

Community Preservation Committee

Monday, January 9, 2012, 7:00 pm at the GAR Hall, Scituate, Massachusetts

Members Present: Chairman John Bulman, Mrs. Lisa Fenton, Mr. Harvey Gates, Mr. George Trafton, Mr. Paul Scott, Mr. Rich Lane, Mr. Bill Limbacher, Mr. Frank Snow

Others Present: Penny Scott Pipes, Jason Bertner, Frank Judge, Joe Wood, Stephen Litchfield, Gary Meyerson, Cynde Robbins, Wayne Higgins, Sandy Higgins, Steve Lind

I. Call to Order at 7:05 pm

II. Acceptance of Agenda: MOTION to Accept the Agenda by Mr. Gates, SECONDED by Mr. Trafton, and there being no discussion, UNANIMOUSLY VOTED 8-0 to accept the agenda as submitted.

III. Acceptance of Minutes: MOTION to Accept the Minutes by Mr. Scott, for the Meeting Minutes dated November 28, 2011, December 5, 2011, and December 12, 2011, SECONDED by Mr. Limbacher, and discussion followed. Mr. Scott had corrections on the Meeting Minutes for November 28, 2011. Mr. Scott stated that the minutes should reflect that the Planning Board had deemed the property on Kent Street unbuildable. Mr. Scott also stated that the Community Signage Application Motion, also at November 28, 2011 meeting, was a Motion to accept the application, which motion was defeated, prior to further discussion. UNANIMOUSLY VOTED 8-0, to accept the minutes subject to those corrections.

IV. Application Hearings

1. Jenkins Property – Mrs. Fenton, the liaison to the application, informed the Board that the applicant was not appearing for the hearing and she believed the application might be withdrawn. There was no representative for the Jenkins property present at the meeting. Mrs. Fenton undertook to contact the applicant regarding their plans and whether or not they were formally withdrawing the application before the next meeting.
2. Hunters Pond Dam – Mrs. Penny Scott Pipes from the Conservation Commission spoke to the CPC. Ms. Pipes presented the project and

discussed both the historical aspects of the Mordecia Lincoln property and the conservation aspects of the Hunter's Pond Dam. Mrs. Pipes spoke specifically about the Mordecai Lincoln parcel owned by the Ladd Family. Ms. Pipes has met with the Ladd's and they are interested in selling. Mr. Doug Smith, Scituate Historical Commission, has previously expressed the Historical Commission's interest in the property. Mordecai Lincoln was the great, great, great grandfather to Abraham Lincoln who settled in Scituate in 1697 through the early 1800's. The property consists of the original homestead occupied by the Ladd Family, with approximately 4 acres of open space abutting Bound Brook. The Trustees for Public Land looked at the property and stated it was too small for them to purchase, yet, did describe the property, as a "mini, World's End, a phenomenal piece of property". The Recreation Department was also contacted to see it was feasible for recreational field purposes, but Mr. Sharry felt as though it would be more appropriate for dock space for access to the Brook, as it would be too congested for traffic coming in and out of fields. Ms. Pipes met with the Ladd's and viewed the Hunter's Pond Dam as well. Ms. Pipes asked if the Ladd's owned the dam and Mr. Ladd said, "No, the family does not own the dam". According to the Town of Scituate, the Ladd Family does own the dam. Ms. Pipes stated she was coming to the Committee before having a purchase and sale agreement because she wants to show the Ladd's that they own the dam. The dam is likely a liability due to its condition and that liability would need to be factored into any purchase by the Town, if the dam was part of the purchase price. Ms. Pipes spoke with Mr. Paul Shea, the Town's conservation agent, who said that she needed to speak with Ms. Beth Lambert, from the state of Massachusetts, due to this issue being brought up in the past. The Ladd's had sent a purportedly 18 page memo to the State supporting the claim that the Ladd's do not own the Dam, which the State reportedly reviewed and responded to, finding that the Ladd's, own the dam. Ms. Pipes is seeking funding for a title report to show ownership of the dam, a preliminary stage assessment of the dam and a resource area delineation, and management plan. The dam empties into the gulf, so it is not just a liability and condition issue, but also a resource issue. Ms. Pipes stated that CPC has approved funding in the past to do work on the fish ladder at this location, which does not work. Ms. Pipes feels as though the CPC put money into the fish ladder and it may not even be on Town property. Ms. Pipes feels that it would be a fantastic purchase for the Town of Scituate, but feels we just need to get things in order before going forward.

