

**Atkinson Conservation Commission Minutes
Wednesday, August 25, 2021, 7:00 PM
Atkinson Town Hall**

Non-Public Session

Approved September 22, 2021

Unsealed September 28, 2022

Members Present:

Paul Wainwright, Chair
Bill Steele, Vice Chair
Jeff Nenart
John Fournier
Suzie Newman
Monique Chretien, Alternate
Hannah Fried, Alternate
Denise Legault, Alternate

Others Present:

14. Non-Public Session Under RSA 91-A:3, II (d) for the consideration of the acquisition of land

Member Nenart made a motion to go into a non-public session under RSA 91-A:3, II (d) for the consideration of the acquisition of land. Member Newman seconded the motion. Vote: 7/0/0

The Commission entered non-public session.

a. Boulder Cove Road land (Map 20 Lot 37-1)

Chair Wainwright reported that he has been in contact with landowner Susan Beckhorn, who typically spends the month of August vacationing on Governor's Island. Chair Wainwright advised her that our Town Attorney, Sumner Kalman, has some issues with the title to the property, and recommended to Ms. Beckhorn that her attorney give him a call to discuss them. Attorney Kalman has advised the Commission not to negotiate terms and conditions of a sale until the title issues are resolved.

Chair Wainwright went on to say that the most serious problem with the title to the land appears to be an IRS tax lien on the property for unpaid Federal income tax dating back to when her parents owned the land. Chair Wainwright also expressed concern that the road through the property has no documented

easement for a right-of-way. Likewise, the driveway from that road to the Murphy property (Map 20 Lot 37) does not appear to be documented.

Chair Wainwright also reported that he is hopeful to negotiate a purchase price around \$20,000. Both Ms. Beckhorn and her parents have been very conservation-minded, and there is a letter in our file from Ms. Beckhorn's father to the Atkinson Board of Selectmen stating their intention to eventually donate the land's building rights to the Town. The appraisal we had performed late last fall placed the value of the development rights at \$296,500, leaving the conservation value of the land at \$13,500. In this case, the deed would limit use of the land to timber farming and passive recreation. Chair Wainwright stated that the landowner will have some expenses involved in clearing the title issues, so she may want somewhat more than this figure. Chair Wainwright stated that if the price were more than \$30,000, he would want to apply for grant funding to supplement our Conservation Fund. Members seemed supportive of this approach. Applying for grant funding would involve considerably more time, and this might be a motivation to the landowner to keep the price under \$30,000.

b. Knightland Road land (Map 18 Lot 40)

Chair Wainwright also reported that he has been in contact with landowner Deborah Lang. As with the Boulder Cove Road property, Attorney Kalman has advised the Commission that there are title problems with this land as well, and has advised us not to negotiate terms and conditions of a sale until these are resolved. Ms. Lang has been slow to obtain legal advice about these problems, but has recently retained an attorney and has begun to understand what needs to be done to produce clear, marketable title to the land. Because of the cost that would be involved, Ms. Lang is reluctant to spend the money to fix the problems if she does not have a written commitment from the Town (price and closing date) to follow through with a sale. Chair Wainwright is continuing to follow Attorney Kalman's advice to hold off on negotiations, and has advised Ms. Lang that in all likelihood she would have to do the same amount of work to sell the land to anyone else.

Chair Wainwright went on to say that, as he understands it, one of the basic problems is that this parcel never appeared in its entirety on a subdivision plan, and there is not a precise set of metes and bounds to the land contained in the deed. (The deed refers to the parcel as the "excess land" at the end of Knightland Road.) Another problem is a defect in an early deed from the 1840s for the entire parcel of land that now comprises the Knightland Road subdivision, and it would be impossible for us or anyone else to get title insurance until that is researched and corrected. Attorney Kalman has described the land as a "pig in a poke," and thinks there is a possibility that the landowner may never have clear title. Thus his advice to not have a price on the table until the title issues are resolved. Chair Wainwright stated that Attorney Kalman would accept the land without a title search if it is donated, but that does not seem likely given the landowner's statements about wanting "close to market value" for the land.

Chair Wainwright asked the Commission for advice about price negotiations, and asked for feedback on the idea of splitting the appraised value of \$234,000 in thirds (3 x \$78,000). He asked the Members what they thought of offering to pay \$78,000 from the Conservation Fund, apply for grants to cover \$78,000, and suggest a donation of \$78,000 from the landowner, which would be an income tax deduction for her. Members seemed to think this would be a good approach to starting negotiations for a sale.

Member Nenart made a motion to close the non-public session. Member Newman seconded the motion. The motion carried 7/0/0.

The meeting resumed in public session.

Respectfully submitted by Chair Wainwright