

**TOWN OF PEMBROKE
MASSACHUSETTS**

**COMMUNITY PRESERVATION COMMITTEE
MEETING MINUTES**

March 12, 2015

Mr. Brian Van Riper, Chairman, opened a meeting of the Community Preservation Committee at the Pembroke Town Hall in Room 13 at 7:40 PM on Thursday, March 12, 2015. Other members present were Mark Ames, Diane Beauchesne, William Boyle, Carolyn Crossley, Carey Day, Stephen Herrmann and Paul Whitman. Also in attendance was Ben Bastianelli, DPW Commissioner; Robert Clark, Conservation Agent; Shirin Everett, counsel from Kopelman & Paige; Eugene Fulmine, DPW Director; Robert Galvin, DPW counsel.

The focus of the evening's discussion was the pending Andruk Bog conservation restriction. The chairman gave a brief summary of the CPC's involvement in the purchase (\$200,000.00 granted by the CPC in 2009) of the land at the Andruk Bog and stated that the purpose of the meeting was to get assistance from town counsel with any questions that committee members might have and to get gain an understanding of how to proceed with completing the conservation restriction.

The chairman recognized DPW Counsel, Mr. Robert Galvin. Mr. Galvin stated that he is familiar with the acquisition of the property as he completed the closing. According to Mr. Galvin, the property was acquired on June 29, 2009. It was acquired in part with funds from a Department of Environmental Protection (DEP) water protection grant, Pembroke Department of Public Works (DPW) water revenue and Community Preservation Act (CPA) monies. The acquisition was originally authorized in 2008, under the care and custody of the water commissioners and one year later there was an amendment made with the condition of the imposition of a conservation restriction on the property. He understands the need for a restriction on a portion of the land, but not on the entire parcel. A portion of the property should be open space and portion should be water supply. He does not believe it is legally permissible to restrict the entire property without violating the terms of the grant and without the approval of the DEP. Ultimately, the property is in the hands of the water commissioners.

Mr. Mark Ames was then recognized by the chairman. Mr. Ames stated that at the time of purchase, the DPW came to the CPC to ask for the balance of funds needed to purchase the property. At the time of purchase, the CPA/CPC was still new, and therefore, no one was aware of the fact that a conservation restriction was necessary. That is why the need for the restriction was brought up the year after purchase.

Mr. Carey Day was then recognized by the chairman. Mr. Day read Action 10, Article 6 from the spring 2009 town meeting warrant – ...“that such vote be amended to provide that the acquisition of said property be for both open space, recreation, and water supply protection purposes.” He believes that with the original purchase the DPW had control of the property, but with the amendment it was provided that the land purpose would be for open space, recreation and water supply and that town counsel would have had to ensure that the language and conditions did not conflict with the DEP regulations. He does not recommend a division of the property.

Mr. Ben Bastianelli stated this land purchase was made in order to settle a lawsuit for the town. He went on to say that once the DPW was made aware of the fact that the a restriction was

needed to satisfy CPC requirements, a plan was designed by Doug Bailey to apportion the property by the value of funding received by each entity during purchase – which was approximately 1/3 per entity – and stated that a particular portion of the property could be placed under restriction and the remaining land would be for water protection.

Mr. Day then stated that it is his understanding that there is no portion of the property that does not fall under the Wetlands Protection Act; therefore, he doesn't understand where the conflict lies, other than which entity is in control of the property.

DPW assumes there are areas that can be used for future wells. It is the understanding of the DPW that if the entire property is covered under a conservation restriction, the drilling of wells and laying of access roads would be forbidden.

Mr. Day stated that as a committee, the CPC could allow or disallow whatever it wishes in the restriction – e.g. passive recreation, water supply protection, etc...He further stated that the reason he believes the entire parcel should be under the conservation restriction is because the town meeting article – which includes the \$200,000.00 of funding supplied by the CPC – lists the full 55 acres of land; therefore, the restriction should cover the full 55 acres.

Ultimately, Shirin Everett of town counsel, recommends drafting one conservation restriction that allows for apportionment of the land for ground water supply, passive recreation, and/or anything else the interested parties agree to. However, there will need to be a third party to hold the restriction for the town.

There was then discussion regarding the next meeting to be scheduled for the committee and interested parties. Members agreed that a meeting should be held with the guests present at this meeting to try to agree to a plan for apportionment of the Andruk Bog land on Thursday, April 9 or Thursday, May 14, 2015 at 7:30 PM. Date for the future meeting will be determined by the availability of participants.

The chairman asked for discussion regarding the draft meeting minutes of February 19, 2015, which were submitted to the committee for review and approval by the administrative assistant. There was no discussion; therefore,

Upon motion made by Mr. Carey Day and seconded by Mr. Stephen Herrmann, it was –

VOTED: To accept and approve the meeting minutes, as printed, of February 19, 2015.

Mr. Mark Ames, Ms. Diane Beauchesne, Mr. William Boyle, Ms. Carolyn Crossley, Mr. Carey Day, Mr. Stephen Herrmann and Mr. Paul Whitman were in favor of the motion. The chairman was present, but did not vote. Motion passed.

There being no further discussion or votes, the meeting adjourned at 8:51 PM.

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CPC

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Respectfully submitted,

Rachel Michael, Administrative Assistant
Community Preservation Committee

Disclosure: These minutes are not verbatim – they are the administrative assistant’s interpretation of what took place at the meeting.

All materials presented during this meeting are available in the town hall.

Open Meeting Law, G.L c. 30A § 22.

Agenda may include topics not reasonably anticipated by the committee chairman 48 hours in advance of the meeting.

Open Meeting Law, G.L c. 30A § 20.