



**The Town of Barnstable**  
Growth Management Department  
200 and 367 Main Street, Hyannis, MA 02601



Office: 508-862-4785  
Fax: 508-862-4784  
Assistant

Carol Puckett – Administrative

**LAND ACQUISITION & PRESERVATION COMMITTEE**

**Minutes**  
**Monday,**  
**January 9, 2012**

Kris Clark - Chair	Present
Phyllis Miller – Vice Chair	Present
Laura Cronin	Present
Steve Farrar	Absent
Duncan Gibson	Absent
Thomas Mullen	Present
Steve O'Neil	Present
James Hinkle, Jr.	Present
Tom Lee	Present
Ann Canedy – Town Council Liaison	Present
John Norman – Town Council Liaison	Absent

Quorum being met Kris Clark opens the meeting at 5:35 PM.

Kris Clark indicates that Tom Lee has been appointed as a new member.

**Approval of Minutes**

**Minutes from LAP meeting of December 5, 2011**

Motion is made by Phyllis Miller and seconded by James Hinkle to approve the minutes as submitted.

Vote

All in favor

Phyllis Miller recuses herself

**Guests**

**Atty. John Kenney: Freezer Point Conservation Restriction proposal**

Attorney Kenney is representing Stuborn Limited Partnership in connection with their home on Freezer Point. He indicates that Ruth Weil – Town Attorney has indicated that the conservation restriction cannot be in perpetuity because it will be held by the Town and not going through the state legislature. Attorney Kenney indicates that he has talked with his client whose concern was that if he wants to sell, 99 years is something a buyer can deal with. However, if it is to be in perpetuity, his client feels, in his opinion, it will affect the market value of the property. Attorney Kenney indicates that he had just received the building envelope restriction tonight and doesn't feel he can release it as of yet. He indicates that the conservation request for this property is not in order to receive tax benefits and asks the members to limit it to only 99 years.

James Hinkle commends Attorney Kenney and his client for the effort and good faith and reiterates that this restriction was voluntary and not for tax benefits. James Hinkle believes that 99 years is reasonable and is in favor of it.

Tom Mullen asks if at the end of 99 years the restriction disappears or if there is a time during which the Town could come back to extend it or renegotiate. Attorney Kenney indicates that it would end after 99 years but that the Town could come back and renegotiate. However, the other restriction is under the Conservation Commission jurisdiction and that the reason for this restriction is to restrict them from building beyond what they are proposing.

Tom Lee indicates that he read the document when Attorney Kenney appeared before ConComm on December 13<sup>th</sup> and that ConComm voted to accept it.

Laura Cronin indicates that she has reviewed this conservation restriction and understands that it is in good faith. However, in looking at a conservation restriction, she does not see a reason for not putting it into perpetuity as the reason for a restriction is to protect the property from being built upon. She also understands that a good portion of this property is unbuildable and doesn't see how putting the restriction in perpetuity would devalue the property. Laura indicates that the restriction does not provide for public access, which is one of the things they look for in putting a restriction on a property. Attorney Kenney indicates that the purpose for the conservation restriction was to limit the development to what is proposed and that here, is to insure that what is built is a single family home. He indicates that his clients are not looking for tax benefits and that there is a distinction.

Kris Clark asks if there are other elements regarding the private restriction that they should be made aware of. Attorney Kenney indicates that the private restriction is the building envelope for which the purpose is to build what is proposed.

Tom Mullen asks if it wipes out the commercial use. Attorney Kenney says yes and that it will remain in effect for 99 years unless the Town releases it.

Kris Clark asks if there is anyone here from the public who would like to speak either in favor or in opposition. No one speaks.

A motion is made by Steve O'Neil and seconded by James Hinkle to accept this as proposed.

Vote:

AYE: Tom Lee, Tom Mullen, James Hinkle, Steve O'Neil

NAY: Laura Cronin, Kris Clark

Motion carries.

