

CUMBERLAND PUBLIC SAFETY COMPLEX SITE LOCATION COMMITTEE
MEETING MINUTES

Meeting, Monday, June 8, 2015
6:30 PM

Call to Order at 6:30 PM

1) Call to Order - Attendance Roster:

State and Town Officials: Councilman Scott Schmitt

Committee Members: Sean Thompson (ex officio), Josh O'Neill (ex officio), John Desmarais (ex officio), Mark Lindgren, Thomas Cabana, Kim McCarthy, Pam Thurlow, Alan Bourgette, Jeff Mutter, Alex Marszalkowski, Tom Letourneau, Tim Draper, Dana Newbrook

Committee Members Absent: Frank Matta

Members of the Public that spoke during the Public Comment Period: Tom Ayotte, Frank Geary, Gus Uht, Joe Pailthorpe

2) Approval of May, 11 Meeting Minutes: The Minutes were approved by a unanimous voice vote of Committee members present.

3) Kim McCarthy Power-point in Response to Town Solicitor's Opinion

Kim McCarthy summarized the conservation easement restriction on the Monastery and stated that it perpetual and extends over all 525 acres of the land. Kim then reviewed the list of prohibited activities listed under the conservation easement, which includes every activity necessary to build a safety complex on the land, so that the safety complex cannot be built on the Monastery land without amending the conservation easement. Kim mentioned that the Attorney General's opinion states that the conservation easement is subject to RIGL Section 34-39, cannot be amended without complying with the statute. Kim then stated that the conservation easement cannot be amended without court approval, and summarized the necessary court approval process and standards required to be met under the state statute. Kim stated that her opinion is that amending the conservation easement will likely not meet with approval through the court if the Town pursues that option, because the conservation easement both serves the public interest and serves a publicly beneficial conservation purpose. She did state that there is a "special rule" for revisions or amendments of conservation easements held by municipalities, however, she stated that the special rule is subject to the terms of the easement, and therefore that rule is not applicable here.

4) Lynch and Sons Inc. Proposal for the Monastery Land Donation

Larry McCarthy, V.P. General Counsel, from Lynch and Sons Inc., presented to the committee a proposal for a land donation to the Town which would increase total conservation land at the Monastery and connect land that the Cumberland Land Trust owns adjacent to Lynch and Sons Inc. with the Monastery property. Larry specifically stated that the land donation is not tied to any site for the public safety complex, and that they are seeking to work with the Town on this

regardless of whether or not a Public Safety Complex is built on the Monastery land in the future. Larry presented an aerial photography map of the Lynch property and the Monastery property and discussed donating approximately 16.7 acres of land to the Town, with the stipulation that J.H. Lynch be allowed to “bench” the property along the lot lines shared by J.H. Lynch and the Monastery property. This would result in the development of a “stepped” terrace effect, rather than the sheer drop-off that currently exists. Larry stated that this is a major safety concern for them and should be a safety concern for the Town as well. Kim asked why the committee needed to hear this presentation if it does not pertain to a site for the public safety complex. Josh stated that although this is not a new proposal for the committee to consider, it is germane to our discussion on the Monastery land as it is an offer that will yield additional conservation land. It was noted that for any of this to actually come to fruition, the Town would still require an amendment or revisions of the existing conservation easement. Kim mentioned that there were some bills being proposed at the general assembly allowing for additions of land to an area protected by a conservation easement but she didn’t think any of them would be passed before the general assembly adjourns for the summer. Larry stuck around after his presentation to answer questions during the public comment period.

5) Correspondence with the Attorney Generals Office

Mark stated to the committee that the Attorney General’s Office delivered their opinion on the Town Solicitor’s request for an initial legal opinion. In summary, the letter stated that the Town cannot remove the conservation easement through a Town Council vote, but must go through the court process as outlined by Kim earlier. Mark stated that it was an 8 page letter and that Josh had just emailed him a copy earlier in the day, and that it had just come to the Town on Friday. Pam then asked if anyone knew about the status of the bills mentioned earlier by Kim, but nobody was sure where they stood.