Mr. Bulman, liaison for the project along with Mr. Snow had met with Ms. Pipes about the project. Mr. Jason Bertner, South Shore Regional Coordinator with Coastal Zone Management, spoke about the mandate to work with coastal communities on coastal resources. The goal of the purchase is obtain the open space, which has preservation aspects attached to it. Mr. Bertner related some of the dam related issues and dam field. Mr. Bertner referred to the picture of the dam field. He discussed the water flow over and under the dam, under the road, the primary spill way and the length of dam. The management of the dam is considered to be a high hazard structure. Based on a visual inspection in 1999, the dam was in "fair" condition. Now, the spillway structure has been separating, showing significant issues to the hazardous nature. The office of dam safety shows that the Ladd's are the owners. Mr. Bertner opined that a purchase would include the purchase of liability for the dam repairs or removal. A purchase would be a purchase of maintenance and the management of the dam up front. Due diligence is warranted so that going into the process the Town would know what they are up against. Therefore, he felt that the research Ms. Pipes spoke about, title and deed research would be something he would suggest that the Town look into. Mr. Bertner pointed out that the property itself, from Historic Preservation opportunity, offers an amazing opportunity to the Town of Scituate, and he wouldn't want the dam issues to shadow that. Bound Brook supported the early colonization of the Town. In 1795, provisions were put in place to protect this fish run for migration.

Mr. Bulman stated that when they met with Ms. Pipes, that he and Mr. Snow agreed that they believed in the acquisition of the entire property as a worthwhile project and that she should attempt to negotiate a purchase and sale agreement. Mr. Bulman feels that the Town shouldn't put significant money into evaluating the dam unless the Ladd's are amenable to sale at a price the Town is willing to pay, and there is a purchase and sale agreement. After there is a purchase and sale agreement, the title work and inspection is done, if it is found out the Ladd's own the dam, the price can be adjusted to reflect the liability for the ownership of the dam. CPC can only pay the appraised value. Mr. Bertner suggested that once an agreement is made, see what the liabilities are, see what most cost effective decision is and look at the overall part of the parcel. Mr. Bertner says that there are companies that do dam removal. Mr. Bulman said that this becomes a negotiating tool. Mr. Bulman thinks it should go forward as Historical, Open Space and Water Resource - and he believes in the project if it is approached in the right order.

Mr. Scott had no questions.

Mr. Trafton asked if the Ladd Family knew of the liabilities attached to the dam. Ms. Pipes said that the Ladd Family doesn't claim ownership. Mr. Bulman explained that the process of deed research would determine who owns the dam. Mr. Snow commented that from a Conservation standpoint, removing the dam would be beneficial. Mr. Bulman stated that if we can't purchase the property, then maybe there could be a project to deal with the repair or removal of the dam as a stand-alone project. Ms. Pipes does not have any guarantee that the Ladds will agree to sell. Ms. Pipes stated that if we find out that the Ladd Family owns the dam, she can almost assure that they would turn the dam over to the Town. Mr. Bulman said that if the Town accepted the dam and assumes that liability, that by accepting the dam and relieving the Ladds of that liability, it would make the Mordecai Lincoln property more valuable and the negotiating and likelihood of purchase more difficult. It is not how he would approach a potential purchase.

Mrs. Fenton asked about the boundaries of the land. Ms. Pipes referred to a map, copies of which were distributed to the Committee members and the secretary, and showed Mrs. Fenton where the Cohasset line is located in relation to the property. Mrs. Fenton asked about the homes on the property. Ms. Pipes pointed out the original Lincoln home and the two outhouses on the property. She stated that they are inhabited. Mrs. Fenton asked if there was any idea at all what the property would sell for. Ms. Pipes said that there wasn't an actual number as of right now.

Mr. Gates said he has been involved in the property for over three years and he feels that the best scenario, as does Mr. Bulman, is to enter into a purchase and sale agreement. Mr. Gates said that hopefully the family is more interested in selling than they were a few years back.

Mr. Lane had no questions.

Mr. Limbacher had no questions.

Mr. Bulman asked that Ms. Pipes get back to the board with how she is going to proceed before the next CPC meeting on January 23, 2012 and whether or not she was going to proceed with the project as filed for a

vote at the 2012 ATM, or attempt to obtain a purchase and sale agreement and continue with the project for a possible vote at the fall STM. Mr. Bulman encouraged Ms. Pipes to keep going forward. The title issue can be dealt with separately. Ms. Pipes agreed. Mr. Bulman thanked Mr. Bertner for working with the CPC on the project.