Phyllis Miller rejoins the meeting.

The members discuss how this relates in reference to Chapter 91.

Ann Canedy explains they are giving up 99 years and access but gaining another layer of protection with the conservation restriction.

### **Bill Keto of the Friends of Santuit Pond**

Bill Keto gives a PowerPoint presentation. He indicates that he is not a member of the Friends of Santuit Pond but is an interested citizen. He indicates that In 2003/2004 he was a member of the Senior Environment Corp and got involved on the potential regarding a land management plan for Santuit Pond. Back then they had a problem getting a baseline and that basically it didn't happen. He is providing info on the baselines that could be utilized to formulate a management plan. He indicates that the location of Santuit Pond is approximately 75% in Mashpee and 25% in Barnstable and that both towns have worked together on the land management plan. He indicates that there is a land management agreement between the two towns and the Massachusetts Division of Fisheries along with a conservation restriction. He indicates that there are documents available that could provide a good environmental existing condition baseline for this property.

He shows the next slide regarding the Draft Environmental Impact Report (DEIR) Existing Conditions and indicates that the report was completed in 2000 for this property for the proposed Cape Club Golf Course that could be used upon verification as a basis for a baseline for the land management plan.

Tom Mullen asks how this management plan faded away. Mr. Keto indicates that they couldn't get the plan through the Boston offices and that there wasn't a lot of activity from either town that was directed towards this sanctuary.

James Hinkle asks how many acres are involved. Mr. Keto indicates that it involves between 287 and 293 acres.

Phyllis Miller clarifies that monies were split between the partners involved. Kris Clark indicates that she would like to get traction on this regarding the custodial tasks. Kris asks if he has any recommendations for resources to move this forward. Mr. Keto indicates that he has talked to some people in the Town of Barnstable and whether or not they would be willing to help verify the baseline and work with LAPC as he doesn't have any expertise in this area and suggests finding someone with credentials to compose the plan. Mr. Keto indicates that he will work with Kris to bring this forward.

Jaci Barton from Barnstable Land Trust indicates that because of the location of this property, that it may be a good idea to get the state senator involved as she sees this as a huge project that needs funding in order to work although it falls within this committee's domain. She suggests making an inquiry of the Horsley Witten Group to inquire as to how much they would charge for composing a management plan, then going to Senator Wolf for funding and splitting it between the two towns and the state. Also Jaci explains that when CPA buys land ,etc, they can subsequently spend money on that which was purchased with CPA funds and that there might be a way for money from CPA to be utilized for this purpose which is worth exploring. The members discuss.

Mr. Keto indicates that the Friends of Santuit Pond have done something about aerating the pond. Also, there is a lot of historical information regarding this property that should be brought forward on this management plan.

Tom Lee indicates that he could find out from CPA if this is a possible legal option to fund this.

Ann Canedy comments that a member from this committee is needed who can commit to this in order to jump start it. She sees a committee composed of a person from ConComm, LAPC, Friends of Santuit Pond, a representative from Mashpee and the state in order to plan the funding sources and move things forward. Mr. Keto indicates that he would be happy to work with any members on this.

Phyllis Miller indicates that she had walked the property with Tom Lee and Lindsey Counsell last fall and that there were a lot of problems regarding all terrain vehicles. She indicates that the bird life was great and vernal pools were there but this area needs help with clearing downed trees and algae which is growing rapidly.

Kris Clark indicates that she has received a response yesterday from Lindsey Counsell who indicated that there is no new information since the update she sent previously to all the members from the meeting that was held in Mashpee at the DPW. However, they are still working on plans to reconstruct the dam and the fish ladder. Originally, Natural Resources Conservation Services (NRCS), who is supporting the reconstruction of the dam with funding, had to submit the paperwork by December 31, 2011 and has submitted a request for an extension regarding this.

## **Old Business**

### **Videotaping session for LAP Chair "infomercial": done on December 16**

Kris Clark indicates that she attended an informational video taping session.

### **Act To Sustain Community Preservation HB765/SB1841 update**

Kris indicates that she has heard from Sue Rohrbach, an aide for Senator Dan Wolf, who indicated that the senate bill is in the House Ways and Means and the house version is in judiciary. No change from last month but the prospects look good.

### **Open Space and Recreation Plan's implementation strategy: Kris Clark**

#### **Update on Meeting with the Town's Water Quality Advisory Committee**

Kris Clark indicates that she has not heard from Tom Cambareri as of yet.

### **Update on Meeting with Barnstable Fire District: Tuesday, January 24th at 7pm at the Unitarian Church in Barnstable Village**

Kris Clark indicates that this is a preliminary meeting to layout a strategy on how to invite the greater community on input. Ann Canedy clarifies that will be a meeting with the other committees but that the public is welcome to attend.

Tom Mullen asks if Kris has been in contact with the Superintendent of the Water Department and suggests having someone spend time with him. Kris asks Tom to follow through contacting him.

Jim Hinkle asks for clarification on what the meeting will entail. Kris Clark indicates that they will be going over the Open Space and Recreation Plan (OSRP) in regards to how to implement that plan as it relates to the villages of Barnstable doing so alphabetically by village.

Jaci Barton indicates that the most important thing is how the community in general will benefit by using the conservation lands/water district lands for passive recreation. Ann Canedy asks Kris to clarify if they will be going down the list in regards to water protection, acquisition, passive recreation, etc. Also, Ann indicates that there is a letter of intent coming before CPC for 8 acres of land in Barnstable Village and was wondering if this would also be part of the discussion.

Jim Hinkle reads an article from the Barnstable Enterprise about projects being considered for purchase which includes the 8 acres and asks why this committee knew nothing about these parcels. Jaci Barton indicates that CPC has hard deadlines and in an attempt to make sure there is a project from BLT to CPC at every hard deadline, they looked at this project as a possibility. She indicates that BLT spoke with the property owner who is interested in selling the property. However, she believes that this is a project that belongs to the Town and that BLT would be the facilitator. Therefore, she put together a letter of intent. There hasn't been an appraisal or feedback from CPC but she would like to know if CPC is interested. If they are, BLT will take the next step to get an appraisal done and work on the process. She indicates that it consists of two lots with tricky access and the land is not easy to develop.

Tom Mullen indicates that there is significant historical value to this property.

Jim Hinkle asks if this property is currently on the market. Jaci Barton indicates that it was and they were approached by the realtor.

### **Community Preservation Committee update**

December 19th meeting representative: Duncan Gibson

Kris indicates that she heard from Duncan who indicated that there wasn't any new or major news.

### **January 23rd meeting representative:**

Duncan Gibson to attend.

Kris Clark indicates that she got an email from Mark Robinson on the Massachusetts tax credit who wants to remind everyone that this is available on a first come first serve basis. Also, the first 30 applications were approved from 2012 in December which included six from the Cape and one from Barnstable which is the Sutherland property. Jaci Barton indicates that the Sutherland project got recorded on December 26, 2011 and therefore this project is officially completed.

### **2012 sign-up sheet**

Carol to send sign-up sheet via email again to members.

### **Committee Updates**

#### **Pathways - Tom Mullen**

Tom Mullen indicates that the trees are being cleared and the paths are in good shape. The directional signs are being put up.

Kris indicates that there will be another Cape walk sponsored by the Cape Cod Commission and will keep the members up-to-date on that.

## **New Business**

### **Announcements**

Next meeting: January 24, 2012 at the Unitarian Church, Barnstable, 7:00 PM jointly held with the Barnstable Fire District representatives.

**Correspondence** - None

**Items not reasonably anticipated by the Chair** - None

**Public Comment** - None

**Other** - None

Motion is made by James Hinkle and seconded by Steve O'Neil to adjourn  
Meeting adjourned at 6:58 PM.