

Town of Cape Elizabeth
Paper Streets Public Workshops
February 1 and 3, 2018

Draft Report prepared by Good Group Decisions



Good Group Decisions

Contents

About the Workshops.....	1
Purpose and Overview	1
Welcome and Opening Remarks	1
Agenda	2
Ground Rules	3
Discussion and Comment Process.....	4
Paper Streets Basics.....	4
February 1 Workshop	6
Themes	6
Brainstormed Ideas: Our Interests.....	6
Discussion Comments	8
February 3 Workshop	10
Themes	10
Brainstormed Ideas: Our Interests.....	10
Discussion Comments	12
Closing Comments	15

This report covers two workshops that were held on February 1 and February 3, 2018. The agendas, ground rules, introductory remarks, discussion process, and closing remarks were the same at each workshop and are organized together in this report. The themes, brainstormed ideas, and discussion comments are presented separately for each workshop.

About the Workshops

Purpose and Overview

Two public workshops were held at the Cape Elizabeth Town Center Fire Station on Thursday, February 1, and Saturday, February 3, 2018. The primary purpose of the workshops was for people to discuss the issue of paper streets in a new way and to provide Town Councilors with new information to help them proceed in the very best interests of the Town.

The workshops were not designed for one-way communication of individual views nor for mediation intended to result in resolution. Rather they were designed for facilitated discussion among residents to help people understand each other's perspectives. Ideas for solutions were encouraged, but no decisions were made. Any decisions on this matter will be made by the Town Council at a later date.

Two workshops were offered to maximize convenience for those who wanted to attend; the two workshops had identical agendas. 41 residents attended the workshop on Thursday, February 1, and 43 residents attended on Saturday, February 3. This report covers both workshops.

Welcome and Opening Remarks

Town Council Chair Jessica Sullivan opened the workshops with the following remarks:

- Welcome, thanks for coming, it is great to see you here
- The Town Manager and Town Councilors are here to listen and learn, not participate
- We are not here to discuss active litigation
- Your input is highly valuable on this matter; at some point in future we will be making a decision about how to move forward
- Please be kind and courteous and respectful

Facilitator Craig Freshley explained about his company and the workshop format:

- Good Group Decisions helps all kinds of groups make decisions
- In these workshops our purpose is to discuss this topic in a new way and provide the Council with new information. The Council's path is not predetermined. They want the best information available when they make a decision.
- We are here as facilitators to provide a good structure, a good process
- This is not a public hearing or a mediation where we try to reach an agreement
- We might see themes in our discussion but it's okay if we don't find common ground

- Our purpose is to hear each other and it's a chance to ask questions of each other
- Please keep in mind the concept of “interests over positions”
 - When we come into a conversation with firmly established *positions*, we only have winners and losers
 - When we share with each other our *interests* – why our positions are so important to us, the underlying reasons for what we want – we have a better chance of meeting our interests
 - We will have a chance to ask each other questions – please be willing to go beyond just stating your position, be willing to name your interests
 - We are trying a new way to have this conversation

Agenda

Feb 1 <u>Evening</u>	Feb 3 <u>Morning</u>	
7:00	10:00	<p>Welcome</p> <ul style="list-style-type: none"> • Town Council Chair Jessica Sullivan will open the Workshop and welcome participants. She will briefly explain the situation and the purpose for the Workshop. • Facilitator Craig Freshley will explain the Workshop format and some ground rules to help us have a good discussion.
7:10	10:10	<p>Our Underlying Interests</p> <ul style="list-style-type: none"> • First in small groups and then as a full group we will identify our underlying interests. • Craig will ask: “Why is this issue so important to you? What do you ultimately want to get out of this? What fundamental need or desire do you have that this issue feeds or threatens?” • We will share answers with each other and discuss.
8:00	11:00	<p>Emerging Themes</p> <ul style="list-style-type: none"> • Are there commonalities among our underlying interests? Are there commonalities among our concerns? Do the things we have heard suggest any solutions, or parts of solutions? • Craig will ask us these questions, blend our answers with his own observations, and perhaps identify emerging themes.
8:20	11:20	<p>Closing Comments</p> <ul style="list-style-type: none"> • This is a chance for some brief last comments from participants and a concluding remark from the Town Council Chair.
8:30	11:30	<p>Adjourn</p>

Ground Rules

Facilitator Craig Freshley explained the following ground rules to help participants have a good discussion.

