

**Atkinson Conservation Commission Minutes
Wednesday, September 29, 2021, 7:30 PM
Atkinson Town Hall**

Special Meeting to conduct a Public Hearing

Approved October 27, 2021

Members Present:

Paul Wainwright, Chair
Bill Steele, Vice Chair
Pete McVay, Secretary
John Fournier
Jeff Nenart
Suzie Newman

Others Present:

Dean Killam
Sue Killam
Duane Hyde, SELT
Elizabeth Kiley
Kenneth DiBella
Kevin Gillis
Dan Kimball
John Troy
Beata Berube
Mike Berube
Andrew Murphy
Chris Duerr

1. Call to Order, and Attendance:

Chair Paul Wainwright called the special meeting to order at Atkinson Town Hall at 7:30PM on Wednesday, September 29nd, 2021. Chair Wainwright took attendance and all members were present with the exception of Member Kukshtel. None of the Alternate Members were in attendance. Chair Wainwright stated that this Public Hearing had been properly noticed pursuant to RSA 675:7. Chair Wainwright went on to introduce the Members, Duane Hyde from SELT, and Dean and Sue Killam, the landowners. He then gave a brief introduction of the purpose of this meeting and some general guidelines for participation.

2. Public Hearing

Chair Wainwright stated that the purpose of the meeting was to hold a Public Hearing to consider funding a Conservation Easement on Dean and Sue Killam's land, to be held in perpetuity by the Southeast Land Trust.

Chair Wainwright started by discussing the purpose of establishing a conservation easement held by a third party, and how such an easement would benefit the town. Chair Wainwright stated that an easement is not an asset for the holder but a liability, which is why it is beneficial to the town to have the easement be held by a qualified organization such as the Southeast Land Trust

(SELT), who are better equipped to monitor and enforce the terms of the easement in perpetuity.

Chair Wainwright asked that the SELT presentation be put up on the monitors in the room and included in the recording of the meeting. A copy of these slides is attached to these minutes.

Duane Hyde introduced himself and showed a map of the land under consideration for this easement. D. Hyde highlighted some of the features and characteristics of the Killam land. D. Hyde stated that the land is comprised of 39.6 acres, 37.3 of which will be a part of the easement and about 2.6 acres around their home which will be excluded from the easement.

D. Hyde spoke about the importance of wildlife corridors, and stated that the Killam land is right in the middle of such a corridor. D. Hyde continued that the conservation of the Killam land has also been deemed of high importance by the Merrimack Valley Regional Conservation Plan. D. Hyde stated that the Killam land also includes areas mapped by the Army Corps of Engineers as important flood storage in their 100-year floodplain assessment. D. Hyde continued that the Killam land also includes a 5-acre pond, as well as 5 acres of wetlands and potential vernal pools. D. Hyde also stated that this land has been managed so well by the Killam's that the soil within the forest is of a very high quality, which serves as the foundation of a truly healthy forest.

D. Hyde stated that the Killam's have signed a pledge agreement to make a conservation easement donation, pending the results of this meeting. If the requested funding is approved, SELT will begin the due diligence of having the title work completed to ensure there are no issues, having the boundaries properly mapped out, and completing a standard environmental hazard assessment to ensure no environmental hazards exist on the land. D. Hyde stated that SELT hopes to complete the conservation easement before the end of April of 2022. D. Hyde explained some of the duties and responsibilities that SELT will be responsible for in perpetuity, namely to protect the land and ensure that it is used for no other purpose than what is explicitly written into the easement.

D. Hyde stated that this easement would prevent any subdivision, any residential or commercial development, or any sand & gravel mining activity on this property. D. Hyde continued that this easement would allow for commercial and non-commercial forest management activities, and allow for agriculture activities on the agricultural fields along Westside Drive. D. Hyde stated that the Killams have gone through the easement document and in general agree with the terms, but wanted to ensure the following terms were included as well: allowance for boat storage along the shore near the house, prohibition of any docks, allowance to control invasive plant species, prohibition of posting signage against public access, hunting activities managed by the landowner, allowance to maintain and replace the shed & cottage on the property, allowance for trails to be built by the

landowner and no one else, and allowance for tree removal to maintain a clear view from home.

