new items after 10:00 p.m.

(7 yes) (0 no)

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Item #132-2022 Vote Authorizing Expenditures of up to \$5,000,000 in the form of Gifts and Grants to pay for Additional Auditorium Seating, Solar Panels and other Miscellaneous Improvements to Enhance the New Elementary School and New Middle School

Public Comment

Kevin Justh, 9 Spruce Lane the tax impact is a range until the bond is issued.

Moved by Caitlin R. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council authorizes expenditures of up to \$5,000,000 in the form of Gifts and Grants to pay for additional auditorium seating, solar panels and other miscellaneous improvements to enhance the new elementary school and new middle school as presented.

(6 yes) (1 no Councilor Reiniger)

See attached order as approved.

Item #133-2022 Order Approving Referendum Questions Regarding School Construction Project

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves the referendum questions regarding the school construction project as presented.

(6 yes) (1 no Councilor Reiniger)

See attached order as approved.

Item #134-2022 Municipal Election Warrant – November 8, 2022

Moved by Timothy S. Reiniger and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the Municipal Election Warrant for November 8, 2022 with the Page 3 question related to the Town Center Zoning Ordinance amendments as proposed by Councilor Reiniger with the review and edit of the Town Attorney.

Moved by Susan A. Gillis and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council amends the motion to replace the reference of at least thirty six (36) dwelling units to at least ten (10) dwelling units, and a minimum of seventy percent (70%) of the dwelling units are affordable to low-income households. This language was adopted by the Town Council on 10/13/2021.

(7 yes) (0 no)

Original motion as amended:

(5 yes) (2 no Councilors Penelope Jordan and Gretchen Noonan)

See attached order as approved.

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Citizens may at this point in the meeting raise any topic that is not on the agenda that pertains to Cape Elizabeth local government.

None

Adjournment

Moved by Caitlin R. Jordan and Seconded by Nicole Boucher
ORDERED, the Cape Elizabeth Town Council adjourns at 10:31 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

TOWN OF CAPE ELIZABETH, MAINE

Vote Authorizing Expenditures of up to \$115,943,324 to Design, Construct and Equip a New Elementary School and a New Middle School and to Renovate Cape Elizabeth High School and Issuance of the Town's General Obligation Bonds Therefor

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Town of Cape Elizabeth, a municipal school unit acting by and through its School Department and School Board, proposes to construct a new elementary and a new middle school to replace the current Pond Cove Elementary School and Cape Elizabeth Middle School, and to renovate Cape Elizabeth High School (collectively, the "Projects"); and

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Cape Elizabeth School Board has requested that the Town Council authorize expenditures of up to \$115,943,324 to design, construct and equip the Projects, and to issue the Town's general obligation bonds therefor; and

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

VOTED: That, subject to an approving vote of the voters of Cape Elizabeth, the Town, a municipal school unit acting by and through its School Department and School Board, be authorized to expend up to \$115,943,324 (together with any investment earnings and bond premium) to design, construct and equip the Projects.

VOTED: That in order to provide funds for the Projects, the Treasurer of the Town be and hereby is authorized and empowered, in the name of and on behalf of the Town, (i) to borrow up to \$115,943,324, and (ii) to prepare, issue, sell and deliver the Town's general obligation bonds (and notes in anticipation thereof) in the aggregate principal amount not to exceed \$115,943,324, which amount (together with any investment earnings and bond premium) be and hereby is appropriated to pay for the costs of the Projects.

VOTED: That the bonds and notes authorized hereby shall be signed, in the name of and on behalf of the Town, by the Treasurer, countersigned by the Chair of the Town Council, either or both of whose signatures may be by facsimile to the extent permitted by law, and attested by the Town Clerk, under the seal of the Town.

VOTED: That the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to determine and approve the form, maturity(ies) (not to exceed the maximum term permitted by law), interest rate(s), provisions for early redemption prior to their stated maturity date(s), and all other details of said bonds and notes authorized hereby, not inconsistent herewith, such determination and approval to be conclusively evidenced by his execution thereof.

VOTED: That the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to sell the bonds and notes authorized hereby at either a public sale upon sealed bid, or by negotiated sale, all in such manner as the Treasurer deems appropriate and in the best interest of the Town.

