



## TOWN OF CAPE ELIZABETH

### MEMORANDUM

TO: Cape Elizabeth Town Council  
FROM: Conservation Commission  
DATE: June 3, 2016  
SUBJECT: CELT Glew Property Donation Request

#### Introduction

The Conservation Commission scheduled a special meeting on May 31, 2016 to discuss the Cape Elizabeth Land Trust request for a donation to purchase the Glew property.

#### Discussion

CELT Executive Director Cindy Krum, CELT President Anne Carney, and members of the CELT board attended the meeting. CELT gave a presentation on the property and CELT's standards and practices. The Conservation Commission had an extended discussion about ways to collaborate on public access to the Glew property. The draft minutes of the meeting are attached.

#### Recommendation

The Conservation Commission unanimously recommends to the Town Council the following:

Motion: To recommend to the Town Council that \$75,000 be contributed to Cape Elizabeth Land Trust for the purchase of the Glew property / Great Pond Preserve II, subject to CELT's acquiring sufficient funds to purchase the property, and subject to a public access easement that allows for joint management of trails and access with the following conditions: jointly agreed-upon designing for diverse non-motorized multi-use; jointly agreed-upon list of uses, or a process to identify allowed uses; jointly agreed-upon design standards for construction of trails, bridges and boardwalks; joint decision-making authority on alignment/location of trails; joint input into modifications of uses in future and into any limitations of uses; mediation of disputes. Jointly agreed upon decision-making between Town of Cape Elizabeth and CELT reflects equal partnership.

All references to "joint" decision-making, agreements, or management shall mean that CELT and the Town of Cape Elizabeth are equal partners. Mediation shall be used to resolve differences of opinion with regard to management of public access. The Conservation Commission remains available to answer any questions.

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Conservation Commission Minutes  
May 31, 2016

Present: Jim Tasse, Mitch Wacksman, Zach Matzkin, Garvan Donegan, Mark Fleming, Jeremy Gabrielson, Marti Blair, Planner Maureen O'Meara

Guests: From Cape Elizabeth Land Trust - Cindy Krum, Anne Carney, Wyman Briggs, Tom Gale, Bill Luneburg, Suzanne McGinn

Meeting called to order at 7:05 p.m.

1. Citizen comments for items not on the agenda. None.
2. The minutes of May 4, 2016 were revised to reflect that Mitch Wacksman was not in attendance. The minutes were approved unanimously.
3. Presentation by Cape Elizabeth Land Trust regarding proposed purchase of Great Pond Preserve II (the Glew property). When CELT considers a property, it must meet most criteria from their policy. They also do an evaluation of how the property will be of public benefit.

Anne Carney described CELT's recent successful effort to become nationally accredited. They meet the criteria for long term land protection and stewardship standards, and have recently established an endowment. CELT is a 501c3,

In response to a question regarding the status of the relationship of the Town of Cape Elizabeth with the Land Trust, Ms. Carney replied that the relationship is what we decide, and could be a partnership. With regards to other properties, there has never been a specific partnership agreement with the Town. Approximately half in number of CELT's properties are owned versus held under easement by CELT.

CELT provided a survey and an environmental assessment.

Cindy Krum offered that a public access easement could involve collaboration with the Commission on trail construction. Anne Carney stated that a declaration of trust would be executed by CELT which limits the development of the property, prohibits motorized vehicles with the exception of use of tractors on the farm road, and prohibits snowmobiles.

The purchase price in the contract is \$315,000, which is appraised value. The closing date is August 1, 2016. CELT currently has raised \$14,000 from their board, \$7000 from Casco Bay Estuary Partnership, \$1000 from a donor. They are engaged in a "quiet campaign" as opposed to a large capital campaign, and will be making requests at their summer fundraiser. They have filed grant applications and are holding neighborhood meetings. They do have some funds in a land acquisition account. A request of \$75,000 has been discussed with Town employees.

According to CELT, the reasons for purchasing this property include: the Greenbelt crosses it; it is used by townspeople; proximity to Great Pond; possible connectors; close to Alewife Brook and part of its watershed; habitat; vernal pools.

CELT was asked how they plan to provide access during the months when it is extremely wet, and responded that they envision boardwalks. The point was raised that winter use is easier than other seasons.

In response to a question from a Commissioner, CELT said that they are not planning to apply for Land for Maine's Future funds. The land is being used by hunters, which should be considered as a use. CELT does not typically permit hunting on its properties unless there is LMF funding.

CELT was asked whether they have discussed how to develop a better relationship with the Conservation Commission. CELT replied that their strategic plan envisions working together to define a productive relationship, since the two organizations share a similar mandate.

The Planner asked why not a conservation easement held by the Town rather than a declaration of trust. Anne Carney replied that CELT knows that they can uphold the terms of the declaration of trust and preserve the land in perpetuity, while the Town has many other functions and priorities which will change over time. The Planner stated that if the easement lays out conservation values, those can be protected over time. Commission members noted that past experience with Robinson Woods has not provided the Town or Conservation Commission with input into decision-making.

In response to a question, the Planner advised that the Commission can recommend that funding be contingent on actual purchase of the property, including fund-raising of the remainder by CELT. The Planner detailed the methods by which the land acquisition fund is financed.

The Commission stated that a goal of an easement is to avoid unilateral decision making on the part of CELT, particularly regarding access and management decisions. Language would need to be resolved by August 1, setting a precedent for a relationship that gives the Town/Conservation Commission a role in decision-making.

The question of a conservation easement versus a public access easement was discussed, with the understanding that a conservation easement runs with the land and is more enforceable. Deed restrictions run with the holder more than with the land, and are essentially a promise the land owner makes to themselves. Anne Carney stated that if the Commission's primary concern is public access, then a public access easement would be appropriate. Conservation easements are recorded on a balance sheet as a liability, and certain financial requirements must be met like stewardship and legal defense funds. A public access easement is not the same liability.

There was discussion of conditions to be included in an easement: jointly agreed-upon designing for diverse non-motorized multi-use; jointly agreed-upon list of uses, or a process to identify allowed uses; jointly agreed-upon design standards for construction of trails, bridges and boardwalks; joint decision-making authority on alignment/location of trails; input into

modifications of uses in future and into any limitations of uses; joint decision-making between Town of Cape Elizabeth and CELT; mediation of disputes. Jointly agreed upon reflects equal partnership.

Motion: To recommend to the Town Council that \$75,000 be contributed to Cape Elizabeth Land Trust for the purchase of the Glew property/Great Pond Preserve II, subject to CELT's acquiring sufficient funds to purchase the property, and subject to a public access easement that allows for joint management of trails and access with the following conditions: jointly agreed-upon designing for diverse non-motorized multi-use; jointly agreed-upon list of uses, or a process to identify allowed uses; jointly agreed-upon design standards for construction of trails, bridges and boardwalks; joint decision-making authority on alignment/location of trails; joint input into modifications of uses in future and into any limitations of uses; mediation of disputes. Jointly agreed upon decision-making between Town of Cape Elizabeth and CELT reflects equal partnership.

Passed unanimously

Meeting adjourned at 9:17 p.m.

Next meeting: June 14, 2016

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