

September 13, 2023

APPROVED

In attendance: Jared Hardner – Chair, Rob Clemens, John Harvey - alternate, Peter Lyon – Board of Selectman Ex-Officio, Lee Gilman, Steve Lutz, Frank Montesanto, Mark Bender (remote).
Staff present: Kristan Patenaude – Recording Secretary (remote)

Administrative:

1. Chair Comments

Jared Hardner opened the meeting at 7:00pm.

John Harvey sat for Christian Littlefield.

2. Minutes Approval

The Board tabled discussion of the minutes to a future meeting.

3. Treasurer's Report

Mark Bender stated that the Commission had expenses from its budget of \$12,190 leaving a balance of \$11,258. The month beginning balance in the Land Account was \$1,107,648. Interest was accrued during the month of \$2,326, giving a balance at the end of the month of \$1,109,974. Of that, there is a pending charge of \$1,053,533, which includes some legal invoices and an environmental assessment for Granite State Land Management. LUCT payments have been approved totaling \$27,430. The Commission has committed funds for the Curran land acquisition of \$600,000. It is anticipated that the Town will pay for the first installment of that purchase around the end of the calendar year. At the Commission's last meeting, it approved the ACC portion of the Clearview land acquisition payment for \$470,000. In the Gift Account there was a beginning balance of \$48,574. Deposits of \$1,500 and interest of \$4.21 gave an ending balance of just over \$50,000. Forestry work of \$4,250 is pending and invoices for that should be in hand shortly.

Peter Lyon noted that the Board of Selectmen recently approved a LUCT payment for an Eversource property in the amount of approximately \$68,000.

Special Topics & Presentations

4. B&M Trail

Chris Buchanan, Chair of the Bicycle & Pedestrian Advisory Committee, explained that the rail trail between Baboosic Lake Road and Walnut Hill Road was included in the State Department of Transportation's 10-Year Plan, scheduled for 2026-2029. The State reached out to the Town expressing interest and ability to move that project up to begin as soon as the Town agrees. This could accelerate construction of the project from 2029 to as early as 2026-2027. The Town needs to determine if it would like to proceed. Chris Buchanan explained that he presented this proposal to the Board of Selectmen several weeks ago. He relayed several of the Board's questions to the DOT, which is currently drafting up an agreement for the Town to consider. He

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has been working with VHB Engineering to get an updated price quote for the project. If the Town does not proceed with this project at this time, presumably the DOT would resume it in several years. State funding would represent 80% of the total project budget.

Chris Buchanan explained that the proposal is to rehabilitate the rail bed to a condition consistent with a rail trail. It is possible that segments would deviate from the prior rail bed. The rail bed surface would become crushed stone and other potential treatments, such as a boardwalk area, are proposed. The trail is approximately 10,800 linear feet from end to end. Nothing is needed from the ACC at this time, but support would be helpful.

Rob Clemens stated that he sat in on Chris Buchanan's briefing to the Board of Selectmen and offered up ACC's historic support of the project at that time, as well as an opinion that the ACC's holdings and an easement in that area would not prevent the project from moving forward.

Rob Clemens noted that he recently spoke with a property owner at 12 Baboosic Lake Road. There used to be a footbridge in that area that ACC members removed a couple of years ago. The owner expressed interest as to whether there is an intention to reinstall that footbridge. She is both interested and supportive of the rail trail but also concerned that, with the lack of a bridge, users may go across her property looking for the trail. Rob Clemens stated that, if the ACC considers reinstalling the footbridge, there should be consideration regarding it meeting the standards or design requirements of the State for this rail trail.

Rob Clemens asked if the State project will include the bridge across that waterway. Chris Buchanan stated that it would. Rob Clemens asked if VHB could include that in the cost estimate. Chris Buchanan stated that this will be included in the cost estimate. Rob Clemens suggested that the ACC support this proposal but not do anything to the bridge individually in advance of this, aside from potential signage.

Chris Buchanan explained that the project does not exist beyond paper until the Town decides to move forward with an agreement. He suggested holding off on any sort of announcement regarding a project until such an agreement is reached. Jared Hardner suggested that signage explaining the trail closure pending future improvement could be installed.