- **All views heard**
 - Let Craig call on people
 - We want to hear from everyone. If a hand goes up from someone we haven't heard from yet, I might call on that person even if someone who's already spoken is waiting to speak again.
 - No one is required to speak
 - Speak with respect
 - It's not about persuading each other about right and wrong, it's about trying to understand each other
- **Speak for yourself**
 - If you try to speak for someone not here or if you say "this group of people thinks X or Y," we can't ask them directly about it
 - If you speak for yourself you are on solid ground. Tell us what it's like from your perspective.
- **Show what you think**
 - Give a thumbs-up or thumbs-down, smile and nod
 - When groups do this it can be very efficient - it helps us see quickly what everyone thinks
- **Listen to understand**
 - You may have come with something ready to say, but we hope you listen to your neighbors and try to understand what it's like for that person
 - Town Councilors are listening and observing
- **Ready to move**
 - We are going to get up and change tables
 - Also, be open minded – be "ready to move" intellectually and philosophically, be prepared to change your thinking on this topic
- **Themes now and later**
 - If there are any themes that emerge during the meetings we will name them
 - We will also prepare a report of these meetings
- **Neutral facilitation and notes**
 - We are serving as neutral facilitators and recorders - we don't have a view on what the town should do. We are just here to help you have a good conversation.

Discussion and Comment Process

At each workshop, facilitator Craig Freshley asked participants to break into small groups according to their opinion on what the town should do about paper streets. The options regarding opinions were:

- Maintain: Do nothing for now. Reserve the right to accept or vacate in the future.
- Accept: Handle the paper streets as public ways owned by the Town.
- Vacate: Let go of Town claims to the paper streets.

Next, in small groups at tables, participants discussed the following questions:

- What is your underlying interest here?
- What do you ultimately want to get out of this?
- What fundamental need or desire do you have that this issue feeds or threatens?
- Why is this issue so important to you?

Craig explained the questions with the following remarks:

- You are allowed to change your mind later
- Consider: What is your gut telling you to do?
- Would not ask you to break into groups if this was the first meeting on this topic, but you have been working on this a while and people probably know how they feel
- Regarding the question, “What do you want to get out of this?”, “this” refers to the controversy about these two paper streets and the resolution that is ultimately reached

Participants wrote their answers to the questions on paper. Ideas were collected, organized on the wall, and discussed as a full group.

Paper Streets Basics

At each workshop facilitator Craig Freshley read aloud the following:

Re: Draft Paper Streets “Summary of Information” for review by Durwood Parkinson in advance of a town council workshop on January 17, 2018

Paper Streets Surfside Avenue, Atlantic Place and Lighthouse Point Road

- 1) Paper streets are established when subdivisions are recorded and the streets shown are not built upon.

- 2) The paper streets currently referred to as Surfside Avenue and Atlantic Place were recorded in 1911 as part of the Shore Acres subdivision.
- 3) Lighthouse Point was recorded in 1968 as part of a subdivision.
- 4) In 1997 the Town of Cape Elizabeth extended its rights of access to almost all paper streets, including Surfside Avenue, Atlantic Place, and Lighthouse Point Road for 20 years.
- 5) In 2016 the Town of Cape Elizabeth again extended its rights of access to Surfside Avenue, Atlantic Place, and Lighthouse Point Road for another 20 years.
- 6) Surfside Avenue, Atlantic Place, and Lighthouse Point Road are included in the town's greenbelt plan as potential greenbelt trails.

Participants asked the following clarifying questions and Town Manager Matt Sturgis provided answers as follows:

- Question (Feb. 1): Is Two Lights part of this forum? I had an impression that this facilitated meeting was focused on Shore Acres.
 - Response: A motion was made by the Council to hire a facilitator to address Shore Acres. The Lighthouse Point street was not part of the motion. This meeting is focused more on Surfside Avenue and Atlantic Place.
- Question (Feb. 3): Is this process only for the two streets in Shore Acres? Does this include Lighthouse Point Road?
 - Response: The motion that the Council made and approved was to have this session mostly focus on Shore Acres, Surfside Avenue and Atlantic Place. The vote regarding Lighthouse Point was to maintain for now.

