

**Minutes, Atkinson Conservation Commission
May 2, 2006
Atkinson Town Hall**

Call To Order by Chairman Tim Dziechowski at 7:15.

Attending:

Tim Dziechowski
Dan Kimball
Scott Kukshel
Pete McVay
Michelle Veasey
Paul Wainwright

Guests:

Denise Legault
Dave Wilk

Internal Business

Secretary report: the minutes of the April meeting were reviewed and amended. A motion was made to accept the April minutes as amended. The motion was seconded and passed.

Treasurer's report: Tim is waiting for member submission of expenses for the SPNHF "Saving Special Places" conference.

Other: The Commission will have incidental expenses coming out of the conservation fund for the Busby land purchase, such as title search, insurance, and registration. Scott made a motion to spend no more than \$5,000 for expenses incidental to acquiring the Busby land. The motion was seconded and passed unanimously.

Public Hearing: purchase of 10.03 acres map 15 lot 27

The regular commission meeting adjourned for the public hearing at 7:34 P.M.

Fifteen Atkinson residents were in attendance. Tim presented a map and discussion of the proposed purchase of the Busby property, which is on East Road near Line Brook Road. The lot has approximately three acres of wetlands and seven acres of dry upland. The commission became interested in this land both for the wetland conservation potential and the possibility of trading "land use" for lands contiguous to current conservation land. There is considerable interest among groups in town about trading the Busby land for the 20-acre 4-H non-conservation parcel. Legal and policy consultants at the local and state level do not agree if such a swap is possible, but they all agreed that a warrant article would be the best way to confirm a trade. However, the land is available for sale now, and the Commission wants to move quickly to secure the property and work out use details later.

At 10.03 acres, the lot is large enough to qualify as a condominium development area. The land was assessed at a market value of \$660,000, and the Busbys agreed to sell it to the town for \$400,000. The Selectmen approved the purchase of the land by the Conservation Commission. Tim then opened the floor for questions and discussion.

How much [money] is in the conservation fund? The fund is currently at \$760,000, and the purchase would reduce the fund to \$350,000, leaving enough for infrastructure improvements such as trails, mapping, and planning.

Does the land abut Bryant Woods? Bryant Woods does abut, so this would expand existing open space area, even though the Bryant Woods open space land is not public.

What percentage of the land is delineated as public land? There are seven upland acres and three wetland acres.

Does a land swap require voter approval? RSA 36-A states the powers of New Hampshire Conservation Commissions, and the wording is vague: it is not clear if the Conservation Commission has the power to do a swap. A warrant article would express voter intent and would remove any questions about the Atkinson Conservation Commission's ability to do a trade.

If the land stays under conservation management, can permanent walks and other improvements be done? Pete noted that the Commission has contacted a private nonprofit state organization, Trailwrights, to evaluate the Busby land and other conservation lands for trails and use planning. The definition of "permanent walks" has to be evaluated. While paved walkways would not be ruled out, they have their own hazards and there are many new trail materials to consider.

Can the commission make sure that any covenants on the deed not be so restrictive that they would block many different options after the land is purchased. Very little language will be in the deed except to secure it, and the land will be "under the supervision and control of the ACC under RSA 36-A".

The original purpose of the conservation fund was to ensure that the land stay as conservation land. The idea of trading or not applying restrictions is against the principles of the conservation fund. The Conservation Fund article was amended several years ago to allow using the fund for things other than buying land, as long as it is under the RSA 36-A umbrella.

Could the Conservation Fund be used to survey the Busby property and 4-H lands for evaluation of their use? The Conservation Commission has a survey of the Busby property, but does not have any current survey for the 4-H lands.

Was there a survey done of the Sawyer lands when they were originally deeded to the town? The Commission is aware of the Sawyer survey, but does not have a copy.

Comment: the purchase is a great idea, abuts open space and is one of the few remaining fields of any size.

How soon before the Commission takes title? A title search is being done for due diligence, and we will close after that.