Chris Buchanan explained that VHB will likely be finished with the budget analysis within the next week. Eric Slosek, DPW Director, heard back from DOT that the agreement is completed and in their legal review. This should also be received within the next couple of weeks. Beyond that, he will work with the Board of Selectmen to determine how to pay for the Town's 20% match over the course of 3-4 years if the Board is willing to move forward with the agreement.

The Board agreed with supporting this endeavor moving forward.

Will Ludt, Chair of the Heritage Commission, explained that the Heritage Commission has been working hard for advocacy to construct the Baboosic Lake B&M rail stop replica of what was

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there from 1901-1926. Five people from around Baboosic Lake are volunteering funds and he plans to apply for a grant in the near future of \$5,000 to support any material needs. There are three potential builders for this project. This is a very simple shed design that came from the B&M engineering in 1901 as a template. The grant opportunity will become available in October through the Freedom's Way Heritage Area. Will Ludt noted that, for full disclosure, he is currently on the board for Freedom's Way and will be recusing himself from any decisions. He presented some of the resource relics found near where the rail stop would be built, such as two rail spikes and a bolt.

Will Ludt explained that he need approval from the ACC because the building is proposed along the B&M Trail near Walnut Hill Road and the Embankment Road. This has been marked in the field. He stated that he would also like Frank Montesanto to oversee the construction of the project.

Jared Hardner noted that Chris Buchanan has an engineer working on the whole segment which will involve potentially changing the rail bed to some degree. The engineers need to finish their work first, in order to understand the space better. Will Ludt noted that he does not want to miss the opportunity for this grant.

In response to a question from Rob Clemens, Will Ludt explained that this proposed project is on the west side approximately 50' in from Walnut Hill Road. There are posts still in place, approximately 17' apart. He stated that he is pretty sure this is located along the ACC right of way, though he would like this confirmed. Jared Hardner stated that the nearby landowner should be involved in this decision. There are likely setback requirements for the building structure to the property line. Will Ludt stated that he would like to contact the owner to discuss this.

Chris Buchanan noted that step number two in the process is to get a detailed survey of the route. With the assumption that the Town wants to move forward with this accelerated agreement, the detailed survey would be the first thing that the DOT does. The proposal from Will Ludt could be factored into the design. He stated that, generally what makes a rail trail interesting is what it has along it and where it goes. This historic approach is fascinating and, as long as it is not situated in the middle of the trail, it would enhance the project.

Will Ludt stated that this could be a respite stop for users of the trail. The grant opportunity runs from 1 October for a full year, until the money runs out. Jared Hardner stated that the surveying has to get completed first. Part of the grant request could be to survey that section of the trail. Once surveyed, the groups can re-evaluate how well it fits. He suggested opening a dialogue right now with the landowner to see if there is interest in collaborating.

Frank Montesanto expressed concern regarding starting the rail stop replica project, as DOT may need certain access to the area.

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Will Ludt stated that he would like to work on the grant, with the stipulations as mentioned. The grant is coming through a federal source. Jared Hardner suggested borrowing information about the larger vision from Chris Buchanan for the grant application.

Peter Lyon noted that the Town is not required to comply with building permits per Town ordinances, but the Town does try to respect these and work through the Community Development Office.

5. ACC policy letter on wetland buffer protections in Zoning Ordinance

Jared Hardner reviewed the draft letter to the ZBA. The intention of the letter is for the ZBA to understand the background of the protections offered to wetland buffers in the Zoning Ordinance and the history behind how that has been understood and implemented in Town. This would then support two appeals to the ZBA regarding an administrative decision to allow buffer impacts on two properties. Jared Hardner explained that he will be supporting the abutters that have filed the appeals and therefore will recuse himself from any further dealing on those properties to the extent they come before the ACC in the future. Rob Clemens stated that he will represent the ACC at the ZBA meeting and present this draft letter.

