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MINUTES
January 4, 2024

MEMBER ROLL CALL:

Ralph Lutjen, Chairman - Present
Josh Shackford - Excused
Michael Brooks - Present
Mike Mauro, Selectmen's Rep. – Present
Mike Mosher – Excused
Marc Ohlson – Present

Ted Slader (Alternate) – Excused
Noreen Downs (Alternate) - Present
Emily Bass - Excused

OTHERS PRESENT: Amanda Hayford - Madison TV, Katharine Young, Land Use Boards Administrator, Mike Morin, USVLT, Marcia McKenna and other members of the public

MEETING POSTED: This meeting was posted at Madison Town Hall Upper & Lower, Madison & Silver Lake Post Offices on December 28, 2023.

CALL TO ORDER: Lutjen called the meeting to order at 4:30 pm.

ELEVATION OF ALTERNATES:

Motion by Lutjen, seconded by Brooks to elevate Downs to a full voting member. The motion passed **unanimously**.

APPROVAL OF MINUTES: **Motion** by Ohlson, seconded by Lutjen to approve the December 7, 2023 minutes as written. The motion passed **unanimously**.

PUBLIC COMMENT: McKenna stated that back in April she presented “Seeing the Forest for the Trees” which was looking at town properties and deciding whether they are designated as town properties or conservation properties. The Commission has always assumed they were conservation properties and she further stated there may be the need for Warrant Articles to formally designate them conservation properties. The relevance is who is in charge of the maintenance of these properties and we have spent conservation funds maintaining these properties but if they are town properties, then the town is responsible for funds to maintain them. Lutjen asked how many properties there are and Downs stated they are listed in the Master Plan and that there are 18. Lutjen stated there are town properties that are not included. McKenna asked if there needs to be a formal Warrant Article or formal designation that they are

conservation properties and not town properties. McKenna further stated that the town bought the land in 1929 for Blair's Location and was this ever formally designated as conservation land and this is the research that needs to be done. Downs stated the reason this is coming up is that the Commission is required to have a Warrant Article for the East Davis Pond property which is town owned property but not managed by the Conservation Commission until the town grants it to the Commission, which is what our attorney has said and the question is, what about all the other properties. Downs further stated there is also the question as to whether it is a town forest or not. McKenna stated yes and it is the question of whether it is a town forest, conservation land or town property. Lutjen asked what the benefit is of the Commission managing versus the town and asked if there are any problems with any properties. McKenna stated it would be who gets the Land Use Change Tax money would be an issue, and when the properties are cut, who is responsible for monitoring and we pay Tim Nolin to do this and she is not sure if the properties are grandfathered because they were treated as conservation properties for the whole length of time they have been in the town's possession and does this automatically make the properties conservation land or is a Warrant Article needed to designate the properties conservation land. McKenna stated she thought this was going to be researched over the summer and maybe it is too late this year and she feels this should be on the agenda and researched. She further stated that if town counsel says we are grandfathered, then we do not need to do any of this then and that is great but it was something she read in an article entitled "Understanding New Hampshire Property Taxes" which states this needs to be done.

Lutjen asked Young, Land Use Boards Administrator to get a list of the town properties and the Commission will review it at the next meeting. Downs asked Lutjen if he meant the Madison Conservation properties and Lutjen stated no, the town properties. McKenna and Downs both stated that they are not the same thing. Downs stated she would like to know and it be verified that these are properties that the town owned and/or purchased and/or donated to that were formally designated by the town legislative body to become managed by the Conservation Commission. Downs stated, the same way it is going to be done with the East Davis Pond 12-acre property. Downs stated that the Commission would not need to look at the town properties, but would just need to verify the ones that the Conservation Commission is managing, which consists of the list of 18 properties as well as if they were formally designated for the Conservation Commission. Lutjen stated he thought he heard there are town properties that should be conservation properties, hence why he asked for the list of the town properties so there can be a determination if the Conservation Commission has an interest in dealing with this and consulting with the Selectmen. Downs asked McKenna if this is what she is asking and Downs stated she does not believe this is what she heard. McKenna stated that what she was stating previously is that the 18 properties listed now whether some of those properties are designated town properties and some designated as Conservation properties but we have been managing them all as conservation properties. Lutjen referred to Mauro and asked him how to deal with this. Mauro stated that he believed when the form Seeing the Forest for the Trees was given to town counsel, town counsel stated it had to be at town meeting and he further stated in order to declare something a town forest, the town body had to vote on that. Mauro stated that before the next meeting he will find out what town counsel's reply was again and he will also talk with the other two Selectmen on how they want to handle town property versus conservation property.