D. Hyde spoke about the budget and costs to establish this easement. D. Hyde stated that the total cost for the easement is \$38,700.00. D. Hyde continued that this total cost is made up of \$10,900.00 for transaction costs (survey, title, legal, assessment, recording fees, etc.), \$10,400.00 for management costs (SELT staff cost for writing documents and applying for grants), and \$14,800.00 for land management & legal defense fund which goes into a trust to be able to protect the land in perpetuity. D. Hyde stated that the funding for this easement is made up of \$28,700.00 being requested from the Atkinson Conservation Fund, and \$10,000.00 being requested from the moose plate grant program.

Vice Chair Steele asked, if the landowners decide to sell their property in the future, is the easement portion of the land tied to the non-easement land?

D. Hyde stated that the easement and non-easement lands are not tied together so the two pieces of land may be sold separately. Member Nenart asked if the landowner would have the ability to restrict/allow the use of motorized vehicles such as ATVs. D. Hyde stated that easement prohibits the recreational use of ATVs but other motorized vehicles would be allowed, for example if an area needs to be mowed or otherwise maintained.

Chair Wainwright asked for a motion to focus the discussion from the public.

Vice Chair Steele made a motion to expend \$28,700 from the Town of Atkinson Conservation Fund, payable to the Southeast Land Trust's closing attorney, Bruton & Berube Trust Account, to enable the Southeast Land Trust to establish a conservation easement on Atkinson Tax Map 11 Lot 20-1, said funds to be held in escrow by the Bruton & Berube law firm pending the execution and recording of the easement deed at the Rockingham County Registry of Deeds. If for any reason the easement fails to be established, the funds shall be returned to the Town of Atkinson Conservation Fund. Member Nenart seconded the motion.

Chair Wainwright asked the Members if they had any further questions for Mr. Hyde or the Killams. Hearing none, Chair Wainwright opened the Public Hearing for comments on the above motion.

Abutter Mike Berube stated that he is not comfortable with strangers walking within 100 feet of his property. M. Berube continued that he has been an abutter to conservation land in Town in the past and has dealt with strangers and dogs on his property in the past. M. Berube continued that the Town does not have a leash law implemented for conservation land, and asked how this will be handled on the Killam's easement land. D. Hyde stated that it will be up to the landowners whether or not dogs are allowed on the land and whether or not leashes are required. Sue Killam stated that she hadn't given this topic much thought. S. Killam continued that she hasn't seen anyone with dogs on her land but if it became a problem she would address it appropriately. S. Killam

continued that this land will not be promoted by the Town as conservation land because it is not owned by the Town. M. Berube asked about whether or not hunting will be allowed, voicing his concern for this allowance in the center of a circle of homes. S. Killam stated that bow hunting has historically been allowed for years and will likely be allowed moving forward.

Abutter Kevin Gillis stated that he is also concerned about dogs being allowed off of their leashes on this land. K. Gillis continued that if one of the main reasons for this easement is to preserve wildlife, allowing dogs off leash to potentially chase the wildlife doesn't seem fair to the wildlife. Vice Chair Steele stated that although there is no requirement for dogs to be on leash on conservation land, the regulations are written that the dog needs to be "under their owner's control," which should adequately protect the wildlife. S. Killam stated that she agrees and would prefer that all dogs on the easement land be leashed.

Abutter Kenneth DiBella stated that he is also concerned about dogs being off of their leashes on the easement land because he has children, chickens, and dogs of his own and he is concerned about the interactions that may occur. K. DiBella continued that he is in favor of conserving this land and keeping it open but he wants to make sure that there is some sort of control when it comes to dogs and the requirement of leashes.

John Troy stated that he feels this is an incredibly generous gift to the Town, but he is somewhat concerned about the issue of public access. J. Troy continued that he understands that the easement prohibits the landowners from posting post "no trespassing" signs, but there is some grey area between posting such signage and encouraging free & open public access. D. Hyde stated that the landowners don't have the ability to restrict access, but they do have the ability to regulate what activities are happening on the land such as requiring leashes for dogs on the property. J. Troy asked if structures such as cell towers, windmills, and solar panels would be allowed. D. Hyde responded that those types of structures would not be permitted. D. Hyde continued that the only structures allowed on the land would be forestry & agricultural-related structures.

