

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, August 24, 2011 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7 p.m.

Commissioners Present: Ernie Grimes (Chairman), Mary McLaughlin, Warren Snow, Dana Reed

Commissioners Absent: Judy Lochner, Ram Moennsad

Staff present: Margaret Washburn

Sibley & Warner Farms Open Forum:

Dana Reed began by saying the Conservation Commission is acquiring the protection of Open Space and making it available for recreational purposes. Michelle Buck, Spencer Town Planner, said there has been a group that has been working on the Open Space for the last couple months. They are: Adam Gaudette, Town Administrator, Tony Pepe, Board of Selectmen, Ginny Scarlet, representing the Common Ground Land Trust, Charlie Wyman, representing Mass Audubon, Colin Novic, representing Greater Worcester Land Trust, and Dana Reed from the Spencer Conservation Commission.

Ms. Buck said the Sibley/Warner property is 352 acres. If this property was to be protected, it would add a significant amount of acreage to existing open space. This property is one of the largest scenic pieces of open land in Spencer. Ms. Buck presented some photos of the property. Within the property are open fields and meadows, streams, wetlands, forests, a pond, snowmobile trails, scenic views, and the Midstate Trail.

Ms. Buck went on to say in terms of the property's history, in the 1980's the property was proposed for a 36 lot single family development. Later in the 1990's, a golf course was proposed. Both projects fell through. A larger project was under review earlier this decade and finally approved in November, 2005 for 304 housing units and 200,000 square feet of retail. In May, 2010, because of the economy and failure of the housing market, the project failed and the property went into foreclosure and was taken over by the bank, DCU. In July, 2011, because Mass Audubon had an interest in protecting this property, they acquired an option to purchase by June, 2012.

Ms. Buck said in terms of ownership and management options, the Steering Committee and the Board of Selectmen have looked at a variety of ownerships; either the town or Mass Audubon and Greater Worcester Land Trust. Mass Audubon has an option to purchase the property at \$2.3 million. It is expected that purchase related expenses will be another \$250,000, bringing purchase price to \$2.5 million. Stewardship endowment would be 0 to \$500,000. Stewardship endowment is a permanent set aside amount of funds for the management of the land so the ongoing property maintenance cost or any problems that may happen are covered under this set aside amount.

If the town owned the property, the stewardship would be by municipal employees. The town has limited staff and limited money to be involved in that kind of management. If the Greater Worcester Land Trust owned the property, it would be staffed by volunteers under the direction of their executive director. If Mass Audubon owned the property, it would be managed by professionals supplemented with volunteers. The Steering Committee has narrowed the decision down to two options that are under consideration: the first option would be the town would own the entire Sibley/Warner property and it would be under the care and control of the Conservation Commission. The second option would be non-profit ownership and management with the Sibley Farm property owned by the Greater Worcester Land Trust and the Warner Farm owned by Mass Audubon. Some concerns from the public about restrictions have been expressed. If the Greater Worcester Land Trust owns a portion of the property, there would be a greater degree of flexibility in terms of allowed uses. In terms of town ownership, an advantage would be the town would have greater discretion in terms of long term use. The disadvantages are financial; purchasing the property and also the burden of management. For non-profit ownership, while there is potentially less flexibility regarding the use of the property, the main advantage is the long-term management capacity of the Greater Worcester Land Trust and Mass Audubon.

Charlie Wyman from Mass Audubon explained they acquired the option of this property because it is a magnificent piece of land and they want to protect the land. Mr. Wyman said the option is good until June, 2012 which gives time to explore exactly what is being talked about tonight. Many different organizations are being contacted to come up with ways of lowering the net cost of each of the partners. This is very much a work in progress. Mass Audubon is a state wide organization. Their mission is protecting the nature of Massachusetts for people and wildlife. Mass Audubon is fairly restrictive in terms of the range of public uses that are allowed on the sanctuaries. The sanctuaries are limited to hiking, nature study, picnicking and other passive recreational uses. Hunting, mountain biking, and horseback riding are not allowed.

Colin Novic, Executive Director of the Greater Worcester Land Trust, began saying they have been around for 24 years. They hold 1,700 acres of land. This organization is much smaller and not state wide. The organization is staffed by volunteers. They do not have a general policy that restricts mountain bikes or horses. They do consider hunting as a possible use. They do not have any problems with certain forms of agriculture taking place on the properties. This is a magnificent piece of land and one of the most significant properties in Central Massachusetts that has a chance to be preserved right

now. The Greater Worcester Land Trust is involved because they want to help and make sure the right thing happens.

Ginny Scarlet, on behalf of the Common Ground Land Trust, said Common Ground Land Trust has been around for five years. Common Ground concentrates solely on Spencer and Leicester. The idea behind Common Ground is to save Open Space. They get involved in projects that involve soccer fields, true wild life sanctuaries and would consider a site for ATV's. Ms. Scarlet said Common Ground Land Trust is working to get their tax exempt status so that they will be eligible to receive foundation monies that Audubon, Greater Worcester Land Trust or the Town of Spencer are not eligible to receive.

