

**QUESTIONS and ANSWERS**  
**Regarding Hybrid Farm and the 12/7/11 Conservation Commission Meeting**

**I. Why is the Conservation Commission reviewing the Hybrid Farm license?**

In 1989 the Town of Acton “acting by the Conservation Commission” (the “Commission”) entered into a License Agreement (the “License”) with Thomas B. and Rita McConnon (the “Licensee”) for the use of certain public conservation lands for the grazing and exercising of up to eight horses. This License was issued with a term of three years, with provision for annual renewal thereafter. The License has expired and the Licensee’s operations may not be in compliance with the original terms of the License. The Commission is therefore meeting to review and remedy the current condition.

**II. What were the key provisions of the Hybrid Farm License and how do the current operations comply with those provisions?**

1. The 1989 license authorized the use of approximately 12 acres of “conservation” land “solely for the purpose of grazing and exercising” horses. Per the License, “at no time will the Licensee have more than eight horses to graze in the fields without the express approval of the Commission.” The Commission is aware that approximately 30 horses now utilize these lands and that such use has effectively converted these lands from grazing pastures to dirt paddocks.
2. The License requires the Licensee to permit the public “to use and traverse the licensed premises for passive recreational purposes...” and to post notice as to the times the fields are in use. The lack of such notification and the scale of the current operations effectively discourage the public from accessing these publicly-owned lands.
3. The License prohibits the installation of fixed structures. There are currently two structures on the property.
4. The License states that “the Licensee will not engage in the business of riding lessons or any other profit making venture.” The Commission understands that riding lessons and other for profit activities are occurring on these lands. Such operations may be in violation of both the License and State law.
5. The 1992 License requires the Licensee to carry public liability and property damage insurance at protection limits likely inadequate by 2011 standards.

**III. Why was the License allowed to lapse in 1992?**

While agents of the Town have had regular conversations with the McConnon’s over the years, no formal application for renewal was submitted by the Licensee and no formal notice of the License expiration was issued by the Commission.

**IV. Why can’t Hybrid Farm give riding lessons or pony rides on conservation land?**

The conservation lands in question were purchased in part with state “Self Help Program” funds. By law, any licensing agreement must be consistent with the limitations of the Self Help Program. While the grazing and riding of horses is permitted on lands purchased with Self Help Program funds, the conduct of riding lessons on conservation land for profit is deemed a “commercial activity” that is not permitted under the State Self Help Statute.

**V. Why do other towns permit commercial activity on their conservation lands?**

Depending on how a piece of land is acquired, a town may be able to create a license agreement with a commercial entity. However, any such agreement must comply with applicable state laws, including fair and open bidding practices and procedures.

**VI. What is the Self-Help Program?**

The Self Help Program Agreement with the Office of Environmental Affairs is governed by M.G.L. ch. 132A. It is a program to assist cities and towns, which have established conservation commissions, in planning or designing suitable public outdoor facilities. It allowed for the Town of Acton to be reimbursed for part of the cost of purchasing the Quin/Nagog Hill conservation land in 1980.

**VII. How many acres do Hybrid Farm/the McConnon’s own?**

The Hybrid Farm parcel is approximately 3.36 acres.

**VIII. How many acres of conservation land does the License encompass?**

The McConnon's have an expired (since 1992) License to graze and exercise 8 horses on 12.5 (more or less) of land owned by the Town of Acton Conservation Commission.

**IX. How many horses are allowed per acre in Acton?**

On a parcel of two acres or more the boarding, keeping and raising of not more than one horse, goat or sheep is allowed. On a parcel of more than five acres the keeping or raising of multiple livestock is allowed. Land used for commercial agriculture may not be "regulated" (i.e. number of animals cannot be limited) if the sale of products produced from the agriculture business generates at least \$1,000 per acre based on gross sales.

**X. How was the License Agreement of not more than eight horses arrived at when the 1989 License was drafted?**

Written communications between the Licensee and the Commission in the period prior to and leading up to the 1989 License indicate a desire by both parties to keep the land as open pasture and to prevent "overgrazing." Early communications reference three horses, with several more likely to be added over time. The combined acreage of the Hybrid Farm and the licensed land is approximately 16 acres, which equates to one horse per 2 acres. The University of Massachusetts Center for Agriculture references 1.5 to 2 acres per horse carrying capacity to sustain grazing lands for foraging and hay production. However, there is no set formula.

**XI. Why is fencing an issue now when it was permissible when the 1989 License agreement was written?**

The licensed land is public conservation land. The 1989 License clearly states that "the Licensee shall permit the public to use and traverse the licensed premises for passive recreational purposes." The current fencing is not designed so as to allow such access and the scale of the current operations effectively discourages the public from accessing these public lands.

**XII. How does the Wetland Protection Act factor into the Commission's considerations?**

Under the Massachusetts Wetlands Protection Act and the Town of Acton Wetland Protection Bylaw the Commission is charged with protecting wetlands and their presumed interests (protection of public and private water supply, protection of groundwater supply, flood control, storm damage prevention, prevention of pollution, protection of fisheries, and protection of wildlife habitat). The licensed land includes or is proximate to several wetland resources areas, including a vernal pool, an intermittent stream, bordering vegetated wetlands and a pond. The Commission's responsibility includes insuring that these resources areas are properly protected and not impacted by site operations.

**XIII. Why is it permissible for municipal staff to give nature walks or programs on conservation land for money?**

Under the Self Help Program Statute commercial activities associated with the "Quiet enjoyment of the facilities by the people" may be permitted. The Conservation Commission permits town staff to conduct educational walks for the public that teach about the natural resources of our local area, demonstrate conservation and recreational opportunities, and impart an appreciation and sense of stewardship to the citizens about their land consistent with the town Master Plan. Fees are remitted to the Town of Acton accounting department.

**XIV. Does Hybrid Farm get any special treatment under the law because it is an historic property?**

The same zoning and general laws apply to all properties and citizens of Acton equally unless any exemptions exist specifically in any particular law.

**XV. Can you make special allowances for Hybrid Farm to have more than 30 horses because a farm preserves open space and grassland habitat?**

The Commission is interested in establishing a condition consistent with the purpose for which these lands were purchased by the citizens of Acton and the goals established in the original License Agreement. By way of meeting and discussions with the Licensee the Commission is hopeful that a renewed License can be established that is compliant with state law, continues to respect the ownership of this land by the citizens of Acton, and that recognizes and enhances the benefits of the Licensee's operations.