6) Sites Continued from Previous Meeting

National Grid Property Plat 39 Lots 24, 27 and 64

Josh told the committee that the Mayor had sent a letter to National Grid requesting a commitment on a 50 year or longer lease for the property if the Town was going to put its Public Safety Complex there. The Mayor expects a response from National Grid before June 15th so he can apprise the committee members as to the status of negotiations before their final recommendation. A motion was made and seconded to continue the National Grid property as a site for consideration at the final committee meeting on June 25th. The Committee voted by unanimous voice vote to continue consideration of the National Grid property at the final committee meeting on June 25th.

Plat 33 Lots 188 and 158 off of Mendon Road

No new information was available and no discussion was had. A motion was made and seconded to continue this property off of Mendon Road as a site for consideration at the final committee

meeting on June 25th. The Committee voted by unanimous voice vote to continue consideration of Plat 33 Lots 188 and 158 for consideration at the final committee meeting on June 25th.

The Monastery Plat 20 Lots 1, 2, 4, 8, 10 and 31 and Plat 22 Lots 8 and 13

The committee then considered continuing the Monastery for the final committee meeting on June 25th. Kim McCarthy made a motion to remove the Monastery land from consideration, particularly since other sites have been removed for reasons less serious than the legal prohibition imposed by the easement and RIGL Chapter 34-39, as interpreted by the Attorney General's opinion. Jeff Mutter then seconded the motion and gave his reasoning behind his decision to want to remove it from committee consideration. Jeff said he had issues with recommending a property where development cannot legally be allowed under current restrictions. Jeff said that his feeling was that the Town should have resolved these legal issues with the Attorney General before bringing the Monastery up for consideration with this committee, since the Town has been aware of these legal issues for 10 months. Jeff said he is not taking sides and that his stance has nothing to do with the Monastery Preservation Alliance or any other conservation group, but only to do with the legal restrictions in place with the conservation easement adopted in 2004. Jeff stated that we have removed other parcels from consideration for reasons of conservation restriction or wetlands restrictions, and that this reason was the most "real" of any of them.

The committee then voted on the motion to remove the Monastery land from consideration at the final committee meeting on June 25th. The vote was 5-5. The motion fails. The vote count was as follows:

Voting in favor of the motion:

Kim McCarthy
Jeff Mutter
Pam Thurlow
Tim Draper
Thomas Cabana

Voting against the motion:

Mark Lindgren
Thomas Letourneau
Alan Bourgette
Alex Marzalkowski
Dana Newbrook

7) Sites Submitted or Proposed for Committee Review

Josh mentioned that he received a couple of emails that proposed a public safety complex on or near the site of the existing police station off Diamond Hill Rd. Josh stated that these proposals were similar to ones brought before the committee at previous meetings. Josh stated that one of

the proposals mentioned the tax sale properties off Hines Rd. that are Town owned and accessed via private property on Diamond Hill Rd., which would require purchase of the connecting land or the taking of the property by eminent domain. He stated that this proposal seemed impractical and didn't meet the acreage requirement.

Kim then stated that she wanted to re-submit the Drop Zone and Sher Le Mon properties for consideration at the final committee meeting on June 25th. Tom Letourneau stated that he served on a committee for Sher Le Mon for many years and that there would be lots of parking problems if we developed that land and lost parking for students at the high school. He said there is a lottery system in place for students and teachers to get those parking spots. If they lost the spots it would create even more problems for students crossing the street and walking up the street from Tucker Field to get to the high school. Tom said we should not reconsider this issue. Jeff Mutter stated that he saw this as a procedural problem for the committee. He said the committee already rejected the Drop Zone property for consideration and we cannot go back on that. He stated that he felt the committee could consider a "different proposal" which is what Kim is suggesting, which combined both the Drop Zone and Sher Le Mon properties. Josh O'Neill said that the procedure is not to include any private parcels of property unless the property owners approached the Town. Mark Lindgren said that he felt that we should consider the site only if the Mayor gets consent from the owners of Sher Le Mon to be considered for this committee, and agreed to ask the Mayor to approach the owners of Sher-Le-Mon.

8) Private Property Discussion Updates

Josh mentioned that the Water Department property shown on the AppGeo maps as Plat 22 Lot 13 is owned by the Town of Cumberland and is included as part of the Conservation Easement on the Monastery land. Josh mentioned that the Mayor is still in negotiations with National Grid about the availability of their land on Plat 39 Lots 24, 27, and 64. He stated that the Mayor has asked for a 50-year or more lease option for the property and has asked for a response by the end of this week. Josh stated that the Mayor is still trying to reach out on several pieces of private land but may not have anything to bring forward on those before the committee's final meeting.