Ms. Buck opened up the floor for questions.

Q. What exactly are the restrictions that the money will come with?

A. Conservation restriction would limit that portion of the property to passive recreational use. The Agricultural Preservation Restriction would require that portion of the land be in active agricultural use. Mr. Wyman said uses that are compatible with agriculture are fine. Uses that interfere with agriculture are not. Mr. Grimes said you cannot build any buildings on an APR piece of property.

Q. Exactly what sort of farming would be taking place?

A. Ms. Buck said they don't exactly know right now. There has been a land owner that has been operating on a year to year lease for haying. If the property is subject to an APR, there would have to be a farmer identified to manage the land. If there was an interest in a community garden, it could be done elsewhere on the property.

Q. What is the real probability of actually getting those maximum amounts of \$500,000 or \$750,000 in grants?

A. Ms. Buck said she believes the town has a very good chance of getting the land grant of \$500,000. It is a very strong application. The APR program is also a very strong application.

Q. What is the time frame for the financial impact numbers?

A. Ms. Buck doesn't have an exact time line right now. She said it will be reasonably before town meeting. They are tentatively talking about having a town meeting in late fall.

Q. Are there other commercial options; have we done as much as we can with the frontages that have the highest commercial value?

A. Mr. Gaudette said one of the reasons we were able to get such a good deal was because the land was going to preservation uses. The only commercial part is a small piece along Route 9.

Q. What is the state listed habitat?

A. It is classified as an exemplary wetland community.

Comment: Susan Joritsma from McCormick Road wanted to speak about the Snowbirds. She said they are really important and they do what they say they will do. They were very cooperative with Ms. Joritsma. Ms. Buck said she has heard nothing but good things about the Snowbirds helping out and trail maintenance. The Snowbirds will work with the organization and make something work.

Comment: As town people, we want to know what stipulations go beyond the grant that we are applying for. Mr. Novic said there will be two opportunities for the towns' people to engage in that. In order for a Conservation restriction to be approved, it has to come before a Conservation Commission meeting and be voted on and signed. After it goes to the Conservation Commission it will go to the Select Board. The Conservation restriction is there, it is a public meeting and public discussion where all the terms will be spelled out.

Comment: When talking about grants and state and federal funds, when you think about it, it is still the people's money. Whether paying for it through our local taxes or through the state and federal taxes, the people are still paying for those grants. If the funds will be turned over to a private group who is going to limit public access, the people are still giving up their tax dollars.

Q. What will be the cost to the town? What is the funding source? How will we raise the money and what is the impact to the average household?

A. Mr. Gaudette said the fall town meeting will be October 27th and an article was going to be placed on the warrant but it appears we will not know if we are awarded the grants and how much was awarded. Those are two key pieces that are left unknown at this time. Once we have that information, a complete fiscal impact can be done. In terms of funding sources, once we have the dollar amount, Mr. Gaudette will provide a couple different scenarios to the Selectmen for recommendation for a specific warrant article. Mr. Gaudette said the town has a few different sources of funds on hand already. There is \$100,000 in a land stabilization account. There is also a general stabilization account that has over a million dollars in it. We also will know what the certified free cash is. That is any unspent cash from the previous fiscal year. As soon as we have all the information, the public will be made aware. Someone asked will there be a 2 ½ override. Mr. Gaudette said no; an override is not an option.

Q. What is the significant difference as far as the role of the Conservation Commission or if the other people own the land? If the agricultural preservation is on the Sibley portion of the land, what public access is there for passive recreation? If the town goes with Option 2, what guarantee is there that the land will continue to be preserved?

A. Mr. Grimes said he believes if the town owns it, Option 1, a different organization holds the restriction on it to make sure the town doesn't just go and do what they want with it. The other option, whether it's GWLT or Audubon, the town holds the restriction on it to control what those two organizations can do. Option 1, the town will own it and Conservation will decide what is done on the property. A different organization will hold the restrictions.

Q. If the town owns the land and there were volunteers to clean and maintain the land, what would be considered as maintenance that the volunteers should be doing?

A. Mr. Gaudette said if we own it, we will not do anything to the property. Mr. Wyman said regardless of ownership, if you want the property used, the fields have to be mowed, there is parking, there are trails, there is signage, and if the property is vandalized or abused, it will need to be tended to.

Q. Is there a way we can assess the residents to make them more equitable?

A. Mr. Gaudette said there is basically a \$19,000,000 budget. \$10,000,000 is paid in property taxes so there is \$9,000,000 raised in other revenues. We also rely on local receipts, also known as excise tax. Fishing licenses and building permits also go into local receipts. We also have sewer and water user fees. Mr. Gaudette said the town cannot ask the residents to pay more money in fees.

