

Town of Lenox
Community Preservation Committee
July 7, 2022

Members present: Tom Delasco, Frederick Keator, Kim Graham, Shannon O'Brien, Neal Maxymillian, Mark Smith

Also present: Shawn Leary Considine, Becky Cushing, Lorraine McNulty

TD called meeting to order at 9:04 a.m.

Approved meeting minutes from the previous (June 27th) meeting. FK moved to approve; NM seconded. MS had amendments.

- omit last line of second paragraph on page 2
- on p. 3, Lynn Strassler is actually Lorraine McNulty
- ATP should be ATP everywhere
- There is a period missing.

The 6/27/22 minutes were approved as amended.

TD reversed order on the agenda, to discuss the Audubon application first.

FK moved to approve the Audubon application.

He reiterated his discomfort with off-cycle applications. He knows they need to demonstrate the funds; he believes Audubon has been a great steward and has a great proposal. TD agreed.

NM talked about timing, germane to both applications. The select board had met the previous evening and he did not think there was appetite for a special town meeting before the typical fall meeting. He did not think these applications would produce a unique town meeting, especially since the June special town meeting only produced 40 voters. NM was hopeful that approval in the CPC process will give enough commitment to the parties to move forward. It may happen earlier than November; but not this summer. NM also noted some of the timing had to do with when the Towns' free cash will be certified.

All were in favor of approving the Massachusetts Audubon Society's Pleasant Valley project. BC said she appreciated the context for Town Meeting schedule; NM said they would be happy to provide evidence of unanimous support as requested.

FK made a motion to table the application for land protection off of East Dugway Road. HE said they were not under the gun for a special town meeting. He felt the meeting had been rushed, he also felt he had identified another funding source. HE has spoken to NM and another Select board member to see if they can explore this other funding source. TD asked if there was a second. MS seconded.

NM gave some background. He had spoken to Christopher Ketchen and another BoS member; they are thinking they would consider matching the funding in some way or would discuss assistance in some

way. The thought process is that preservation of land meets town goals as well; Town has had need in the past, and it has needed to offset lost wetlands and things like that, but it may be possible given the free cash position to match the purchase. Not 50-50, but some portion.

FK said it was not the purchase that was questioned; it was the timing of the funding. FK said he would not speak for a committee; in his opinion, the purpose meets CPC guidelines and requirements, but they need more time to explore additional information. For instance, Cons Comm received a bunch of extra information on the land that FK would like to see. FK felt rushed. He felt a few more weeks would be appreciated.

SLC said she understood this, but her concern was that this is high selling season for real estate. It would be helpful to have a vote of confidence, or a vote of approval conditioned on a Select board vote to commit free cash to this. She needs to be able to show positive progress to Dr. Hashim or they will put it back on the market. Annual Town Meeting in 2023 is too late; fall is possibly ok. There are interested buyers. They need something for sure.

NM said he appreciated the process, but felt it was “Real Estate 101”.

NM said there is clearly support. KG said she was excited to hear there is additional funding available. She reiterated she would be happy to put in writing that she is in approval of the project.

FK asked for a straw poll vote, instead of a letter in advance of an official vote.

KG asked if SLC would be comfortable leaving with consensus of support; SLC said this would be fine since it is on the record.

NM encouraged SLC to leave with the news that there is support, they like it, and so does the BoS and there is likely going to be multiple funding sources—CPC and the Select board. There is momentum and it looks good.

Shannon O’Brien was in support; Tom Delasco was in support. KG was in support; so was NM. Mark Smith conveyed the consensus of the Conservation Commission that the land is too expensive. Their hope is that Dr. Hashim may donate some of the land and reduce the cost. He was sharing this as liaison of the Conservation Commission. NM has brought up another source, but it is still the Town. He wanted to be clear.

SLC explained the background on the price. She said when she approached the Conservation Commission, it was going to be 16 acres for \$350,000. Dr. Hashim has included additional acreage at this point. So, in a sense he has donated an additional 24 acres. Part of the total acreage is being donated.

SLC said the Purchase & Sale Agreement has already been approved by Town Counsel; CK has reviewed it; and Lori Robbins (Attorney to Dr. Hashim) has reviewed it. It is a very favorable P&S Agreement to the Town. From the time the P&S is signed, even up to closing—which needs to be a month from Town Meeting; we have the opportunity to do due diligence. Also, the seller has to give us all their existing documentation of the site, like from their engineers. Usually, this period is much shorter and does not last until closing.

FK said they could not sign the P&S without Town Meeting Approval. SLC said it was contingent upon Town approval, so they could sign it.

The uniqueness of this agreement is that the inspection contingency goes beyond Town Meeting.

KG asked if the P&S says "Pending Town Meeting Approval".

FK said it seems possible that the P&S could be signed by the first of August, which would give extra time for due diligence. SLC said this would give everybody more time and would mean Dr. Hashim would need to hand over his documents on the property.

NM asked what due diligence is going to reduce the value of the open space relative to the concern from Conservation Commission? He questioned what value it really imbues to the Town to try and chip away at the price. Did Cons Comm have a figure they felt the land was worth? MS said they did not. MS said they question its developability; there is a recent wetland delineated but not for the Wetlands Protection Act and has "perked" for four sites. The Cons Comm thought \$150,000-\$200,000. FK said it sounded more speculative.

The motion to table the application for a few more weeks was seconded; NM said they would meet on the 27th. FK asked to table the vote until the first week of August. MS said he will not be here.

There was a motion to table until August 8th. The meeting would be in the evening.

This was approved.

FK moved to give tacit approval to the project so that SLC can share support with Dr. Hashim. KG asked for clarification. Would this mean that even if there isn't free cash available, that CPC would still support the project? It was indicated this would be the case. NM seconded the motion. MS abstained. All other members were in favor.

KG moved to adjourn. FK seconded. All were in favor.