9) Public Comments

The Chairman then opened up the meeting for public comment

Joe Pailthorpe

Joe Pailthorpe stated that his proposal for the Monastery property and Lynch and Sons Inc. property was a five point proposal and was more complex than what has been presented tonight in regard to a land donation proposal (that is not connected with building a public safety complex on the Monastery land). He stated that he would like to see several amendments to the existing conservation easement, including transferring the easement to a third party, such as the Nature Conservancy. He also stated that with the incorporation of the proposed donation, there would be a contiguous connection between the Monastery and the Cumberland Land Trust property. He said he would like to get additional conservation land in Town and this should be brought up as part of the argument if the Town goes forward with the Superior Court challenge over the Monastery restrictions. He said we need to upgrade the senior center, and that is prohibited by

the conservation easement at this time; this should be addressed if the Town attempts to amend the conservation easement in a Superior Court challenge, as well as incorporating measures to strengthen the conservation easement going forward after amending it.

Jeff Mutter

Jeff stated that it is not the Monastery Preservation Alliance people that are blocking any changes, and that it is the legal restrictions that are in effect because of the conservation easement that are preventing any further development on the property.

Tom Ayotte

Tom asked if we could get information on the possibility of the building renovations and tax impact issues relating to the National Grid property before the committee's final meeting. He also asked whether it wouldn't be more helpful to have that type of information before voting on the properties; Mark replied that it would in a perfect world.

Kim McCarthy

Kim asked, in light of the lack of information on various properties, the fact that the Mayor anticipates additional information in the near future, and the fact that we have so few viable options, whether we could extend the date for the Committee's final meeting. Josh indicated that the Mayor has set a deadline and he is not aware that the Mayor would permit an extension. Mark agreed to ask the Mayor if he would extend the deadline for a short period in order to obtain additional information.

Gus Uht

Gus stated once again that he believes attrition is the problem; once the Conservation Easement is compromised, the land will be used up in bits and pieces. Gus stated that the Solicitor's letter to the Attorney Generals Office mentions a Town Hall and Senior Center as part of the Monastery and wants to know if the scope of what is being considered is now changing.

Mark Lindgren

Mark stated that the scope of the committee's mandate from the Mayor is for a site of 6-10 acres within the boundaries outlined previously, and that the land will be used for a future public safety complex. He stated his opinion that this includes Police and Rescue services, and not many of the other potential uses being discussed. He is not considering anything other than that, and that is how he is making his decisions.

Audience Member

Wanted to know why is the complex now including everything under the sun and why are we concerned with being centrally located? He also expressed concerns with the cost the Town might incur in challenging the easement.

Audience Member

Asked whether it was true that the only private properties that have been considered were initiated by the owners, particularly Angell Road. Josh and Mark replied that the Mayor and Town did approach some private landowners, such as Angell Road, so that there are exceptions to the general rule. Asked whether the Drop Zone could be reconsidered in light of this information.

Tom Letourneau

Tom stated that he moved to the Town in 1965 and that he lived here in 1968 when Hayden purchased this land for Town facilities. He stated that the Monastery purchase was to assure space for future Town facilities and what we are considering is appropriate given the original intentions for the purchase of this land by the Town.

Audience Member

Mentioned that it is dangerous on Mendon Rd. for students walking that street in the winter. He stated that we should not consider building on the Drop Zone and Sher Le Mon property unless the Town provides additional parking for high school students, because it will take away much needed parking for the High School and increase pedestrian danger.

Jeff Mutter

Jeff stated that there was a process in 2004 which created the conservation easement and that we are in the same place today as regards the restrictions on the Monastery land. Jeff stated that the Town has had a long time to address this if we want to put the future public safety complex on the Monastery land. Jeff stated that he liked Joe Pailthorpe's proposal to amend the conservation easement but also make it tighter and have a third party manage the land in the future.

Frank Geary

Frank had questions about the amount of land being donated by the Lynch property. He stated that he would like to see the Nature Conservancy manage the additional land per Joe Pailthorpe's earlier proposal.

End Public Comment

9) Motion to adjourn at 8:10 PM.

The final meeting of the site location committee is currently scheduled to be held on June 15th in the Community Room of the Cumberland Public Library at 6:30pm.

Respectfully Submitted,

Josh O'Neill, CFM, MPA
Staff