3. Higgins MacAllister: Ms. Cynde Robbins with Maxwell Conservation Trust, representative for the Higgins Family spoke to the Committee with Wayne and Sandy Higgins present. The property is 31 acres of uplands off of Holly Crest and is the last large piece of the puzzle for the Bates Lane Conservation Project. The property is off of Booth Hill. The ridge runs down off the property on the West side, which has a stream that flows through down to Bound Brook. Mrs. Fenton was the liaison to the group. The property has been up for sale in the past. Ms. Robbins stated that the family has agreed to \$17,000.00 an acre with an additional \$5,000.00 in to cover legal fees for acquisition and the conservation easement. There is an environmental assessment (not a 21E report) report submitted as part of the application. The property is presented as developable as three estate lots.

Ms. Fenton the liaison to the property walked the property. She spoke to the habitat and beautiful property that is being proposed. She stated that it connects to all the walking trails already present out in the area. Water resources gives the property a 4 rating out of a possible 47. Gives the property a 3 in regards to protecting habitat.

Mr. Snow, also a liaison, spoke about the upland and ridge, the stream and the tie in to the other pieces acquired by the Town. Mr. Snow stated that there are many different access points but this piece would bring another access point that would be most beneficial to the entire plan.

Mr. Scott asked about the access point through Hollycrest. Since Hollycrest is a private way, is there an access issue. The response was that there are no access restrictions. Mr. Scott asked Ms. Robbins to address the assessed value of \$192,000.00 and the difference between the assessed value and the purchase price requested in the application. Ms. Robbins said that the purchase price reflects the value CPC has is currently paying for open space.

Mr. Trafton had no questions.

Mr. Gates had no questions.

Mr. Lane had no questions.

Mr. Limbacher had no questions.

Mr. Bulman stated he was in favor of the project. He stated that he believed the project has recreational value and value for habitat preservation. The property also connects the recently acquired Bjorklund parcel to the other Town-owned recreational property in the area.

Mr. Gary Meyerson of _____, Scituate, MA identified himself and asked to be recognized. Mr. Meyerson addressed to the application that is being proposed. Mr. Meyerson asked about the independent appraisal cost. Mr. Bulman explained the process in general and stated his belief, as backed up by most of the appraisals, that most appraisals have come back in excess of the value being recommended by the CPC and that applicants are generally doing a good thing for the Town of Scituate to sell land at the price offered by the CPC. Mr. Meyerson spoke to the "piece of the puzzle" that is missing and what the purpose of this particular parcel would be. Mr. Meyerson stated that he "assumes" it is for hiking trails. Mr. Bulman concurred that it would be for recreational and stated it was also to preserve habitat and create open space. Mr. Meyerson asked how the CPC was going to stop people from walking up and into the gun club. Mr. Bulman said that this application isn't about the Scituate Rod and Gun Club. The abutters and the Gun Club have issues, and although he recognizes their concerns, the abutter issues with the Rod and Gun Club need to be addressed through other avenues and he does not believe they are appropriate issues to be addressed or resolved by the CPC. Mr. Meyerson stated that the Scituate Rod and Gun club has no signs or no warning prior to entering the property. Ms. Robbins stated that all the trails are marked and if you stay on the trails, you should not have a problem. Mr. Meyerson disagreed. Mr. Robbins stated that there was a trail that is not marked with trail markers, then it isn't a CPC trail. Mr. Snow asked Mr. Meyerson directly what his question or concern actually was. Mr. Snow stated that what the CPC is trying to accomplish is to provide and protect open space for the residents of Scituate. We can walk anywhere, even right out onto Route 3A. If the concern is with the Scituate Rod and Gun Club, then the issue is with them. They need to mark their boundaries and take appropriate safety measures. If CPC purchases the property and our trail is close to the Club, then we can also simply post on trees at the boundary without a

major expense or undertaking. Mr. Meyerson said that he is speaking to the safety of people walking into the club. Mr. Bulman said that posting trees to mark the boundary and warn off any hikers is easily done. Ms. Robbins sees this as an easy fix, as does Mr. Snow and Mr. Bulman. Mr. Limbacher asked if we could consider a parking area as a part of the project. Mr. Snow said that when the Conservation Commission acquired the property, they thought of the parking areas and hiking trails. Mr. Limbacher asked if there were enough funds allotted for the creation of parking areas. Mr. Bulman suggested that parking would be addressed in the subsequent Bates Lane Parking project. Mr. Bulman mentioned that if the Committee recommended the project, we need to add funding of approximately \$20,000 for the cost of a survey, and possibly \$5,000 for the cost of filing a LAND grant application as well. A LAND grant application and survey will need to be done. Mr. Snow feels that acquiring the property is an on-going project and Mr. Limbacher agreed and just wanted to be sure that the money be allocated to the plan. Mr. Scott asked again about the public access. Lot 5 abuts Hollycrest. Ms. Robbins said that family members will be building on the lots that abut the property being proposed and that the road will be constructed as the homes are built, so that the Town will not have to construct any roadway to the property.