Tim Nolin – Forest Land Improvement: Nolin was not present so nothing to report.

Chain of Ponds Update – Mike Morin, USVLT: Morin stated they are still fundraising and have a grant due on January 12, 2024 and that they are working with Sally Manikian from the Conservation Fund and they are putting that together and they are hoping to get \$400,000.00 from the Community Forest Program through the National Forest Service and this would fill the void created by the Drinking Water and Ground Water Trust Fund grant they did not get. Morin further stated that Sally Manikian in the past has applied for these before and done very well.

Morin stated that before the holidays they hired a local videographer who flew a drone over the Chain of Ponds property and that there will be a short video and narrative about this project which they will use for promoting the property and the video will be coming soon.

Morin stated after last month's meeting he had sent a template for the Conservation Easement and hoped it was helpful and he also provided the letter requested from Lutjen relating to the request for funds. Morin also stated that he did look at the appraisal as to Lutjen's question about the timber value as it related to the overall evaluation of the property. Morin stated there are different tiers of appraisal and restrictive reports are the middle of the road and they do not get a lot of details from the appraiser on how he formulated his opinion of value and Morin stated it is hard to explain how the appraiser came to his evaluation. Morin stated because they use a Conservation Easement template that it is the most permissive for the appraiser to use as his starting point to do his conservation value appraisal and he further stated that they know that the conservation value can only go up.

Morin referred back to Lutjen's concerns about agriculture and mineral extraction which are contained in the Conservation Easement template and by removing these, it would decrease the appraisal value and then USVT's ask of the town would increase.

Lutjen brought up the conversation he had with Morin after the January 4th meeting regarding timber and his question was there was approximately \$200,000.00 of standing wood and if timbered off could the MCC allocate a good portion of the \$200,000.00 off the easement cost because the easement controls the timbering of the area. Lutjen stated to the members that there is no answer at this point. Lutjen further stated he was trying to get the \$455,000.00 down to something closer to the MCC's value so then basically the \$200,000.00 goes away and the MCC would not be paying. Morin stated that the Land Trust has latitude to say they recognize the conservation value is \$455,000.00 but they are only asking the Town of Madison for \$213,000.00. Morin stated this a way to communicate and that the Town of Madison is getting a bargain for the value of the easement. Morin stated the MCC has a very fair deal and Lutjen agreed. Morin stated the Conservation Easement has created a bit of a transactional relationship between the town and the Land Trust and he believes that it is important that they reframe the conversation that this is a partnership and we are collaborating and that the town's investment in supporting this project which is critical for us to succeed is really the value.

Lutjen stated that Morin sent an email on December 8, 2023 and Lutjen read part of it aloud as follows:

“To that end I do want to advocate that the Town strongly consider moving ahead sooner than later with holding a hearing and formally allocating funding for the Chain of Ponds project to help ensure that other grant makers, such as the US Forest Service Community Forest Grant Program don't similarly reduce the projects scoring due to the Town not fully investing in the project.”

Lutjen stated there are a couple of issues that need to be discussed and the first one is the timing and the project not being fully funded and the risk issue if it will really happen due to a lack of funding and Lutjen is unsure about having a public hearing before there is some solidity to the project going forward. Lutjen stated if they are going to have a public hearing, there should be an understanding about the Conservation Easement and this would be dealing with the town's attorney relating to language contained in the Conservation Easement. Lutjen stated the second issue is there is a lot of good things contained in the easement but there are a lot of questions. Lutjen further stated there are structural issues and references

that do not exist like Section 3E that does not exist plus some more which the template contains references which are not proper. Morin stated that this is a draft template to start drafting an easement from and then the references can be worked through but the most important is the restrictive easements.

