

**Town of Acton  
Open Space Committee  
Minutes  
February 12, 2016  
Acton Town Hall - Room 204**

**Visiting Attendees:** See attachment A.

**Members in attendance:** Andy Magee, Peter Ashton, Matt Mostoller, Terry Maitland, Dick Hatfield, Franny Osman, Jeff Clymer, Tom Tidman

Clerk: Fran Portante

Meeting opened at 7:35

1. **Minutes of November 6, 2015 and December 4, 2015:** moved and seconded to accept as sent;
    - a. Andy pointed out that this committee was an advisory body only.
  2. **Update - Community Preservation Committee Application:** Peter Ashton updated the committee on the CPC's decisions from the prior evening's meeting. \$400K was approved for the set-aside fund; They also approved the replenishment of the Appraisal Fund. They would have \$2.3M in available funds, factoring in \$75,000 annual debt for Wright Hill, and there are \$3.9M worth of proposals.
  3. **Update –Piper Lane parcel:** Interest in this parcel dates to 2008. A recent appraisal, done with the possibility of use as a 40B development, was deemed invalid since the appraisal must be based on existing by-right zoning, per email from Town Council to Town Manager, Steve Ledoux. (see attachment B, partial text of message.) There are no other resources to fund this project so getting another appraisal may be only option. Frannie strongly supported getting a new appraisal, then requesting CPC funds based on the valid appraisal, and seeking Town funds to make up the difference. There was a discussion about the “real” value of a property versus the appraised or purely economic value. It was agreed that there was a significant open space value to this property that supported moving forward with a new appraisal and seeking additional funds later.
- Decision:** Andy moved to have a new appraisal. Peter seconded the motion and it passed unanimously.
4. **Update on 176 Central Street / 12 Summer Street Parcel:** considered high priority parcel. Discussed in executive session. Discussions with owners representatives have progressed to a point where it may be ready to bring to town meeting.
  5. **Update on Stonefield Farm parcel:** appraisal is complete; discussed in Executive Session.
  6. **Update on River Street (Lazaro) parcel:** The appraisal is underway. Several Committee members have met with the Lazaro family. The owners are eager to sell to the Town.
  7. **Discussion of Concord Water Department Proposal:** Andy presided over the discussion, but because of prior association with the engineering firm involved with the proposal, did not participate in the discussion. A number of concerned citizens were in attendance and Carolyn Kiely appeared to be their primary spokesperson. She cited Article 97 that stipulated that, if the land was acquired for purposes of water protection, it could not be converted to another use without a 2/3 vote at Town Meeting and a 2/3 vote in the State legislature. She also cited the OSRP a providing “fact” for designation of the land as a wildlife corridor. This is a high priority for water protection. Ms. Kiely

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contended that Concord's plan was not in keeping with the intent of the OSRP. Don McIver, from Littleton, pointed out that Concord would not install solar panels on their well fields under Article 97. The Board of Selectman has delayed their hearing on the project to their April meeting. He offered to provide addition information to them. Another citizen cited a letter sent to abutters offering them access to the land for walking and other passive activity.

Because of the complexity of the issue and the obvious concern of so many citizens, Andy appointed Matt Mostoller to take the lead on the continuation of this discussion at the next meeting in March with the objective of developing a set of recommendations to BoS.

**8. Discussion of Arlington Street parcel (Senior. Center):** A number of concerned citizens and abutters were present and Andy presented some background. The parcel was purchased by the school department in the 1960's. It was subsequently transferred to the town and is now being considered as an appropriate site for a new Senior Center. Peter A. mentioned that there was to be a meeting with the Committee next week that would involve some new developments pertinent to the site. He did not specify what those developments or considerations were.

A number of comments were made by abutters strongly advocating for the parcel to be preserved as open space. When questioned about its priority status in the Open Space and Recreation Plan, it was pointed out that, because it was originally school property, it was not evaluated in the OSRP for open space as it was not privately owned. Citizen comments included a strong desire to maintain the property as open space. Andy pointed out that a number of our conservation properties are not all permanently restricted. Peter suggested holding off on any formal recommendation until the Senior Center Study Committee has its forthcoming meeting.

