

**Ocean Access Committee
Meeting Minutes
September 9, 2015
Cumberland Town Offices – Council Chambers
6:00 P.M.**

I. Call to Order: The meeting was called to order at 6:00 p.m.

Roll Call: Present:

Denny Gallaudet, Chair, Maureen Connolly, Vice-Chair, C. Ingrid Parkin, , Charles Adams, Lew Incze, Stephen Thomas, Tom Gruber, Council Liaison, Penny Asherman, CCLT, - recused

Absent: Lew Incze, Sandra Gorsuch-Plummer, George Turner, Council Liaison Penny Asherman, CCLT,

Staff: Bill Shane, Town Manager, Pam Bosarge, Administrative Assistant

II. Approval of the July 8, 2015 Minutes:

Ms. Parkin moved to approve the minutes of July 8, 2015 as presented.

Mr. Thomas seconded.

VOTE: UNANIMOUS 4-0

III. Signage:

Mr. Gallaudet asked Mr. Shane for an update on signage.

Mr. Shane stated he was going to recommend to the Council to allow vehicles to turn around of the improved section until we can build the parking lot. It is going to be a while before the litigation is settled. My issue is I don't want people to drive up Spear's Hill, there will be a private road residents' only sign on Spear's Hill, as well as the construction road (which will be removed). Move the other signs up to where the gate would be. The town has an injunctive relief order until Justice Mills hears this on Friday. If the signs are moved up to the unimproved section if the injunction is thrown out we will fix the existing narrow road up to the turnaround and move the bath house. And put in the level spreader for stormwater control and the gate to control access. We are working with Dan Diffin, to see what if anything can be built for a parking lot after CCLT's review. The approval is for up to 32 spaces and could probably build 11 spaces because CCLT is asking we wait and determine if the wetland is a vernal pool. This can't be determined until spring. The second piece to not impact the wetland area, the parking lot would have to be reconfigured to follow the road.

Mr. Gallaudet asked when the restricted signs would be moved.

Mr. Shane stated he wanted to get Council approval to make sure they are alright with vehicles parking on the road.

Mr. Adams asked the status of parking on Route 88 at the Falmouth end where people park vehicles and walk; this is next to the yellow house.

Mr. Shane stated he would propose we restrict no parking at that location. We bush hogged the trail for walkers, not vehicles. We could construct a barrier even with the stone wall.

Mr. Adams stated this should be on our agenda going forward.

Mr. Shane stated we don't have approval to park at the location.

Ms. Connolly stated years ago there was a sign for parking for two spaces.

Mr. Thomas asked if that was a town sign.

Mr. Shane stated he didn't know.

Ms. Asherman stated she could ask their steward.

Mr. Gallaudet stated in regards to parking at the turnaround. The guiding principles do not allow parking; would this be a change to our guiding principles or a temporary situation until there is other parking? How does the land trust feel about the parking?

Mr. Parkin asked when the gate would be installed.

Mr. Shane stated two to three weeks.

Ms. Asherman stated her first reaction would be to make sure cars were only parked on the road and not in the meadow.

Mr. Shane stated it would be nice to get some access to the property without feeling like they are trespassing.

Mr. Gallaudet voiced concern when the parking lot is built will people still want to park on the road.

Mr. Thomas stated it makes sense to allow the parking however, we should have a sign stating temporary parking.

Ms. Connolly asked if the only houses access the road will be the big house and the guest house.

Mr. Shane stated there is another house lot across from John Ferland; the gate would be after the last cottage. It is confusing because of the temporary connector road.

Mr. Thomas asked the width requirement for a road.

Mr. Gallaudet explained the Planning Board required a 22 foot travel surface.

Mr. Shane stated 90% of our roads are less than 22 feet wide; we are working on ordinance changes to create smaller roads.

III. Status of CCLT approval of Planning Board submission

Ms. Asherman passed out a summary regarding the Broad Cove Reserve Parking and Access Plan. The summary dated August 19, 2015 is part of the Committee records:
The CCLT reviewed the proposal as guided by the Conservation Easement.

Ms. Asherman summarized the report and findings as follows:

1. Lower Beach Road – The Town proposed to re-surface an existing 10' wide gravel road with reclaim: The CCLT approved and think it will help control stormwater runoff. The only condition was:

1. The town consults with the Maine Historical Preservation Commission to determine whether the site area includes archeological resources and the Town must avoid impacts to archeological resources while improving and maintaining the road,
2. The Town must employ best management practices for soil erosion during road work, and
3. The Town must conduct on-going maintenance of the road and level spreader.

Upper Parking Lot Area – The approval is conditioned on the Town undertaking the following.

