

Memo on Issues raised by McConnon License Agreement

From: Tom Arnold

To: Tom Tidman

Date: 9/20/10

Factual Background:

At the Special Town meeting on October 9, 1979, the Town voted “to purchase for conservation purposes” land and buildings owned by Thomas J. and Wilda M. Quin, on the easterly side of Nagog Hill Rd. containing approximately 106 acres. Apparently no state or Federal matching grants were obtained to finance the purchase.

On January 24, 1980 a deed from the Quins conveyed two parcels to the Town of Acton, acting by and through its Conservation Commission under the provisions of General Laws, Chapter 40, Section 8. The deed was recorded at BK 13871 PG233.

On September 2, 1980, the Town of Acton deeded to Thomas Boswich McConnon and Rita-Marie McConnon a parcel of land comprised of 3.36 acres shown as Lot A on a plan dated March 20, 1980. The deed and plan were recorded at BK14066 PG131, Plan No. 1099.

On June 12, 1982, Thomas B. McConnon wrote to the Town of Acton proposing to use a portion of the “Quin” land for a horse farm. He attached a copy of an aerial photograph showing the areas that he proposed to use. Although his letter refers to a Lease Agreement, that document has not been found.

On July 19, 1989, the Town of Acton, acting by its Conservation Commission, signed a one year renewable License Agreement with the McConnons which permitted the use of twelve and a half acres for the grazing and exercising of horses in a manner consistent with the proper use of conservation land.

The current use of the Licensed Premises exceeds the terms of the License Agreement in that Hybrid Farm now has over 32 horses on the site. The Town wishes to review the existing situation with a view towards redrafting the Agreement. However, before doing so, several legal questions need to be answered.

Legal Issues and questions:

1. The “Quin” property was acquired “for conservation purposes”. Query: is the Town permitted to lease a portion of such property to a business corporation for business purposes? The farm is operated under the name “Hybrid Farm, Inc.” and provides a variety of programs as shown on its web site:
<http://www.hybridfarm.com/>

2. The boarding and grazing of horses requires that the grazing and riding areas be fenced off. Query: is the Town permitted to deny the public access to land acquired for Conservation purposes?

3. The McConnon parcel is zoned R-8. Query: Is the use of the McConnon land for the boarding of horses a permitted use under the Action Zoning by-law? Section 3.5.11 prohibits “animal boarding”. Some of the horses are boarded in the barn that is on site, but many are not. It would appear that Section 3.2.1 of the Zoning Bylaw does not apply as the McConnon’s land is less than five acres unless the “licensed” land of 12 acres is included.