



## **Cape Elizabeth Town Council Minutes**

**Monday, September 12, 2016**

**7:00 p.m.**

**Cape Elizabeth Town Hall**

Molly MacAuslan, Chair  
James M. "Jamie" Garvin  
Patricia K. Grennon  
Caitlin R. Jordan  
Sara W. Lennon  
Katharine N. Ray  
Jessica L. Sullivan

The meeting was convened by Town Council Chair Molly MacAuslan at 7:00 p.m.

### **Pledge of Allegiance to the Flag**

### **Roll Call by the Town Clerk**

All members of the town council were present.

Debra M. Lane, Town Clerk  
Michael K. McGovern, Town Manager

### **Town Council Reports and Correspondence**

Councilor Grennon-

Reminder – Citizens' Roundtable will be held on Monday, September 19, 7:00 – 8:30 p.m. in the Middle School Cafetorium. The event is an opportunity for citizens to provide feedback and input as it relates to community goals.

The Alternative Energy Committee 2016 continues to meet. The next meeting will be held on Tuesday, September 20, 7:00 p.m., Town Hall Jordan Conference Room.

Councilor Jordan-

The next meeting of the ordinance committee will be held on Thursday, September 15, 1:30 p.m., town hall lower level conference room. Re: sign ordinance.

### **Finance Committee Report**

Mr. McGovern reported the fiscal year 2016 audit is almost complete; good financial results are anticipated.

### **Citizen Opportunity for Discussion of Items Not on the Agenda**

Mark Mayone, Spurwink Rod & Gun Club recognized and thanked Michael McGovern for his service.

Councilor Grennon announced a celebration of service to honor Mr. McGovern will be held on Tuesday, December 6, 5-7 p.m., Purpoodock Club.

**Town Manager's Monthly Report**

Mr. McGovern has announced his resignation effective 12/31/2016.

Four forums were held in August; winter month, hunting, Fort Williams proposed amphitheatre and pool issues. The council is encouraged to hold such forums on specific topics early in the process to obtain public input.

**Review of Draft Minutes of August 8, 2016 meeting.**

Moved by Patricia K. Grennon and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on August 8, 2016 as written.

(7 yes) (0 no)

**Public Hearing**

**Paper Street Extensions, Vacation and Acceptances**

Chair MacAuslan opened the public hearing at 7:13 p.m.

Andrew Bernstein, 19 Trundy Road U12-2 is a private shared driveway with 17 Trundy Road. Both homeowners request the paper street to be vacated.

Evan Mitchell, 34 Stone Drive questioned if there is an error on the recommendations. Stone Drive (south) is listed as a possible turnaround however Stone Drive (north) currently has a turnaround. A turnaround on Stone Drive (south) would be very close to the house.

Jonathan Change, 34 Manter Street recommends a portion of Manter Street be vacated from U33-4 to U33-3. Further development should exit out onto Mitchell Road.

Robert Cronin, 7 Avon Road agrees with Mr. Bernstein to vacate U12-2 and also recommends Atlantic Place and Surfside Avenue to be extended.

Ann Cranshaw, 2 Star Road wants to add a deck so is requesting U21-2 Dearborn Road North to be vacated; the path will be preserved.

Imad Khalidi, 19 Pilot Point Road encourages the council to understand the legal issues surrounding paper streets.

Joan Aldrich, 18 Lawson Road supports the retention of U8-1 Woodcock Road.

Richard Armstrong, 2 Waverly Road supports the vacation of Atlantic Place and Surfside Avenue.

Doug Monson, 3 Gladys Road stated it's helpful to have the reasons/notes on the summary of recommendations spreadsheet. Not knowing the reasons and future use creates angst and uncertainty.

Lyvia Jensen, 71 Stonybrook Road wants to build a garage so is requesting vacation of U3-3B Stonybrook Road (southwest).

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Edward Fells, 4 Surfside Avenue stated there is no intent to limit pedestrian access to Surfside Avenue; supports vacating. What does the town gain to accept it? Is the town willing to maintain the road if accepted?