1. Design and construct the lot to accommodate no more than 33 spaces and eliminate the cutline and other elements of the design intended to allow for adding 11 more spaces. The clearing limits should not extend into the wetland area.
2. To ensure protection of the scenic values from the public vantage point of Route 88 (a) plant vegetation of sufficient density to augment the existing trees and other vegetation; and / or (b) eliminate the row of parking spaces nearest the road.
3. As recommend by FB Environmental, take steps to determine whether a portion of the wetland is a vernal pool, including: (a) engaging the Department of Environmental Protection to conduct a review of the area and obtaining DEP approval;(b) designing and constructing the lot to drain stormwater away from the wetland area; (c) avoiding cutting vegetation in the wetland area; and (d) exercising best management practices for erosion control during construction.
4. Use a low amount of sand and salt for winter maintenance of the lot and conduct regular ongoing maintenance.

Handicap Parking Area: CCLT conditions its approval of the Town’s plan for a handicapped parking area on the following:

1. Limit the number of handicap spaces to two
2. Approval by the Maine Historic Preservation Commission of the site location and construction to protect potential archeological resources.
3. Use of reclaimed asphalt for the surface or a more attractive permeable green paver.

Mr. Shane stated ALPHA ONE was clear they wanted a durable surface, compacted gravel is an obstacle issue for the handicapped, and the green pavers become obstacles because of frost movement in the winter.

4. Monitor stormwater and erosion at the site and implement a stormwater abatement feature if the monitoring determines it is necessary.

Relocation and Modification of the Bath House: The following are CCLT’s determinations regarding relocation and modification of the bath house.

1. The CCLT Board has determined that the modified building will be “substantially similar” to the current bath house.
2. Moving the bath house approximately 200 feet within a 100 acre parcel is “substantially the same location”. It is abundantly clear, that the new site is fare preferable from the standpoint of protecting conservation values. The Town must, however, get approval from the Maine Historic Preservation Commission regarding the new proposed location.
3. The use of the bath house for two or more portable privies, located entirely within the bath house, is not a permitted use of the bath house, because it is not designed for human habitation. In the context of conservation easements, human habitation refers to residences, sleeping cabins and the like.

Footpath to Relocated Bath House: CCLT finds that the proposed footpath is permitted by the easement. The path is designed to minimize erosion, there is no impact on wetlands and the proposed surface material is permeable.

Mowed Paths along Lower Meadow and Lower Beach Road: The CCLT approves the mowed paths and makes the following suggestions to protect bird and insect habitat and water quality:

1. Maintenance of open grassland habitat is encouraged in the existing areas; however, mowing the entire fields should not occur until after August 15, which is the end of the breeding bird season. Later mowing (end of September – early October) would be even better because it would allow late flowering wildflowers to provide nutrients for many native migratory butterflies and other species. Mowing the footpaths may occur at any time.
2. Due to the disturbance of the meadow from the developer's contractor in May, mowing of the overall field in calendar year 2015 should only occur if FB Environmental consultants recommend it. In addition, the meadow may need to be reseeded as required in the FB Environmental Restoration Plan.
3. Mowing paths along the road and lower field is good to direct foot traffic and keep people off other natural areas. However, grass should not be mowed below 3 inches to maintain full coverage of the paths and reduce the potential for erosion close to the shore. In addition, clippings should be disposed of away from Casco Bay because they cause a detrimental nutrient impact to water quality.
4. CCLT has concern about soil erosion due to foot traffic on the mowed area going down the grassy slope to the beach. CCLT is aware that the Maine Historic Preservation Commission will be conducting an archeological dig in the area in September 2016, but measures might need to be taken to prevent erosion prior to this time. CCLT has asked the Soil and Water Conservation District to suggest low-impact ideas for consideration.

Minor Structures: CCLT finds that the proposed minor structures do not materially alter the traditional and scenic appearance of the property or have an adverse impact on conservation values. CCLT approval for these minor structures is not required.

Educational Opportunities: CCLT considers the expansion of various educational efforts to be an important advantage of increasing recreational access. The area is a ready-made, natural laboratory for area science classes. CCLT, which has conducted the very popular horseshoe crab events, would welcome the chance to expand educational events for children and adults. CCLT believes a critical element in successful management of the property will be informative and appropriate directional and interpretive sign and we would like to work together on the important task.