February 1 Workshop

Themes

Facilitator Craig Freshley proposed the following themes as a result of the discussion:

- Common Interests (overlapping two or more “groups”)
 - Peace and harmony
 - Long-term stability
 - Shoreline access
 - Safety
- Primary Tension
 - Increased shoreline access vs. backyard privacy and security

Brainstormed Ideas: Our Interests

The following ideas were written by participants in small groups and organized on the wall:



- Maintain
 - Time to create a sense of community
 - Harmony in the neighborhood
 - Do what’s best for future generations

- Accept
 - Right thing is to share - community building big
 - Identity
 - Who we are
 - Inclusive
 - Comprehensive Plan
 - Maintain Comprehensive Plan re: open space, increase views
 - Cape's identity as "Maine", not a closed enclave
 - Vacating sets a precedent
 - Set a good precedent to act in best interest of the citizens
 - Secures and protects property rights
 - Accept so it doesn't fester
 - Stop harassment of walkers on SS/AP
 - Security - 1911 - same
 - Structures violate my security
 - Preserve shoreline access
 - Keep deeded and implied access
 - Preserve public and deeded/implied access to valuable town assets
 - Public access
 - Access to oceanfront, views, nature - more is better
 - Long-term stability provided by government ownership
 - Threatened loss of deeded legal rights - acceptance protects rights
 - Governance
 - For the people - 1220 petition signatures
 - Don't govern by fear

- Vacate
 - Preserve backyard privacy and security
 - If you wouldn't want a trail like the one being proposed you shouldn't ask others to have this type of intrusive trail in your backyard
 - Stop harassment of property owners - paper streets are not public
 - Shoreline access
 - 50% of shoreline in S.A. is already public or quasi-public access
 - Preserve small neighborhood nature
 - Rebuild community and peace
 - Safe streets
 - Can town support public path

Discussion Comments

- Please note that there are several people who are not here because they are involved in active litigation and low numbers for the “vacate” opinion shouldn’t be taken as low interest
- “Best interest of citizens” is about the interest of the community as a whole
- There are alternative trails - I see the shorelines access interest being met in other ways. We already have shoreline access and we don’t need more at the expense of landowners.
- Maintaining gives us time to think about what’s best for the future
- Deeds change hands, people come and go, but the government taking ownership provides longer term stability and comfort for the people in the neighborhood
- Don’t govern by fear. There was a petition with 1220 signatures from the community. That’s the will of the people. Would like the Town Council not to be fearful of litigation and govern for all the people.
- Question for those who support “vacate”: Are you open to public access on the gravel road? Is that already a paper street?
 - Response: Surfside has two pieces - one part is parallel to Pilot Point. The gravel part is owned by Oceanview Associates. Many owners have offered deeded rights to anyone in neighborhood who asked for them.
- Clarifications from Matt Sturgis:
 - If you live in the neighborhood you have incipient rights to use the paper street
 - If the town hasn’t made a decision to accept or vacate, the town needs to take action on that. It’s similar to a developer’s proposal: when presented with a proposal the town has to take an action.
 - If the town “Accepts”, the town would accept the right to own the right of way, not the land
 - If the town accepts, then the paper street becomes public
- We have walked in that area for 20 years and have been spat at, harassed - that won’t stop. As taxpayers we pay for this land.
- Everything has been the same on this land since 1911, except the structures that have been put there. That’s the part that has changed. That has threatened my security.
- Fear that if the town vacates the paper streets it will jeopardize the rights of those who have deeded rights to access the land. The legal issues surrounding those deeded rights are squishy, and vacating puts everyone else’s property rights in jeopardy.
- Access should not be only to those with deeded rights - we ALL deserve access
- Shore access seems to be a big theme - we all understand and love that
- The themes of peace/harmony and shoreline access make sense. The themes about security, stability, and safety can be read in different ways.
- I understand about safety and houses coming closer to the shoreline. Consider the Cliff Walk at Prouts Neck. We don’t hear about safety and security there, and those are very expensive properties. Would like to know about those statistics.
 - Concerns:

