

Swanzey Open Space Committee

10/9/07 meeting minutes

Minutes are not final until reviewed and approved by the Open Space Committee. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Committee.

The meeting convened at 5:00 p.m.

Attendance: Victoria Barlow, Nancy Carlson, Deb Crowder, Theresa DiLuzio, Jeanne Thieme, Bud Winsor, Town Planner Sara Carbonneau.

Guests/members of the public – none attended

Status of current land protection projects (project manager)

Pendleton easement

Status quo

Johnson easement (Thieme)

The issue of the one-pump underground gas tank has been resolved. The Monadnock Conservancy (MC) has decided not to require removal of the tank, because there is no reason to suspect leakage and also because the Johnsons are under no legal obligation to remove it. Rather, the MC will insist on an indemnification in the easement deed itself to say, in effect, that if contamination of any kind is ever found and it is traced to any source on the Johnson Farm, the landowners at the time will hold the MC harmless.

On Wednesday, September 26, Thieme hosted a lunch meeting for Ryan Owens and Mike Johnson (Barlow also attended) to discuss resolution of the underground tank, and removal of junk cars.

On Sunday, September 30, Johnson held a work party to remove the gas tanks from junk cars, and haul the cars to a metal recycler. The restaurant refrigerators still need to be removed.

On Saturday, October 6, Johnson led a group of about eight participants in a walk down the South Branch river bed, beginning at the Belding field and ending with a tailgate party at the Johnson farm. Johnson hopes to expose citizens to this special place so that it will be valued, and thereby be more likely protected from development.

Kibler and Gill (DiLuzio)

The Kibler easement has been complicated by the fact that part of the property is in Richmond. The Town of Swansey has no desire to hold an executory interest in land in another town, or to potentially monitor land in another town. To resolve this problem with a solution that will make his easement eligible for town funding assistance, Dr. Kibler has offered to create two easements for his property, by dividing the parcel along the Richmond-Swanzey town line. The MC endorses his decision.

Creation of the second easement increases the expense of the project, from \$18,605 to an estimated \$22,000. Dee Robbins (MC) proposes that the expense be shared proportionate to the number of acres in each town. Swansey, with 56% of the total acres, could cover \$12,000 or 55%

of the expense, while Richmond and the property owners could share the remaining 45% of the expense.

Motion by Carlson, second by Theime, to request Fox to schedule the Selectmen's two public hearings required by RSA 41-14:a to release up to \$12,000 from the Conservation Land Acquisition capital reserve fund to cover a portion of the Swanzey transaction costs of the Kibler and Gill easements. All in favor.

DiLuzio and Barlow have prepared a letter requesting scheduling of the public hearings. A copy is attached.

Robbins, Dr. Kibler and two members of the Richmond Conservation Commission took a brief look at the Richmond part of parcel on October 3. The Richmond Conservation Commission will discuss participation in the project at their November 1 meeting.

The MC Lands Committee expects to vote to accept the project on October 10. The MC Board expects to vote to accept the project on October 12.

Pullen

Dick and Barbara Pullen have asked the MC to begin the easement process on their approximately 100-acre parcel, and would like Town assistance with transaction costs. The MC has made an initial visit in mid-August, with the understanding that the easement would be completed in 2008 at the earliest. A survey may exist, which would lower the projected \$11,000 - \$12,000 potential transaction cost. The Pullens may prefer not to have town hold the executory interest.

Dunn (DiLuzio)

Irma Dunn is ready to initiate an easement. Owens and Robbins from the MC hope to meet with Mrs. Dunn, along with DiLuzio, to discuss Mrs. Dunn's interests and the MC process, answer questions, and take a quick walk around the property. The MC will likely wait until January for a Lands Committee visit and formal start of work on the inquiry.

Liason reports

Conservation Commission—The CC will be getting "protected river" signs to post at all covered bridges in town.

Status of assignments + projects

Web page - no activity

Project management worksheet, communications log - no activity

Protection of 3 town-owned parcels - Carlson and Winsor

Carlson and Windsor will prepare written conclusions to present and discuss at the November 4 OSC retreat.