Mitchell Lench, 15 Lighthouse Point Road favors vacation of U15-1 Lighthouse Point Road. The area is overrun with tourists, problems with cars and pedestrians walking on private property.

Bruce Dunphey, 25 Algonquin Road favors the vacation of Surfside Avenue and Atlantic Place. Neighbors in Shore Acres have not been denied access to walk.

Susan Murray Guerette, 2 Katahdin Road encouraged the council to be visionaries as previous selectmen and councilors has been e.g. purchase of Fort Williams Park. Extend Surfside Avenue and Atlantic Place.

Priscilla Armstrong, 18 Avon Road supports the extension of Surfside Avenue and Atlantic Place. The neighborhood is complex in that some have deeded rights to the paper streets. The issue is controversial so perhaps the extension will give time to sort things out including where the greenbelt or other trails may connect.

Sheila Mayberry, 30 Trundy Road favors the extension of Surfside Avenue and Atlantic Place. The town should uphold the work that has been done as the paper streets were identified in the greenbelt trail.

Jeff Perrin, 8 Surfside Avenue favors the vacation of Surfside Avenue. The neighbors have not excluded bikers, walkers, young families from using the paper street.

Jim Morra, 5 Waumbek Road favors acceptance of Surfside Avenue and Atlantic Place. The decision should be based on the benefit for a majority of residents.

Catherine Adams 15 Spoonrift Lane favors the vacation of Surfside Avenue and U36-1 and U36-2 Spoonrift Lane (north and west). Sadden by the controversy over the paper street.

Lisa Mainella, 9 Beach Bluff Terrace said when the Nickerson's built the house on Thompson Road they were told to plant trees in the paper street which lead the neighbors to believe the paper street would go no further. If the paper street is continued streets will be on both sides of several homes. Is there precedence in town of other homes having streets on both sides? The acceptance will only benefit one of the abutters who could access their property through their own property.

Heather Geikie, 12 Surfside Avenue favors vacation of Surfside Avenue. There is no connectivity on Surfside Avenue to other trails and neighbors are not willingly going to give up their rights to this property. Residents from other neighborhoods have not been stopped from using the paper street. Not enough parking to accommodate visitors from all over the country.

Aaron Anker, 5 Algonquin Road said the issue of Surfside Avenue has caused neighbors to take sides. Too many things have not been planned. Extend Surfside Avenue to give time to study and mediate the sides.

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Eric Kruger, 33 Beach Bluff Terrace purchased 11 slices of land which is in trust for sons. He requests a compromise position for the town to maintain its' rights up to the property and then vacate the remainder. Accessing through the current driveway has issues of easements with neighbors, disturbing the septic system or will require tearing down the house.

Clara Cohan, 15 Beach Bluff Terrace favors Thompson Road being vacated and the town working out a way for the Kruger's to access the land.

Ogden Williams, 5 Beach Bluff Terrace said before the Nickerson home was built on Thompson Road trees provided a barrier but when the home was built trees were cut down then trees were replanted. If the road is accepted it will be widened and trees will be again cut down removing the privacy.

Russell Keenan, 3 Spoonrift Lane wants to clarify U36-1 should be removed from the paper street list. This is a private way not a paper street; the parcel is part of the warranty deed.

Deborah Casey, 28 Algonquin Road said there is no connectivity to the paper street on Surfside Avenue so if the town wanted to connect from Algonquin Road Ext. a private way would be taken by eminent domain. Is there precedence for this type of taking? No one has been stopped from using Algonquin Road.

Bill Nickerson 3 Thompson Road stated when he purchased the property he was required to plant shrubs and trees within Thompson Road. The code officer at the time said more trees could be planted which has been done. Developing the road will create a hardship because of the close proximity of the house to the road. Favors vacation of Thompson Road.

Hulda Khalidi, 19 Pilot Point Road said many factors remain the same as the topic has been talked about in the last 3-4 years. The cliff is dangerous, the drop and liability are the same, there is a cost of logistics in building the path. The quiet neighborhood has not remained the same. Imagine if it were your home and you had people looking into your windows.

