



TOWN OF CALAIS

3120 Pekin Brook Road
East Calais, Vermont 05650
802-456-8720

DRAFT Minutes of Public Hearing to consider discontinuation of the
Class 4 section of Town Highway 7
Saturday, June 11, 2022 at Calais Town Hall

Present: Denise Wheeler (Member), Rick Kehne (Member), John Brabant (Member), ,
Marc Mihaly (Vice Chair), Joe McLean, Esq. (town attorney), ORCA Media, Lisa Grace
Absent: Sharon Winn Fannon (Chair)

Others in Attendance: Janice Ohlsson; Scott Ciampi; Julie Hand; Larry Bush; Stephanie Kaplan; Gary and Jill Schultz; Mary and Terry VanVeghten; Reed Dherington; Duane Wells; Joshua and Kristin Schultz; Tom Blachly; Lorie Bayne; Jinnifer and Charles Flower; Jeffrey Langmaid

Marc Mihaly called the meeting to order at 10:39 a.m.

Marc Mihaly provided a brief overview; that the decision to be made is whether to
discontinue the road, or designate as a trail

Marc Mihaly explained that this is considered a “quasi-judicial” hearing. He explained
the need to have things “on record.”

The only evidence to consider is written or oral testimony. He encouraged those present
to provide written testimony; it is best - to supplement their oral testimony.

Marc Mihaly explained that he will swear in those who intend to provide testimony. He
explained the concept of “ex-parte” - that stakeholders in the case should not be discuss
the matter with the Selectboard outside of the hearing.

He explained that today’s hearing will be “housekeeping;” that he will swear people in,
will enter some testimony into the record, and will continue the hearing for another day.

Joe McLean, Esq., legal counsel for Calais Selectboard, invited other selectboard
members to share any types of ex-parte conversations they have had: John Brabant
shared some of the people that he had spoken to; he had previously shared some of the
information related to this hearing - Stephanie Kaplan (Chair of the Conservation
Commission), Tom Blachley (Chair of the Trails Committee), Reed Cherington, Josh and
Gary Schultz.

Joe McLean, Esq. explained that he represents the town; he noted that his father had
worked for the Agency of Natural Resources and that his father was friends and
colleagues with Gary Schultz.

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Marc Mihaly shared that, ultimately we will hold another hearing, will close the hearing when everyone has had an opportunity to provide testimony, and then the board will deliberate in Executive Session and provide a written decision. Everything that is written will be available online and will be in the record.

He explained that the outcome will be one of three options: (1) keep right of way as Class 4 road, (2) discontinue road, or (3) reclassify the road/ right of way as a trail. He explained that the standards guiding the deliberation are that the decision has to reflect public good, necessity and convenience.

Stephanie Kaplan asked will the oral testimony as well as the written testimony be on record? Denise Wheeler explained that the ORCA recording will be entered as a record of the oral testimony.

Joe McLean, Esq. explained that if there is verbal testimony, it will be very important for people to identify their names and where they live, and to identify their interest in the hearing.

Marc Mihaly asked everyone who has or will submit oral or written testimony to raise their right hand; he swore them in.

Denise Wheeler explained some of the “housekeeping” details.

She explained that she had received some comments in writing. She asked people to check to be sure that she has a written record if they have sent something to date, and that if they will be providing written testimony in the future, they can hand deliver, email to selectboard, or drop off at the Town Office.

Denise Wheeler reviewed the written records she currently has that will be entered into the record: Reed Cherington, Conservation Commission, Jan Ohlsson, Paul Weisbart, Jamie Moorby, Forest, Parks and Recreation, Cushman and Wakefield, and Charles Flower.

Tom Blachly shared that he had submitted an email to Sharon Winn Fannon; the rest of the Board has not seen what was emailed so he will resubmit to Denise Wheeler and Marc Mihaly to be added to the record.

Gary Schultz had sent an email to Denise Wheeler and John Brabant; neither recall the email so Denise asked him to resend it.

Jan Ohlsson stated that in April, we had sent something as a result of a Planning Commission meeting which had included an open meeting with the Schultzes and with Charles Flower. She suggested including the planning committee’s April 5th minutes as written record.

A suggestion was made that any committee meeting minutes or minutes from other hearings that pertain to this issue should be included as part of written record.

Joe McLean, Esq. explained that this hearing was commenced by the Selectboard.

He suggested that the town might also provide maps, etc. as part of the written record.

He noted again, if there is anything that is desired to be in the record, please submit it in writing.

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Denise Wheeler reiterated that written testimony is the preferred format.

Reed Cheringon noted that there are quite a few town highway maps; he had compiled a binder for selectboard members. He gave these documents to Denise Wheeler; they will be entered into record as an exhibit.

Denise Wheeler stated that there will be a link on the town website that will include all of the relevant documents.

Marc Mihaly stated that the board will continue this meeting to another date/ time. The Selectboard agreed on: Monday, July 18, 2022 at 6 p.m. at the Town Hall.

Stephanie Kaplan asked, regarding today's site visit, will what was observed on the site visit be submitted?

Joe McLean, Esq. replied that the site visit is required by statute, to get the lay of the land; however, it is not considered "evidence." If there is anything that someone wants to be sure is on record, it will need to be provided as a written record or as oral testimony.

Marc Mihaly moved to continue the hearing to July 18, 2022, 6 p.m., Town Hall.

Denise Wheeler seconded; this motion carried unanimously.

Joe McLean, Esq. suggested making notes from the site visit if people want to do that, while it is fresh in their minds, as written evidence

Marc Mihaly asked whether those present understand the process or have any questions?

Some discussion followed about the three options for the road in question, and what the procedure would be, should it be designated as a trail.

Joe McLean, Esq. explained that the ultimate question that the selectboard has to answer is whether the road should be discontinued, after taking into consideration the other facts.

John Brabant asked whether Joe can explain the rights that will remain to landowners, under the various possible scenarios/ outcomes?

Joe explained that he can't answer these questions or provide general legal advice; he is representing the town. He encouraged people to consult with an attorney if they have legal questions or to obtain legal opinions.

What are the rules re: interacting directly with the attorney? Marc Mihaly explained that the attorney will be providing legal counsel to the board, but interaction will be directly with the board.

Marc Mihaly explained that anyone can interact with the board, in the hearing but not outside the hearing as that is "ex parte" communication. Denise Wheeler reiterated that written testimony will be shared publicly, so please keep that in mind.

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Question: will the materials that are submitted, be available? Denise Wheeler explained that they will be available on the Calais Town website. New items will not be admitted as part of the record until the selectboard enters it during their hearing. Joe explained that things that are shared before the next selectboard meeting will be provided online but they will not be considered part of the record until the next meeting after the Board's designation.

Stephanie Kaplan asked, at the hearing, will anyone who is present be able to ask questions to anyone else at the meeting? Joe suggested that questions should come through the board, rather than members of the audience cross examining each other.

Marc Mihaly suggested, if questions arise in the meantime, they can be submitted in writing to the selectboard so that they can prepare for the next hearing.

The meeting adjourned by consensus at 11:14.

Respectfully submitted,
Lisa Grace, Board Recording Secretary

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