

~~Unapproved~~Approved
Candia Board of Selectmen's Work Session Minutes
April 16, 2009

In attendance: Fred Kelley, Chairman, Board of Selectmen
Bart Mayer, Town Counsel
Jim Franklin, Surveyor
Jason Franklin
Betsy Kruse, Conservation Commission Chair
Dean Young, Property owner
Cheryl Eastman, Selectmen's Assistant

The meeting began at 11:05 a.m. Jim Franklin explained confusion regarding the lands abutting the Deerfield Road property owned by the town of Candia, known as Map 401, Lot 1-1, consisting of 83 acres of conservation land. There are several lots of contention to the south of this lot and to the east of the town owned lot of Map 406, Lot 103-1-A. Jim has researched the lots in this area and has good meets and bounds through deed descriptions on the town owned lots. He has also noted the boundaries identified by Walter O'Neil on a 1978 survey he performed for the Girard's property. His plan conflicts with the deeds, and leaves an unknown area between the properties. Dean Young has in the past received a tax bill for a total of 98 acres in this area. When the tax maps were re-done, he started to receive multiple tax bills. According to deeds, Map 406, Lot 104 belongs to Dean Young. Dean's house is actually located on the dog-leg shaped lot to the east of that lot, and there is no recorded deed proving his ownership to that lot. Bear Paw had done a survey on the easement property using a deed description to define the boundaries. Jim's research of deeds for the lots in contention stops at a dead end anytime between 1836 and 1936, depending on which lot. From there, more research has to be done into the estates, heirs, and assigns for these lots. Bart reminded the group that the town tax maps do not prove ownership. The Board had originally thought that a boundary line agreement could be drafted to define the line between the easement land and the lots in contention. Bart clarified that since Dean Young has no proven claim to the lots in contention, he is not able to sign a boundary line agreement. Dean said that he has occupied the contentious lots over his lifetime, using them for cutting cordwood. His father also used gravel from those lots for the construction of Route 43 in the 1950's. Jim further stated that the southerly boundaries of the easement property had been identified by deeds as abutting the other town owned lots. Bart feels that it is safe to assume that there is actually no unknown space in between them. Jim noted that comment "A" on his survey is tied to dimensions of the intersection of New Boston Road and Critchett Road. Comment "B" on his survey ties to dimensions to a stone wall on the side of Old Deerfield Road. These two dimensions leave a gap where CA1 (contentious lot #1) is. Jim could not find for any of the contentious lots any reference to deeding to the Town of Candia. Dean Young gets tax bills for:

Map 406, lot 109-1

Map 406, lot 103

Map 406, lot 112

Map 406, lot 104

Map 406, lot 112-1 (this lot is across Deerfield Road and is not included in this issue)

Bart isn't clear where the lots in contention should go. He discussed a possibility of Dean Young filing an adverse possession claim for them, since he and his family has been using the land for many years. These lots are mostly underwater and cannot be developed. Jim feels that the town tax rolls can be checked for the lots in contention, to see who has, if ever, been assessed taxes for them. Jim Franklin feels that the wedge-shaped piece of property between Dean's land and the lots in contention should actually be closed up due to all the surrounding deeds referencing the abutters next to them. Jim feels that all the lots in contention must be owned by someone, but no one has claimed them. Bart asked Jim to submit his completed survey of the easement land that he is currently working on and state that he is OK with running a straight line across the southern boundary. Jim stated that he could walk the complete boundary as he has surveyed it – and prove his reference points by deeds. In conclusion, Bart said the Town and Dean Young cannot do a boundary line agreement at this time for the southern boundary, because there is no proven chain of ownership to the contentious lots to Dean Young. As such, Dean cannot enter into an agreement regarding these properties. Bart said that records should be checked for any past tax deeds referencing these properties – back to the 1800's and forward. Letters should be sent to notify abutters and ask them if they have any deed references to them. Bart suggested that the town send tax bills for those lots to "owner unknown" at an address "to west side of Deerfield Road". When the bills come back as "undeliverable", then a lien can be placed on the properties. Two years and a day after the lien is placed, the town can take the properties. They would then be deeded to the town with a clear title. If Dean Young wanted to claim the lots, he would need to prove adverse possession. If not, they would go to the town and Dean would have to have a survey and title search done of his boundaries. Then the Town and Dean could come to an agreement of where the boundary is.