VOTED: That the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to engage a financial or municipal advisor and bond counsel for the Town in connection with the issuance and sale of the bonds and notes authorized hereby and to select an underwriter for such bonds and notes 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 and empowered, 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, tax compliance or arbitrage certificates or agreements and other documents, certificates and instruments, as may be necessary or appropriate as determined and approved by the Treasurer in connection with the issuance of the bonds and/or notes authorized hereby (the "Financing Documents"), which Financing Documents shall be in such form and contain such terms and conditions, not inconsistent herewith, including, without limitation, the waiving of the Town's sovereign or governmental immunity with respect to the enforceability of any of the forgoing, which waiver is hereby authorized, confirmed and approved, 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 and empowered, 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/or notes authorized hereby, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, 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 any offering of such bonds and/or notes for sale be and hereby is approved.

VOTED: That the bonds and/or notes authorized hereby shall be transferable only on the registration books of the Town kept by the transfer agent appointed by the Town, and said bonds and/or notes of one maturity may be exchanged for an equal aggregate principal amount of the bonds and/or notes 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/her attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the transfer agent may 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 and/or notes upon exchanges or transfer thereof to be paid by the person requesting the same.

VOTED That the Treasurer and Chair of the Town Council from time to time shall execute such bonds and/or notes authorized hereby as may be required to provide for exchanges or transfers of the bonds and/or notes, all such bonds and/or notes to signed by the Treasurer and Chair of the Town Council, attested by the Town Clerk, as provided herein.

VOTED: That as an alternative to the provisions of the foregoing paragraph regarding the physical transfer of the bonds and/or notes authorized hereby, 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 the bonds and/or notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, and to enter into a Letter of Representation or any other contract, agreement or understanding necessary or appropriate in order to qualify the bonds and/or notes for and participate in the Depository Trust Company Book-Entry Only System.

VOTED: That the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to covenant and certify that no part of the proceeds of the bonds and/or notes, or the Projects, shall be used directly or indirectly in any manner that would cause such bonds and/or notes to be “private activity bonds” or “arbitrage bonds” within the meaning of Section 141 or Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”).

VOTED: That the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to covenant for the benefit of the holders of the bonds and/or notes authorized hereby, 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 and/or notes will remain exempt from federal income taxes.

VOTED: That the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to covenant, certify and agree, for the benefit of the holders of such bonds and/or notes authorized hereby, 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 to the extent available under Section 265(b)(2) of the Code, the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to designate the bonds and/or notes authorized hereby as “qualified tax exempt obligations”.

VOTED: That the investment earnings on the proceeds of the bonds and/or notes authorized hereby, if any, and the excess proceeds of such bonds and/or notes (including premium), if any, be and hereby are appropriated, and the Treasurer be hereby be and hereby is authorized and directed, in the name of and on behalf of the Town, to direct the use of such funds, for the following purposes: (i) to pay costs of the Projects, including costs of issuance for the bonds and/or notes, (ii) to pay interest during construction and for a period not to exceed three (3) years from the issue date of such bonds and/or notes, (iii) to pay debt service on the bonds and/or notes, and (iv) with regards to investment earnings only, to be deposited into the Town’s General Fund.

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 the name of and on behalf of the Town, 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 and/or notes authorized hereby.

VOTED: That if any of the Treasurer, Chair of the Town Council or Town Clerk who have signed or sealed the bonds and/or notes authorized hereby shall cease to be such officers or officials

before the bonds and/or notes so signed and sealed shall have been actually authenticated or delivered by the Town, such bonds and/or notes 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 and/or notes had not ceased to be such officer or official; and also any such bonds and/or notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of execution, shall be the proper officer or official of the Town, although at the nominal date of such execution, any such person shall not have been such officer or official.

VOTED: That if the Treasurer, Chair of the Town Council or Town Clerk are for any reason unavailable to approve and execute the bonds and/or notes authorized hereby or any other Financing Document, the person or persons then acting in any such capacity, whether in an interim or acting capacity or 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 bonds and/or notes authorized hereby may be combined with any other bonds or notes duly authorized by the Town and together issued as a single bond issue.

