

**Atkinson Conservation Commission Minutes
Wednesday, May 25, 2022, 7:00 PM
Atkinson Town Hall
Non-Public Session**

Sealed in public session May 25, 2022
Approved June 29, 2022

Unsealed September 28, 2022

Members Present:

Paul Wainwright, Chair
John Fournier, Secretary
Hannah Fried, Alternate
Pete McVay
Scott Kukshel
Jeff Nenart

Others Present:

Selectman Liaison, Bob Worden

8. Non-Public session under NH RSA 91-A:3, II (d), for consideration of the acquisition of land

Member Fried made a motion to go into a non-public session under NH RSA 91-A:3, II (d) for the consideration of the acquisition of land. Member Nenart seconded the motion. Vote: 6/0/0

a. Deborah Lang Land – Knightland Road

Chair Wainwright reported that he has been working with Sally Manikian from The Conservation Fund to finalize a deal for The Fund to act as our agent and intermediate owner of Deborah Lang's 15-acre land on Knightland Road until we are able to raise the grant money to complete the acquisition of this land. The signed Letter outlining this relationship is attached to these minutes. Sally has completed the LCHIP Letter of Intent, and is currently working on the ARM pre-proposal. Chair Wainwright said that he is very confident that we will be successful in acquiring this land.

b. Page Farm Backland – Contractable and Convertible land

Chair Wainwright reported that he has been unsuccessful with negotiating the acquisition of the Page Farm Contractable and Convertible land as conservation land for the Town of Atkinson. The primary reason is the lack of commitment on the part of the landowner to take the steps necessary to produce clear title to the land.

Alternate Fried made a motion to withdraw from negotiating a Purchase and Sale Agreement with Green and Company to acquire 20+- acres of the Contractable and Convertible land at the back of the Page Farm development, as shown in Exhibit A, which is attached to these minutes, because the landowner has neither the interest nor the ability to disentangle the land from the Condominium without creating a zoning non-conformity for the remaining 60-unit development. Secretary Fournier seconded the motion. Vote: 6/0/0, the motion carried.

A copy of the letter from attorney Morin breaking off negotiations is attached to these minutes.

Member Nenart made a motion to exit non-public session. Alternate Fried seconded. The vote: 6/0/0, the motion carried.

The meeting continued in public session.

Attachments:

- Letter outlining the business relationship with The Conservation Fund
- Letter from attorney Morin ending negotiations with Green and Company.
- Exhibit A from the Page Farm P&S negotiations

TOWN OF ATKINSON CONSERVATION COMMISSION
19 Academy Avenue
Atkinson, New Hampshire 03811

May 5, 2022

Sally Manikian
The Conservation Fund
300 Gorham Hill Rd
Gorham, NH 03581

Re: Acquisition of the Deborah Lang land, Atkinson Map 18 Lot 40

Dear Ms. Manikian:

The Town of Atkinson requests the assistance of The Conservation Fund ('the Fund') to acquire a 15 +/- acre tract of land owned by Deborah Lang and adjacent to West Sawmill Town Forest (the "Lang Property"). The Fund's help is critical to assembling the necessary resources and strategy to successfully complete the acquisition of this tract. The Town of Atkinson is interested in acquiring the Lang Property, as these acres offer a suite of benefits to the Town of Atkinson. The Lang Property represents a hole in an assemblage of lands that represent highest-quality habitat as well as beloved recreational assets. Further, the seller is willing and supportive of conservation, but cannot wait for grant funds to be available for the Town to consummate a purchase. The Town therefore requests the Fund's assistance to a) pre-acquire and temporarily hold the Lang Property until secured grant funds become available for the Town to purchase the Lang Property from the Fund and b) assist with the Town's preparing and submitting grant proposals to state funders. The Town would purchase the Lang Property from The Fund once grant funds are available.

Appraisal: Prior to the Fund's entering into a contract with the seller, the Town will complete an update of the August 2021 appraisal by Chet Rogers. The updated appraisal will include The Conservation Fund as an intended user. The Town will cover the cost of the updated appraisal.

