

Approved 5-5-16

Drew Gardens Committee Minutes
September 4, 2014

Attending: Charlie Andrews, Andrea Peraner-Sweet, Keith Bohne, Matt Lewin, Bob Waskiewicz, Bob Boonstra, Kate Hollister, Jim Geraghty, Jane Calvin

Guest: Chris Kluchman, Town of Westford

Minutes from July 31, 2014 approved, motion by Bob Waskiewicz, seconded by Bob Boonstra, unanimous.

Public minutes from 8/21/14 were reviewed, correction to Jim Geraghty's name, motion to approve as amended by Hollister, seconded by Waskiewicz, unanimous.

Chris Kluchman, Director of Land Use Management, Town of Westford, was introduced.

Peraner-Sweet noted to that the Board of Selectmen voted on August 26, 2014 to ask Town Council to take all necessary steps to enforce cease and desist order including a lawsuit; should be completed and on file next week.

All committee members were emailed a report by Matt Hakala, Building Inspector.

Bohne commented that there is insulation in roof of Christmas tree shop and apple packing area and in the new addition's walls and ceilings; the main building is on a slab, but there is a small cellar under attached greenhouse and under main building; pine paneling esp. on interior of main building was milled at Kimball's and may have historic value; and the blue plastic on the flat roof probably indicated leakage there. Keith thought the roof dated to roughly 1980, after the variance.

The taxes paid were researched, as requested, \$1,300 paid on both parcels.

The committee was read a written memo from the Conservation Commission that this property is not a high priority and they are not interested in contributing funds to the project or acquiring it as a third party.

Bohne mentioned that the compost is being turned and moved on site.

The Committee has a site visit scheduled for September 7, 2014, 9am. The owner has been notified.

Approved 5-5-16; Approved for release

Drew Gardens Committee Minutes – EXECUTIVE SESSION

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Guest: Chris Kluchman, Town of Westford

A motion was made by Hollister and seconded by Boonstra to enter into executive session. All members were polled and the motion passed unanimously.

Kluchman & Peraner-Sweet spoke with Town Counsel:

- It would be helpful to Town Counsel to understand the town's intent.
- Counsel found Calvin's Merger of Doctrine documents helpful, but continues to agree that Doctrine of Merger applies.
- If a conservation restriction (CR) is placed on the property or if the APR is transferred, this would require an Article 97 vote. This potentially places the APR at risk with the timing needed for a vote of the state legislature.
- Any town meeting vote must state the intent of the use, specifically for agriculture, etc..

Question for Counsel: Is the CPC definition of "open space" the same as Article 97's "open space?"

Counsel also raised the issue of bonding if the Town purchased the property.

- The interest rates are different for a public purpose (lower) vs. a private purpose (higher).
- Concern is for leasing for a retail operation.

If CPC funds are used for acquisition, a third party is required to hold the restriction (CR or APR).

Bohne asked if the existing variances need to be changed, would any of the methods we're considering prevent this? Kluchman: No.

Are we entitled to know if the 60 day financing is successful? What's the start date on the 60 day financing? The consensus of the group is to have Kluchman forward our request to ask Town Counsel if it's possible to reach out to the owner to ask about the status of the offer. If offer does not stand then will we still meet? Would most likely extend timing for decision to Special Town Meeting.

Status of appraisal: On August 27 John Avery was given notice to proceed; will respond in ten days with informal estimate, has 30 days to perform.

What is CPA funding timeline? Should town staff draft a preliminary application?

DEP has confirmed that the site is under the Dept. of Agriculture; compost may be OK, but APR requires written permission regardless.

Questions: If town acquires property –

- Who would oversee /maintain?
- What would we need in the budget?
- What department? Kluchman noted that community gardens come under Recreation

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- Hill Orchards – property manager handles operations; town pays for capital improvements
- Calvin expressed that decisions that have a perpetual impact should not be based on today's staffing levels.

Lease – July 9, 2014 letter from owner's attorney confirmed that there is no lease, but that there is an agreement that can be shared if both parties agree.

Discussion then moved to developing a decision tree.