- Would wonder about adequate space/buffering
 - Would be concerned about how close all the Shore Acres property is
- Would you want the public going past your house? There are lots of ways we can come together as a community at other places.
- There are lots of towns who have houses on the water and shore paths, and they use hedges, landscaping, etc. as delineation about where the private land ends and the trail begins. There are solutions to provide privacy. This is a wide area.
- Encourage us to look at Prouts Neck
- I am used to Mainers sharing and taking care of each other
- Shoreline and access to it is not increasing – town should have right of way
- I hoped that we might agree on some facts. It’s uncomfortable when one person claims one thing and someone else claims another. I was hoping for fact-finding tonight rather than opinions and interests. I want an opportunity for people to hear the facts.
 - Understand that the lawsuit is to decide who owns Surfside Avenue, so that will be fact finding via the court, but instead I wish we could sit down and come to consensus on what’s true.
- Was hoping that there could be a committee of interested parties on all sides to sit down at the table and look for compromise solutions. Ask people to have an open mind to talk about solutions. Submit ideas to the Town Council. Perhaps ask for resources from the Conservation Committee to make things safer.
- Question for those who support “vacate”: What’s a safe distance from a public access road? If a distance was proposed, what’s a number where you would feel comfortable?
 - Response: Don’t know an exact distance, but I used to live in a house with a greenbelt trail alongside, and it was never problem. What is different about this situation is that the proposed trail would run right through existing backyards. Don’t know any other place in Cape where you have a trail going that close to people’s yards. Agree that maybe former owners should not have built structures there but they did and we are stuck with what we have now.
- I have a paper street as a property border and people use it and I have never considered security as a major concern
- When we planned the Shore Road Path we asked what it would look like, where would it be, we marked it out. It might be useful in this case to ask about landscaping, buffers, and fences so everyone would have a better appreciation of what it would look like. This might lead to less fear. This was helpful for the Shore Road Path especially around Pond Cove.
 - Do an artist rendering – work with a town planner, a landscape architect, figure out placement of bushes, fences - would do a lot to dissipate fears.
- On the premise that town had vacated, abutters took their neighbors to court. They felt they had no choice and had to fight for their rights. When you hear abutters say they will give deeded access, it’s hard to trust that when you have been taken to court. This is very painful. The majority of the people in the neighborhood are very inclusive and welcoming. It’s hard to try to create exclusivity where none existed. People say it’s their backyard but it’s not; deeds do not go to the Atlantic Ocean.

Facilitator Craig Freshley proposed this summary of ideas for approaches going forward:

- Get agreement on the facts
- Ask a subgroup of stakeholders to come to a compromise on solutions
- Do an artist rendering of what it would look like, to help dissipate fears

February 3 Workshop

Themes

Craig proposed the following themes as a result of the discussion:

- Sense of community
- Safety
- Less controversy

Brainstormed Ideas: Our Interests

The following ideas were written by participants in small groups and organized on the wall:



- Maintain
 - Neighborhood harmony
 - Deeded rights maintained
 - Preservation of ocean views

- Accept
 - Equity for all citizens to a town resource
 - 1. Options to nearby coves and ocean. 2. Community values are shared utilization of resources. 3. Don't limit access to the few
 - Full access to the ocean – all residents should have access, not just those who can afford to buy there
 - Town has a right of way now to shoreline access for all citizens
 - Keep it
 - Valuable
 - Public stewardship
 - 1. Recreational access 2. Philosophical support of public continuation of municipally owned recreational property 3. Philosophical aversion to commercial property use - ownership of a state resource
 - Precedent
 - Potential to use “vacate” as precedent for vacating rights to other streets
 - Access to shore for future – precedent – resolve this long-standing issue
 - Trust in T.C. to act in the best interests
 - Maintain community
 - More shoreline access is better. Community building connecting us. Financial.
 - Stay true to the Comprehensive Plan
 - Stop harassment
 - Walk without harassment or physical barriers
 - Protect town resource
 - Ensure access for future generations
 - Preserve open space for the public
 - Public access – don't want shore closed off. Up and down coast it's happening everywhere – I want it open and protected for future generations
- Vacate
 - Safety/security
 - Parking
 - Traffic
 - Kids
 - Safety
 - Logistics and burdens
 - Property values
 - Hardworking families losing value of home
 - Privacy/Property rights
 - Existing shoreline access
 - Town budget impact – limited \$
 - Enviro. Impact
 - Trash
 - “Build to make safe”
 - Maintain community
 - Fairness

