



Cape Elizabeth Town Council Minutes

Wednesday, October 5, 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

Chair MacAuslan 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
Michael K. McGovern

Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Chair MacAuslan announced the town council is seeking community input regarding the search for a new town manager. Citizens are invited to gather on Wednesday, October 19 at 7:00 p.m. in the council chambers. Don Gerrish, Eaton Peabody Consulting Group will be moderating the session.

Councilor Garvin reported on the September 19th community roundtable. The session was to gather input and suggestions for the 2017 goal-setting process. The council will continue various outreach events and will consider more topically-focused sessions which were successful during this year.

Councilor Jordan reported the next meeting of the ordinance committee meeting will be held on Thursday, October 6 at 1:15 p.m. in the lower level conference room at town hall.

Councilor Grennon announced the annual appointments process is underway. Interested citizens are encouraged to apply for various boards and committees. The vacancies will be posted in both October issues of the Courier and on the town's website. Applicants may apply online. The deadline to submit applications is Friday, November 4.

Finance Committee Report

Mr. McGovern reported the audit is complete. Reports are available online.

Debra Lane announced absentee ballots will be available next week; the deadline to vote absentee is Thursday, November 3.

Citizen Opportunity for Discussion of Items Not on the Agenda

Town Manager's Monthly Report

Mr. McGovern referenced his October 1st report on Fort Williams Park, see attachment.

Congratulations to Officer Paul Fenton on his graduation from the FBI Academy. Officer Fenton is the third graduate from the Cape Elizabeth Police Department following Chief Neil Williams and former Chief David Pickering.

The pool is now open following renovations and a new system to treat the air quality.

Congratulations to the organizers and participants in the Kids Triathlon – 120 participated.

Joe Sapp, former public works employee of +20 years recently passed away. Thoughts and prayers are with family and friends.

Review of Draft Minutes of September 12, 2016

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 September 12, 2016 as written.

(7 yes) (0 no)

Item #119-2016

Public Hearing

Technical Amendments to the Code of Ordinances

Chair MacAuslan opened the public hearing at 7:16 p.m.

Penelope Jordan, 21 Wells Road, Owner Jordan's Farm, Member Cape Farm Alliance asked for the accessory building and structure section to be sent back to the ordinance committee for review or for the section to be removed from the packet of technical amendments. The provision impacts seasonal structures needed for farm employees; suggests tweaking the proposal to impact residential only.

Jay Cox, 1148 Sawyer Road, Owner Old Farm Christmas Tree Place, Member Cape Farm Alliance referenced his emails asking for consideration of accessory buildings being allowed for farm use.

Bill Bamford, 112 Spurwink Avenue, Owner Maxwell's Farm stated the need to hire seasonal labor and have a place for them to live.

After hearing no further comments the hearing was closed at 7:22 p.m.

Item #119-2016 Technical Amendments

Present – Maureen O'Meara, Town Planner

Intro – Councilor Jordan, Ordinance Committee Chair

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

ORDERED, the Cape Elizabeth Town Council approves the technical amendments to the code of ordinances as presented except to remove the definition of accessory buildings and refer to the ordinance committee for further review.

(1 yes) (6 no Councilors Garvin, Grennon, Lennon, MacAuslan, Ray, Sullivan)

Moved by Katharine N. Ray and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council approves the technical amendments to the code of ordinances as presented and refers to the planning board for review an email from Jay Cox, owner of Old Farm Christmas Tree Place regarding uses of accessory buildings on farm properties.

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

ORDERED, the Cape Elizabeth Town Council amends the motion to remove the definition of accessory buildings from the technical amendments.

(2 yes) (5 no Councilors Garvin, Grennon, MacAuslan, Ray, Sullivan)

Original Motion: (5 yes) (2 no Councilors Garvin and Jordan)

Item #120-2016 Paper Streets

Citizen Comments

Marshall Goldman, 27 Pilot Point Road asked what the town's intent would be if Surfside Avenue were accepted; the town hasn't needed it in 100 years. Favors vacating Surfside Avenue.

Intro

Mr. McGovern

Durwood Parkinson, Consulting Town Attorney on Papers Streets

Present – Maureen O'Meara, Town Planner

Moved by Katharine N. Ray and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council approves orders relating to the town's incipient rights in certain paper streets; Section A Order to Accept, Section B Order to Extend and Section C Order to Vacate as presented.

Moved by Patricia K. Grennon and Seconded by James M. Garvin

ORDERED, the Cape Elizabeth Town Council amends the motion to discuss and vote on each order separately.

(7 yes) (0 no)

Moved by Katharine N. Ray and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council approves Section A Order to Accept as presented.

(7 yes) (0 no)

A.