4. Bates Lane Parking: Ms. Penny Scott Pipes, representative for the Conservation Commission presented the project and stated that this seemed an appropriate time to go into Bates Lane and construct a parking area for users of the trail and recreational property. There is a currently a house being constructed on Bates Lane and the construction of the parking area might be least disruptive while this activity was going on. . One of the nearby property owners (Mr. Snow) was currently allowing people to park on his property free of charge, but Ms. Pipes stated that Conservation felt it was a good time to construct the parking lot and to thank and allow Mr. Snow to return to enjoying the use of his property. This way it would also eliminate a safety issue as you currently needed to cross a busy street from Mr. Snow's property to get to the trails. Ms. Pipes thought that maybe we could appropriate another small amount of funding to put in a parking area on the Higgins property, if the Town were to acquire that as well. The road is being torn up for the utilities going to the new home, so it seems to be sensible to do the work now.

Mr. Snow spoke of the location of the lot. Mr. Snow stated that a parking area along the main road would be most beneficial. Mr. Bulman referenced Mr. Limbacher's prior concern about funding and

asked Mr. Snow if there should be an addition to the budget if they were going to talk about a parking area off of Hollycrest. Mr. Snow mentioned that Hollycrest would be ideal.

Mr. Scott had no questions.

Mr. Trafton asked Mr. Bulman if there would be an increase in the request. Mr. Bulman stated that he believed that the Committee should, consider an increase in the requested funding to allow for additional parking off Hollycrest, if the CPC voted favorably on the application to acquire the additional 31 acres off Hollycrest.

Mrs. Fenton had no questions.

Mr. Gates had no questions.

Mr. Lane had no questions.

Mr. Limbacher had no questions.

Mr. Joseph Wood of _____, Scituate MA asked to be recognized and asked about the abutters. Mr. Snow said that people were not thrilled with the proposal or the prospect of anyone using the property for anything, but he stated that this could be a development of over 30 homes as opposed to trails. Mr. Snow mentioned that it is disappointing that people who have used this land for years, as trails don't want to share the area with the Town. Mr. Wood asked about Hollycrest and would it be an issue. Mr. Bulman said it was a private road, and that usually, when a road is private, the abutters deal with the cost of maintenance, plowing, etc. Mr. Scott asked if the abutters understood that people would be traveling on the road. Mrs. Fenton said that the Higgins and MacAllister family members owning property on Hollycrest understood and that the neighbors are OK with it. Mr. Snow added that they need to remember that it could be worse with 10 -15 houses and all that added traffic. Mr. Bulman agreed and said 20 house lots developed would have a bigger impact than users accessing a parking area for hiking and similar uses.

Mr. Meyerson asked about the Bates Lane parking area being on Conservation land. Mr. Bulman stated that all the land that is acquired by CPC goes under a conservation easement and usually under the care and custody of the Conservation Commission. He also asked why we just did not make Hollycrest a public road if it was an issue with

the abutters. Mr. Bulman explained the process of making a road public, that significant improvements, expense, and usually assessments for these costs were made against property owners. He mentioned that he did not think that since most of the access would be during spring, summer and fall when plowing was not an issue, he wasn't concerned about the maintenance issue, and that maybe the DPW could be approached to help with what should be minor maintenance share for any parking area. Mr. Snow said you could access through Mt. Hope, which does get paved. Mrs. Fenton said that if people are there to hike anyway, that it would not be much of a burden to ask them to park on Booth Hill and walk if the road was not plowed to the parking area.

5. Steven Lind Property: Mr. Bulman welcomed Mr. Lind. Mr. Lind thanked the Board for hearing his application. Mr. Lind presented his application and stated that he has a piece of property in Greenbush that abuts Mr. Litchfield's property and he felt, once he heard of the CPC program that it made sense to sell it to the Town of Scituate. Mr. Lind showed the Committee an assessor's map. Mr. Lind said that there was an informal survey done a while back and that he is not exactly sure of the location of the true boundaries on the property, or if the parcel as presented on the assessor's map was exactly accurate.

Mr. Limbacher, the liaison to the project spoke to the 3 parcels that come into play; (i) the first being the Elm Street subdivision that is being developed right now; (ii) the second is the Litchfield property; and then (iii) the Lind property. There is a continuity, which dictates that this is the right time to pursue the property if that is our intention.