VOTED: That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Projects, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Projects are located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Projects; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Projects; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

VOTED: That during the term any of the bonds (or bonds issued to refund such bonds) are outstanding, the Treasurer be and hereby is authorized and empowered, in the name of and on behalf of the Town, to issue and deliver refunding bonds to refund some or all of the bonds then outstanding, and to determine the form, maturity(ies) (not to exceed the maximum term permitted by law), interest rate(s), provisions for early redemption prior to their stated maturity date(s), and all other details of such refunding bonds, including the form and manner of their sale and award; and any such refunding bonds issued hereunder shall be signed by the Treasurer, countersigned by the Chair of the Town Council, either or both of whose signatures may be by facsimile to the extent permitted by law, and attested by the Town Clerk, under the seal of the Town.

VOTED: That in lieu of or in advance of issuing notes in anticipation of the bonds authorized hereby, the Town Council may authorize and empower the Town Manager to advance available funds from the Town's General Fund to the School Department to finance the costs of the Projects, 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 Projects are paid by the Town from the general fund or other fund, such payments may be reimbursed from the proceeds of said the bonds and/or notes authorized hereby.

VOTED: That the question of incurring the expenditures authorized by the foregoing votes be submitted to the voters of the Town of Cape Elizabeth at a referendum election at a time to be designated by the Town Council, and that the foregoing votes authorizing the expenditures shall not be effective unless and until approved by the voters in such referendum election, and if not so approved, the bonds and/or notes authorized hereby to fund such expenditures shall not be issued.

A true copy of an Order adopted August 22, 2022, by the Cape Elizabeth Town Council at a meeting thereof duly convened and conducted at Cape Elizabeth, Maine, attest.

Cape Elizabeth Town Clerk

Date: _____, 2022

TOWN OF CAPE ELIZABETH, MAINE
Vote Authorizing Expenditures of up to \$5,000,000 in the form of Gifts and Grants
to pay for Additional Auditorium Seating, Solar Panels and Other Miscellaneous Improvements to
Enhance the New Elementary School and New Middle School

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Town of Cape Elizabeth, a municipal school unit acting by and through its School Department and School Board, proposes to construct a new elementary and a new middle school to replace the current Pond Cove Elementary School and Cape Elizabeth Middle School, and to renovate Cape Elizabeth High School (collectively, the “Projects”); and

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Town Council has voted to authorize a borrowing of up to \$115,943,324 to finance the costs of the Projects; and

WHEREAS, the Cape Elizabeth School Board has requested that the Town Council authorize additional expenditures of up to \$5,000,000, which funds shall be raised by pledges, gifts, grants and other donations to pay for the following additional improvements ancillary to the Projects: increase the auditorium seating capacity to 650 seats, a roof solar array, a green roof, an amphitheater, concession space at the new middle school, an expansion of the new middle school fitness room space, enhanced outdoor learning spaces, and other potential enhancements (collectively, the “Additional Improvements”); and

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

VOTED: That, subject to an approving vote of the voters of Cape Elizabeth, the Town, a municipal school unit acting by and through its School Department and School Board, be authorized to expend up to \$5,000,000 to pay for the Additional Improvements.

VOTED: That the \$5,000,000 of funds used to pay for the Additional Improvements shall not include any taxes raised and collected by the Town, but shall consist only of pledges, gifts, grants and other donations paid to the Town or the School Department to pay for the Additional Improvements.

VOTED: That the investment earnings on such pledges, gifts, grants and other donations, if any, be and hereby are appropriated, and the Treasurer be hereby be and hereby is authorized and directed, in the name of and on behalf of the Town, to direct the use of such funds to pay costs of the Additional Improvements.

VOTED: That the question of incurring the expenditures authorized by the foregoing votes be submitted to the voters of the Town of Cape Elizabeth at a referendum election at a time to be designated by the Town Council, and that the foregoing votes authorizing the expenditures shall not be effective unless and until approved by the voters in such referendum election.

A true copy of an Order adopted August 22, 2022, by the
Cape Elizabeth Town Council at a meeting thereof duly
convened and conducted at Cape Elizabeth, Maine, attest.