Andrea Adams, 25 Algonquin Road asked if the town will guarantee Surfside Avenue will be maintained if accepted. Will the town guarantee cars will not drive on private roads? What is the cost of building the greenbelt trail and legal ramifications if the road is taken?

Deborah Murphy, 24 Pilot Point Road favors the extension of Surfside Avenue. The lots on the original plan have deeded rights to the paper street. There aren't many greenbelt trails along the Atlantic Ocean and this is a great addition.

David Roberts, 25 Trundy Road favors extension of Surfside Avenue for all to enjoy as he did when growing up in Cape Elizabeth.

Chuck Rzeszutko, 6 Waumbek Road hears lots of opinions but hasn't heard what can be done to improve the values and quality of life. Favors extending Surfside Avenue and Atlantic Place. Trusts the council to make the best decision for all residents for all of the paper streets.

Maria Rinaldi, 4 Atlantic Place wants to provide the family perspective. The comfort of children running from house to house playing would no longer be possible if a path is built; it would be unknown who would be walking through, unsafe. Favors vacation of Surfside Avenue and Atlantic Place.

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Joe Guerette, 2 Katahdin Road wanted to clarify that the Shore Acres Association has maintained Surfside in the past.

Stewart Wooden, 33 Pilot Point Road favors vacating Surfside Avenue. The issue is contentious and the uncertainty makes it worse, more legal fees are going to be spent although the decisions should not be based on legal fees.

Richard Lemieux, 10 Wabun Road said it's a matter of fairness. The paper street has been in existence for over 100 years. Has not been a problem until a few years ago. It will cost the town a lot of money to develop the paper street.

Kara Leopold, 25 Pilot Point Road favors the vacation of Surfside Avenue. The town and abutters need to should be considered. The questions for the Surfside paper street should be the same for all other papers streets. Does the town need it? Has the town been using it? Why is the decision for this paper street more difficult than for others?

Maynard Murphy, 24 Pilot Point Road favors acceptance or extension of the entire length of Atlantic Place and Surfside. This would be the most scenic part of the town's trail system, a tremendous asset for the greater good for the community.

After hearing no further comments the hearing was closed at 8:41 p.m.

**Item #110-2016      Paper Streets**

Moved by Caitlin R. Jordan and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council tables Item #110-2016 regarding recommendations for extending, discontinuing or accepting the town's incipient rights in certain papers streets to the regular town council meeting on Wednesday, October 5, 2016.

(7 yes) (0 no)

**Item #111-2016      Comprehensive Planning Committee**

Intro – Mr. McGovern

Moved by Patricia K. Grennon and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council approves the draft charge of the Comprehensive Planning Committee to begin meeting in early 2017 and a budget of \$55,000 as presented.

(7 yes) (0 no)

**Cape Elizabeth Comprehensive Plan Committee  
Purpose and Charge**

**Committee Structure**

The Cape Elizabeth Comprehensive Plan Committee will consist of nine citizens appointed by the town council. Five of the citizens shall be appointed by the town council utilizing its appointments committee process. The town council shall appoint two members from among the members of the town council. The school board and the planning board shall each nominate one of their members to serve. The committee shall elect its own chair and vice chair. Any vacancy on the committee after the initial appointees have first met shall be filled by the town council. The members who serve on the town council, school board and planning board shall continue to serve on the committee beyond their service on their board as long as they remain residents of the town and are willing and able to serve. The town planner is the principal staff liaison to the committee.

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### **Committee Purpose**

The committee shall develop a new comprehensive plan for town council consideration that meets the review standards of the Maine Growth Management Act.

A citizen survey shall be conducted as part of the committee's outreach to the community. This survey shall be a component of a public participation plan to be developed by the committee early in its deliberations.

### **Duration of Committee**

The committee shall submit its recommended plan to the town council by December 31, 2018 and shall continue to serve until the council completes consideration of the proposed plan.

### **Funding and Staff Resources Needed**

The town council is appropriating \$55,000 for the work of the committee. This is to cover the cost of citizen surveys, a public participation consultant, specialized consulting services, data development assistance, part time staff to assist with minutes, legal reviews, printing, mapping services and other costs. The procurement of goods and services shall be consistent with the town's purchasing policies and procedures.

