

## Auburn Conservation Commission Meeting

December 1, 2015

Town Hall

Members present: Diana Heaton, Alan Villeneuve, Rick Burnham, Ed Fehrenbach, Jeff Porter, Peg Donovan

Others Present: Jeremy Lougee (SELT), Mickey Rolf, Elaine Willet

### I. Dufresne Easement

J. Porter mentioned this was a publicly noticed meeting to go over the proposed Dufresne Easement.

J. Lougee from the South East Land Trust, the organization that will be holding the easement, spoke saying the organization applied for a water supply land protection grant from the DES and were awarded the grant for up to \$270,000. This grant is for lands that are sensitive to water. The funds will be ready the first of the year. At the moment Jeremy is working with the landowner to complete the survey, title and easement language. He brought the latest draft of the easement and the final draft of the survey, indicating that about three acres around Ms. Dufresne's house will be held out. Joe Wicker did the survey. Mr. Lougee was here for to get the Conservation Commission to vote to expend funds for this easement – \$240,000 to make up the balance

A. Villeneuve: We had some conditions about language in the easement, specifically wouldn't curtail hunting in perpetuity, Ms. Dufresne can do so but not the easement. J. Lougee noted that in the deed they stay silent about hunting so that will cover it.

J. Porter: Wondered if the Auburn town council seen the draft.

J. Lougee: Not as of yet, I will forward it to them and hopefully we can meet with the selectmen on Monday. I will finalize tomorrow and send to B. Herman and council.

D. Heaton: Do you have a quick summary of the changes you made to the standard easement template?

J. Lougee: Some of the tweaks are required language for the DES grant, in regards to water, making sure they are not being infiltrated by chemicals, some off road vehicle restrictions. The property owner wishes to post against trespass during her life time then the deed falls silent.

A. Villeneuve: Is her land posted now?

J. Lougee: It is she has had issues with people hunting after she has asked them not to, so she would rather not allow it. There will be an annual monitoring of the property, they will alternate between aerial and physically walking the land.

A. Villeneuve: Asked how many years they actually walked the property as compared to doing an aerial review.

J. Lougee: I believe the minimum we go without a physical walk is three.

A. Villeneuve: I would like it to say every four years as a minimum must walk.

D. Heaton: I would have gone with three if that is the minimum.

J. Lougee: Yes, I will check whether it is three or four. Tonight you vote on the money and then I meet with B. Herman and make sure he agrees with all and he preps the select board so we can address questions leading up to the meeting with the selectmen. All mortgages except for last have been discharged, but not yet recorded. The third one will be paid at closing, all the money will go into an escrow account.

A. Villeneuve: So actually, we don't know if they are clear.

J. Lougee: The last one will be paid. There is an issue of "range ways", a public right of way from king's time. Legal discussion of whether town's have ownership of that right of way or the land owners split it. We didn't put an easement over the range way until the issue is resolved. Ms. Dufresne's lot was merged into one at some point by the town and Supreme Court ruled that was illegal, landowners have until next year to straighten out this lot situation.

D. Heaton: If there is no easement on range way, does that change the total acreage?

J. Lougee: It is a very long and small sliver 12000' long, runs parallel to the back of her property. Small enough that not something someone could use

A. Villeneuve: It's a road.

J. Lougee: It is not much of one at this point, but could be.

D. Heaton: Does that affect the value of the property?

J. Lougee: No because it is such a small parcel and we planned for 60 acres in the easement and have that. But since we may not have any rights to put an easement over that portion until this is resolved, we chose to not do so.

J. Porter: Raymond road to be developed and could potentially landlocked properties be made assessable to via this range way?

J. Lougee: Well since we wouldn't have a right to it it's a moot point, but both sides of it would be eased with all the restrictions.

A. Villeneuve: The easement is plus or minus sixty so that doesn't matter but there is a loss of value if the lot is split but can't imagine these range way are going to come to anything.

J. Lougee: Our council said whether or not you put the easement on the range, we have no more right to protect it if the Supreme Court decides it was deeded to the town back in the 1700s.

P. Donovan: I am not sure why the range way doesn't decrease the value of the land.

J. Lougee: Because it is deeded that way so wouldn't change it.

A. Villeneuve: The only people that have a right to it, are the landowners that abut each side, or the town. Perhaps you should have something in writing that says if it is deeded to the landowner it will be a part of the easement.

J. Lougee: It is a legal black hole so that is why we felt we should leave it out.

A. Villeneuve: I disagree, another landowner if it becomes their property, they could decide to sell this right of way because it has never been protected, so that's why I think if its resolved favorably for the landowner then this parcel should revert to the protection of the easement. If all the parcels around it got sold then someone could sell that right of way. I care about the piece that is contiguous to her two lots and would like something in the easement to have the range way included.

J. Lougee: I will talk to our legal counsel and see if they can do that, but I don't know if they can put a clause in an easement.

A. Villeneuve: It does not feel solid to me.

R. Burnham: Wouldn't it be better to go with your easement and absorb the whole piece and then when and if it comes down to the town has a right to it then it could be released.

J. Lougee: It is not that easy, we would have to defend that parcel of land in court and that could be pretty expensive.

Discussion about this issue went on for a while

P. Donovan: If the range way reverts, it should go to the owner as part of the easement, not stand alone.

Discussion again about the issue, bantering ideas about.

Motion we support the Dufresne easement to the sum of \$240,000 - A. Villeneuve

Second - D. Heaton

A. Villeneuve: I am not sure if I will vote for this until this range way issue is clearer.

J. Lougee: We need to close in January because the appraisal is only good for a year, additionally, if we want to engage legal counsel again for an opinion we already have then it will raise the cost.

J. Porter: We still have to formally accept the easement language

Amendment to the motion to include pending satisfactory review of the easement language - A. Villeneuve

D. Heaton - Second

Vote carries (four yea, one nay)

A. Villeneuve: How will you determine satisfactory review of the language without another meeting? You can do it by email and then reaffirm the vote at the next meeting.

J. Lougee: I will send out the easement language tomorrow.

D. Heaton: Will you ask the council whether it is possible to include the reversion to easement the range way

J. Lougee: Yes, right now the easement I give you does not include this parcel and the crux is that if it is in there then we have to follow through legally if there is an issue of use.

## II. Old Business

Motion to accept minutes from last meeting - P. Donovan

Second - R. Burnham

Passes (A. Villeneuve abstains)

## III. New Business

J. Porter: Talked about planning board changes to the cluster development regulations that have come from Stantec, said the language changes fit nicely into what "we" want to accomplish. This is not a town vote, it's a planning regulation amendment. B. Herman sent out something to make use of an environmental impact statement for anything over 10 acres, they are going to be looking for the Conservation Commission's buy in.

P. Donovan: Projects already underway will not be affected?

J. Porter: Correct.

Motion to go into nonpublic – D. Heaton

Second – R. Burnham

Commission enters nonpublic session at 7:59 p.m.

Commission comes out of nonpublic at 8:30 p.m.

P. Donovan had a question for J. Lougee from the Audubon on whether or not someone can put up hunting blinds on the town's parcel.

E. Fehrenbach: You would need permission from the land owner regardless.

P. Donovan: Does the owner of the blind need to ask permission from South East or the town?

E. Fehrenbach: Usually you need permission from the land owner not the easement holder but if there is damage the easement holder can make the land owner pay to fix.

Motion to adjourn – P. Donovan

Second - E. Fehrenbach

Meeting ends at 8:33 p.m.