

FAYSTON Selectboard Minutes

9/6/19

Selectboard Present: Chuck Martel (Chuck) and Jared Cadwell (Jared)

Minute-Taker: JB Weir (JB)

Conservation Commission Present: Lisa Koitzsch (Lisa) and Corrie Miller (Corrie)

Vermont Land Trust (VLT) Present: Lisa Walker (Liza)

This meeting was convened to discuss the impending land donation of the Ermione, LLC property on Boyce Road to the Town. Jim Barlow of VLCT has been coordinating with Vermont Land Trust (VLT) staff and attorneys on the property transfer to the Town. Jim asked VLT to outline a written document of expectations of all parties involved before the transfer occurs. There will be a gift of the property to the Town and then the Town will turn around and convey the conservation easement to VLT, which will hold the easement and the document will control the Town's use of the property.

Liza stated that the original letter of agreement was between VLT and the property owner, Christina Castegren (Christina). That understanding purported to agree on VLT costs and in creating a stewardship endowment. The endowment fund provides VLT with the monies to monitor and enforce the easement. In that original letter of understanding, Christina agreed to cover all of VLT's costs, estimated at \$36,000.

Liza is proposing the Selectboard sign a revised letter of agreement that includes all parties to the transaction. This letter provides that the parcel will be donated to the Town and that the land will then be conserved. Christina's attorney can do the legal work on the warranty deed. Jared asked for clarification on which document needed to be signed by the Board at its next meeting on September 10, 2019. Liza responded that it is the letter of agreement that would need to be signed. Liza reiterated that this letter is not a legally-binding contract but is more of a memorandum of understanding signifying that all parties are in agreement and clear as to their intentions. Jared and Chuck agreed that this will be done at the next meeting on the 10th.

Liza continued that work is already being done. The conservation easement has already been drafted. The title search has already been ordered and should be complete by September 13. This is a critical part of the process as title insurance is required for the easement and the Town certainly wants to make sure it would be obtaining clean title to the parcel. Once the title work is complete, the next step is for VLT to do its field work. As a corollary to the conservation easement, VLT drafts a conservation easement map or plan. This is basically just an enhanced map showing exact acreage, special areas of note, exact boundaries etc. Liza noted that this appears to be a straightforward property insofar as the lack of ecological features which would require particularized attention. After the title work is complete, a VLT staff member will visit the property to walk its boundaries and verify the lack of any identifiable ecological features that may have been missed by initial remote sensing. Corrie asked who would be doing the field work. Liza said either Adam Pieper or Caitlyn Cusack. Jared stated that it would be best for

someone with a strong forestry background look at the parcel with the context of which parts should remain cleared and which portions of land should be allowed to grow back. Liza stated that maybe it would be best to enlist the State's help and have one of its foresters come walk the land. Because the Town is involved, this would be a free visit by a State-specialist. Liza added that it may be a good first step to call Dan Singleton who had helped Waitsfield with the Scrag Forest land. Liza noted that the State's suggestions on how to maintain the parcel might hinge on the Town's goals and objectives with accepting the parcel. Liza added that some of the Town's intentions with the land will derive from public comment and participation. Liza will reach out to Dan Singleton for a site visit to get his initial sense of the property.