ORDER

(ACCEPTANCE OF PAPER STREETS)

WHEREAS, pursuant to 23 M.R.S. § 3032, proposed and unaccepted ways also known as “paper streets” as shown on subdivision plans prior to September 29, 1987 shall be deemed vacated on September 29, 1997, unless extended a period of twenty (20) years by the Town Council, and

WHEREAS, on September 8, 1997, the Town Council voted to extend, for a period of twenty (20) years until September 29, 2017, all proposed and unaccepted ways within the Town of Cape Elizabeth except certain ways specifically denoted in the Order recorded in the Cumberland County Registry of Deeds (Document #054366).

WHEREAS, the Town Council wishes to formally accept certain to the paper streets previously extended and reserved by the aforesaid September 8, 1997 vote.

WHEREFORE, the Town Council, pursuant to 23 M.R.S. § 3032(2), hereby accepts the paper streets as shown on Exhibit A for the limited purposes described for each paper street.

The Town Clerk shall record an attested copy of this Order in the Cumberland County Registry of Deeds.

Paper Streets to be Accepted		
Supporting information is located in the Town of Cape Elizabeth 2015 Paper Street Report, updated 8-2-2016, a copy of which is on file in the Town Clerk's office.		
ID #	Name/Location	Purpose of accepting paper street
U1-1a	Stone Dr (north)	For pedestrian and bicycle access
U1-1b	Stone Dr (south)	For pedestrian and bicycle access, and possible vehicle turnaround
U1-2	Cliff Ave (south)	For pedestrian and bicycle access and vehicle turnaround
U1-3	Cliff Ave west	For pedestrian and bicycle access, and private lot access, with no commitment from the town to build or maintain such lot access, or to maintain the existing driveway located in the paper street
U1-4	Cliff Ave east	For pedestrian and bicycle access and vehicle turnaround, with no commitment from the town to maintain the existing driveway located in the paper street
U3-1	Baker Rd ext	For pedestrian and bicycle access
U3-2	Forest Rd ext	For pedestrian and bicycle access, and utility maintenance and installation
U3-3a	Stonybrook (southeast)	For pedestrian and bicycle access
U3-6	Ocean View ext	For pedestrian and bicycle access, and private lot access, with no commitment from the town to build or maintain such lot access
U12-9	Elizabeth Rd	For stormwater management
U19-1	Gladys Rd	For pedestrian and bicycle access

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U19-2	Hampton Rd/Penny Ln(50'w)	For pedestrian and bicycle access and stormwater/drainage and private lot access, with no commitment from the town to build or maintain such lot access, or to maintain the existing driveway located in the paper street.
U19-3	Sweet Fern Rd (50'w)	For pedestrian and bicycle access, stormwater/drainage and private lot access, with no commitment from the town to build or maintain such lot access.
U20-1	Grover Rd	For pedestrian and bicycle access
U21-1	Dearborn Rd south	For pedestrian and bicycle access, open space, and stormwater/drainage utility
U29-1	Harrison Ave	For stormwater/drainage, utilities,
U29-3	North St	For pedestrian and bicycle access and utilities, with no commitment from the town to maintain any driveway located in the paper street
U32-1	Wedgewood Rd (40'w)	For pedestrian and bicycle access, and utility maintenance and installation, with no commitment from the town to maintain the existing driveway located in the paper street.
U36-3	Pine Ridge Rd	For pedestrian and bicycle access, and utility maintenance and installation, with no commitment from the town to maintain the existing driveways located in the paper street.

Moved by Katharine N. Ray and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council approves Section B Order Extension of Paper Streets as presented.

Moved by James M. Garvin and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council amends the motion to pull U12-5 (Surfside Avenue), U12-8 (Atlantic Place) and U15-1 (Lighthouse Point Road) from the list to discuss and vote each paper street separately.

(5 yes) (2 no Councilors Ray and Sullivan)

Moved by James M. Garvin and Seconded by Katharine N. Ray

ORDERED, the Cape Elizabeth Town Council approves the proposed order to extend U12-5 (Surfside Avenue) as presented.

(4 yes) (3 no Councilors Grennon, Jordan and Lennon)

Moved by James M. Garvin and Seconded by Katharine N. Ray

ORDERED, the Cape Elizabeth Town Council approves the proposed order to extend U12-8 (Atlantic Place) as presented.

(4 yes) (3 no Councilors Grennon, Jordan and Lennon)

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

ORDERED, the Cape Elizabeth Town Council approves the proposed order to extend U15-1 (Lighthouse Point Road) as presented.

(6 yes) (1 no Councilor Lennon)

Councilor Lennon stated for the record she would be in favor of vacating the entire length of Thompson Road.

Original Motion: Except for U12-5, U12-8 and U15-1 (see individual votes)

(7 yes) (0 no)

B.

