

**CUMBERLAND PUBLIC SAFETY COMPLEX SITE LOCATION COMMITTEE**  
**MEETING MINUTES**

Meeting, Thursday, June 25, 2015  
6:30 PM

**Call to Order at 6:30 PM**

**1) Call to Order - Attendance Roster:**

**State and Town Officials:** Mayor William S. Murray, Council President Craig Dwyer, Councilman Scott Schmitt

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

**Committee Members Absent:** None

**2) Approval of June, 8 Meeting Minutes:** The Minutes were approved by a unanimous voice vote of Committee members present.

**3) Mayor Murray Remarks to the Committee**

Mayor Murray addressed the committee to update them on his discussions with private property owners and negotiations with entities being discussed by the committee as well as summarize his goals for this committee and thank them for their hard work and time. The Mayor mentioned that this committee started out with a list of ten properties submitted by the Planning Department and that the criteria was any public or private property within the central area defined by our public safety officials that would be 6 acres or more in size. Mayor Murray said he was disappointed that the process had side tracked on one issue (the Monastery land) and wanted the committee to assure that all viable properties received attention and discussion. He said he wasn't required to form this committee, but did so to assure that the Town had as open and transparent a process as possible in determining a final location for the new public safety complex. Mayor Murray also mentioned that during this process he had conversations with four separate property owners and that none of these conversations led to anything promising that he could have brought before the committee; three refused to sell, and one was asking for more money than the Mayor felt was worthwhile. He stated that conversations with National Grid are ongoing.

The Mayor then took questions from the committee. Kim asked the Mayor if he approached the owners/board of directors of Sher Le Mon about using the property in connection with the Drop Zone as a site for consideration. The Mayor said he did approach the owners/board of directors of Sher Le Mon but that he couldn't really get into any details of his discussion. Dana asked if the committee was voting on the National Grid site with the understanding that only a 20 year lease option is available. The Mayor said right now that is correct. He is working with National Grid on the possibilities for a 50 or 100 year lease and discussion are ongoing. He mentioned that a building retrofit is still being discussed. Mayor Murray also stated that the Fire District Consolidation could weigh in on this if it becomes a municipal entity in the future.

Kim then asked the Mayor whether or not we should consider the Drop Zone and Sher Le Mon property for recommendation, or whether that was one of the property owners that had refused further negotiations. The Mayor said he was concerned about the 800 swim club members losing their place to swim. He also stated that the Police Chief had concerns about pedestrian safety. Mayor Murray then left the meeting to allow the committee to deliberate and vote on the final recommended sites.

#### **4) Sites Continued From Previous Meetings:**

The committee then began discussing the sites continued from previous meeting that will now be voted on as recommendations to Mayor Murray. At this point the committee went out of order on the agenda and discussed the sites and also voted on the recommendations at the same time. The votes will be recorded on the next section in these official Meeting Minutes even though they all occurred under item #4 on the agenda.

#### **National Grid Property Plat 39 Lots 24, 27 and 64**

Tim stated that he believes it will take a lot of money to retrofit the National Grid building for the purpose of a new Public Safety Complex. Tim also mentioned that he didn't like the shorter term 20 year lease option and thought that was not in line with the Town's needs. Kim said that the Mayor has told us that negotiations are still ongoing and, since the negotiations started with the parties at 10 years and 99 years, the 20 year option is not necessarily the final option. She said she agreed it is not the perfect property, but it meets the criteria, some of the issues could be addressed by the Mayor and his staff during negotiations, and therefore it should still be recommended by the committee. Tom Letourneau said that all the committee is being asked to do is make a recommendation. In his mind the National Grid Site and the Monastery Site are the best sites for the Public Safety complex. He said there are still some problems with both sites, but we should recommend them both.

#### **Plat 33 Lots 188 and 158 off of Mendon Road**

Chairman Lindgren summarized past discussions about these parcels. Alan discussed how he thought the property would be tough to build on, and Kim agreed that the property is certainly not ideal, but does meet the criteria, and has over 50 acres to work around the wetlands and access issues. After some discussion, Tom Letourneau made a motion to not recommend this property to the Mayor. There was no second to Tom's motion. Tom's motion failed.