The anticipated staff time excluding the part time minutes secretary for the committee is 720 hours. This consists of 30 meetings at 20 hours each including preparation time for the principal staff liaison and 120 hours for the town manager. In addition, the town council will spend an estimated 20 hours each reviewing the committee report for a total of 140 hours. The committee members will be anticipated to spend approximately 200 hours each for a total of 1,800 hours. It is not known if school board time will be needed. This will depend on the direction of the committee.

### **Summary**

\$55,000 cash expense  
720 hours staff time  
140 hours council time  
1,800 hours volunteer time

## **Item #112 -2016      Thomas Memorial Library Foundation by-Laws**

Intro – Mr. McGovern

Moved by Jessica L. Sullivan and Seconded by James M. Garvin

ORDERED, the Cape Elizabeth Town Council requests the Thomas Memorial Library Foundation to amend their bylaws to provide that nominees are nominated by the Thomas Memorial Library Committee and that in lieu of two trustees serving on the Foundation board that two members of the Thomas Memorial Library Committee serve.

(7 yes) (0 no)

## **Item #113-2016      Annual General Assistance Updates**

### **Public Hearing**

Chair MacAuslan opened the public hearing at 8:46 p.m.

After hearing no comments the hearing was closed.

Intro – Debra Lane

Moved by Sara W. Lennon and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council adopts the Maine Municipal Association Model Ordinance General Assistance Appendices (A-D) relating to overall maximums and maximums for food, housing and utilities for the period October 1, 2016 – September 30, 2017 as presented.

(7 yes) (0 no)

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**Item #114-2016      Technical Amendments**

Intro – Councilor Jordan, Chair Ordinance Committee

Moved by Caitlin R. Jordan and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council sets a public hearing on Wednesday, October 5, 2016 at 7:00 p.m. at the Cape Elizabeth Town Hall on the proposed technical amendments to the code of ordinances.

(7 yes) (0 no)

**Item #115-2016      Election Warrant**

Intro – Debra Lane

Moved by James M. Garvin and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council approves the November 8, 2016 Municipal Warrant as presented.

(7 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council suspends the Town Council Rules to take Item ##117 & 118 out of order.

(7 yes) (0 no)

**Item #117-2016      Consideration of Approval of Grant Application**

Intro – Mark Fleming, Conservation Committee

Moved by Patricia K. Grennon and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council authorizes the Conservation Committee to apply for a Recreational Trail Development Grant from the Bureau of Parks and Lands for the construction of Pollack Bridge and trail project.

(7 yes) (0 no)

**Item #118-2016      Conservation Committee Goals**

Intro – Mr. McGovern

Moved by Patricia K. Grennon and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the goals from the Conservation Committee as amended; the word “be” was inadvertently omitted. The council thanks the conservation committee for the submission.

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- Loveitt Woods. A significant northern link to the Stonegate/Robinson Woods trail system will be acquired, securing public access on well-used casual neighborhood trail.

(7 yes) (0 no)

**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

**Item #116-2016      Town Manager Transition and Advice on a Non-Related Legal Matter**

Moved by Caitlin R. Jordan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council designates the town council as the search committee for a new town manager. The search will utilize the services of a professional search consultant; proposals for services will be reviewed at an upcoming council workshop. The town council hereby authorizes the town manager to contract with a firm as directed by the council. The expenses for the transition shall be paid from Account 0715-6000.

(7 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council enters into executive session at 9:11 p.m. pursuant to 1 M.R.S.A. §405 (6)(A) and (C) to discuss personnel matters and to receive advice

(7 yes) (0 no)

Moved by Caitlin R. Jordan and Seconded by Sara W. Lennon

ORDERED, the Cape Elizabeth Town Council exits executive session and reenters public session at 10:30 p.m.

(7 yes) (0 no)

**Adjournment**

Moved by Caitlin R. Jordan and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council adjourns at 10:31 p.m.

(7 yes) (0 no)

Respectfully Submitted,

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Debra M. Lane, Town Clerk