Lutjen then referred to Conservation Attributes, Section 1B in the draft Conservation Easement which states there is a baseline documentation report which indicates a survey Morin stated they are working on that. Lutjen stated this is an issue as to what the survey bounds are. Lutjen referred to Section 8 regarding Minerals and in a subsection, it describes remediation for mineral extraction which at the beginning it states there is no mineral extraction and then it says there is. Morin stated that this is a template that is meant to apply to a broad range of properties and that this template is meant to give to an attorney to work through as to what rights the Conservation Commission wants to retain and what rights they want to extinguish and it has no bearing on the actual conditions on the ground and this is just a framework to work from. Lutjen stated that this means there is a sizeable amount of work that needs to be done to the draft Conservation Easement for the MCC to even consider it. Morin stated at this point he would not even call it a draft and the document should be seen as a framework to start from of what language to keep in the easement and what language to remove. Morin further stated that this template has legal framework of an easement which allowed the appraiser to look at the rights being either extinguished or granted to come up with a value based upon what a conservation easement might look like and that it is permissive as they have not figured out what the right balance is for reserved rights versus restrictions and by keeping it permissive that insures the valuation by the appraiser is the most conservative value possible and if more rights are removed, the more valuable the easement becomes.

Lutjen brought up vehicles that are permitted on the property, like snow mobiles and light vehicles and do we want to allow this kind of traffic on the property. He also brought up camping and there is no latrine or facility and there is also discussion about access to water and whether or not we would install a well or pump. Lutjen feels there are a lot of issues with this template that he did not even think of and he further stated the members need to go through the template and decide what they want and do not want. Lutjen stated he will put together a list of what USVLT says is permissible and circulate it. Downs stated she would like to see a task force of one to three members to work on the rights and agreements and that the town comes in partnership with USVLT to allow or disallow on the property. Lutjen stated again, he previously stated that he would provide a list for the next meeting for discussion on what the Commission wants and this would be a good starting point.

Downs stated she missed the last meeting and that Morin provided an expense document and she asked when this all comes together and the town accepts responsibility for the easement, there are things in USVLT's project that she is wondering if the town gets some of and stated for example the MCC is going to have legal fees to exercise the Conservation Easement, monitoring and enforcement fees and also be responsible for the long-term stewardship of the property and are some of these pieces in USVLT proposal in the expenses listings would they be coming to the town and put into a special account to administer responsibility for the easement. Morin stated absolutely and the \$10,000.00 line item for monitoring would be going to the town. Downs asked about the Long-Term Stewardship Endowment. Morin stated that goes to USVLT. Morin stated for clarification purposes, USVLT is the fee owner and they will be responsible for the day-to-day management of the property once they close on the acquisition. Morin stated the responsibility of the town under the Conservation Easement would be yearly monitoring and making sure that USVLT are adhering to the provisions and beyond this, the town does not have any management responsibility. Downs stated the town has financial and legal responsibilities. Lutjen stated this is covered in the agreement. Downs stated the town is going to have legal responsibilities in executing the Conservation Easement and asked does the \$3,000.00 line go to the town? Morin stated no, that USVLT cost. Downs stated that the MCC is going to incur costs and wanted to point this out to everybody. Lutjen

stated there should be a special meeting at a point when the MCC can say they agree on the easement and what the terms of the easement. Again, Lutjen stated he will make a list of items that are questionable issues and stated there are all sorts of things in the template that are questionable as to whether or not they make any sense. Brooks stated this is a massive template with a lot of information that does not apply and he stated Lutjen should have his list and Downs have her list and the MCC pair the lists down to what the MCC thinks should be paired down and then send back to Morin and see what USVLT thinks before even sending this to an attorney. Lutjen stated that he and Downs will both have lists at the next meeting and then the MCC will pair down the easement language and send back to USVLT before they include town counsel. Morin stated he agreed. Brooks stated once the Conservation Easement is refined then the attorneys need to be included.

McKenna stated in the initial discussion about the Chain of Ponds a few years ago she stated that the town would have input as to uses of the easement and maybe after the Conservation Easement is refined, a Public Hearing of people's input is needed.

Morin stated because they have an LCHIP grant, they must allow hunting. Lutjen asked if it includes trapping. Morin stated he would need to look into this to see what the state requires.

Morin stated there is still the question of timing with public engagement and formally allocating of funds and that easements take a long time to draft and waiting for the finalized easement before a public hearing may put the project in peril. Morin further stated when it comes to being concerned about investing in the project, if the town is not willing to leap to support the project, then why would a large grant maker and this is what they heard from Drinking Water and Ground Water. Morin stated you can allocate the funds and approve the funds but do not release them until in a position to close. Downs stated that instead of intent, it is a promise and a promise from the town agreeing that we have done the right thing.