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

Kim indicated that we had only discussed the legal issues relating to the Monastery site, and not any other issues (like wetlands, ledge, etc.), and therefore asked to display maps showing the the Monastery property. There was then some discussion about the amount of wetland areas within the property as well as the small brook known as Monastery Brook. Tim then asked that he have a moment to explain his thinking on the Monastery and how he will vote. He stated that his decision was based largely on the Attorney General's opinion letter. He came away from that understanding that building anywhere on the Monastery property would currently be in violation of the Conservation Easement as it applies in RIGL 34-39. He said that our mission, as indicated

in the initial meeting minutes, was to identify and recommend “viable” sites to the Mayor, and that he believed the nature of the Conservation Easement makes the site unviable for recommendation. He said he would like to see the Mayor resolve these legal issues going forward.

Alex then shared an analogy that he thought going through the process to go to Superior Court to get the Conservation Easement lifted was kind of like a 16-year old driving without a license, which can be corrected by going to the DMV and getting a license. There is a process, and it make be time consuming and unpopular, but at the end of the process you could remove, amend, or otherwise change the existing restrictions on the property. Kim stated that she thought the analogy didn’t work because that the bar to amend or remove a statutory conservation restriction is much higher than to get a driver’s license. Kim stated that this required legal process is much different than a license application, since it requires convincing a court to approve the change, and she felt it would be difficult for the Town to get the restrictions lifted. Alex said he understood that the process is complicated but that she doesn’t know for sure what the outcome will be and neither does he. Tom Letourneau said that we should remember that there will be a process continuing after this committee completes its work tonight. This committee will not decide the legal issue, we are only decided if this is a good site to recommend to the Mayor given the parameters he has outlined for us. Kim stated again that the committee has turned down other sites for much lesser issues (suspicion of wetlands, purchase of property for certain conservation or recreational purposes, current use of property as ballfields, etc.) and she believes the Conservation Easement is a much more serious issue. She also said that she believes the Mayor has an open mind on what we will ultimately recommend but that if the committee recommends the Monastery, despite all of the challenges, people will think that the result was foreordained from the beginning. She also indicated that she was concerned that, if the committee voted to recommend the Monastery, it would be used to support amending the Conservation Easement.

Alan asked that we also consider that an amendment or release from the current Conservation Easement will allow for the land donation that Lynch and Sons presented to the committee on June 8<sup>th</sup>. Any future building on the Monastery could be offset by this land donations and he believes many of these issues can be mediated or otherwise resolved in the near future. Alan also mentioned that he would be against using any of the Monastery land south of the power lines; but the area we have looked at in the northeast corner is workable. Kim clarified that Mr. McCarthy of Lynch and Sons had specifically and explicitly stated that the Lynch donation was not conditioned on the use of any particular site – including the Monastery land – for the public safety complex, and therefore there was no “offset”. She also said she felt that there was no mediation on this issue.

Tom Letourneau said we all “think” the conservation easement amendment/release can or can’t happen but we don’t know for sure. Only the court will decide this issue. Let’s recommend this property and leave it up to the Mayor to pursue the legal process to remove or amend the conservation easement. Jeff Mutter then stated that if he was on the Planning Board or Zoning Board his decisions would have to be made within the existing rules and regulations and that he would not recommend an action that required a change to the law. Jeff stated that the legal issues and changing them are not within the purview of this committee as we are only advisory in nature. He stated that the Town needs to find a way to remove or amend these restrictions, not us, and that they have known about this issue for a year and should have addressed the issue before asking the committee to do its work. Jeff then said that if the committee has a majority

that will recommend the Monastery land then the motion should be made that also requires that the Conservation Easement be help by multiple entities, not just the Town, to protect the rest of the land.

Alex said he was hesitant to recommend using the Monastery land for a new public safety complex, but noted that there are good reasons. Alex stated that he works on Adams Farm and is for the protection of pristine land as he understands its importance and value to town residents. He then stated an analogy saying that on the farm when a new barn is needed we make the investment and build a new barn because it is necessary for the operation of the farm. He said just like that example, a new public safety complex is needed and is necessary for the functioning of town government and public safety.

Chairman Lindgren stated that his biggest concern is that he was not sure that the Town knew what it was getting into back in 2004 when it passed the conservation easement and management plan. The restrictions seem unduly burdensome to him. Kim and others stated that the minutes of the meetings at the time indicated that it was clear that the Town Council, the Town Solicitor, and the Town Planner were all in agreement that the entire property was governed by the Conservation Easement, and that it prevented any changes or building on the property in perpetuity. However, other Committee members noted that the changes to Chapter 34-39 were not adopted at that time. Mark said he had hoped there would be some level of compromise during this process between those in favor of conserving the monastery land and those in favor of using 6-10 acres for a public safety complex. He said he doesn't get the sense that any compromise is occurring on this issue. Kim indicated that neither the committee nor the MPA has the authority to make any compromises here; these are legal issues and neither the committee nor the MPA has the authority to negotiate/manage open space a deal on behalf of the Town.