Liza continued with discussion as to the process. The process includes the title work and field visit, followed by mapping and baseline documentation report. The baseline documentation report is corollary work to the conservation easement that is necessary to complete the project. Liza believes that the project is in good shape relative to timing. Christina would like the project to be completed by November. Liza asked about timing, given Jim Barlow's mention of December. Liza responded that there is a state statute which states that a Town must give 30-days notice before conveying real estate, which also includes an interest in real estate. The fact that the Town would be conveying a conservation easement to VLT triggers this duty of public notice prior to conveyance. Liza believes that, since the Town would be conveying the interest the same day it acquired fee, the Town could give notice any time. This would speed up the process as opposed to providing notice once fee was acquired. The Town would be giving notice to convey an interest in the property it will be receiving. Liza believes Jim agreed with this interpretation. A special meeting for a town vote is not required. Per Jim Barlow's email, the Town cannot set a closing date until the date of publication of the notice in the paper is known. From that day the closing will be set at least 31 days out, but notice cannot be published until an agreement is reached on the terms of the conservation easement. Liza hopes that closing could occur before Thanksgiving. Jared asked whether the conservation easement review with its attorney must be done in public. Liza believed the Board can review it on its own and then report at a regularly-scheduled Selectboard meeting. In the meantime, Jim Barlow will be tasked with any negotiations with either VLT or Christina's attorney. On quick review, Jared believes the only issue will be over the use of motorized vehicles, including snowmobiles. Christina requests that no motorized vehicles be used on the property, such as ATVs. The letter of agreement reflects such. Christina also prefers that there be no snowmobiling. Snowmobiling, however, is at the discretion of the Town per the conservation easement drafted by the Land Trust. Corrie asked about the distinction between snowmobiles and other motorized vehicles like ATVs insofar as their impact on the land. Liza believes it has more to do with the wear and tear to the ground caused by an ATV as well as enforcement. Whether to allow or prohibit certain types of motorized vehicles can be addressed by the Town in the management plan.

The conservation easement is in the draft process. Liza stated that this will be a standard conservation easement utilized by VLT. Corrie asked whether there was anything particular in the easement. Liza stated that it does allow for parking. Under the public access section, the property shall be available to the public for all types of non-commercial, non-motorized, non-mechanized dispersed recreational activity, including but not limited to bird-watching, cross-

country skiing, fishing, hunting, and trapping. These are activities which can be allowed, but not shall be allowed. That will be left up to the Town in in the management plan. Corrie asked whether this list must be allowed by the management plan. Liza is concerned that this section does not reference the management plan and will be looking into including a reference of accord with the management plan.

Lisa asked whether this should be designated as a Town Forest. Liza is unsure about what that designation does in effect. Liza will reach out to Kate Ferrar to find out whether it's more of a generic term or a specific designation and what is the process and what does it give us.

Corrie mentioned the unmapped wetlands on the eastern section of the property. Corrie asked about the easement's allowance of septic and some structures on the property. Corrie asked whether this will be mapped. Liza said it would not be mapped, as such use would be allowed wherever possible.

Bob Newis has offered to do a walk-through of the property. Jared thinks it would be a good idea to do a site walk with Bob and Boomer.

Lisa noted the easement's language pertaining to the protection of natural waterways and streams. Lisa added that there has been vast removal of the vegetation along the watercourses. At a minimum, that vegetation should be allowed to grow back.

Jared asked whether road, parking, property maintenance etc are all aspects of the interim management plan (IMP). Lisa stated yes. Lisa is working from an IMP from the town of Georgia which was used in a similar situation, as well as a template for a full final management plan. The first step is the IMP, followed by public notice and comment prior to enacting a full and final management plan. Corrie wondered whether the IMP should be more restrictive, so that when the final management plan is drafted it won't necessarily take away certain uses of the property that were allowed under the IMP. Corrie has seen an increase in uses such as fire pits recently. Jared's greatest concerns are motor bikes, ATVs and snowmobiles. Chuck's greatest concern is enforcement. Once the management plan is in place, Chuck believes there will be an expectation from the public that the Town enforce what uses are allowed and prohibited. Jared agrees that it would be impossible for the Selectboard to be the enforcement mechanism. Jared stated that coordination with adjoining landowners to the parcel is a necessary step in enforcement of the allowable uses of the parcel. Corrie wonders how Waitsfield deals with enforcement issues at Lareau. Liza believes Adam or Caitlyn can shed some light on the enforcement issues. Chuck wants to make sure enforcement mechanisms are included in the both management plans. Jared believes a formal group of people should be in charge of the management of the property. Corrie said that, technically, that should be the Fayston Conservation Commission (FCC). Jared asked whether the FCC is allowed to accept donations. Corrie said the Town can accept donations, and Liza said such donations are tax-deductible. But the donations cannot be made directly to the FCC. Liza mentioned the town of Barnard, which has a town forest that is managed by members of the public. Jared mentioned Danville has public/private partnership in managing its town-owned recreational land. Lisa stated that the FCC will look into how these towns are dealing with similar issues and come up with some ideas

which could be included in the final management plan. Lisa stated that there should be clear rules from the outset, including signage. Lisa said it would be good to reach out to the abutting landowners to get on the same page with regard to the future uses of this parcel, enforcement of those uses (i.e. no motorized vehicles). Corrie asked whether the IMP should be complete by November 1. Lisa hopes to get a draft IMP within three weeks.