ORDER

(EXTENSION OF PAPER STREETS)

WHEREAS, pursuant to 23 M.R.S. § 3032, proposed and unaccepted ways also known as “paper streets” as shown on subdivision plans prior to September 29, 1987 shall be deemed vacated on September 29, 1997, unless extended a period of twenty (20) years by the Town Council, and

WHEREAS, on September 8, 1997, the Town Council voted to extend, for a period of twenty (20) years until September 29, 2017, all proposed and unaccepted ways within the Town of Cape Elizabeth except certain ways specifically denoted in the Order recorded in the Cumberland County Registry of Deeds (Document #054366).

WHEREAS, some proposed, unaccepted ways may have public benefit to the Town either as, public ways, pedestrian easements, utilities or for other purposes, in the future, the extent of which is difficult to determine.

WHEREFORE, The Town Council, pursuant to 23 M.R.S. § 3032(2) hereby extends for a period of twenty (20) years the proposed, unaccepted ways within the Town of Cape Elizabeth as shown on Exhibit A. To the extent that any paper streets in the Town of Cape Elizabeth have not been accepted or deemed vacated by vote the Council, their status as paper streets shall also be extended for a period of twenty (20) years.

The Town Clerk shall record an attested copy of this Order in the Cumberland County Registry of Deeds.

Paper Streets to be Extended

Supporting information is located in the Town of Cape Elizabeth 2015 Paper Street Report, updated 8-2-2016, a copy of which is on file in the Town Clerk's office.

ID #	Name/Location
U2-1	Seaview Ave /Ottawa Rd
U2-2	Ottawa Rd (water)
U3-4	Crescendo Terrace (50'w)
U3-5	Crestway (40'w)
U4-1	Waverly (40'w)
U4-2	Hazelwood (35'w)
U4-3	High Bluff Rd (40'w)
U4-4	Quarry Rd
U4-5	Arbutus Rd (35'w)
U7-6	Delano Park
U7-8	Delano Park
U8-1	Woodcock Rd (40'w)
U10-1	Thompson Rd (the portion extending from Shore Rd west a distance of 750')
U12-1	Avon Rd (the portion extending from the public Avon Rd to the northwest property line of lot U12-12)
U12-2	Oak Grove Rd (north)(50' w)
U12-3	Oak Grove Rd (south)
U12-5	Surf Side Ave
U12-6	Old Hayfield Rd
U12-7	Wabun Rd/Bigelow Rd
U12-8	Atlantic Place
U15-1	Lighthouse Point Rd
U15-3	Two Lights (north)
U21-2	Dearborn Rd north

U29-4	Stephenson St
U29-6	South St
U33-3	Highland St
U33-4	Valley Rd/S Curve St
U33-5	Moonshadow Rd
U33-7	Lydon Ln
U36-1	Spoondrift (north)
U36-2	Spoondrift (west)
U42-2	Katahdin Rd

Moved by Katharine N. Ray and Seconded by Jessica L. Sullivan

ORDERED, the Cape Elizabeth Town Council approves Section C Order Deemed Vacation of Paper Streets as presented.

(7 yes) (0 no)

Moved by James M. Garvin and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council suspends the Town Council Rules to consider an item not on the agenda.

(7 yes) (0 no)

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

ORDERED, the Cape Elizabeth Town Council directs the Conservation Committee to revisit and review the 2013 Greenbelt Plan, previously adopted by the Town Council on January 6, 2014, specifically as it relates to the potential trails indicated along the paper streets of Surfside Avenue (U12-5) and Atlantic Place (U12-8), as well as any potential future trail development along the paper street at Lighthouse Point Road (U15-1), and provide an update to the Town Council within six (6) months. It is requested that the review encompass a thorough assessment of the technical and logistical feasibility, along with all other practical considerations, to determine a complete cost-benefit analysis of any potential trail development.

(7 yes) (0 no)

C.

ORDER

(DEEMED VACATION OF PAPER STREETS)

WHEREAS, pursuant to 23 M.R.S. § 3032, proposed and unaccepted ways also known as “paper streets” as shown on subdivision plans prior to September 29, 1987 shall be deemed vacated on September 29, 1997, unless extend a period of twenty (20) years by the Town Council, and

WHEREAS, on September 8, 1997, the Town Council voted to extend, for a period of twenty (20) years until September 29, 2017, all proposed and unaccepted ways within the Town of Cape Elizabeth except certain ways specifically denoted in the Order recorded in the Cumberland County Registry of Deeds (Document #054366).

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WHEREAS, the Town Council pursuant to 23 M.R.S. § 3032, voted to not further extend the time for acceptance of the paper streets as shown on Exhibit A with the intention that they will be deemed vacated under statute.