Jared Hardner explained that, as recently as yesterday, he received a call from a concerned citizen regarding a property that seems clearly undevelopable per the Zoning Ordinance. He has spoken with many abutters around Town, regarding properties that seem to be undevelopable but on which building is then proposed. The intention with this letter is to rein in development that occurs within wetlands or buffers. Rob Clemens noted that the Commission previously spoke about the Vonderosa property proposal and what it believed to be misinterpretations of the Zoning Ordinance as it related to wetlands delineations on the site. There is a broader opportunity here for the ACC to state its opinion about the interpretation and how it applies to wetland and wetland buffer delineations.

Jared Hardner stated that he would like to use this letter to express how the ACC is interpreting the designation of evaluation units, for example. There are two loopholes currently being used by developers for this. One is property boundaries and the other is the 50' rule.

Steve Lutz suggested that the letter could be enhanced to make a stronger statement that the Ordinance states some protections. There is no confusion in these statements from the Ordinance. He would also like it to include recommendations to improve this issue.

Rob Clemens moved to finalize the letter, with the referenced edits, and submit it to the ZBA in support of the September 19, 2023, hearing. Seconded by Frank Montesanto.

Roll Call Vote: Jared Hardner – aye, Rob Clemens – aye, John Harvey – aye, Lee Gilman – aye, Steve Lutz – aye, Frank Montesanto – aye, Mark Bender – aye 7-0-0; motion approved.

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6. Update on invasives management (Luby, Buck Meadow, South Great Meadow, other)

Jared Hardner explained that the invasive management schedule for this year at the Luby Lot has been completed. He is hoping to proceed with management at Buck Meadow, and potentially also include management in the southern portion of the Great Meadow.

Lee Gilman noted that he heard from an abutter on the south edge of the Great Meadow regarding encroachments into the property. This will potentially be incorporated. Jared Hardner noted that he and Lee Gilman will also be meeting with DPW regarding potential encroachments into the nearby cemetery.

John Harvey asked that, per the management proposed at Buck Meadow, this concentrate solely on the invasives and leave other shrubs alone. He asked that the management be careful of the existing margin.

Jared Hardner explained that the ACC received an estimate from VCS for \$4,000 which will cover an entire day of their time. There is not a budget for this within the line item but there is within the Land Account, which has been used for land management activities. Rob Clemens asked if the ACC could allocate money from the invasives budget in the operating account and supplement it with monies from the Land Account. Mark Bender explained that there is money in the invasive mitigation budget at \$2,500. The ACC could allocate \$2,000 from that budget and \$2,000 from the Land Account.

Lee Gilman moved to allocate \$4,000 for invasive species management by VCS, \$2,000 from the invasive mitigation account and \$2,000 from the Land Account. Seconded by Rob Clemens.

Discussion:

Jared Hardner noted that, per the ACC's new policy, the website contains information on invasive species management. It shows each property being managed this fall. All three sites will include signage indicating that management will be happening or has happened. In terms of public engagement, one abutter at Buck Meadow raised concerns about horse grazing during management, and so the ACC is in discussion about how best to accommodate this concern.

Roll Call Vote: Jared Hardner – aye, Rob Clemens – aye, John Harvey – aye, Lee Gilman – aye, Steve Lutz – aye, Frank Montesanto – aye, Mark Bender – aye 7-0-0; motion approved.

Frank Montesanto moved to allocate \$50 from the invasive mitigation budget for signage. Seconded by Rob Clemens.

Roll Call Vote: Jared Hardner – aye, Rob Clemens – aye, John Harvey – aye, Lee Gilman – aye, Steve Lutz – aye, Frank Montesanto – aye, Mark Bender – aye

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7-0-0; motion approved.

Other Business

John Harvey explained that the ACC is beginning to focus on water resources and one component of water resources is protection of aquatic animals. Boy Scouts and private citizens often place turtle crossing signs in areas around water resources in Town. He explained that there are major wetlands on either side of an existing culvert along Walnut Hill Rod. The culvert is doing nothing for the wildlife in this area. He is starting an initiative to investigate and prioritize all of the failed culverts that happen to lie between wetlands in Town. This is where most aquatic animals come and go. A fix for this culvert could be discussed at a later date. The prioritization has to do with how compromised the culvert is and the chances for wildlife to move through it if it is upgraded. He and Jared Hardner spoke with a woman at DES who is in charge of all the culverts in the State. The State has a GIS map that shows all of the culverts in the State. There are approximately 60 compromised culverts in Town; compromised meaning that the aquatic crossing is too small, the culvert has failed, or there is a blockage to the area. The State's map allows for someone to use the browser on a phone, activate a GPS dot, and use this to go directly to a culvert that is marked as compromised. John Harvey suggested that 4-5 Commissioners or citizens use this map to visit these culverts and determine an assessment of its priority. The State has funding available to upgrade culverts that are compromised and fail to allow amphibian passing.