Town land purchase/easement management - Crowder and Barlow

The Conservation Subdivision workgroup is preparing the first draft of a Conservation Subdivision Design ordinance for incorporation into town subdivision regulations, to replace the provisions for cluster development (and remove the requirement for a special exception) currently included in the zoning bylaw.

Oxen initiative – Barlow and Thieme

On September 16, Buck and Ike attended the Humane Society's Walk for Animals. Crowder and Barlow served as personal assistants; Dave Krisch staffed the OSC booth and handled sales of plush oxen. Bruce Barlow accumulated film footage.

On September 30 Chrysalis Gallery hosted an unveiling of Crowder's new portrait of the team. Buck and Ike attended, under the management of Barlow and Thieme. (The team also strolled through the village, visiting with neighbors and posing for photographs at the Slate Covered Bridge.) Carlson welcomed guests and managed the unveiling, Thieme provided the tent and artist's easel, Feist and Carbonneau handled hospitality, and Micah Mazinowski and Evan Barlow brought drama with a stirring drum roll. Between 60 and 70 people attended.

Crowder and the Gallery's Mary Ryan have offered to donate to the "Bale Out Buck and Ike" fund a portion of sales of prints of the portrait.

Wildlife Action Plan maps – Pending corrections of the latest iteration of tax parcel mapping and assessing information, the next step will be to transform the data into GIS format.

Resource Directory – DiLuzio recommends expanding the directory to include committee member information, and will handle the task.

Budget report

To date, the available balance in the Open Space Acquisition Fund is \$104,464.14
[\$40,877.26 (balance from 2005) + \$50,000 (balance from 2006) + \$2,137.68 interest less expenses \$4,925 (paid out in 2006) = \$88,089.14 + \$50,000 (allocated for 2007) less \$33,625 allocation for purchase of Johnson easement. Projected pending expenses: Johnson transaction costs, Kibler transaction costs ~ on the order of \$20,000 ~ \$25,000 for the combination.

New business

Training ~ A workshop, "Conservation Strategies for the Monadnock Region," will take place from 1:00 to 4:00 on Friday, October 12 at Keene Public Library. Carbonneau encouraged OSC members to attend for a review of the basics of land trusts and conservation easements. Pre-registration at Cooperative Extension Service is required.

On September 26 Barlow and Carlson attended the Municipal Law Lecture session in Jaffrey on conservation and development goals.

OSC retreat ~ The date was set for **Sunday, November 4, from 9:00 to 12:00**. The agenda will include a status report on this year's projects, and discussion of policy regarding easement purchase, financing transaction costs, and public access to conserved land.

Land Use change tax – DiLuzio initiated a discussion of the disposition of the tax. In Swanzey, 50% (up to a max of \$10,000/year; the balance goes to the General Fund) of income received from the Land Use Change tax goes to the ConCom's Conservation Fund. DiLuzio's topics for discussion:

Would it be appropriate for a greater percentage of the tax revenue to go towards conservation land acquisition, either in lieu of or in addition to the annual OSC request for funding the Conservation Land Acquisition capital reserve fund?

Committee members noted that the annual budget request, if approved, is a more dependable source of funding. Land use change generates administrative expenses for the town.

Would it be appropriate for the Open Space Committee instead to receive the tax revenue?

It might seem logical for the OSC to receive part of the revenue, considering the ConCom's decision to recommend creation of a town committee devoted exclusively to open space protection. However, the law only considers conservation commissions (along with the general town government) eligible to receive any of the revenue. Open space committees may not have been in existence when the legislation was drafted.

Would it be appropriate for the ConCom to make available some portion of the tax revenue for protecting open space?

Committee members asked Crowder to raise this possibility with the ConCom. A situation may arise when speed is important. (The 41:14-a public hearing process does not apply to a ConCom expenditure of money from the Conservation Fund. However, if Conservation Fund money is used for land acquisition, the Conservation Commission must hold at least one public hearing.) In the future, it may make sense to request that the ConCom help with funding for easement transaction costs.

Minutes of 9/11 meeting

Motion by Carlson to approve the minutes. Second by DiLuzio. All in favor.

The meeting adjourned at 6:30 p.m.