Jeff Mutter then stated that it was dangerous to say that nobody knew what was happening when the restrictions were put in place in 2004. Jeff said we should not make that assumption. The Conservation Easement and resolution were advertised several times, discussed and voted on at meetings after public notice, and following all of the proper procedures. The fact that residents did not attend those meetings or object is irrelevant. He stated that the Town Council had discussions about the restrictions back then and he was a part of them, and that no constituent in the past 10 years had ever told him that tying up the Monastery property was a mistake.

Dana Newbrook then made a motion to recommend the Monastery land to Mayor Murray. Jeff Mutter then stated that the motion should be re-stated to say that the committee recommend the Monastery land, but also recommend that the Conservation Easement remaining on the rest of the land (other than the 6-10 acres used for the public safety complex) be held by multiple entities, not just the Town, so that the land will never again be touched and we do not have to go through this process again.

### **Sher Le Mon /DropZone – (Plat 38 Lots 12 and 13)**

Kim stated that, in light of the fact that the Mayor had spoken to the owners of Sher Le Mon and they did not reject the idea, the committee should put the Sher Le Mon and Drop Zone properties back on our list and recommend them to Mayor Murray. Mark said that he personally believes that it would be good to recommend these properties as well since we have so few viable sites left that we are recommending at this final vote tonight, and that he believes that the owners of

the Sher Le Mon property might be willing to sell. Tom Letourneau said that we were not supposed to consider sites that are less than 6 acres in size and that these two properties, when considered in light of their wetlands and parking easement restrictions would yield below 6 acres of buildable land. The committee members stated that, if the two properties were combined, the parking easement would be nullified, so that there would be more than 6 buildable acres on the combined property.

*As noted above, the vote tallies are included in the next section below.*

### **5) Committee Vote on Final Recommendations to the Mayor**

#### **National Grid Property Plat 39 Lots 24, 27 and 64:**

A motion was made and seconded to approve the National Grid Property as a recommended site for a new public safety complex.

The motion passed unanimously with a vote of 11 – 0 in favor.

#### **Plat 33 Lots 188 and 158 off of Mendon Road:**

A motion was made and seconded to approve the former Lambert property, Plat 33 Lots 188 and 158 as a recommended site for a new public safety complex.

The motion passed with a vote of 10 – 1 in favor. The vote count was as follows:

Voting in favor of the motion: Mark Lindgren, Thomas Cabana, Kim McCarthy, Pam Thurlow, Alan Bourgette, Jeff Mutter, Alex Marszalkowski, Tim Draper, Dana Newbrook, and Frank Matta.

Voting against the motion: Tom Letourneau.

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

The committee then voted on the motion to approve the Monastery land as a recommended site for a new public safety complex, condition with a recommendation that the Conservation Easement on the remaining land (i.e. other than the 6-10 acres used to build a new public safety complex) be held by multiple entities, not just the Town, so that the land will never again be touched and we do not have to go through this process again. The vote was 8-3 in favor. The vote count was as follows:

Voting in favor of the motion: Mark Lindgren, Thomas Cabana, Alan Bourgette, Frank Matta, Pam Thurlow. Alex Marszalkowski, Tom Letourneau, and Dana Newbrook.

Voting against the motion: Kim McCarthy, Jeff Mutter, and Tim Draper.

#### **Sher Le Mon /DropZone – (Plat 38 Lots 12 and 13):**

A motion was made and seconded to approve the Sher Le Mon and Drop Zone properties as a recommended site for a new public safety complex.

The motion passed with a vote of 8 -2 in favor. The vote count was as follows:

Voting in favor of the motion: Kim McCarthy, Mark Lindgren, Thomas Cabana, Alan Bourgette, Frank Matta, Pam Thurlow, Jeff Mutter, Tim Draper, and Dana Newbrook.

Voting against the motion: Tom Letourneau and Alex Marszalkowski.  
Tim Draper recused himself from the vote because he is a member of Sher Le Mon.

**6) Motion to adjourn at 8:05 PM.**

This was the final meeting of the Public Safety Complex Site Location Committee. This committee's work is now complete and the committee is disbanded, once they submit the formal written report summarizing their work and recommendations to the Mayor.

Respectfully Submitted,

Josh O'Neill, CFM, MPA  
Staff