Cape Elizabeth Town Clerk

Date: _____, 2022

TOWN OF CAPE ELIZABETH
Order Approving Referendum Questions Regarding School Construction Project

WHEREAS, on August 22, 2022, the Cape Elizabeth Town Council voted (i) to authorize expenditures of up to \$115,943,324 to design, construct and equip a new elementary school, a new middle school and to renovate Cape Elizabeth High School (the “Projects”), and further authorized issuance of the Town’s general obligation bonds to finance the Project, and (ii) to authorize additional expenditures of up to \$5,000,000 in the form of pledges, gifts, grants and other donations to pay for the following additional improvements ancillary to the Projects: increase the auditorium seating capacity to 650 seats, a roof solar array, a green roof, an amphitheater, concession space at the new middle school, an expansion of the new middle school fitness room space, enhanced outdoor learning spaces, and other potential enhancements (collectively, the “Votes”); and

WHEREAS, pursuant to Article VIII, Section 2 of the Town Charter, any Town Council vote for a single capital expenditure of Town funds or a single capital improvement, the total cost of which exceeds one million dollars (\$1,000,000), must be submitted to a referendum vote at a time designated by the Town Council; and

WHEREAS, pursuant to Title 20-A, §§15904 & 15905-A and Title 30-A, §2528 of the Maine Revised Statutes, as amended, on August 22, 2022, the Town Council held a public hearing on the Votes and the proposed questions submitting the Project to a referendum vote, which public hearing was held in a manner that solicited and allowed for a discussion on the merits of the Votes and the questions by the public; and

WHEREAS, the Town Council now desires to approve the form of the questions to be submitted to referendum vote and to designate the time for such referendum;

NOW THEREFORE, be it hereby Ordered and Resolved by the Town Council of the Town of Cape Elizabeth as follows:

1. That the following questions be submitted to referendum vote:
 - Shall the Town Council Vote Authorizing Expenditures of up to \$115,943,324 to Design, Construct and Equip a New Elementary School and a New Middle School and to Renovate Cape Elizabeth High School and Issuance of the Town’s General Obligation Bonds Therefor be Approved?
 - If the foregoing question is approved by the voters, shall the Town Council Vote Authorizing Expenditures of up to \$5,000,000 in the form of Gifts and Grants to pay for Additional Auditorium Seating, Solar Panels and Other Miscellaneous Improvements to Enhance the New Elementary School and New Middle School be Approved?

2. That pursuant to Title 20-A, Section 15905-A and Title 30-A, Section 2528(5)(B) of the Maine Revised Statutes, as amended:
 - a. The Town Council, as the municipal officers of the Town, recommend that the referendum questions submitted to the voters be approved;
 - b. The warrant calling such referendum and the ballot used at such referendum be accompanied by a statement substantially to the effect that:
 - i. The Cape Elizabeth Town Council recommends that said questions be approved; and
 - ii. The Cape Elizabeth School Board recommends that said questions be approved.
3. That the questions be accompanied by a financial statement signed by the Town Treasurer, as required by 30-A M.R.S.A. §5772(2-A).
4. That the foregoing questions be submitted to the voters of the Town of Cape Elizabeth at a referendum election to be held on November 8, 2022.
5. That the Town Manager, Clerk and other appropriate Town official or employee be and hereby are authorized to take any and all additional actions as may be reasonably necessary to schedule, hold and conduct said referendum.
6. That this Order shall take effect immediately upon adoption.

A true copy of an Order adopted August 22, 2022, by the
Cape Elizabeth Town Council at a meeting thereof duly
Convened and conducted at Cape Elizabeth, Maine, attest.

Cape Elizabeth Town Clerk

Date: _____, 2022



**TOWN OF CAPE ELIZABETH
MUNICIPAL and REFERENDUM ELECTION
WARRANT
TUESDAY, NOVEMBER 8, 2022**

County of Cumberland, ss.

State of Maine

To Paul W. Fenton, a constable of Cape Elizabeth. In the name of the State of Maine, you are hereby directed to notify the voters of Cape Elizabeth of the election described in the warrant.

To the voters of said Town of Cape Elizabeth:

You are hereby notified that an election will be held at the Cape Elizabeth High School, 345 Ocean House Road in the said Town at 7:00 a.m. on Tuesday, November 8, 2022, for the purpose of determining the following offices and questions:

Voting for two members of the Town Council to serve a three-year term until December 8, 2025.

Voting for two members of the School Board to serve a three-year term until December 8, 2025.