Respectfully submitted,
Victoria Barlow

Town of Swanzey
Open Space Committee
Swanzey, NH 03446

October 12, 2007

Town of Swanzey
Board of Selectmen
Swanzey, NH 03446

Dear members of the Board:

The Open Space Committee respectfully requests the support of the Board of Selectmen in acquiring the backup interest in a conservation easement to protect approximately 185 acres owned by the Kibler and Gill families in the Swanzey portion of the Perry Brook watershed.

The OSC walked the property on Sept. 2nd with Dr. Kibler and Dee Robbins from the Monadnock Conservancy. Dr. Kibler gave us a brief history of the land, which is known as the "Perry Farm." It has been in the Perry family since 1805. The farm survived into the 1950's as a sawmill and working farm. Glimpses of the past can be seen along Perry Brook, which runs through the property, at the site of the old sawmill along Taylor Hill Rd. Information about the farm and its past occupants can be found in the book "Historic Homes of Cheshire County, New Hampshire," Volume II.

The proposed project encompasses a very picturesque and historic part of Swanzey. The tracts are beautiful forested acreage and protect resources identified in the *Plan for the Protection of Open Space* (August 2004). Hikers, bicyclists, horseback riders, snowmobilers and hunters all use the many trails running through these woods. The project overlays a large aquifer, and is rich in natural resources and wildlife habitat. The Open Space Committee's review of the project concludes that this property benefits a wide range of people and has clear potential to stimulate future projects.

A detailed description of the property prepared by Dee Robbins has been attached for your review.

The Monadnock Conservancy stands ready to assume responsibility for holding and monitoring the easements. By unanimous vote on October 9, 2007, members of the Open Space Committee voted to request the release of funds from the Conservation Land Acquisition capital reserve fund to cover Swanzey's proportionate share of transaction costs of the Kibler and Gill easements.

These funds, in the amount not to exceed \$12,000, will cover the costs associated with the easement transaction, including an environmental hazard assessment, title search, recording fees, legal fees, title search, survey, and a payment to cover the Monadnock Conservancy's perpetual monitoring of the easement.

RSA 41:14-a. requires the Board to hold two public hearings before making the disbursements from the capital reserve account. May we ask the Board to kindly schedule the hearings?

We hope we have your support for this important opportunity.

At your convenience, we will be happy to discuss the matter with the Board in person. Thank you for your consideration.

Sincerely,

Theresa DiLuzio, Open Space Committee project manager
Victoria Reck Barlow, chair, Swanzey Open Space Committee

cc: Sara Carbonneau, Swanzey Town Planner
Dee Robbins, Monadnock Conservancy

ATTACHMENT

According to Dee Robbins, Monadnock Conservancy conservation associate:

“Dr. Lewis and Priscilla Perry Kibler will protect approximately 90 acres of land on the Swanzey side of Taylor Hill Road. [An additional 145 acres are in Richmond.] Mrs. Mary Perry Gill will protect approximately 100 acres at the junction of Winch Hill and Rabbit Hollow Roads. These abutting properties include land that has been in the Herman H. Perry family since 1804. The Perry estate survived as a working farm and sawmill into the 1950’s. The Kiblers live in the original Herman H. Perry family house.

The land to be protected lies within a 25,455-acre aggregate block of forest and is itself entirely forested. Lewis Kibler selectively logs portions of both properties according to a well-designed forest management plan. This forest provides valuable wildlife habitat and water resource protection. The New Hampshire *Wildlife Action Plan* ranks significant portions of this area as Tier 2: highest in the region based on ecological conditions. Perry Brook runs through both properties for a distance of roughly 4,000 feet, and over 5,000 feet of first and second order streams feed into this brook from within the proposed easement area. Perry Brook also runs through a 10-acre scrub-shrub wetland that abuts the northeastern boundary of Mary Gill’s property.

In addition to its importance for natural resources conservation, land protection on the Kibler and Gill properties will preserve the scenic beauty of Rabbit Hollow Road, a Class VI road with guaranteed access to the public for backwoods hiking. Finally, Lewis and Priscilla Kibler’s commitment to conservation goes beyond preserving the natural heritage of the Herman H. Perry Estate. The Kiblers want to connect their family easements with other protected lands within the Perry Brook watershed, an area of high conservation priority for the town of Swanzey.”