Discussion Comments

- Grew up on Surfside, spent my youth on a bike there, a quintessential childhood, biking around Shore Acres with no supervision.
- If we accept this public way, it's all of the country who could have access to the shoreline here. People can already use Fort Williams and the lobster shack – there's parking and restrooms. We are trying to build more public access in an unsafe place.
- Question for those who support “vacate”: Do you want to preserve that quintessential American lifestyle only for certain people with wealth?
 - Response: The group that owns Surfside Avenue will give rights to walk there to anyone who buys a home there. There are two sections that people walk. If you live in Shore Acres no one is stopping you from walking on Surfside Avenue.
- Want to maintain harmony that was in the neighborhood before it became contentious. Used to go to neighborhood parties that were crowded and joyous, like being in a Frank Capra movie. Now that has dwindled and people don't say hello anymore. Would be nice to have that back.
- I have never told anyone they couldn't walk there
- If the town vacates I fear that people might say “You can't come over here from Broad Cove”. I have been accused of “coming over from Broad Cove”.
- Concern that if we vacate, this could be used as precedent in the future
- This is not just about paper streets - want to extend the concern of public access to all shoreline access
- We already have lots of accessible shoreline, even land that is privately owned. We have shoreline used by our neighborhood as well as others for many years. It feels like people are saying “we have no shoreline access in our neighborhood” but we do.
 - The extension of this road is 1200 feet - that's what we are talking about – the backyards of six houses
- It is important that Cape Elizabeth is a welcoming community with public shoreline access for all. We have great public resources like Fort Williams and Robinson Woods, where people act civilly and responsibly.
- Environmental impact: Concerned about having lots of people walking on a path, or even just building a path itself. “Save our shores” means something opposite of public access to me. I see trash and garbage in other public places.
- Concern about maintenance costs of a public road. Currently homeowners maintain the road. Should we be spending money to build a 1200 ft. extension when our schools need investment?
- For people who live in Shore Acres you have deeded rights to walk on these paths. My interest is protecting public access for all citizens to share. The intent of Shore Acres was that this was to be shared.
- It's worth \$50,000 to a property value to have the deeded rights to walk there. There was a property for sale in the neighborhood and the sign said “Deeded Access”

- Want to ensure access for future generations so that we are not doing this every 10-20 years
- Want to build the next generation of stewards and maintain protection of overall shoreline not just of certain properties
- Scarborough managed to work things out and find resolution. There is more work to be done to reach a viable compromise on all of Surfside.
- Believe that a path could be constructed that would preserve the views for everyone without intruding on the people who live there.
- Don't want controversy for 20 years; want an opportunity to find a resolution
- The sovereignty statute tells us what we own and where the boundaries are. The State owns from the head of the tide out to the continental shelf. We are being sued by wealthy families to stop access to the tidal zone.
- Our neighborhood is one-way-in and one-way-out. There are no sidewalks. People walk in the street. There has been collegiality among neighbors and I am concerned about the burden on the neighborhood if the town "Accepts". Will lose ability to be safe on streets with bikes.
- Concerned about cost to safety services if this becomes a public way
- Fear of reduction of property values if this becomes a public way
- Appreciate hearing that we all have fundamental belief in maintaining community. That could be true in every category – maintain, accept, or vacate.
- The people who own Pilot Point and Surfside Avenue - these are hardworking people who built their own wealth, not trust fund people. I can find ways to walk and enjoy the view without disrupting others' property values.
- It is not unreasonable to purchase a property and expect that it will remain as is. This is something that the state should address. It feels very unfair that the town is now expressing interest in these properties after 100 years of it being the same.
- What if both sides saw the area marked off with orange ribbons and sketches of landscape buffers developed to respect all of everyone's interests. Walk along the property with a landscape architect – this might shed light on plans and help both sides.
- I feel that for the families involved, the best interest is the equity factor raised
- I understand about traffic into Shore Acres. It's not just people visiting there, it's plows, contractors, etc. I appreciate that being raised and I feel there is a way to work through some of that - it doesn't need to be all or nothing. We can give access and equity without having an increased impact on traffic.
- Let's look at the model of the Prouts Neck Shore Association. There is no other place in Maine that might have such a good argument for closing off access, but they want to offer the path. Don't know if it's private land or town land, but there is no extra traffic because there is no parking. If we look at that it might help provide information for our situation.
- Increased traffic is a bogus argument. Trundy Point beach is the only shoreline access between Pond Cove and Two Lights. There is very little traffic.
- What kind of legacy do you want to leave? A town that hands over a viable finite resource or stands up for egalitarian ideals? Cape Elizabeth has a reputation for being a place where people bully others to get more.