**9. Update on other parcels as available:** no discussion

**10. Discussion of Committee Charter Changes** – Andy raised the issue of membership. Peter A. will be stepping down if he is elected Town Moderator, and Andy M. will be stepping down as chair in July and intends to leave the Committee at that time. He also suggested expanding the size of the Committee by one additional person. He submitted a revised charter for approval.

**Decision:** A motion was made to amend the charter to allow one more member. Frannie raised the point that, with two members stepping down, it would be better to hold off on adding an additional member until the replacements have been completed. The motion was defeated.

*Peter moved that the committee go into Executive Session for the purpose of discussing real estate transactions. Jeff seconded and the Committee voted unanimously to move to Executive Session, with Susan Mitchell-Hardt and Christa Collins included as guests.*

**Executive Session: 8:45**

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Attachment A. Attendees

Sue Kennedy  
Clare Siska  
Laura Kelly  
S. Wi?  
Maggie Veloza  
Barbara Thomas  
Carrie McMitchell  
James Engell  
Ed Root  
Heather Bichl  
Joe Glannon  
Deb Matthews  
Rick Fundlan  
Christa Collins

Adam Duchesnay  
Robert & Candice Hurdle  
Barb Honer  
Carolyn Kiely  
Julie Munson  
David Didrikson  
Sandra Mika  
Aushe Brennan  
Lisa Mitchell  
George Caple  
Zvonrd Ilic  
Joanne Bissetta  
Don MacIver  
Susan Mitchell-Hardt  
Barbara Epstein

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Attachment B.

Steve:

We question whether an appraisal based on a potential future (unpermitted) 40B project is a procedure that is “customarily accepted by the appraising profession as valid” for purposes of G.L. c. 44B, s. 5(f). Even if a developer were buying the property for a 40B project, the developer must obtain an appraisal of the land’s value based on existing by right zoning. The guidance provided by the Massachusetts Department of Housing and Community Development concerning Chapter 40B developments may help inform the discussion on this issue (<http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf>):

The allowable land value of a site for purposes of the Act [c. 40B] is the **fair market value of the site under current zoning** (As-Is Market Value) at the time of submission of a request for Project Eligibility, plus reasonable and verifiable carrying costs (Reasonable Carrying Costs) from that date forward. The acquisition value set forth in the final cost certification of the Project shall not exceed the sum of the As-Is Market Value and Reasonable Carrying Costs. **The As-Is Market Value of a site shall be determined by an appraisal.**

a. Methodology for Conducting Appraisals

Appraisers shall submit Self-Contained Appraisal Reports to the Subsidizing Agency **in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal may, in accordance with USPAP, take into account the probability of obtaining a variance, special permit, or other zoning relief but it must exclude any value relating to the possible issuance of a Comprehensive Permit.** In order for any appraisal to be deemed valid, the Subsidizing Agency must review the appraisal, and, after the resolution of any outstanding issues, if any, accept the contents of the appraisal.

Therefore, it is difficult to conclude that an appraisal conducted for CPA purposes (which limits the use of CPA funds to the appraised value of the property) should be anything other than a similar appraisal of the land’s value based on existing by right zoning. (If the comprehensive permit has been issued and the land is ready for development pursuant to that permit, that might be a different story.)

I also did not see a response from the appraiser as to the following two questions:

1. Why does the appraiser assume common ownership with 90 School Street where there is no indication that is in fact the case?
2. By assuming common ownership with 90 School Street and not accounting for the cost of acquiring 90 School Street, does the appraisal artificially inflate the value of the parcel to be acquired?

If the Town wants to acquire the property for more than the appraised value, it can do so, however the delta above the appraised value cannot be paid from CPA funds.

Would it be helpful to schedule a call with the appraiser to discuss this further?

Brian

**ANDERSON  
KREIGER**

**Brian S. Grossman**

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