Someone commented that on a positive note, he hopes that with this amount of land we can have dogs, horses, hunting, walking, and hiking on certain portions of the land; make it happen for everyone.

Mr. Gaudette thanked Mr. Grimes, the Chairman, for having this open forum at the Conservation Commission meeting tonight. Ms. Buck thanked everyone that came. The information will be placed on the town website.

8:58 p.m. Opened the Public Hearing for Request for Determination of Applicability for William Klansek

Property: 125 Wilson Avenue, Spencer, MA

Mr. Klansek was not at the hearing to present his project. Ms. Washburn and the Commission did do a site visit. The project is to install a flower bed with a retaining wall and brick picnic area. Mr. Klansek will be working right at the waters' edge. Malcolm Speicher said he would like to know how far the retaining wall will be from the neighbors brook. Mr. Speicher said about a year and a half ago there were endangered species along that brook. Ms. Washburn went into the office to look at the Endangered Species map. Ms. Washburn reported that there are no endangered species on Stiles Reservoir. The map does show a perennial stream that comes from Buteau Road.

Mr. Grimes said if that is in fact a perennial stream and the work is within 200 feet of that stream, a determination cannot be issued. The Commission will go out and measure whether or not the project is within 200 feet of the stream. *The hearing has been continued until further information is provided.*

Minutes Approved: August 10, 2011 – *A motion to accept the minutes as amended (McLaughlin/Snow) passed 4/0.*

Other Business:

Chickering Road: On August 23rd, Ms. Washburn met with Joe Belino of DEP at the site. He said that DEP will allow a screen or other perforated device that extends no

deeper than 18 inches from the top of the culvert. The device can be installed from June 15th through September 15th each year. Ms. Washburn will contact the people that installed the screen to relay the information.

2.5 Buteau Road: Ms. Washburn and Joe Belino went to the site due to DEP mapping showing an anomaly in the wetlands. They met with Susan St. Germain. Ms. Washburn photographed three areas that looked recently disturbed beside the driveway. Two of the areas were on the right and one area on the left going up the driveway. The Order of Conditions expired on November 12, 2006 without a Certificate of Compliance. Ms. Washburn left a message with Mark Farrell asking him to let me know if the replication was ever done. The Commission told Ms. Washburn to issue a Notice of Violation to the owners and let them know the Commission will be doing a site visit of the property.

Site Walk availability: Ms. Washburn is required to attend a Local Emergency Planning Commission meeting at 9am on Tuesday, August 30th. She will not be available for evening site walks that day. She will be available Tuesday, September 6th.

4-H Camp logging: Service Forester, Doug Hutcheson, looked at the property and spoke to the manager. Mr. Hutcheson said that the logging activity is exempt because they are developing additional pasture for horses and pushing trees back from historic stone walls. He said both activities are exempt.

27 Delude Avenue: Ms. Washburn spoke with Alice Berry on August 23rd. She expressed frustration with the Wisiup's, who still have not done their part. The Berry's spent money having trees cut for the swale installation and it looks like a mess. They want to install the swale but the Wisiup's are stalling on doing their work. Ms. Washburn will give Mrs. Berry a follow up call after the August 24th Conservation meeting.

45 Lake Street Extension enforcement: Ms. Washburn left a phone message on August 8th that said she would be there on August 11th at 9:30am. Ms. Washburn went there on August 11th and no one would come to the door. On August 15th, Ms. Washburn issued an Enforcement Order and a cover letter that were delivered by Constable Arthur Tatro. The Enforcement Order requires the following:

1. To submit no later than October 5, 2011 a plan to redirect runoff from the driveway of 45 Lake Street Extension to minimize the volume reaching Lake Street Extension to Spencer Conservation for the Commission's approval.
2. If the plan is deemed likely to be in-effective by the Commission, the Commission may require the property owner to hire a professional consultant to produce an effective plan which the Commission can approve. Such 2nd draft plan shall be submitted no later than October 19, 2011.
3. The approved plan shall be executed no later than December 31, 2011.

Site Visits: The Commission will do site visits to 11 Mill Street, 2.5 Buteau Road and 57 Wilson Street on September 4, 2011 and Ms. Washburn and Mr. Reed will do site visits to 41 Wilson Avenue, 125 Wilson Avenue and 17 Shady Drive on August 31st.

New Applications: 41 Wilson Ave., RDA
 11 Mill Street, RDA
 17 Shady Dr., NOI

A motion to adjourn the meeting at 9:45 p.m. (Snow/McLaughlin) passed 4/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

Documents reviewed at 8/24/11 Spencer Conservation Commission meeting:

Agenda for 8/24/11 meeting
Draft minutes from 8/10/11 meeting
File for 125 Wilson Ave. RDA
USGS topographic map for 125 Wilson Ave.
Spencer River Protection Act map
File for 11 Mill St. RDA
File for 41 Wilson Ave.
Photographs taken by Margaret Washburn on 8/11/11 at 35 Lake Street extension.