Jared Hardner explained that the State has put effort into creating this GIS map with different variables. The Town roads are on their own schedule for being reconstructed through DPW. The ACC could create this priority culvert list and compare it with DPW's list. If an item on the ACC's list is further down the DPW's list, there could be a discussion regarding the ACC finding funding to bring it up the list. The idea is to accelerate the highest priority areas that require fixing from an ecological point of view. The ACC could also use this priority list to alert the DPW as to potential future hazards regarding ecological priority of certain culverts. This could open up additional opportunities for funding.

Rob Clemens noted that, regarding the Clearview acquisition, it appears that the Amherst Land Trust has managed to raise the funds needed for the closing to proceed in early October. The first phase of this acquisition should close in early October and the second phase will close next summer. Jared Hardner thanked all involved for their efforts on this item.

Rob Clemens explained that there was a request through DPW regarding a tree on an ACC right of way which fell on an abutter's house. The owner is concerned about a portion of the tree that is still standing and could fall again. The ACC previously authorized the DPW to remove trees on ACC right of ways. This right of way has not been maintained for trail access. The ACC has an obligation, if a tree presents a threat to someone's property, to take care of it. It appears that the DPW contractor does not have the necessary equipment to access this particular tree location. Lee Gilman suggested that a crane or advanced climbing may be needed. His company may be able to do this work. Rob Clemens asked if the ACC should put together a list of capable

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contractors to bid on this item. Lee Gilman stated that this project will likely cost less than \$2,000 to complete.

Jared Hardner stated that it seems reasonable, since other options have been exhausted, for Lee Gilman's company to do the work. Rob Clemens expressed hesitation that Town officials should not be receiving remuneration for services. Peter Lyon noted that Lee Gilman should abstain from any ACC votes on this item. The ACC should also be careful regarding the frequency of using Lee Gilman or any Commissioner for these jobs. The ACC could also choose to seek a third-party opinion regarding if Lee Gilman's assessment is a reasonable estimate. Rob Clemens noted that Lee Gilman assessed the situation as an arborist and has the capabilities to do the work. He would like to get this taken care of.

Jared Hardner noted that it is not Lee Gilman's responsibility to seek trees that need to be cut on behalf of the ACC. This case involves a tree on ACC's property that is threatening someone's home. This was brought to DPW to be dealt with by the Town contracted arborists, but this was not possible. The proposed option appears to be a reasonable one.

Rob Clemens noted that the ACC could ask the Tree Warden if there is another vendor recommended to do this kind of work.

Rob Clemens moved to allocate an amount not to exceed \$2,000 from the Land Account for Lee Gilman's company to remove the tree on the ACC's right of way, abutting 10 Ridgewood Drive, as discussed. Seconded by John Harvey.

Roll Call Vote: Jared Hardner – aye, Rob Clemens – aye, John Harvey – aye, Lee Gilman – abstain, Steve Lutz – aye, Frank Montesanto – aye, Mark Bender – aye 6-0-1; motion approved.

Frank Montesanto noted that Eversource has pulled the power out of Lindabury Orchard. He will now pull the box off the tree. He will obtain estimates regarding potentially reinstalling power at some point in the future.

Rob Clemens moved to adjourn at 9:05pm. Seconded by Frank Montesanto. Roll Call Vote: Jared Hardner – aye, Rob Clemens – aye, John Harvey – aye, Lee Gilman – aye, Steve Lutz – aye, Frank Montesanto – aye, Mark Bender – aye 7-0-0; motion approved.

The meeting adjourned at 9:05pm.

*Respectfully submitted,
Kristan Patenaude*

Minutes approved: October 11, 2023