It should be noted that this land is worth \$660,000 and the Busbys are giving the town the lands for \$400,000. This is a wonderful thing and the Busbys should be commended for their actions. Phil Busby noted that Tim Dziechowski did a great job of "selling" the idea of a conservation purchase to him. Selectman Fred Childs expressed his thanks for the generous gift from the Busbys.

The hearing closed at 8:00.

The regular Commission meeting reconvened at 8:10.

Other Dredge and Fills / Site Walks / Complaints

- a) **Brooks wetlands complaint update.** Complaint file number 2006-00875, on the unapproved dredge and fill operations on map lots 22/70 and 22/125 is now two complaints, since it crosses two lots. DES scheduled an inspection for April 14th, and Tim has not received any word yet on the results. However, the state now is taking a more active role in the complaint. Brooks are on the agenda for the next Planning Board meeting.
- b) **Hemlock Heights beach replacement permit.** The Island Pond Association applied for a permit to restore the large beach. Paul made a motion to write a letter to DES in favor of the dredge and fill. The motion was seconded and passed unanimously.

- c) **27 Island Pond Road, dredge and fill without permit.** Landowners Mike Provencher and Kristin Leathers filled wetlands near the Brookside road, and pictures were shown of the damage. The town will not bring legal action, because wetlands damage is under state jurisdiction. More action might be taken through our state senator's office (Chuck Morris). Michelle made a motion a file wetlands complaint. The motion was seconded and passed unanimously.
- d) Dave Wilk, reported that there was a **fill of wetlands at 5 Lisheen Road** by the owner, Rick Rooney, without a dredge and fill permit. He has pictures of the area before and after and the bulldozer at work on the wetlands. A motion was made by Scott to file a dredge and fill complaint with the state. The motion was seconded and passed unanimously. The complaint will be filed with the pictures.

Review of Correspondence

- a) Planning Board minutes and agenda
 - **Master plan natural resource inventory update.** Sue Killam is pushing to get this going, on any Wednesday the planning board is not meeting.
 - **Brooks properties** warehouse application is also on the agenda for the third Wednesday meeting.
- b) ZBA minutes and agenda - Action if needed
 - **Trudel wetlands setback variance** 13 Carriage Chase Lane 9/62-10. Withdrawn, no variance needed.

Other Business

- a) **Survey bids/markers update:** There is no right-of-way to the Marshall Land on Industrial Avenue. Preliminary title search shows the right-of-way was not conveyed in the deed transfer. Options for obtaining a right-of-way were discussed and will be studied.
- b) **Trailwrights proposal status:** Pete sent an email to Trailwrights asking for their assistance, starting with evaluation of the new Busby property, Sawyer land, Sawmill Swamp, and possibly others. A spokesman for the Trailwrights responded favorably in email and will follow up after their monthly meeting.
- c) **Canoe ramp and parking on Island Pond:** The canoe launch is in desperate need of repair. Tim spoke to the Lions members, who make take on the project. Also, the code enforcement officer had reported to Pete that there are numerous parking violations on the parking areas.
- d) **Pope road recreation issues:** Michelle talked to DRED regarding the area by the pond, expressing the Commission opinion that we are okay with picnic tables, but not parking lots in the area. The Recreation Committee also does not favor extending the Pope Road access through, since this would make the road a throughway and a traffic hazard to children.
- e) **DRED federal land grant lands encroachment inspection:** Michelle walked many of the trail lands with the DRED representative who gave a number of comments and opinions. Michelle also pointed out encroachment problems and ATV damage on several of the town lands. Michelle had a just-published notebook from DRED on recreation land use. The Pope Road fire road can be paved as long as it is used only for recreational purposes. Hunting can be disallowed. Tim noted that conversations with Sumner showed that since the Trinity (Carolyn Orr) lands were bought with LCHIP funds, hunting must be allowed.

The next meeting of the Commission will be Monday, June 5th, at 7:00.

The meeting adjourned at 9:44.

Respectfully submitted,

Pete McVay