Elementary/Middle/High School School Project Question

Shall the Town Council Vote Authorizing Expenditures of up to \$115,943,324 to Design, Construct and Equip a New Elementary School and a New Middle School and to Renovate Cape Elizabeth High School and Issuance of the Town's General Obligation Bonds Therefor be Approved?

YES

NO

- The Town Council recommends that the school construction question be approved.
- The School Board recommends that the school construction question be approved.

TREASURER'S STATEMENT

The undersigned Treasurer of the Town of Cape Elizabeth, Maine hereby provides the following statement pursuant to 30-A MRSA §5772(2-A).

A. Town Debt:

1. Bonds outstanding and unpaid: \$8,107,270
2. Bonds authorized but unissued: 1,762,757
3. Bonds to be issued if the question
is approved: \$115,943,324

B. Costs:

Assuming an average annual interest rate of 4.0%, and a 30 year term, the estimated cost of the new bonds will be:

Bond Principal:	\$115,943,324
Estimated Interest Cost:	71,884,869
Total Estimated Debt Service:	\$187,828,193

C. Validity:

The foregoing represents an estimate of costs associated with the financing and such estimates will change due to market conditions. The validity of the voters' ratification of the bonds shall not be affected by any errors in the foregoing estimates and the ratification by the voters is conclusive and the validity of the bond issue is not affected by reason of any variance of actual costs from the estimates provided above.

Matthew E. Sturgis
Treasurer, Town of Cape Elizabeth

Elementary/Middle School School Fundraising Question

If the foregoing question is approved by the voters, shall the Town Council Vote Authorizing Expenditures of up to \$5,000,000 in the form of Gifts and Grants to pay for Additional Auditorium Seating, Solar Panels and Other Miscellaneous Improvements to Enhance the New Elementary School and New Middle School be Approved?

YES
NO

Town Center and Affordable Housing Zoning Ordinance Amendments Referendum

Shall the Zoning Ordinance of the Town of Cape Elizabeth, Maine in Sec. 19-1-3 (Definitions), Sec. 19-6-4 (Town Center District), and Sec. 19-7-8 (Off-Street Parking) be amended, in accordance with the Ordinance adopted by the Town Council on October 13, 2021, to allow: 1) new definitions of “Affordable Housing” and “Mixed Use Building” if a Site Plan Review application includes a building with at least ten (10) dwelling units, and a minimum of seventy percent (70%) of the dwelling units are affordable to low-income households; 2) affordable housing in “mixed use” buildings in the Town Center District that: a) requires low income affordability to be maintained for a minimum of forty-five (45) years; b) increases the density or maximum number of dwelling units per area from 3,000 square feet to 1,500 square feet; c) increases the maximum building footprint for an affordable housing building from 5,000 square feet to 12,000 square feet; d) increases the maximum building height from 35 feet to 45 feet; and e) eliminates the commercial use requirement on the first floor; and 3) a reduced number of off-street parking spaces required for an affordable housing development in the Town Center District provided the Planning Board determines that the proposed parking is sufficient to address the parking needs?

YES
NO

Election to be held on Tuesday, November 8, 2022, at the Cape Elizabeth High School.

Polls open at 7:00 a.m. and close at 8:00 p.m.

Absentee Ballot Processing:

Prior to Election Day absentee ballots will be processed at Town Hall in accordance with 21-A M.R.S. §760 which permits such processing up to seven days prior to the election. Questions regarding dates and times should be directed to the Town Clerk.

Absentee ballots will be processed on Election Day, on the hour every hour beginning at 7:00 a.m. until close. The Cape Elizabeth Town Democratic Committee, the Cape Elizabeth Town Republican Committee, and the State Green Independent Party have been notified, in writing, of the absentee balloting process.

The Registrar of Voters is available to accept new registrations and corrections to the voter list. The Registrar can be reached at Town Hall 799-7665. The Registrar is also available on Election Day at the polls 7:00 a.m. – 8:00 p.m. Proof of residency and identity is required.

Municipal Officers of Cape Elizabeth, Maine
Dated at Cape Elizabeth this 22nd day of August 2022.

A true copy. Attest: ----- Constable

Attest: ----- Town Clerk

The warrant and specimen ballots shall be posted at least 7 days prior to the election.