

**Shore Acres, Broad Cove, Hannaford Cove
Paper Street Meeting Notes**

Wednesday, February 24, 2016
7:00 p.m. - 9:00 p.m.
Cape Elizabeth Town Hall

Welcome/Introductions

Town Council Chair Molly MacAuslan opened the meeting and explained that this meeting is part of the town council goal to address paper streets. She referenced the 2015 Paper Street Report on the town website and also explained the public engagement plan for paper streets, which began with reviews by the Planning Board and the Conservation Commission.

Councilor MacAuslan explained that the purpose of tonight's "listening session" is to hear public comment on how paper streets are currently used and how they should be used in the future. Once the neighborhood meetings have been held, the town council will hold 1-2 workshops before holding a public hearing.

She introduced Durward Parkinson, Bergin and Parkinson, who has been retained by the Town Council to provide legal advice on paper streets. Also attending are Town Manager Michael McGovern, Town Planner Maureen O'Meara, and members of the Town Council (Garvin, Grennon, Ray, Sullivan).

What is a Paper Street

Mr. Parkinson explained that paper streets are streets on recorded subdivision plans that were never built, however "incipient rights" were created for the town to accept. Cape Elizabeth has recognized paper streets and extended its rights in 1997.

Paper streets can be important and many were laid out at the turn of the century. When the subdivision plan is recorded, "incipient rights" are incipiently dedicated to the town. The town has a right at a future date to accept the paper street and use it for a public purpose. The first step is the dedication. The town still needs to take the second step to "accept" a paper street, which requires a vote of the town council and recording in the Cumberland County Registry of Deeds.

The Maine legislature required that towns that wanted to preserve rights extend them in 1997. We are coming up on the 20 year extension. It can be extended for 1 more 20 year period. If there is no extension, the street will be deemed vacated and the underlying property will be divided at the center line and added to abutting property.

These rights are separate from private rights, and property owners with questions about their private rights should consult their own attorney, especially as private rights can differ based on whether there are deeded references, and other factors.

It is also possible that a party may bring a court case asserting that, due to the passage of time, town rights have been vacated. He referenced a case where the court found the Town of Boothbay still retained rights in a paper street recorded in 1924.

There is also a question about the allowed use of a paper street. It depends on the intent of the grantor. He is advising that paper streets can be used as trails because it is a "lesser included use" of the original intent of the paper street to be a road.

2015 Paper Street Report

Maureen O'Meara reviewed highlights of the Paper Street report. The report updated the 1997 paper street inventory. The inventory spreadsheet is separated into groups and the focus tonight is on the paper streets in the yellow group. The best maps to view individual paper streets are in the paper street report posted on the town website.

She reviewed the public interest factors that were evaluated in the 2015 Paper Streets Report.

Public Comment

Council Chair MacAuslan opened the meeting to public comment.

Nolan Reichl, 1 Rock Crest Dr - Mr. Reichl represents Imad Khalidi and Carmen Chatmas who own property on Pilot Point Rd where paper streets are shown on the map. There is ongoing litigation on these issues, so he has asked his clients not to speak tonight. They will be submitting written comments.

Eric Taylor, 15 Roundabout Ln - He supports paper street U36-3, Pine Ridge Rd, as a greenbelt trail and great resource. He uses it winter and summer.

Priscilla Armstrong, 18 Avon Rd - My lot does not have a paper street on it [U12-1].

Chuck Rzeszuiko, 6 Waumbek Rd - He has recently retired here and loves the quality of life. He and his wife walk 5-6 days a week. They walk on the paper streets and find it emotionally and physically helpful. They both support the Planning Board and Conservation Commission recommendations to keep the paper streets that have been in place since 1911.

Matt Todaro, 29 Broad Cove Rd - How was the information conveyed to the Conservation Commission and Planning Board? What did they base their decision on?

Councilor MacAuslan asked Ms. O'Meara to respond. Ms. O'Meara stated both boards relied on the 2015 Paper Street Report. Discussions were held at public meetings and minutes of those meetings are on the town website.

Sue Murray Guerette, 2 Katahdin Rd - She supports extending the paper streets for 20 years. We do not need a plan for them today. The Fort Williams Park cliff walk and the Shore Rd path are two examples that we have now but did not imagine in the 1960's or on the original horse and buggy roads.