Mr. Scott asked about the assessor sheet. Mr. Lind said that the surveying is vague. There are stumps from trees that were cut for boundary purposes. Mr. Scott asked about wetlands. Mr. Lind said that it was predominately wet. Mr. Bulman told Mr. Lind that once appraised it might come back less than the \$17,000.00 threshold, which would limit the price the CPC could offer or pay. Mr. Lind understood.

Mr. Trafton had no questions.

Mr. Snow discussed how he had encouraged Mr. Lind to apply, since the abutting property owner, Mr. Litchfield was proposing to sell his property and the 2 properties also connected to another large parcel owned by and accessible to the Town.

Mrs. Fenton asked for an exact location of the parcel. Mr. Lind showed Mrs. Fenton where it was located on his assessors map. The Committee reviewed the map as Mr. Lind showed and described the location. Mr. Bulman said that it would need to be surveyed anyway. There is approximately 6 acres.

Mr. Gates had no questions.

Mr. Lane agreed that the project made perfect sense if the Committee was inclined to vote to acquire the abutting parcel.

V.

VI. General Business: Mr. Bulman had a few items.

VII.

1. There was a letter received from the LAND grant program. Mr. Bulman conveyed that he had spoken with Rachel Celia at EEA and that she conveyed that EEA loved the project. Ms. Celia had explained that, due to more limited funding, EEA has created a waiting list for projects in hopes of some additional funding availability. The Crosbie property proposed by Scituate is number 2 on the waiting list and Ms. Celia was hopeful that while proving no guaranty whatsoever, our project might be funded. EEA may not be able to get back to us before late March or April.

A copy of the survey of the Crosbie Parcel prepared by Morse Engineering had been received by the Town and showed something less than 48 acres. Mr. Bulman and Mr. Snow spoke about Morse Engineering going through the process of surveying the Crosbie parcel. Ms. Robbins asked if Mr. Bulman knew how much the project ahead of Scituate on the waiting list was for. Mr. Bulman stated that he did not know, nor did he ask. Mr. Bulman said that EEA was hoping to get more supplemental funding. With respect to the Crosbie parcel survey, Mr. Bulman said that he was not surprised that the survey came back at less than 48 acres. Mr. Scott looked at the survey to see the actual acreage.

Mr. Scott asked about updating the project list. Mr. Bulman said he would forward all information to Lisa Potts so that we have all updated information for the next meeting. Mrs. Fenton asked about how the voting process goes. She wanted to know if there was a requirement to keep money in certain funds or if all is depleted. Mr. Bulman explained that the Committee generally votes funding out of the general fund only after reserves for all of the required uses are

depleted, leaving the Committee with maximum flexibility to respond to projects from the less restricted general fund. Mr. Bulman referenced Mordecai Lincoln project discussed earlier. He stated his belief that after using limited historical and open space funding, that the balance would be a general fund project. Mrs. Fenton asked about the priority of projects. Mr. Bulman said that CPC requests that the Historical Commission, Recreation Commission, AHT, and Water Resources, Waterways, Conservation Commission provide the CPC with their input on the project and any prioritization. This is for the CPC member's edification and use, but they are not bound by any input or prioritization by any other board or committee.

Mr. Gates asked about the next meeting. Mr. Bulman stated that the Committee was awaiting a response from the Recreation Commission on the Softball Field application regarding approval by the School Committee and the Board of Selectmen, since the project involved the High School and altering other town owned resources. Mrs. Fenton was going to get further information on the Historical Bike Trail that was received and provided to the members for their review prior to the next meeting. Mr. Scott asked about the softball field. Mr. Bulman said that the Recreation Commission was supposed to meet with the school committee and the Selectmen about the field.

2. Ms. Robbins asked about conservation restrictions being filed and up to date on previous purchases. Mr. Bulman said that he has repeatedly requested that Town Counsel complete the CR's, to no avail. Mr. Scott stated that CPC should hire their own counsel to handle these CRs. Mr. Bulman said that he would again try and handle this with town Counsel and the Town administrator, and if not successful in short order, he would have to go before the Board of Selectmen and advise them that the CPC would seek to engage independent counsel to handle it. He stated that he wanted this completed before the end of his current term in June.

VI. Adjournment: At 8:55 pm there was a MOTION by Mr. Limbacher to adjourn, SECONDED by Mr. Lane. There being no further discussion, it was UNANIMOUSLY VOTED 8-0 to adjourn.

Respectfully Submitted,

Lisa J. Potts