Funding: The Fund will work with the Town to identify funding strategies for the acquisition of the tract, including but not limited to NH Land and Community Heritage Investment Program (NH LCHIP), and NH Aquatic Resource Mitigation Fund (NH ARM). The Fund will assist with the development and submittal of all grant applications and serve as the applicant when appropriate. The Town will cooperate with all funding applications, approvals, grant agreements, and other documents required for successful

funding of the acquisition. The Town will contribute a reasonable amount of funds to the project.

Costs: The Fund's overhead and hold costs amount to 10% of the total project cost. Some of the Fund's overhead costs will not be covered by the state funders listed above. The Fund and the Town will work together to develop a budget that ensures the Lang Property is conserved with all The Fund's costs covered. The Town understands that the Fund requires these costs be covered, and it may delay its acquisition of the Lang Property and reserve its funds until a definitive source for coverage of its costs has been settled upon.

Pending an updated appraisal and successful negotiation with the seller, and assuming The Fund obtains its internal approvals required to enter into a contract, The Fund will enter into a purchase and sales contract to acquire the Lang Property from the seller, with a closing before the end of calendar year 2022. The Town and The Fund will simultaneously or close in time to the effective date of the Fund's purchase contract, enter into a purchase agreement for the Town to acquire the Lang Property from the Fund, contingent on the Fund's successful acquisition of the Lang Property. The Town anticipates that it will close on its acquisition of the Lang Property from the Fund by July 2023.

Please indicate the Fund's concurrence with the provisions of this letter by signing below and returning a copy to the Town of Atkinson. The parties intend that this letter guide the relationship and provide a basis for further discussions and refinement of the process, but this letter is not intended to be nor is it legally binding on either party. The Town of Atkinson looks forward to working with the Fund on this important project.

Yours truly,
Town of Atkinson



By: [Paul Wainwright](#)
Title: [Chair, Atkinson Conservation Commission](#)
Date: [May 5, 2022](#)

Accepted,
The Conservation Fund

By: *Elizabeth J Engle*
Title: Assistant Secretary
Date: 2022-05-05

Attorney Kathryn M. Morin

Admitted in MA, NH, & ME

June 1, 2022

John K. Bosen, Esquire
266 Middle Street
Portsmouth, NH 03801

RE: Page Farm, Atkinson, New Hampshire

Dear John:

Thank you for sending along your and your client's most recent comments to the draft Purchase and Sale Agreement relative to a portion of the Page Farm Condominium land in Atkinson. The Atkinson Conservation Commission is very appreciative of your client's willingness to consider foregoing the final construction and development phases of the Page Farm Condominium in favor of conveying land to the Conservation Commission to be preserved in its undeveloped condition for conservation purposes. Unfortunately, the Commission's due diligence, which was ongoing as we attempted to achieve a final, mutually acceptable Purchase and Sale Agreement, has resulted in a determination that conveyance of the land under discussion to the Commission is not feasible.

While the Commission would much prefer the land remain undeveloped, it cannot move forward with the proposed purchase.

Although we did not reach a final, mutually acceptable agreement, I appreciate your and your client's efforts to achieve that goal.

Thank you very much.

Very truly yours,



Kathryn M. Morin
KMM/i

cc: Atkinson Conservation Commission

Exhibit A

Notes

The intent is to convey to the Town of Atkinson all of the Contractable and Convertible land shown on Plan D-41144, but not to create a zoning non-conformity for the remaining 60-unit condominium. Therefore, a portion of the convertible land is to remain with the condominium as Open Space/Common Area in order that a 100-foot Open Space perimeter buffer is maintained between existing septic systems and the proposed Town property line.

Also, wherever possible, for the ease of future administration by the Atkinson Conservation Commission, the modified property boundary should follow existing stone walls, as suggested on this diagram.

Contractable and Convertible land to be acquired by the Town of Atkinson (20 +- acres)

Convertible land to become Open Space - Common Area per Plan D-40532 (1.3+- acres)

Existing Septic

Property boundaries to follow stone walls wherever possible