Russ Keenan, 3 Spoonrift Ln - We own property behind Spoonrift on Avon Rd. I question U36-1 as a paper street because we have a warranty deed. U36-1 is 130' long, abuts our lot and does not go anywhere.

George Foley, 9 Pilot Point Rd - He favors extending paper street rights for 20 years. This gives us time to discuss. Surfside [U12-5 and U12-8] is one of the few places with ocean front access.

Chris McCarthy, 9 Salt Spray Ln - He would like to extend some paper streets, but why are you limiting it to extending for 20 years? Why not take next step and accept on some of the paper streets?

Kelly McDonald, 4 Lighthouse Point Rd - Commenting on U15 Lighthouse Point Extension, she lives in a tiny neighborhood (we have a view of 2 lighthouses) with two small children and the vehicular traffic from visitors starts earlier every year. She has concerns with public safety, sanitary, people walking without a lot of private property respect. She does not understand the value of a small greenbelt trail extending to the Coast Guard land. She understands it is a beautiful site and her family uses town trails. This trail would not encourage local town use, but rather tourist use.

Mitchell Lench, 15 Lighthouse Point Rd - Our neighborhood has a similar view as Kelly McDonald. Everyone has GPS now to locate the lighthouse, there are more references on the internet and the Lobster Shack has become much more crowded. People are parking anywhere and there is a continuous flow of cars. We understand people want to see lighthouses and that is part of what attracted us to the neighborhood, but a trail would serve tourists. The town should do an analysis of how many cars travel our neighborhood, how many are out-of-state and how many people are going in backyards. Lighthouses attract visitors and a really easy access tourist trail would be used by visitors. We all love the trail system but there are some practical issues in our area.

Jim Morra, 5 Waumbek Rd - Paper street rights that are abandoned are gone forever. I want the town to extend rights to all paper streets in Cape Elizabeth that could potentially benefit the majority of residents. Paper street U12-5 has the potential for a 1/4 mile trail along the ocean. Surfside Ave has a potential benefit to a majority of residents. U12-8, U12-2, U12-3, U12-7 and U36-1 have potential to connect to other greenbelt trails. These streets have potential future benefit to the majority of residents of Cape Elizabeth.

Jim Johnson, 2 Lighthouse Pt Rd - I support Mr. Lench's and Mrs. McDonald's comments. He can't mow his lawn without speaking to 2-3 tourists about how can they get to the lighthouse. We already have a situation where people wander around, take a picture, and there is nothing for them to do and they leave, not very happy. It is a dead end. This isn't a good place for a trail. I like the trails and use the other trails.

Chris Bond, 213 Ocean House Rd - I own property on Two Lights Rd on the section with traffic. It is a constant line of traffic through the summertime, and that is just the way it is, what I signed up for when I moved there. It is a beautiful place and I understand people want to see it. We should regulate parking and make sure people behave responsibly. I look at that big piece of government property and wonder how to get there, and I used to be in the Coast Guard. To find out there is a place where pedestrians can park and walk on that beautiful park is very special for Cape Elizabeth residents. I've lived there for years and never went back there as a private citizen. That opportunity should not be shut down because of traffic and tourists. It's not that bad, a bus goes down once in a while and people try to park on your lawn, but it's not a big deal. I would strongly encourage the town to preserve that paper street and reach an agreement with the United States government to allow public access to the shore.

Sheila Mayberry, 30 Trundy Rd - For several years, many residents have supported the town keeping the paper street rights. Hundreds of people have signed a petition to preserve paper streets. Paper streets provide a public benefit, including along the shoreline. The town should continue to hold the implied rights.

Steve Misterovich, 10 Beacon Ln - He echoes Kelly McDonald's comments on U15. Beacon Lane is 10' wide and private and people park cars there to see the lighthouse. It is frustrating because there are not that many lighthouses located in a small neighborhood. Balsam Rd is more like 60' to 100' long, it ends in our yard and there is no reason to keep that road.