- If you buy a house next to a football stadium don't get upset about the noise, it's for the public good. The Pilot Point people want extra. It's wealth without generosity. Please drop the lawsuit. Don't waste our taxpayer money on this.
- Just because you put a gazebo on a paper street doesn't make it yours
- We are just stewards of this town and we are only passing though. Don't want to be bullied by infants with lawyers.
- This is a wonderful community. I am an abutter on a path in Brentwood and I enjoy it. I appreciate the trails and don't see litter. When I bought the property, I knew there was a street there. I don't believe the arguments about safety and property values
- I feel the town accepted these as streets in 1911 and we have lost revenue by giving property tax discounts. It's time for the town to say that this is a resource of Cape Elizabeth.
- Nobody wants something taken away from them that they love. Moved here because of the community. If we "Vacate" I am afraid that the Shore Acres neighborhood won't be able to access this land; afraid it will be limited to just a few.
- We already have safety and security as it is. We need to be good stewards.
- We all need to compromise. I am on the trail every day and never see anyone there – the fear is worse than the thing itself. Hope we don't lose our sense of community.
- Question for those who support "vacate": If there was access to a trail, even unmarked, would that be acceptable?
 - Response: What is the problem with the status quo?
- No problem with the status quo but the town's hands are tied and I am afraid that we will be sitting here doing this again. We are worried. It's affecting sale of homes. Let's find a solution.
- I built a path and you use it - the whole neighborhood uses it. We make it accessible. For the path we are talking about, the people who purchased that property did so with no understanding that this was going to become a public path.
- What is a scenario that works? The neighborhood can use the land as they have done for the last 100 years. Surfside Avenue is already there and doesn't need to be maintained. What's matter with the status quo?
- Concern about status quo: It isn't cut and dry. Right now the town has decided to hold the right to accept the paper streets for another 20 years, just like the last 100 years. I wonder what happened to cause some people to bring a suit to change the status quo?
- A way to resolve this is to get the town out of the middle. The people from Shore Acres have access and we don't want to create access for the whole world. I just don't understand the problem.
- I like the status quo, personally, but want it to be guaranteed. Someone might move in who would block access.
- What is the status quo – like when children safely played behind houses, or now, when neighbors go there? In one year 5 homes on the shore were torn down and replaced. Some people in the lawsuit are not year-round residents.
- Some of you have used the path on my property, which is owned privately by 5 neighbors. We enjoy seeing people come through.

- When moved here we were welcomed on the shoreline. I would be happy with my trail being my own but have become a supporter of it becoming a town trail because others are so anxious to not have people on their property.
- We love Cape Elizabeth and have lived in Shore Acres for 16 years. It breaks our hearts that we are so divisive. We do have to address the fact that there are lawsuits on all sides - back and forth. We have lost friends on both sides. It's been contentions. I was for maintaining for a long time but am now concerned about this.
- One area where we agree is that we don't want lots of traffic in the neighborhood. The accepted trail does not have to be part of a greenbelt plan. I would like to propose a path 45 - 145 feet away from property lines. That feels reasonable.

Closing Comments

At the end of each workshop Town Council Chair Jessica Sullivan offered the following concluding remarks:

- On behalf of the Council, thanks for coming
- Thanks for speaking up
- It was terrific to hear many different views
- I am delighted that we had very diverse views and opinions here