

MINUTES

GREEN SPACE COMMITTEE WORKSHOP

WEDNESDAY, JULY 27, 2022

WILLIAM L. PULLEN MUNICIPAL BUILDING MEETING ROOM

ONLINE NON-INTERACTIVE AT TOWN HALL STREAMS

6:30 p.m.

Committee members present: Kathleen Thornton (Chair), Clairlynn Rountree, and Josh White

Others present: None.

1. **Workshop called to order:** 6:30 p.m. by Kathleen Thornton.

2. **Workshop:**

Kathleen said the vote got overwhelmingly approved. It's good news that we're progressing, that voters approved the money for the survey.

Motion to postpone reading and approval of minutes until next meeting by: Kathleen Thornton

2nd by: Clairlynn Rountree

3-0

Kathleen received emails from people very happy that the money for the survey was approved.

Kathleen said she gave a short update at the meeting and put it in the google drive. She explained that the committee now has a google drive, where they can put docs; it is totally open to the public. If it's not already linked to the Green Space Committee on the town website, it soon will be, so anyone can go in and look at anything we put up there. We can all also go in and look at all these documents.

Kathleen brought up documents that Jay had put together for the select board regarding town-owned property – a list and where they're all located, tax maps, etc. She found references to working with one of the land trusts about some of these properties; someone made notes, and it must have been a while ago as there are references to Medomak Valley Land Trust which is now part of Midcoast Conservancy. It looks like some of the land trusts had looked at the properties. She brought it up because obviously there has been some interaction that perhaps was so long ago that people have forgotten about it. There was a Conservation Commission at one point, Jay said. It might be interesting to talk to someone at Midcoast to see if there's a record; it might save time.

Green Space Committee Workshop Minutes – July 27, 2022

Kathleen said Jay had contacted surveyor Mark Barbour, and he was going to do the survey. Josh said he had already done some verbal background research. Kathleen sent him all the deed information awhile back when he was doing his quote. He thinks it will be done this year.

Kathleen said nothing can really happen until the town votes next year. She talked to Annette from Georges River Land Trust, and to a friend from a different land trust who's not involved in this at all. They both said with town projects they get a preliminary plan in place for people to vote on, so if we give options it wouldn't just be "a land trust"; we could present something more than this vague thing that we're going to do something with a land trust. We could actually get a land trust, or more than one if they're interested, to sit down with our committee and discuss possibilities and come up with some concrete ways. Josh thought this was a good idea, being specific.

Kathleen feels the options need to be as few as possible, as specific as possible, and not similar. Josh said as far as easements, etc., we need to be vague in our terminology, but the scope needs to be specific. Kathleen said the Owls Head one with Georges River Land Trust is on our google drive now; that's a municipal one. She thinks the land trusts all agree that municipal easements should be the least restrictive possible; we are trying to represent the interests of a town and not just a family or a person. Clairlynn echoed that was very clear.

Kathleen thinks we should present all the facts about all the options, which is why we started this sort of a grid (referring to projection). She referred to options across the columns: Don wanted a "do nothing" option or status quo; deed restriction; third party easement; option to just give the property away; then two kind of nebulous items – one is a town forest. She talked to Julie Kaiser from Waldoboro who's digging into it; she doesn't think there's any conservation easement on that. The land bank option came from Rob Levin, a Portland real estate land lawyer. She got his permission to put the whole email exchange on the website – it talks about deed restrictions and how they're not enforceable, and other options for protecting a property. Unfortunately, there's no legal way to enforce deed restrictions, so you put it on there, but if the select board just voted to sell the property there's nothing the townspeople could do because no one would have legal standing in court. That is also what the town lawyer basically said.

Kathleen said Rob Levin did present a couple of other options. One was this land bank. Don looked it up quickly at the last meeting and thought it didn't really apply to us, but Kathleen thinks it is something we should leave on there just as an option. She heard a piece on NPR about a land bank a conservation group was doing, but it was for affordable housing. Josh recalled that basically we would own the property on the hill, we do absolutely nothing with it, that takes restrictions off 24 other acres that we could do something with. Kathleen said that can happen; we can make up the rules for the land bank, but Don thought they were pretty specific. Her understanding is according to state law we cannot require a supermajority of voters, but we could require a supermajority of the select board. She asked if anyone watching had any other options to suggest.

Green Space Committee Workshop Minutes – July 27, 2022

Josh mentioned the potential swap: some left alone, some for recreation for example. Kathleen said more research needs to be done. Land banks have many options but are hard to get it back out of. Josh said research into that could be interesting in the entire scope of the committee. Kathleen said at some point we are going to have to deal with the affordable housing issue.

Kathleen said look into the above on our own and come back. She read through the options projected on the screen and asked if anyone wanted to add or reword anything. Pros and cons of the “do nothing” or status quo option were discussed.

Clairlynn stressed the importance of well-informed citizens and would like to see just three or four options put to vote.

Kathleen continued through the options: third party easement, giving the land away (assume would want to put restrictions in place – if say we gave it to Georges River Land Trust and they violated the restrictions, would the town have legal standing to do something? You have to have some financial effect.) She is finding out you can put whatever you want in a deed restriction, but if you don't have legal standing to sue them, it doesn't really matter. This is another question for the lawyer: would the town have legal standing to deed the property to a third party with legal restrictions in place?