Mauro stated that one of the three categories that Drinking and Groundwater Trust put in for not approving their grant was that the size of the population served was not in proportion with the amount of funding requested and this will never change. Lutjen stated that is for drinking water and people having access and he believes there is only one small area and that Drinking and Groundwater Trust made the right decision. Morin stated if the MCC wanted to go back to the Drinking and Groundwater Trust and they have encouraged them to do so for a smaller ask but USVLT is not intending to do this unless they have to and that is why they are going with a different grant maker. McKenna asked when this needs to happen. Morin stated sooner is better than later. Lutjen stated they will proceed to look for suggestions on the Conservation Easement and when progress is made, they will then engage town counsel and if there is some understanding at that point, then consider the public hearing. Morin asked if Lutjen could provide the redline edits before the next meeting so he could come to the meeting with a response. Downs asked if the MCC was going to give Morin the redlined list before the Commission discusses it and she feels it should be discussed amongst the Commission first and that everyone needs to have a say before the Commission talks to USVLT about the Commission's position and the list is only Lutjens. Lutjen stated he was trying to help and everyone can have input for the list and he will provide the list at the February meeting. Downs stated she thinks that is great but that everyone should have an opportunity to express their opinions and inputs.

Property Review Commitments and Sign-up: There was nothing to report at this time.

Master Plan: Lutjen stated he met the commitment for January. He further stated there are missing maps and he was looking for any comments on his draft of the Master Plan and that the redlined is text he is changing and there are some deletions from the 2010 document which are minimal and some redlined text

replacing the deletions. He asked the Commission to send any comments to him and he will come up with another draft. Downs stated that she, Bass and McKenna have all provided input for the Master Plan and she wants to know that other people read her input because some of her inputs were not included like the Stream Crossing Modernization Program and this should be incorporated as it is something that could be coming up for flood prevention and it is an education document for people who are coming to our town and reading about conservation and preservation. Downs further stated that she had added some additional information about wildlife action planning she also has information about what residences can do to protect our waters and rivers from salt as this is becoming a big issue in what they are finding in water testing. Downs asked how do we share or incorporate what people are suggesting? Lutjen stated that as far as the Stream Crossing, they have not done anything about that and since the Commission is not expending any effort to do anything on this, he wanted to make this document something that the Commission has accomplished and that some of the input, are ideas as opposed to action items. Lutjen stated that Downs mentioned the Blankenstein property and nothing has been done on this. Downs stated it will be. Lutjen stated that the Commission's involvement in the Blankenstein's property is zero. Downs stated that the Master Plan is to work towards the future. Lutjen stated in terms of an action item the Commission has on the table with respect to that is nothing. Downs stated as far as she is concerned with the Stream Crossings, they had an action item by providing a letter of support for a very large grant for a 13-town project. Lutjen stated but in terms, is it reality and are we doing anything on it. Lutjen stated we should delete items that really do not represent an action item. Lutjen stated if we send a letter to somebody do we want to spend a paragraph in the Master Plan talking about it. Downs stated she did. Downs stated that she wants people to understand that salt is impacting our water and there are things that can be done to minimize salt use and we do have a wildlife action plan, as well as lands we should be looking at to make sure we have corridors opened up and if a property becomes available, the Commission is looking at it. Lutjen stated he did mention salt with respect to brine. Downs stated that is incorrect as we are not doing the brining and she referred to Mauro. Mauro stated the DPW is adding salt to the sand which he believes is in their application and it is not the brining. Lutjen stated he will eliminate the brining but that the MCC did make a contribution. Downs stated we did, but it is not working. Lutjen asked that the members send their comments to him. Lutjen referred to the maps that Downs had provided be identified which would be helpful.

Digitalizing Property Town Reports: Lutjen stated this will be addressed once all updates are received.

NEW BUSINESS:

Young, Land Use Boards Administrator stated she reached out to town counsel as to McKenna's request to changing the language in the Warrant Article for \$5,000.00 from "land acquisition and conservation purposes" to "land acquisition and easement acquisition". Young read aloud an email from town counsel which stated that if you change the purpose of the fund, you would need a separate warrant article. Mauro stated he believes what town counsel said is if you change it, you narrow the scope of what you can use the account for. Lutjen stated we do not have to do anything.

