

**Town of Lenox  
Community Preservation Committee  
Meeting Minutes  
June 27<sup>th</sup>, 2022**

**Members Present:** Tom Delasco (TD); Frederick Keator (FK); Kim Graham (KG); Neal Maxymillian (NM); Shannon O'Brien (SO); Mark Smith (MS);

**Staff:** Gwen Miller, Town Planner

**Others Present:** Becky Cushing-Gop (BCG) (Mass Audubon), Stephanie Bergman (SG) (Mass Audubon), Shawn Leary Considine (SLG), Marybeth Mitts, Alan Strassler, Julie Powers, Clarence Fanto (Berkshire Eagle), Jim Nejaime,

1. **Approval of Minutes:** The Committee approved the minutes of March 10, 2022.
2. **Public Hearing:** The Community Preservation Act requires communities to hold an annual hearing at which they can hear or solicit community input as to how CPA funds may be used in the coming year. TD opened the hearing. Marybeth Mitts, member of the Selectboard, stated she was in support of the letter brought to the Selectboard by Shawn Leary Considine in support of the preservation of land to the north of East Dugway Road. There were no other comments. The hearing was closed at 6:14 p.m.
3. **Off Cycle Applications:**

The Town received two off-cycle applications for Community Preservation Act funds. Shawn Leary Considine submitted a request for \$360,000 for approximately 40 acres of land north of East Dugway Road. Mass Audubon's Pleasant Valley Sanctuary submitted a request for \$150,000 to support the expansion of their universally accessible All Person's Trail.

**A. East Dugway**

SLC presented her application for the purchase of 40 acres on East Dugway Road. This land is to the northeast and would be adjacent to the housing development proposed by Pennrose, LLC on part of the site. She explained the property has an established trail system that is used by ATVs. The Hashim family has owned the property for years and it is untouched. She explained it is a wildlife corridor and identified in the Master Plan and Open Space and Recreation as priority land to conserve. Property has been taken off the market in acknowledgment of the town's interest and is subject to a Purchase and Sale Agreement. There were proposed house sites and percolation tests had been done to see if septic could be supported. The asking price is reduced and is a great value especially in light of recent and current housing market. If the Town does not purchase this land, it will go back on the market. SLC noted it is not just the sixteen acres that are developable;

there could be other parcels carved out; or, by conserving it, it could unlock the protection of 400 other acres to the north (including a parcel owned by Specialty Minerals) that could also one day be open space and recreational land. SLC looked at the maintenance costs of Kennedy Park, which is in the low four figures. She recommended that it would be reasonable for the Town to take this one and hoped the CPC would vote in favor.

TD asked SLC about the timing of the process and project. SLC said it's been off the market since fall 2021; she had brought it before the Conservation Commission but in that process developed the Purchase & Sale Agreement with the sellers. The Commission was worried about the developability of the land. SLC noted the P&S is very generous to the town, gives the town up until closing to get out of the arrangement if it is not developable land. Town Counsel had vetted it as well. She said there were other steps to take: There would be an inspection of the property, and there would be a Form A submitted to the Planning Board to divide the forty acres off of the larger parcel. There would be a title search as well. P&S is generous to town, gives town up till closing to get out if property is not

TD and NM asked GM about timing, and how this would align with the schedule of Town Meeting. GM said there is usually a fall Special Town Meeting, they had missed the June Special Town Meeting but there could be another Special Town Meeting before the fall. SLC said September would be ideal. FK asked if the sellers were open to an Option agreement. SLC didn't think so. MS asked how long the property had been listed for; NM said it has been listed on and off again over the years. NM went on to say he has experienced off-cycle applications in his former community of Lincoln. He wondered why the Committee felt it needed more time for its decision.

NM, FK, and KG talked about the special cycle process. FK wasn't sure about it, and though Special Town Meetings are "special interest" meetings, referring to the most recent Special Town Meeting at which forty residents attended. KG thought the applications before the CPC would garner a larger crowd and has seen better turnout in the past.

Alan Strassler of 121 East Dugway expressed concern that the mission and merits of the project were not discussed and that the group should be enthusiastic and excited about the proposal and not solely focus on the timing of Special Town Meeting. KG and TD explained that the group likes to get all the information on the table before making any decisions. Jim Nejaime, another neighbor to the property, also strongly supported the proposal.

FK said the review process is a two-pass process; NM agreed and thought that since the project so naturally fits in to the intended use of CPA funds the group had quickly leapt into the next step. NM continued to say that Town has adopted CPA, it did not have too; funds are required to be used for these purposes

Lynn Strassler wondered why Lenox doesn't do what Nantucket does—which is adopt a surcharge on property taxes that goes toward land protection. FK and NM indicated that was CPA or a similar program, which Lenox does have.

MBM read language from application that allows for special off cycle circumstances

GM followed up on an earlier comment and suggested that the Town will help make what needs to happen, happen in time for the closing date if the CPC decides to approve this project. She also noted there are specific funds set aside for the acquisition of open space/recreation land.

FK said he would like to hear the Mass Audubon presentation, but have a second, in-person meeting to vote on the applications.

### **B. Mass Audubon Pleasant Valley**

Becky Cushing Gop and Stephanie Bergman co-presented. Mass Audubon said they will need funding in hand by June 2023 but need a commitment sooner. Becky Cushing Gop explained funds from the Lenox CPC will expand the All-Person's Trail at Pleasant Valley. The existing AT is twenty-years old and was severely damaged during the 2021 microburst storm. The new and expanded APT will complement the newly renovated barn, and the accessible nature playground and picnic area. BCG explained the growth in usership of the sanctuary; and described a litany of challenges with the existing ATP. She explained the budget as well.

The CPC had questions. FK asked about timing: why does this need a decision now, instead of by next May? BCG and SB said they need a commitment by the autumn and money in hand by June 2023. KG said this was a very thorough presentation. NM said the project is very appropriate but wondered if the erosion so detrimental to the ATP comes from ongoing issues and not just the 2021 storm—might there be a better location or route for the ATP going forward? BCG explained how they are closing off a section of trail along the northern edge of Pike's Pond because it is not stable. The new route and design of the ATP is intended to avoid erosion going forward and be resilient to increased precipitation. The CPC members thanked BCG and SB for their time and thorough presentation.

The CPC decided to meet again on July 7<sup>th</sup> at 9 a.m. in person to vote on the projects as presented.