Josh said the third entity generally seems to have their own inspection system. It seems like we would still be able to inspect what they're doing, so if in the lease or bylaws it says annually or biannually the town checks up. Kathleen said we could flip that whole thing: the third party would own it and we would be the enforcer of the easement.

Clairlynn said Heather wrote up a document under “donate land to a land trust” with a clause that it cannot be sold. Josh said but if they go out of business, then it gets transferred but not sold. In legalese it has to be like an equal responsibility. Kathleen said that's state law: their assets have to go to an organization that has the same mission (paraphrasing); we should put that language on google drive.

Clairlynn said Heather also put up another option: a charitable trust (new). Kathleen said Jay had concerns because these things tend to dissolve.

Josh said in reality we have a finite amount of land; after five or ten years, it seems like our job will be done and will be in transition and go to Parks and Rec or something like that. Kathleen brought up Conservation Commission, kind of an expanded role in planning. When land comes up, they would be aware of what the town's needs are, Comprehensive Plan, etc. A lot of Conservation Commissions look at the big picture. Josh said some of that has already been done with the Comprehensive Plan. Kathleen said somebody has to remind the select board which has so many things going on. Conservation Commissions also deal with erosion issues and trying to protect certain places.

Green Space Committee Workshop Minutes – July 27, 2022

Back to the chart, Kathleen raised the question, “Is the property permanently protected from development by this process?” We need to define “permanently” – as permanent as possible in this world. Josh mentioned all of a sudden needing agricultural capability: we would plow it up and feed people if needed rather than worry about what our charter says. Josh said all these things rely on townspeople being involved, and seeing if something wrong is happening, making a statement and bringing it to the attention of the select board – is really how all of it gets preserved; if deed restrictions have no teeth, pressure on the select board by civilians, residents, is what will work – it’s nice to have legal stuff, but resident pressure is what really gets noticed. Kathleen noted “legal” as we are talking about legal needs. She changed “permanent” to “long term.”

Next, “assurance of public access.”

Next, “mechanism for terminating protections and public access.”

Next, “donate property” – legal question, would the town have legal standing?

Kathleen put \$5,000 cost of putting it in place (not including legal) if the board decided to do something with the land; and between \$8,000 and \$12,000 for the easement, but for any option that would actually protect the property and allow public access. She doubts CHPA would be willing to raise money for anything that did not protect the property. She feels the town voting for the survey will really show CHPA the town wants to do something good with the property

“Donate property to land trust” – unsure about cost. Josh said \$15,000 sticks in his head. Kathleen will ask about that.

Next, “how is the easement or restriction monitored” – Josh said under “do nothing,” there is monitoring to be done as there will be a contract with Wyman’s. Kathleen said that would be the town manager. Clairlynn said the town manager is only monitoring the contracts. Monitoring also with third party lease. If we donated, the town if it had legal standing might be able to monitor it. Clairlynn said if we donate the land, we are back to the same question of who monitors it. Kathleen said you could say the citizens monitor, but they couldn’t do anything. *What would be the legal remedy for townspeople if restrictions are violated, or if access denied?*

Kathleen reviewed “partners needed” on the chart.

In response to Josh, Kathleen said perhaps the town would want to put something in there that it wouldn’t be sold. She added land trusts often want the flexibility to be able to sell.

In answer to Clairlynn, Kathleen said a conservation easement lowers the value of a property because it can’t be subdivided in a lot of cases. With a municipal property it’s different.

Green Space Committee Workshop Minutes – July 27, 2022

Next, “what rights does the town have? – Kathleen said the town can restrict development with a deed restriction and can guarantee public access, but it’s not enforceable.

The plan is to link supporting documents in google drive. Kathleen asked for other categories now that we’ve reviewed the framework. She hopes to get the committee to agree that what’s in the chart is accurate, so we have a good base of facts to build our presentation and options on.

Next meeting’s agenda was discussed. Wendy had mentioned access. Josh has the same concern but doesn’t think our mandate covers that yet other than to ensure it; at some point we can suggest what access is going to be. Clairlynn said the survey will help to answer that. Kathleen said we had discussed the management plan earlier, like a five-year management plan presented to the voters, and we would define what the access is and how we want to manage it. A lot of issues that have to be dealt with can’t be dealt with in a permanent easement; that’s going to be minimalist. Josh mentioned income from the property that people could see, and even if it comes back that there is no access on the power line it doesn’t mean we can’t approach Wyman’s about say \$5,000 or \$10,000 to use your access – there are options beyond just the deeded access. Kathleen agreed though she doesn’t think it will turn out that way. We will need a plan. Clairlynn said if we start this discussion now, it won’t be on something concrete. Kathleen would like to walk the property together. Josh said a quorum can’t get together outside; three people could get together.

Next meeting will be August 17, 2022, 6:30 p.m.

3. Adjourn: 7:47 p.m. by Kathleen Thornton

Respectfully submitted,

Sherry Abaldo
Secretary