The question arose about hunting on the property. The property is posted, but Christina allows certain people to hunt there. Someone should reach out to Christina to talk to these hunters to let them know of the land transfer. The Board is not sure it wants to prohibit hunting, at least not in the final management plan. Whether to restrict hunting in the IMP stage is a different question.

Lisa wondered whether a steering committee/task force should be formed for this project. All agreed that is a good idea. Lisa stated that such a committee is advised by the State. At the next Selectboard meeting on September 10, the Board will choose its own member for the committee. Jared is concerned about the cost of maintaining the property, i.e. brush-hogging. Jared wonders who might be able to step up in that regard. Lisa said grants should be looked into. Discussion was had as to how much to brush hog, what should be left open as a meadow and what should be allowed to grow back. Corrie would like the Selectboard to discuss what role the FCC should play in this project.

Lisa reminded people that members of the public did come to a prior meeting where the Selectboard expressed its intent to take over the property. Email addresses and contact info for these public attendees was taken. Lisa wonders whether these people should be kept abreast of the management plan process, including minutes of these meetings. All agreed. The minutes of this meeting will be sent out to them, as well as future information as to the creation of a task force etc. There will at least be a press release once the transfer has occurred. Corrie wondered whether there should be an adjacent landowner on the steering committee. Jared said that would be a good idea but wasn't sure as to which adjoiner would be willing.

Lisa believes it best to reach out to the Mad River Ridge Runners with regard to snowmobiling. There is trail over State land that comes close to accessing this parcel. Dan Fuller, adjoining land owner should be reached out to as well. The focus being to keep snowmobilers on designated quarters and off this parcel.

The road and parking was discussed. Any upgrading of Boyce Road and creation of a parking area won't happen until at least next year, pending budget allowances. Stuart had said that parking could be below the gate so long as there was a place above the parking for the plow to turnaround. In this case, the gate could be relocated farther up. There will be no formal parking this winter. When the Town does upgrade the road to somewhere between class 4 and class 3 standards, the culverts will be replaced. Corrie asked whether, for this winter, the IMP should say no parking at the plow turnaround area near the Bridgewater. There have been similar situations, i.e. on Harris Hill and Phen Road that should be looked into with regard to parking signage.

Jared brought up temporary signage for the property this winter. Lisa thought we could put a sign on the gate noting town land and detailing what uses are either allowed or prohibited. Lisa

also mentioned putting a couple signs on the main trails that go off onto private land which would notify users that they are entering or leaving private property. Liza stated that one of the first steps should be to blaze the town land so the public could know the boundaries. Yellow markers were used in the Chase Brook forest for that purpose. Chuck asked Lisa and Corrie to come up with some anticipated costs for specific items (i.e. signage) so that they can be included in the budgeting process for the upcoming year. Jared will ask Stuart about costs associated with moving the gate.

Pond liability was discussed. Pond liability would be covered by the Town's insurance. Signage at the pond would likely be necessary. Corrie said the Town should contact its insurer to ask whether a pond in the Town's jurisdiction changes its liability. Details as to whether the area around the pond should be mowed. Uses of the pond also need to be detailed, including whether to allow swimming, fishing, boating, stocking of fish etc. Chuck wonders whether fishing should be allowed, as the Town does not want to get into the business of stocking the pond, enforcing fishing licenses etc. Liza said that it may be best at least for the IMP to prohibit fishing until this issue can be further explored.

When the IMP is drafted it will be presented to the Selectboard at a regularly-held meeting for approval. Chuck wondered whether this project could be listed as an open item for the meetings in between so that the public can feel free to come and discuss the project.

At the next meeting, the Board will sign the letter of agreement. In addition, Liza will be present to discuss the conservation easement and introduce the project as a whole to the public. The public process should be introduced as well so that the public can understand their role in this process.

The meeting adjourned at 10:57 a.m.

Respectfully submitted,

JB Weir

Approved: Jared Cadwell