In summary, Bart advised: Step 1 – Have Jim finish the survey

Step 2 – Tax Collector sends out tax bills for the lots in contention and a letter to Dean regarding claiming the properties, if he wishes.

Step 3 – two years and a day from the date the lien is recorded, the lots in contention go back to the town.

This portion of the meeting concluded at 12:20.

Carleton Robie joined the meeting to discuss a proposed easement mitigation plan. Fred and Carleton want to propose a plan that would essentially duplicate the mitigation plan by DES, but on a local level. The State's plan requires that if someone needs to fill in an acre of wetland, they have to mitigate the impact by setting aside 10 acres of good land somewhere else, or pay a fee for that acreage. For a local level, it will need to be determined how much land will be required. A developer will not want to satisfy the State's mitigation plan, and also have to do it again for the local plan. Bart stated that

we need to come up with a program that complements the state plan, not competes with it. He further clarified that we want to set up a “banking” program of certain properties and to have funds for mitigation given to the town instead of the state. Currently there is no such plan in place. The town would like to work with the DES to develop one. In an e-mail from Laurie Sommers at DES, she states that whenever an easement is completed, the state will (under current rules) not allow mitigation on that property. The Conservation Commission (according to Betsy Kruse and Dick Snow, who has joined the meeting) would like to put language in the contract to allow it in the future. DES requires that any mitigation deal has to occur when the developer wants to start the project. DES also needs to approve the individual parcels being considered. Bart will talk to Laurie about setting up an integrated program to identify parcels of land, have the state review and give their blessing on them, purchase them, “bank” the land for future purposes, and use them when mitigation is needed in Candia. Then the funds come back to Candia and go into a fund earmarked for future purchases of land, as in a revolving fund. The State may want to dictate what property is good and what isn’t. This plan would be consistent with the State’s plan, but will have a long-range plan for properties to be included, not just a mish-mash of parcels scattered around the town. This would make coherent tracts of land in easement. The Conservation Commission is looking to have easement parcels connected to each other to create large corridors of protected land. Carleton wants to see language inserted into the Sanders easement that is being negotiated now acknowledging the possibilities of the plan in the future. Bart stated that a program needs to be established with the state first, instead of concentrating on a particular property to begin with. Betsy stated that for any funds paid to the State for mitigation, the town can apply to get those funds back – as long as it is for use in the same watershed. Fred, Carleton, and Betsy discussed how the Conservation Commission and the Board of Selectmen could work together better in the future. Fred has concerns regarding the language in the Sanders easement in clause #13 that says the land cannot be used for any other purpose (development, mitigation...) that may preclude this type of plan. Dick Snow also agreed that he wants to make sure that the Sanders easement has language in it that doesn’t preclude a mitigation plan like this from happening in the future.

Dick Snow talked about options the town would have regarding a public/private partnership with a child care provider to run a recreation day camp program at the town field. Bart said that it could be done several ways. An agreement could be drafted that states that the company would run the program, and allow them to charge fees through their company, and the town would allow them to use the park facilities. It could also be in the agreement that they would be responsible for having insurance coverage for themselves – or the town could cover it under their insurance. Cheryl will contact Primex to find out how they would prefer it to be done and what the added expenses would be, if applicable. Or, an agreement could be made in which the town runs the program fees and expenses through the town’s books. This cannot be done this year because there is no money in the recreation budget for the expenses. Bart advised that an agreement would be better if it kept as many aspects of the program separate from the town as possible. This will create less of a liability issue. Bart can also draft some wording that the organizers have non-exclusive rights to use the park facility. This will

protect them from anything that could happen with other people outside the recreation program using the park at the same time. Bart asked Dick to give him the parameters he wants to draft the contract.

The group also discussed the creation of revolving funds for things such as recreation programs and police detail funds. Bart had sent a letter to the Board outlining how this can be done at the next town meeting, including the wording of the warrant article. Cheryl will find the letter for the Board's re-review. Dick also asked about a Recreation Commission. Bart does not recommend that process because sometimes a Recreation Commission can run rampant under their own powers, and not necessarily do what the Board wishes them to do. He advises the Board to carefully consider RSA 35B before acting on that idea.

The meeting concluded at 2:10 p.m.

Minutes respectfully submitted,
Cheryl Eastman, Selectmen's Assistant