M. Berube asked if there were plans to harvest the timber on the property. S. Killam stated that there is the potential for a harvest. D. Hyde stated that the easement requires the landowner to work with a licensed forester on a forest management plan to ensure the health of the forest. This plan could include timber harvests supervised by the forester. S. Killam stated that the existing forest management plan was done six years ago, and within six months of the plan's completion they completed a pine harvest. S. Killam stated that, at that time, the forester did not foresee an oak harvest in at least the following ten years.

Abutter, Beata Berube stated that the entrance to the easement land is on Deer Run Road and the Killam's residence is on the other far side of the property. B. Berube continued that it would appear that the policing of the public comings and goings through the land's entrance would be the responsibility of the abutters

who live closest to the entrance. Vice Chair Steele stated that the responsibility would be no different than it is now regardless of whether or not an easement is put in place. M. Berube responded that there are currently “no trespassing” signs posted, but those would have to be removed if the easement is established. M. Berube stated that he is in favor of conserving the land but he has already had issues with people parking on their property, and has had issues where their dog mauled another dog because the other dog was off its leash, so he is trying to avoid any similar issues in the future. Member McVay stated that he has been on the Commission for over twenty years and he cannot recall a single similar situation where the issue occurred in the middle of town, each situation occurred on land that bordered Massachusetts or neighboring towns.

K. DiBella asked if there was a plan to survey the land to properly delineate the easement portion versus the non-easement portion of the Killam’s land. D. Hyde stated that the land will be professionally surveyed as part of the establishment of this easement. K. DiBella asked who would set the limitations of the use of this land (within the restrictions of the easement) after the Killams no longer own the land. D. Hyde stated that this responsibility would stay with whoever is the current landowner.

Abutter, Elizabeth Kiley stated that she noticed a new path along the Berube’s land, and asked if there was a purpose for the new path. S. Killam stated that she used to drive her truck into the land at that spot, and that her husband Dean recently cleared that path so the Commission could enter the land for their preliminary site walk. S. Killam continued that she hopes to keep this path clear so that she may enter the land to clear and collect downed trees for firewood with their pickup truck, but that there are no plans to turn this path into a walking path. Chair Wainwright stated that the point of this easement is to prevent this path from eventually being turned into a road that leads to a handful of homes built on the Killam’s proposed easement land, which would have a much larger impact on the neighbors than a walking path.

Chris Duerr expressed her gratitude to the Killams for having the foresight and commitment to the Town to prevent this land from being developed, and to preserve the natural beauty and the habitat for wildlife. C. Duerr continued that her family moved to town for its small-town feel and natural beauty, and an easement on the Killam’s land helps to preserve those values.

Abutter Andrew Murphy also stated his thanks to the Killams for this gift to the community. A. Murphy continued that he has two young children and his family loves watching the wildlife pass through this corridor every day.

K. Gillis asked about the forest management plan and how it is maintained once the land is no longer owned by the Killams. D. Hyde stated that the forest management plan is the responsibility of the current landowner. D. Hyde continued that future landowners would be responsible for maintaining their own forest management plan at their own cost if they wanted to conduct commercial harvests. If the landowner only wants to take down trees for their own use such

as for firewood, a forest management plan would not be required under the easement.

B. Berube stated that she is in favor of conserving land, so she is thankful to the Killams, but her concern is increased traffic and the loss of privacy when residents are parking on the street and walking through her neighbor's property. B. Berube continued that everything she has heard in this meeting has been great for the purpose of conservation, but she is not leaving with any confidence that her privacy will remain intact after the establishment of this easement. Member Newman stated that the easement will likely provide the Berubes with more privacy in the long run since the land can never be developed.

Chair Wainwright stated that the Berube's concerns about lack of privacy are valid, but the existence of an easement on this land would likely have no effect one way or the other on their concerns about privacy. M. Berube reiterated that the posted "no trespassing" signs are currently preventing people from entering this land and the establishment of an easement would require the removal of those signs, which could lead to the issues they are concerned about. M. Berube continued that there was previously an issue with hunters on the land, and once the "no trespassing" signs were posted the issue stopped. In his mind, if the signs are taken down the issue may arise again. Member Nenart stated that "no hunting" signs could be posted which would resolve this issue since the previous situation was with a hunter. S. Killam stated that she has addressed the issue with the one hunter she is aware of using the land; if people report other hunters on her land, she personally goes out to find them and address the issue.