Conclusion: The CCLT appreciates the opportunity to engage in this rigorous review of the Town of Cumberland's Broad Cove Reserve Parking and Access Plan. CCLT's responsibilities for ensuring that the plan conforms with the terms of the easement, of course, do not end with submission of this document. CCLT will continue to monitor the property and enforce the terms of the easement. We look forward to answering questions that town officials and the public may have about our determinations, conditions and other elements of the report – the first step in an inclusive, productive and collaborative effort to balance the benefits of public use with the goals of protecting the natural resources and scenic value of Broad Cove Reserve.

Ms. Connolly asked about the pier.

Mr. Shane stated the town has received a \$22,000 grant from the state and is currently conducting soil bearings.

Mr. Thomas asked if the fifty foot extension was allowed by the Conservation.

Mr. Shane stated he was going to meet with Lew Incze and Barney Baker to discuss the public process for the pier. I don't see lengthening, I do see widening and raising for access. This will go to 70 feet in length for the slope to the water. Community meeting should happen in October or November.

Ms. Parkin stated Alpha One suggested five foot for turnaround.

Mr. Shane stated they are suggesting 6 to 8 feet.

Mr. Shane stated the parking lot will go back to the Planning Board after determination of the vernal pool status.

IV. Update on Lawsuit

Mr. Shane presented a letter from the Town Attorney explaining the three lawsuits.

- The first one is the Injunctive Relief request that was sent to the Supreme Court and kicked back to Superior Court. It asked that the Court restrict the town from doing anything until the ADB appeal is heard, because of potential irreparable harm to the Robbins family. The irreparable harm is removal of trees. That hearing is Friday the 11th in front of Justice Mills; we expect an answer within a few weeks on the injunctive relief lawsuit.

- The second ADB order was filed by the Robbins family to say that the Town municipal use is not allowed in the LDR zone. Municipal Uses by definition are allowed anywhere that town would benefit. If that were the case we wouldn't have the fire department, police department, town hall and schools. It happens quite frequently with these types of lawsuits. It has a domino effect, the Planning Board approved it the Zoning Board of Appeals supported the Code Officer's decision that the municipal use was allowed at Broad Cove Reserve. This Thursday night the zoning board is presenting their findings for approval. We are anticipating this will be appealed as well. This should be resolved by the first of the year.

- The third or last lawsuit is against the town and CCLT for violation of the conservation easement that the uses that have been approved and permitted are not allowed under the conservation easement. There was an amicus brief filed to determine if the Robbins can take part in that hearing.

Ms. Asherman stated the suit against the CCLT and the Town won the first round in Superior Court, we won on the basis the plaintiff didn't have standing to bring the suit, and the ripeness has gone away. The standing question has been appealed to the Supreme Court. The brief is being filed this month and heard in November and the decision will be in the spring. That is not on the merits of the case, it is whether they have the rights on the case.

Mr. Thomas asked given that we are in a holding pattern is there a legitimate task for the committee to meet.

Mr. Shane stated site signage, to determine what type of signage as well as directional signs we want on the site.

Ms. Asherman stated the interpretive signage at the botanical gardens is stunning and informative. I think the committee can work with the land trust to apply for a grant to help fund signage. We have wonderful people in town that might be able to assist us with signage such as Sally Gallo and Sally Stockwell.

Ms. Asherman stated someone on their board might also be willing to help with signage.

Ms. Asherman stated she would research grants for signage; the committee will need to decide what types of signs we want.

Mr. Thomas asked for a list of specific species on the property to know what we might want to highlight on signs.

Some of the types of signs suggested were:

- Coastal interpretive signs
- History component
- Plaque at original house site
- List of species to highlight

Mr. Shane stated the signs at Royal River were well done that would be a great idea.

Ms. Asherman and the CCLT will look into grants and Ms. Parkin is willing to assist.

Mr. Gallaudet suggested the committee meet bi-monthly, the next meeting will be November, and report to the town council in February.

Ms. Connolly stated she was thinking of the prohibited uses and thought of drones that were at the US Open; should we add that to the uses.

Mr. Gallaudet stated there are model airplanes at Twin Brook.

Mr. Shane stated he met with Thomas Bennet and he is contacting Art Spies to come down and look at the area of the re-located bath house and handicapped parking. Thomas received a \$250.00 grant towards the archaeological dig. And he has met with the High School principal who is very excited about participating with the archaeological dig. We will probably bring a class down in the spring to see the site, so they can be excited for September.

Mr. Adams stated someone asked about the shoulders of the road, and he suggested it would be a great Eagle Scout project to plant native plants along the shoulders.

Ms. Connolly stated there are also master gardeners through the co-op project for community projects.

VI. Adjournment:

The meeting was adjourned at 7:10 p.m.

The next meeting will be November 11, 2015.

Respectfully submitted,

Pam Bosarge
Administrative Assistant