



**Londonderry Conservation Commission
Tuesday, May 12, 2009
PUBLIC HEARING**

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1 **Present: Deb Lievens, Gene Harrington, Mike Considine, Ken Henault, Truda Bloom, Mark**
2 **Oswald, George Herrmann and Mike Speltz**

3
4 **Also present: Brian Farmer, Town Council Liaison**

5
6 **G. Harrington made a motion to open the scheduled public hearing regarding the purchase of**
7 **conservation easements on map and lots 9-49 and 10-15, owned by Moose Hill Orchards. K.**
8 **Henault seconded. The motion was approved, 6-0-0.**
9

10 M. Speltz presented a slide show of the two parcels, explaining that both are almost entirely
11 comprised of active apple orchards with some pumpkins grown on 9-49 as well. From a natural resource
12 standpoint, the greatest attribute of the land is the prime agricultural soils, a portion of which is statewide
13 significant agricultural soils. This could be a tremendous advantage for the Town to use the land for
14 crops if and when it becomes too expensive to import them. Both are located along the Town's
15 designated scenic byway, Apple Way, which was purchased with the help of State funding specifically to
16 preserve the viewshed. Residents will also benefit from the guarantee of public access in the easement
17 deed. The fifty plus acres between the two lots are highly developable with the high grade soils and
18 plentiful road frontage. Preservation of these two properties will complete the conservation of the Moose
19 Hill Orchard properties.
20

21 A Purchase and Sale agreement has been drafted and is being reviewed by Andy Mack, Sr.
22 (President of Moose Hill Orchards). The purchase price is \$1.75 million. The recently updated appraisals
23 put the value of the two easements at 1.765 million. With the aid of the Rockingham County Conservation
24 District, the LCC is hoping to obtain grant monies from the Farm and Ranchlands Protection Program
25 which would pay for 50% of the purchase price. The exact amount of the federal funds the Town might
26 receive is unknown since the grant requires updated appraisals close to the time of the actual closing. If
27 land values should rise before then, the agreed upon purchase price protects the Town from having to
28 spend more, while A. Mack is protected in the same way should they fall further.
29

30 D. Lievens stated that current Open Space Funds would be short by roughly \$60,000-70,000 to
31 cover the Town's share of the purchase price that would need to be spent to match the grant funds after A.
32 Mack's charitable donation of a bargain sale. B. Farmer noted, however, that the LCC should expect
33 approximately \$210,000 from current use funds in July and should just check with the Town Manager to
34 be certain. When applying for the grant, the Town will disclose the actual amount currently available in
35 the Open Space Fund. If it is short of the Town's share of the purchase price, it will be noted that the
36 Town expects to make up the difference, whether it be through impending current use funds, approval of a
37 bond at the next Town Meeting, adjustment of the purchase price with the owner, etc. M. Speltz noted the
38 importance of being able to retain a positive reputation as a reliable partner with the Federal Government
39 by being able to produce the 50% match but added that Londonderry should accept the grant if awarded to
40 the Town as long as they have the reasonable expectation of acquiring the additional funding. He added



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41 that it is in the Town's best interest to pursue this opportunity now since the lack of preparedness on the
42 part of the other New England states to apply for the grant puts Londonderry near the front of the line.
43 Even if other states do apply and are awarded some funds, if they do not use them by the end of July, that
44 money will be swept back into a pool and a second round of grants will begin. Once again, Londonderry
45 would be poised to apply.

46
47 M. Considine asked for clarification as to why the LCC had originally discussed expending
48 \$500,000 of Open Space funds yet the figure was now increased. M. Speltz explained that originally, A.
49 Mack had offered a 25% bargain sale based on the appraisals done in June of 2008 which put the
50 combined easements values at just under \$2 million. After assessing his finances, however, A. Mack had
51 to change his charitable donation to 12.5%, bringing the purchase price in the P&S to \$1,750,000 and the
52 Town's matching funds to 50% of that figure. D. Lievens had worded the public notice to say
53 "approximately \$500,000" because of comments that the last public hearing notice was not specific
54 enough. Town Counsel has advised, however, that such specifics are not required for notice of a public
55 hearing. M. Oswald asked if the easements could be bought in phases. M. Speltz replied that it could be
56 a possibility but would have to be agreed to by A. Mack.

57
58 D. Lievens asked for public input. Bob Saur, 4 Mountain Home Road, asked if: 1) the temporary
59 political signage A. Mack has always allowed along the Mammoth Road frontage of 9-49 will be
60 permitted once the easement is in place and 2) if a portion of 9-49 should be reserved in case the Town
61 has some significant need in the future for land. D. Lievens replied that as a project for the community, if
62 the community favors being able to use the frontage for those political signs, it can be incorporated into
63 the reserved rights of the easement. M. Speltz answered the second question by saying that under State
64 statute, the Town has the capability of condemning the easement or a portion thereof but would then have
65 to compensate A. Mack for the cost of the land. It is not a simple process, however, and the Town would
66 be held to a high standard to justify the need to extinguish this or any other easement. Furthermore, if
67 Federal funds are used to purchase the easement, the Town would be furthered dissuaded by the fact that
68 the Federal Government could ask to be compensated as well. It was also noted that if RCCD does
69 indeed hold the easement, they would also act as a third party overseer who would enforce the original
70 intent of preserving the land.

71
72 Although not a direct abutter to map and lot 10-15, M. Speltz disclosed that his residence is within
73 a development that is diagonally across the street and he would therefore recuse himself from any vote
74 regarding the approval or disapproval of the project.

75
76 As there were no further questions or input, D. Lievens entertained a motion to close the public
77 hearing. **G. Harrington made a motion to close the public hearing at 8:10 PM. K. Henault**
78 **seconded. The motion was approved, 6-0-0.**

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80 **D. Lievens entertained a motion for the LCC to recommend to the Town Council that the**
81 **Town proceed with the purchase and sale agreement regarding conservation easements on map and**
82 **lots 9-49 and 10-15. T. Bloom so moved. K. Henault seconded. The motion was approved, 5-0-1**
83 **with M. Speltz abstaining.**

84
85 Respectfully submitted,

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88
89 Jaye A. Trottier
90 Secretary