E. Kiley asked if another access point could be created to prevent people from entering on Deer Run Road to quell the abutters' concerns. S. Killam stated that she would not be able to allow people to access the land from her side of the pond because that would offer no access to the larger forest area. S. Killam continued that there is a narrow strip along Westside Drive that could be used to access the larger forest but the terrain is a rough, muddy pathway into the forest.

Chair Wainwright asked if there were any other comments or concerns to be brought forth. There were none. Chair Wainwright thanked the residents in attendance for participating in the hearing and voicing their concerns.

Member Nenart made a motion to close the public hearing at 8:28PM. Vice Chair Steele seconded the motion. The motion carried: 6/0/0

Chair Wainwright asked the Members if they had any more questions, and hearing none he asked for a vote on the motion that is on the table to fund the easement costs from the Conservation fund.

Chair Wainwright again read the motion that is on the table:

Vice Chair Steele made a motion to expend \$28,700 from the Town of Atkinson Conservation Fund, payable to the Southeast Land Trust's closing attorney, Bruton & Berube Trust Account, to enable the Southeast Land Trust to establish a conservation easement on Atkinson Tax Map 11 Lot 20-1, said funds to be held in escrow by the Bruton & Berube law firm pending the execution and recording of the easement deed at the Rockingham County Registry of Deeds. If for any reason the easement fails to be established, the funds shall be returned to the Town of Atkinson Conservation Fund. Member Nenart seconded the motion. The motion carried 6/0/0.

3. Other Business

Chair Wainwright asked the Members if there was any other business that needed to be discussed, and hearing none, he confirmed with Vice Chair Steele and Member Fournier about a previously arranged work session to mark the boundary lines on the Stickney Town Forest.

4. Adjournment

Vice Chair Steele made a motion to adjourn the meeting. Member Newman seconded the motion. Vote: 6/0/0.

The meeting adjourned at 8:35PM.

Respectfully Submitted,

Zachary Gilberti, Recording Clerk

Attachments:

- SELT Presentation

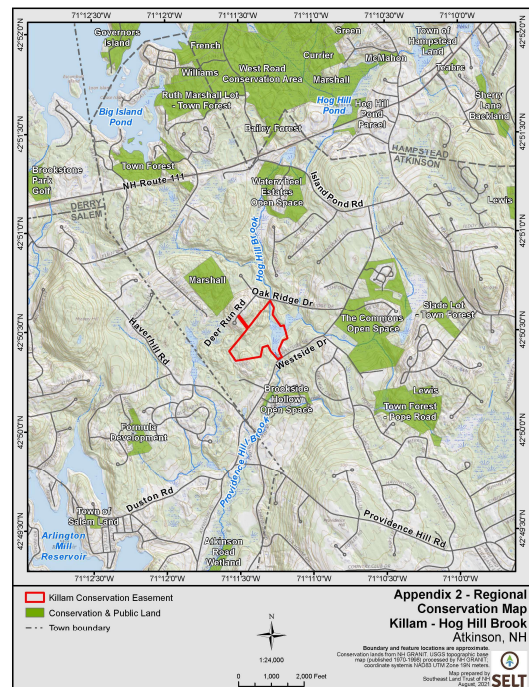
Killam Conservation Easement Donation



Killam Conservation Easement

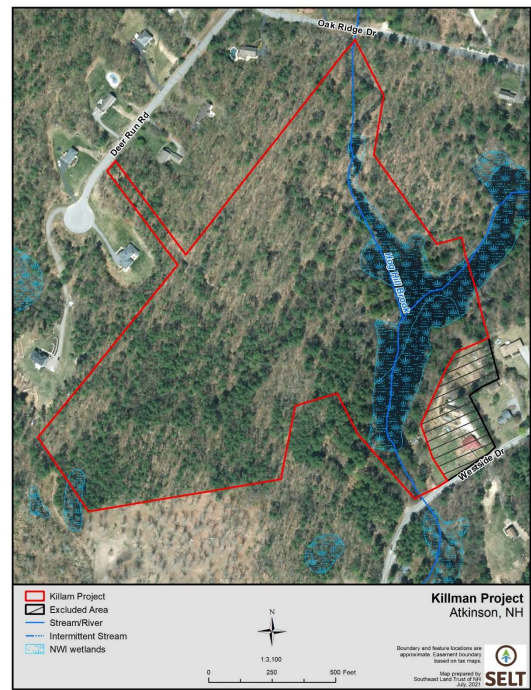
Nearby Conservation Lands:

- 33 ac Marshall Family Trust
- 32 ac Waterwheel Estates Open Space
- 85 ac The Commons Open Space
- 29 ac Town Forest - Pope Road



Killam Conservation Easement

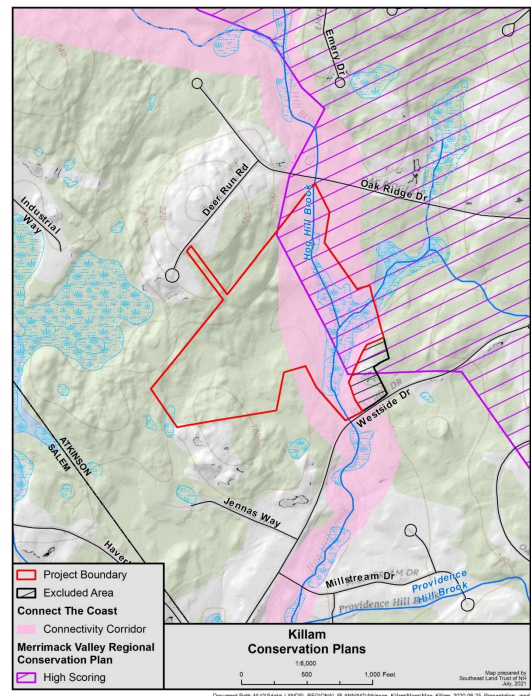
- Sue & Dean Killam own 39.6 acres
- Very generous donation of conservation easement
- 37.3 acre conservation easement
 - ~5 acre Pond
 - Area of former Taylor Mill
- Excluded from conservation easement ~2.6 acres around house
- 785' along Hog Hill Brook
- Site walk held on 9/18/21



Killam Conservation Easement

Conservation Features

- Merrimack Valley Regional Conservation Plan: 10.5 acres High Scoring
- Connect The Coast: 24 acres within Connectivity Corridor of regional significance
- 11-acres within Army Corps mapped 100-year floodplain. Important flood storage
- 5-acres of wetlands and potential vernal pools
- Nearly entire property Group 1 forest soils, high productivity
 - History of good forest management
- 14.8 acres in Walnut Ridge/Bryant Woods Well Head Protection Area
- Atkinson Master Plan community survey supports conservation of these features



Killam Conservation Easement

- Killam's have signed a Pledge Agreement to make conservation easement donation
- SELT will begin due diligence with affirmative vote from Conservation Commission
- Close on conservation easement before end of April 2022
- Conservation Easements – perpetual obligation of easement holder to monitor and enforce – SELT's responsibility



Killam Conservation Easement

Easement Terms:

- Standard SELT Conservation Easement with:
 - Allowance for boat storage along shore near house
 - No docks
 - Allowance to control invasives
 - No posting against public access (except area along Westside Drive). Hunting managed by landowner
 - Right to maintain and replace shed & cottage (water, electric, compost toilet)
 - Allowance for tree removal for view clearing from house
 - Allowance for pumps and pipes for using Hog Hill Brook for irrigation
- There is no right or requirement for SELT or the Town to build public trails



Killam Conservation Easement

Budget:

Total Cost \$38,700

\$ 10,900 Transaction Costs (survey, title, legal, phase 1, recording fees, etc.)

\$ 10,400 Project Management

\$ 14,800 Land Mgt Fund & Legal Defense (one time cost)

Funding Sources

\$ 28,700 Atkinson Conservation Fund

\$ 10,000 Mooseplate Program



Questions?