The Town Clerk shall record an attested copy of this Order in the Cumberland County Registry of Deeds.

Paper Streets to be "Deemed Vacated"	
Supporting information is located in the Town of Cape Elizabeth 2015 Paper Street Report, updated 8-2-2016, a copy of which is on file in the Town Clerk's office.	
ID #	Name/Location
U3-3b	Stonybrook (southwest)
U10-1	Thompson Rd (the portion extending west from the point beginning 750' from Shore Rd)
U12-1	Avon Rd (any portion extending to the west of the northwest property line of lot U12-12)
U15-2	Balsam Rd
U30a-1	Allen Rd
U33-6	Hill Place
U36-4	off Pine Rdge Rd

Item #121 -2016 Fort Williams Park Amphitheater Proposal

Intro – Mr. McGovern

Citizen Comments

Chris Straw, 597 Shore Road stated a plan for the bleacher area at Fort Williams Park was a goal of the town council. Although the Fort Williams Committee voted (6 -1) to defer future consideration of a proposed amphitheater the council may or may not at its discretion consider the amphitheater or any similar projects. Mr. Straw serves on the Fort Williams Park Committee.

Moved by Jessica L. Sullivan and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the Fort Williams Park Committee regarding the amphitheater proposal and requests the committee to provide to the town manager an updated list of capital improvement priorities for the park for consideration by the town council.

(7 yes) (0 no)

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Item #122 -2016 Proposed Purchase of Van for Community Services Senior Citizens

Present – Russell Packet and Kathy Raftice, Community Services

Intro – Mr. McGovern

Chuck Rzeszutko, 6 Waumbek Road encourages the council to approve the purchase of the mini-bus to accommodate community services programming for senior citizens.

Moved by Jessica L. Sullivan and Seconded by Katharine N. Ray

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Senior Citizens Advisory Commission to purchase of a van for seniors for programming at community services for a total amount not to exceed \$65,000 to be paid from an appropriation from the unassigned fund balance.

(7 yes) (0 no)

Item #123 -2016 Proposed Harbors Committee

Intro – Mr. McGovern

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

ORDERED, the Cape Elizabeth Town Council establishes a temporary harbors committee, the committee charge as amended (Add- Inventory public water access) and an appropriation of \$15,000 from the unassigned fund balance to fund the work of the committee.

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

ORDERED, the Cape Elizabeth Town Council amends the motion (Delete - appoint a secretary).

(7 yes) (0 no)

Original Motion as Amended: (7 yes) (0 no)

**Harbors Committee
Charge**

Committee Purpose

The Town of Cape Elizabeth last conducted a major review of its harbors in the late 1980's. With nearly 30 years having passed since the last review of how our coastal water resources are serving our fishing, aquaculture and recreational boating needs, it is an opportune time to review issues relating to our harbors.

The committee shall:

- Review the Town's Coastal Waters and Harbor Ordinance and recommend any changes it deems desirable to the town council.
- Meet with state officials to determine options for boat access in the Kettle Cove/Crescent Beach State Park area and develop a long range plan for access.
- Update the maps utilized by the harbormaster showing potential locations for moorings.
- Inventory public water access.
- Consider such other related matters as the town council may request.

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Committee Structure

The Harbors Committee shall consist of five persons. Two members shall be members of the town council chosen by the council. The town council, following a recommendation from the appointments committee, shall appoint three citizens. The committee shall appoint its own chair, ~~and secretary.~~

Committee Resources

Funds for the committee's work in the amount of \$15,000 are hereby appropriated from the unassigned fund balance. This shall fund a consultant to work with the committee who has expertise in issues relating to municipal harbors and boat access and shall fund expenses for mapping.

Committee Timeline

The committee shall first meet after January 2017 after appointments have been completed. The committee will complete its work with a report to the Town Council by December 31, 2017.

Item #124 -2016 Proposed Boardwalk

Intro – Mr. McGovern

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

ORDERED, the Cape Elizabeth Town Council authorizes the town manager to apply to the Planning Board for a resource protection permit to build a boardwalk in a muddy section of the Cottage Brook trail system per a recommendation from the Conservation Committee.

(7 yes) (0 no)

Item #125-2016 Town Manager Transition

Moved by Jessica L. Sullivan and Seconded by Patricia K. Grennon

ORDERED, the Cape Elizabeth Town Council authorizes the signing of the employment agreement between the Town of Cape Elizabeth and Michael K. McGovern effective January 1, 2017 - June 30, 2017. Said order is to provide for an orderly transition following Mr. McGovern's resignation effective December 31, 2016.

(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

Adjournment

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

ORDERED, the Cape Elizabeth Town Council adjourns at 9:29 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk