



PO BOX 248
MADISON, NEW HAMPSHIRE 03849
Phone: 603-367-4332x302 Fax: 603-367-4547

MINUTES
May 2, 2024

MEMBER ROLL CALL:

Ralph Lutjen, Chairman - Present
Josh Shackford, Vice Chair - Excused
Michael Brooks - Excused
Mike Mosher - Excused
Marc Ohlson – Present

Ted Slader (Alternate) – Present
Noreen Downs (Alternate) – Present
Marcia McKenna - Present
Joy Gray– Selectmen’s Rep. - Present

OTHERS PRESENT: Aysia Morency- Madison TV, Katharine Young, Land Use Boards Administrator, Doug Burnell, USVLT and members of the public

MEETING POSTED: The Public Hearing was posted in the Madison Town Hall Upper & Lower levels, Madison & Silver Lake Post Offices on April 25, 2024.

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

ELEVATION OF ALTERNATES:

Motion by McKenna, seconded by Lutjen to elevate Downs and Slader to full voting members. The motion was voted on and passed unanimously.

APPROVAL OF MINUTES:

Motion by Lutjen, seconded by Downs to approve the March 7, 2024 minutes as written. The motion was voted on and passed **unanimously**. (**Note: There was no April 4, 2024 meeting due to inclement weather**)

PUBLIC COMMENT: Lutjen stated there was no public comment so he closed the public comment portion of the meeting.

Tim Nolin – Forest Land Improvement: Nolin was not present to give update.

Chain of Ponds Update: Doug Burnell at Upper Saco Valley Land Trust (USVLT) provided the commission with an update that USVLT is making good progress and starting a more serious campaign. Burnell stated USVLT has \$500,000.00 in grants and that some grants will not be awarded until the actual closing and the approximate closing dated is November 15, 2024. Burnell further stated that the Conservation Fund is purchasing the property and will hold title in the Conservation Fund until USVLT secures all their funding raising by possibly February of 2025. Burnell stated that the survey has been started and another final appraisal will be done due to federal funding. Burnell stated that the state is conducting beaver control as the railroad tracks have been seriously flooded and he

was shocked the state had been there and they are accessing over the right-of-way off of Forest Pines Road and Burnell does not believe the state has a right-of-way to do this. Burnell further stated that in the future, there should be a good crossing onto the land and if the state has the right to go on it, this needs to happen. Lutjen stated he has reviewed the draft Conservation Easement. Lutjen questioned the draft Conservation Easement which states the easement holders name as "Inhabitants of the Town of Madison" and asked, who are they? Lutjen asked if this should be "Inhabitants of the Town of Madison" or just the Town of Madison? Burnell stated this language is commonly used in the Conservation Easement. Lutjen stated that in order to do anything there would need to be a public hearing to get the inhabitants involved if the Conservation Easement stays in this name.

Lutjen stated USVLT is also going to do a baseline documentation report. Burnell stated the report states what is there in place and what the conditions are and this is just a baseline and if anything changes over time, you have this document that shows what the land was at the time of purchase. Burnell stated this is a very important document especially for the Conservation Easement.

Downs stated she went through the Conservation Easement dated February 2, 2024 and asked if there is significant change to the April 18, 2024 draft Conservation Easement? Burnell stated there are quite a few changes. Lutjen stated the April 18, 2024 draft of the Conservation Easement is much better than the past presented versions. Lutjen stated that all members should be prepared to review the easement and have comments ready to be emailed to Burnell. Lutjen stated that there is a lot of items in the Conservation Easement that are in the landholder's discretion and it would be helpful if USVLT could list these items where they want unilateral ability to make a change or decision which will help the Conservation Commission know who has the authority to do what.

Lutjen also asked if USVLT has an executed Conservation Easement and if they do, USVLT can remove the easement holder's name to make it confidential which would be helpful as to what has been negotiated versus every item. Lutjen's stated his concern is that we have a budget issue and that the Conservation Commission was recently required to do some storm clean up that required an expense and it was budgeted at \$4,000.00 and the bill came in at \$2,772.50 and we have a limit on our expenditures of \$10,000.00 and the cost for an attorney to review the easement is an unknown cost and the commission cannot spend over \$10,000.00. Lutjen stated they need to try to minimize the legal effort by contributions of the commission members with respect to their issues as well as something other than USVLT's model, something that someone has negotiated so the commission can reduce the exposure the commission has. McKenna asked Burnell if he had a general figure for attorney expenses for these reviews by towns in a range of say \$3,000.00 to \$5,000.00? Burnell stated he thought it could be less than that as attorneys have reviewed the Conservation Easement inside and out but that the Conservation Commission having representation is a good idea. Burnell also stated that USVLT is planning on giving back the stewardship fee to the Conservation Commission which is part of USVLT's budgeting to help with expenses like attorney's fees. McKenna stated she asked the Selectmen at a meeting if the Conservation Easement would go to our attorney for review and she also asked the Selectmen to find out if the fee would be under the attorney's purview under his retainer or would there be an additional expense above and beyond his retainer. McKenna stated that in talking with town counsel a few years ago, he has done this before and she believes the attorney should be able to give a ballpark figure. Gray stated that she believes that L. Shackford confirmed this will be likely covered under the retainer, but that she will get confirmation.

Gray brought up the money for the tree removal on Black Brook Road off of Lead Mine Road and that people have come to her and stated that the trees have fallen within the forest but the only reason for the tree removal is not for conservation, but the purpose of the removal is because of the threat to the roads. Ohlson stated that the Conservation Commission, while present at the Selectboard meeting, did not discuss and did not vote to spend the money and if the Conservation Commission has authority over those funds, the Conservation Commission did not vote to spend those funds. Lutjen stated there was a commitment and the Selectmen committed to the work being done and there was a discussion that the funds were to come out of the Conservation Commission's account. Gray stated she wanted to clarify whether this was a conservation issue or road maintenance issue and make sure it is funded appropriately. McKenna stated the conservation has left trees in the past, but have not had those many trees fall at the same time so the DPW's concern was, she believes that the trees over time would degrade but not within two weeks. Gray stated the culvert issue ties back to the road issue and she understands that the Conservation

Commission is tight on the \$10,000.00 and wants to make sure everything is funded appropriately. McKenna stated she believes the discussion that was not appropriate to take out of the fund was legal fees not the expense of taking the trees out to save the culvert. McKenna asked if the DPW was going to pay the bill of \$3,772.50? Gray stated she could not make any promises but wanted McKenna's thoughts.

Downs stated she attended the Selectmen's meeting she thought that Brooks explained that if the Conservation Commission needed greater than \$10,000.00 that the commission could in fact ask for it if the trees were coming out of that because it was an emergency that the commission could ask for additional funding to come out of the forest account to make up the \$10,000.00 so the commission would be whole at the \$10,000.00 for whatever the commission needed to spend. Gray stated there were steps that required emergency declarations. Downs stated that Brooks said the Conservation Commission could still have the \$10,000.00 even if the trees had to come out but it would have to come out now for it to be associated with the emergency of getting them out now. McKenna stated it was her understanding that, when L. Shackford talked with town counsel, he said absolutely not and that the commission could not get any more money until town meeting.

Lutjen stated he believes it is appropriate that the commission wish take the position that the DPW to incur the expenses for the removal of the trees.

Motion by Lutjen, seconded by McKenna to have the DPW incur the cost for the tree removal at Black Brook Road off of Lead Mine Road. The motion was voted on and passed **unanimously**.

Chain of Ponds (continued from above): The commission returned back to this topic and Lutjen stated he will do a memo and circulate it to the commission before the next meeting.

Ohlson had some questions to the Conservation Easement in the recital section, and asked what is "Executory Interest"? Burnell stated he was unsure but that he could find out but he believes that if the land trust goes belly up that some of the funders like L-CHIP have the right to step in and usually with a land trust it gets turned over to the Attorney General's office and they will make sure something succeeds. Ohlson stated the Conservation Easement clearly disallows ATVs. Burnell stated they are heading in that direction per NH Drinking Water and Protection Act. Ohlson read aloud on Page 14, Third Paragraph 3.5B.7 "**substantial or high-impact outdoor recreational or educational structures will require the Easement Holder's prior written approval as outlined below and include but not limited to paved trails, boardwalks other than bog bridging, docks, piers, tent platforms, lean-tos, yurts**". Ohlson asked if this means other than all of those enumerated or does it mean other than just bog bridging? Burnell stated that is a good question and needs better wording. Lutjen stated there are a lot of things like you are allowed to lease the property and allowed to subdivide the property and Lutjen questioned if that was appropriate. Burnell does not believe that is what USVLT wants.

McKenna stated that there is usually a subcommittee that would work on editing the Conservation Easement and the subcommittee would then report back to the Conservation Commission. Downs stated that a work session is needed. Lutjen stated there would need to be a public meeting posted. Lutjen would like Burnell to attend a work session meeting and review the pros and cons of the easement. Lutjen asked Burnell if USVLT will have \$1,200,000.00 by November 15, 2024? Burnell stated no and they tried to get an extension to February 2025 and the landowner would not agree.

McKenna asked Burnell what was the best date and time for him to attend a work session. The Commission decided the date for the work session would be May 23, 2024 at 6:30 pm at the Madison Town Hall, Lower-Level meeting room. Young stated she could not attend that meeting due to a prior engagement. Gray and Downs stated they will take the minutes.

Property Review Commitments: McKenna stated that the McNair property sold and there was discussion about contacting the new property owner.

Motion by Lutjen, seconded by Ohlson for Tim Nolin to do additional markings and review. The motion was voted on and passed **unanimously**.

Master Plan: Lutjen stated he would like to table this until the Chain of Ponds has closed and the town receives the Conservation Easement. Lutjen stated this should be tabled to November 15, 2024. Ohlson stated it is a statutory requirement to update the Master Plan as it was last done quite some time ago.

Motion by Lutjen, seconded by Ohlson to defer the Master Plan until November, 2024. The motion was voted on and passed **unanimously**.

Digitalizing Property Town Reports: Young stated she talked with Minuteman Press and their graphics team told her that we would need some sort of a legal software or Adobe Pro in order to have documents scanned and make them editable. Young stated that back last summer Bass, a former member of the MCC got quote for scanning but the documents would not be editable. Young told Gray she would show her the Conservation Commission property description book that is upstairs to get her input

NEW BUSINESS:

Election of Officers: Lutjen stated that since Shackford, Brooks and Mosher were unable to attend tonight's meeting, he suggested deferring the election of officers to the June 6, 2024 meeting.

Motion by Lutjen, seconded by Slade to defer election of officers to June 6, 2024 meeting. The motion was voted on and passed **unanimously**.

Summer Camp: Lutjen stated the commission has some flexibility and he was going to defer this. Downs stated that the commission budgeted \$400.00 for two students. Young stated she thought that statement was incorrect and that this money would have come out of the gift account last year but it was too late when the commission decided to do this last year. Downs stated again this was budgeted.

Motion by Lutjen, seconded by McKenna to pay \$400.00 from the gift account for two students in need, from Madison to attend Tin Mountain Summer Camp. The Motion was voted on and passed **unanimously**.

Downs and McKenna stated they would talk with the school counselor at the Madison Elementary School to determine which students are in need.

McKenna stated she would like to see the meeting time to change from 4:30 pm to 6:30 pm or later so the public can attend meetings. Lutjen stated this will be tabled to the June meeting when all members can be present to give input.

Selectman's Report:

Addition of Alternates: McKenna stated that Liza Rogerson filled out an application to become an alternate.

Motion by Lutjen, seconded by Slader to increase the Alternates to three Alternates. The motion was voted on and passed **unanimously**.

McKenna stated she is nominating Liza Rogerson as an alternate.

Motion by Lutjen, seconded by Ohlson to appoint Liza Rogerson as an Alternate to the Madison Conservation Commission. The motion was voted on and passed **unanimously**.

Planning Board Report: Ohlson stated that Jamel Torres from North Star will be attending the Planning Board meeting on June 5, 2024 to look over the Master Plan and give feedback.

Lutjen went over the account balances as of April 30, 2024.

Account Balances as of April 30, 2024

Conservation Land Use Change Tax: $\$214,451.39 + \$1.77 = 214,453.16$

Forest Maintenance Account: $\$69,917.31 + .57 \text{ cents Interest} = \$69,917.88$

Conservation Gift Account: **\$661.76**

Capital Reserve Account: **Balance as of June 2, 2024 is \$60,814.32**

Downs asked if maybe Nolin could assess the trails due to the storm damage and if they are in rough shape, there should be a disclaimer on the town website that the trails are currently not in good condition.

McKenna brought up the sign for Hurricane Point and stated that in a prior meeting, Brooks stated he would work on the sign over the winter. Young stated she would check with Brooks.

Downs brought up the property stewardship and asked if the commission should cycle through these again. Lutjen stated this could be done and Nolin could review other trails and Lutjen is not sure which properties are high traffic.

ADJOURNMENT: **Motion** by Lutjen, seconded by Ohlson to adjourn the meeting. The motion was voted on and **6-0** and the meeting adjourned at 5:50 pm.

Submitted by:

Katharine Young
Land Use Boards Administrator