



Town of Barnstable

Community Preservation Committee

www.town.barnstable.ma.us/growthmanagement/PropertyManagement/CommunityPreservation

Lindsey Counsell, Chair
Laura Shufelt, Vice Chair

Marilyn Fifield, Clerk
Marjorie Watson, Administrative Assistant

Monday, October 28, 2013

Public Hearing APPROVED MINUTES

Town Council Hearing Room at 367 Main Street, Hyannis at 5:30 pm

Meeting called to order at 5:31 pm

Members Present: Lindsey B. Counsell, Richard Sawyer, Tom Lee, Terry Duenas, Marilyn Fifield, Paula Schnepf, Sue Rohrbach, Laura Shufelt and Paul R. Curley

Also in attendance: Janet Joakim, Town Council Liaison; David Houghton, Assistant Town Attorney

Chair Counsell reads into record before calling meeting to order; "Please note that tonight's meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s. 20, I must inquire whether anyone is taping this meeting and to please make their presence known." No members of the public are taping the meeting.

Minutes: Motion duly made by Richard Sawyer, seconded by Tom Lee, to approve the minutes of the Regular Public Hearing held on Monday, August 26, 2013, as submitted.

Vote: Unanimous to approve

Correspondence:

None

Presentation:

None

Letter(s) of Intent:

None

Pending Applications

None

General Discussion:

Recommendation on expenditure of up to \$500,000 for purchase, gift, taking by eminent domain or other acquisition of real estate interests for open space and recreation in all or part of area known as Cross Street south of Long Beach Road to Nantucket Sound in Centerville.

Chair Counsell stated that this property had been in the town's ownership for over 100 years. It is one of the two accesses to the Centerville River and Nantucket Sound on Long Beach Road. A court decision deemed that the town records on hand were not sufficient to prove ownership. There is an appeal pending. The Town Manager has recommended that the CPC set money aside to acquire the parcel. Mr. Sawyer clarified that the parcel is 40 feet wide access and there is private property on both sides that extends to the ocean. Ms. Shufelt stated that there has been an opinion of value done on the parcel.

Mr. Duenas asked if there had been a prevailing law that addresses property that has been used as access for so many years and whether private owners can block that access.

Attorney Houghton said that the law with respect to prescriptive use and adverse possession are quite complicated and resolutions are fact specific. The land court entered the judgment that the town had not laid this area out in accordance with the requirements that were in place in 1913 when the town reported to lay it out. The land court judgment is under an ongoing appeal.

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Email: CommunityPreservationCommittee@town.barnstable.ma.us

All exhibits can be reviewed in the Growth Management Department

After further discussion, a motion was made by Lindsey Counsell, seconded by Terry Duenas, that the Community Preservation Committee recommend to the Town Manager and Town Council the acquisition by purchase, gift, eminent domain or otherwise of interest in land for open space and recreational purposes for open space recreation, public access and bathing beach purposes in and over all or any portion of the area known as Cross Street south of Long Beach Road in Centerville to Nantucket Sound between 249 Long Beach Road, shown on assessor's map 185 as parcel 29, and 259 Long Beach Road, shown on assessor's map 185 as parcel 30, to Nantucket Sound and the expenditure of up to \$500,000 from the undesignated or open space set aside funds or other such amount as may be submitted by the Town Manager and appropriated by the Town Council for these purposes.

Discussion followed regarding whether to reserve the funds from open space or undesignated.

A motion was made by Terry Duenas, seconded by Laura Shufelt, to amend the motion to include only the open space set aside funds. **Aye:** Lindsey Counsell, Laura Shufelt, Paula Schnepf, Terry Duenas, Sue Rohrbach, Tom Lee, Marilyn Fifield. **Nay:** Paul Curley, Richard Sawyer

A motion was then made by Terry Duenas, seconded by Laura Shufelt, to move the question. All voted in favor to move the question.

Members voted to acquire the land on Long Beach Road in Centerville as read: **Aye:** Lindsey Counsell, Laura Shufelt, Paula Schnepf, Terry Duenas, Sue Rohrbach, Tom Lee, Marilyn Fifield. **Nay:** Richard Sawyer **Abstain:** Paula Schnepf

Chair Counsell presented the following updates:

- The property at 483 Lumbert Mill Road, Centerville has been acquired.
- Hadley Crow Studios, historic consultant, has been working with their consultant to provide a final evaluation on the Olde Colonial Courthouse. This should be available in 2-3 months.
- Work has begun at the Hyannis Public Library.
- Bay School field project is on hold pending an evaluation of the condition of the recreation building.

Janet Joakim thanked the committee for their good work as this will be her last meeting as CPC liaison.

Closing Public Comment: None

Adjournment: *Moved by Richard Sawyer and seconded by Terry Duenas at 6:10 pm.* **Vote:** Aye - unanimous

Next Regularly Scheduled CPC Public Hearing – Monday November 25, 2013

Exhibits: Aerial Photograph April 19, 2008 Long Beach Road Centerville Ways to Water