Downs stated that Matt Howe from Green Mountain Conservation Group would like to attend the next meeting as the survey is completed for the Blankenstein property and she stated the Commission had made a motion several meetings ago to provide them a \$7,000.00 assistance and Matt Howe would like to come and make the presentation to the Commission and to secure this and she believes there would need to be a public hearing and we need to plan that at one of our meetings for the release of those funds. Lutjen asked Young to put Matt Howe on the Agenda for the next meeting. McKenna asked which fund would this money come from? Downs stated she believed it would be the Land Use Change Tax but we may have to ask to have it to come out of the Capital Reserve Fund as a participant for that

purchase. Downs further stated that Howe will also be bringing the budget for that project.

Downs also referred the Commission back to the Conservation Easement template to the section about forestry and best management practices and wanted the Commission to look at this which started on Page 10 and she is wondering if Commission might consider looking at that for the McNair property and she felt it seemed that section was very applicable and very general and that this section seemed very appropriate. She stated she would like to take this to Laurie Corron and ask her if this section seemed appropriate to be that which the Commission might ask to amend to the McNair easement, just on the forestry section. Downs stated the 1972 or 1976 easement is very loosely written and does not deal with the technology of forestry today which is the reason why she would suggest this. Lutjen stated the section Downs is talking about is interesting as it has references that there is recommended voluntary forestry management practices in New Hampshire and New Hampshire Best Management Practices for Erosion Control and Timber Harvesting Operations dated December 2010 and 2016. Lutjen stated it may include all the setbacks they were talking about and it is interesting to Lutjen that we had incorporated setbacks against the shorelines and whether that should be included in this document or not and Lutjen is not familiar with either one of these documents. Downs stated she thinks this is a little more simplified than what was originally proposed for the McNair Easement. Lutjen stated they Commission should review the two documents referred above before doing anything.

Selectmen's Report: Mauro stated there will be a Warrant Article for the East Davis Pond property to change the classification from town property to conservation property. Lutjen asked Mauro to make sure the Selectmen are up for a Public Hearing. Mauro stated he will bring it up at Tuesday's meeting.

Planning Board Report: Ohlson stated the Planning Board met last night and reviewed a Boundary Line Adjustment which was postponed for yet another month and the Board is starting to work on the updating of the Master Plan starting with Chapter One.

Administrative Correspondence: Young, Land Use Boards Administrator had nothing to report.

Account Balances as of November 30, 2023

Conservation Land Use Change Tax: **\$213,667.48 + \$775.00 = \$214,442.48**

Forest Maintenance Account: **\$69,914.39 + .58 cents Interest = \$69,914.97** Conservation

Gift Account: **\$4,469.63 + .04 cents interest = \$4,469.67**

Capital Reserve Account: **Balance as of January 2, 2024 is \$60,011.42**

ADJOURNMENT:

Motion by Lutjen, seconded by Mauro to adjourn the meeting at 5:25 pm. This motion did not pass.

Mike Morin stated he wanted to let the Commission, the Selectmen and any other interested parties if they would like to schedule a walk about of the Chain of Ponds property, he believes this would be beneficial to everyone involved in the project. Morin would like to keep building a rapport. Young stated she would send an email out to the Commission members.

McKenna raised her hand to speak and Lutjen told her the meeting was already adjourned. The Commission reconvened the meeting at 5:25 pm.

McKenna stated that the MCC should think about an informational campaign that should go out to educate people about the reasons for conserving the Chain of Ponds or doing a mailing to the people who live around the lake and maybe a website could be set up so there would be a larger amount of people who

would have a say as to input at a Public Hearing and she is not sure how to go about this. Ohlson suggested that SLAM could help. McKenna stated that letters need to go out sooner than later. Lutjen stated that the town does have a website and maybe that information can go on the website. Downs suggested maybe a link to a Google form that allows the public to submit input.

Motion by Lutjen, seconded by Mauro to adjourn the meeting. The motion passed **unanimously** and the meeting adjourned at 5:30 pm.

Submitted by:

Katharine Young
Land Use Boards Administrator