Richard Lemieux, 10 Wabun Rd - U12-5, take exception to keeping it. The neighborhood already has Surfside and Trundy Point for shore access. Surfside Ave was put in place as part of a 1911 development plan, with the purpose to provide lot access. Now that those lots are combined, it is not needed. It would be quite a challenge to install a short trail, which would be close to neighbors who bought homes. It was never an issue in the

neighborhood and no one walks there because it is inaccessible. It doesn't serve the town to try to develop this trail.

David Leopold, 25 Pilot Point Rd - I advocate for the town to vacate U12-5. The reasoning to preserve rights does not apply to this paper street because there is no connectivity to open space. It does not add access to an underserved neighborhood. We have Trundy Point and a trail on a portion of Surfside.

Heather Geikie, 12 Surfside Ave - She read a letter from Bruce and Andrea Dunphy, who are out of town. They question why the town has spent so much time on this. The Town Council has much more important things to do affecting all town residents. Other than a few very vocal Shore Acres residents in the area of Pilot Point Rd, demanding access to land that is impassible in front of homes on the cliffside, having heard from numerous others that want the town to adopt the paper streets. We fear this has been generated by a few spiteful residents. The majority of Shore Acres residents do not support their actions. Shore Acres has more ocean front access already than most other communities. Trundy Point provides 4+ acres of preserved land with easy access and a beautiful beach. There is another lot, with total access of 6 acres, easy access, no cliffs and no litigation. The town should pay attention to other issues.

Mrs. Geikie asked if the intent of the greenbelt is to connect trails and Surfside does not connect to any trails.

Councilor MacAuslan asked Ms. O'Meara to respond, although she wants to stay focused on paper streets instead of the greenbelt plan. Ms. O'Meara said that the town takes a long view on connectivity, working with willing property owners, to put pieces in place over time. The Cross Town trail, which has been 30 years in the making and extends from Fort Williams Park to Crescent Beach, is within 1-2 parcels of being complete. She explained that the Conservation Commission reviewed the paper streets, also created a Greenbelt Plan in 2013. Surfside is on the Greenbelt Plan, but not a top priority.

George Foley, 9 Pilot Point Rd - The original developer of Shore Acres intended Surfside Ave to provide access for everyone. The town manager has said this. We have used that trail from 1964 on and walked it many times. It is beautiful.

Sheila Mayberry, 30 Trundy Rd - We can provide names of people who have walked paper streets in Shore Acres. This corrects some earlier information.

Nicole McCarthy, 9 Salt Spray Ln - She walks the connector to Shore Acres and see folks walking all the time. It is nice to have a connection.

Chris McCarthy, 9 Salt Spray Ln - He is wondering if the Town Council will visit the paper roads?

Councilor MacAuslan said the Town Council has not discussed that at this time, but maybe.

Kelly McDonald, 4 Lighthouse Pt Rd- Because of the high volume of traffic, she insists the town conduct a feasibility study of Lighthouse Point Rd that considers volume and the implications of a "rangerless park" on private property owners.

Mitchell Lench, 15 Lighthouse Pt Rd - He also supports a feasibility study of Lighthouse Pt Rd extension. The issue should be dealt with now before a trail is created next to his house. There are 40 houses in the neighborhood and the issues are connected.

Ian Neilson, 11 Waumbek Rd - He would like to keep the status quo. Don't give up the paper streets. The greenbelt trails is a different discussion.

Attendees were reminded that additional comments can be sent to the town council or the town planner, addressed to the town council.

Chris Bond, 213 Ocean House Rd - He asked if the legal status of paper streets is influenced by current use, such as a private driveway?

Durward Parkinson responded that he would not comment on private rights, but if the town is using a paper street, it should accept its rights.

David Morrill, 20 Ledgewood Ln - If a street is vacated and abutters accept the land on either side, what happens if no one owns the land on one side?

Mr. Parkinson said that is unknown. He noted that in a question of "who owns the shore?" it could be determined as a case of first impression. He generally observed that Cape Elizabeth is further ahead than other towns, and using a better process.

Councilor MacAuslan thanked people for participating. Additional neighborhood meetings are scheduled in March. Once those are completed, the town council will hold at least 1 workshop and a public hearing, not yet scheduled, before taking action.

The meeting ended at 8:30 p.m.