

Mohawk Trail Woodlands Partnership Advisory Committee Meeting

May 19, 2015

Berkshire East Ski Lodge, 66 Thunder Mountain Road, Charlemont, MA

Staff: P. Sloan, A. Peteroy, T. Matuszko, B. O'Connor, D. Raimo, E. Coughlin

Members Attending: Tom Brule, Cheryl Dukes, Larry Flaccus, Jay Healy, Jeff Hutchins, Joe Nowak, Jim Perry, Keith Ross, Whit Sanford, Art Schwenger, Scott Sylvester, Gisela Walker

Others Attending: Ryan Aylesworth – Western Mass. Public Lands Alliance; Ron Color – Ashfield; Todd Olanyk – Ashfield

1. Introductions

T. Matuszko commenced the meeting at 6:00 PM and had members of the Advisory Committee introduce themselves.

2. Review and approval of March 31, 2015 Meeting notes:

Gisela Walker moved to approve the Meeting Notes of March 31, 2015. The motion was seconded by Joe Nowak. The Advisory Committee unanimously approved the Meeting Notes.

3. Presentation on Final Draft Conservation Restriction (CR)

A. Peteroy reviewed the final draft of the model Conservation Restriction (CR).

Question: Will windmills be included as an allowable use of the CR?

Response: No, land where windmills could potentially be constructed would have to be removed from the area included in the CR prior to adoption of the CR. This would be worked out with the landowner.

Comment: The word “are” needs to be added to section 2 so that the sentence will read “within the areas that *are* not more than the majority of the acreage being conserved in the CR.”

Response: Staff will revise.

Question: Would a property that was mostly (50% or more) in agriculture be excluded from participation in this program?

Response: Yes, parcels where the majority of the land is in agricultural use would not likely be eligible for this program since the focus is on forestry. The intent of the CR is to conserve forest land. However, comments from the committee indicated the need for flexibility in the CR to allow for preservation of agriculture. Other conservation programs such as the Agricultural Preservation Restriction (APR) could be used in combination with a “forestry” CR to protect agricultural lands on the parcel. Landowners could have a combination of APR and other Conservation Restrictions if the land contained both forest and agriculture.

Question: Do we need the phrase “in any rolling 12 month period” or “for use by the owner on the premises or at his or her primary residence” under section 1C?

Response: No, staff will remove these phrases. There is no additional restrictive use on forestry activities. This summary is referencing the Mass. Forest Cutting Practices Act and its requirements for best management practices (BMPs), and the need for a cutting plan for harvests over a certain size.

Comment: Easements and restrictions have been a perpetual source of controversy. There is no perfect equation for these restrictions. Quantifying the monetary value of the easement is difficult and requires an appraisal, and once adopted becomes permanent. It is not something that landowners should take lightly, it is something that requires great thought.

P. Sloan and T. Matuszko reiterated that the CRs for forest conservation are only one part of the overall program. CR's will not work for all landowners. Property owners should not adopt a CR without significant thought and planning. Additionally, the idea of a term limited restriction through a "Forest Viability Program" was developed to address comments related to hesitation regarding permanent CRs. This program could provide funding for landowners as well as technical assistance without a permanent CR.

Question: Can "property maintenance" be added to accepted uses of motorized vehicles under section 8?

Response: Yes, the intent was not to exclude property maintenance as an accepted use of motorized vehicles. This will be described more fully in the CR document to ensure this use is included.

Question: Why are we requiring town approval for CR's in the proposed program?

Response: The opt-in feature of the program for towns was designed to address concerns over municipal revenue sources that could be affected by CRs. By opting in to the proposed program, landowners in the town can access potential funding. If the amount of conserved land reaches a certain threshold, towns would be able to weigh in about whether to support additional CRs.

Question: Would a landowner be able to remove snags and other dead wood with related ecological value if their land was under a CR?

Response: When a landowner develops a stewardship plan or forest management plan, they can identify wildlife habitat as a goal, which would address this issue.

A. Peteroy reiterated that this CR is only a model CR and will require changes before final adoption by any landowner. However, conceptually, the "bones" of the CR are in place.

4. Review and Discussion of Priorities for Forest Conservation

T. Matuszko introduced the criteria (Forestry, Public Access, and Ecological) that would be used to assess land to prioritize funding for conservation restrictions. T. Matuszko reiterated that these priorities are conceptual and that they need to be developed further.

Question: What separates "productive" from "highly productive" forest soils? Can "diversity of species" be added to the criteria?

Response: These criteria will need to be developed further. Diversity of species will be added to the criteria.

Question: Land enrolled in Chapter 61 is listed as a priority. Should land in Chapter 61A or 61B, or land that only has a 10 year forest management plan also be included for funding priority?

Response: This priority will be revised to list land with a 10-year forest management plan as a priority for funding, not just Chapter 61 lands.

Comment: If these criteria are used for prioritization the word “level” should be added to the criteria to aid in prioritization.

Response: Staff will revise.

Question: Shouldn't priority go to lands that are not enrolled in chapter 61? Chapter 61 lands are already being managed.

Response: Chapter 61 lands are only temporarily protected. The CR would help to address conservation in the long term. In addition, placing a CR on land already in Chapter 61 is not expected to have any impact on tax revenues.

Question: Can “contribution to drinking water supply” be added to the criteria under ecological?

Response: We will examine this and determine criteria that could be added to address this resource.

Question: What if multiple landowners with adjacent parcels below the minimum acreage wanted funding for CRs?

Response: We can revise to include this possible scenario. The intent is to get the largest amount of forested land that will contribute the most to forestry in the future. The protection of “blocks” of parcels owned by multiple landowners will be added as a specific criterion.

Question: Will forest management plans be a requirement of deeds with a CR?

Response: If the deed and CR requires a forest management plan, this would be transferred to the new owner.

P. Sloan noted that the CR program would be designed to be as landowner friendly as possible. Landowners that applied for CR funding and did not receive it could be placed on a waiting list and would be further up the list for funding the next year. Additionally, the governance structure will likely include an Advisory Committee that will review applications for CR funding and determine priorities based on general criteria.

Question: Shouldn't we list all criteria and develop procedures for establishing priorities for CR funding?

Response: We attempted this and it became overly complicated. We are just presenting a simple model for criteria tonight. The criteria will need to be developed further. We will add more examples under each of the criteria. However, the future committee that will review applications for CR funding will likely be responsible for assessing each parcel for potential funding and establishing priorities.

5. Review and Discussion of Priorities for Special Designation for 20-Town Region

T. Matuszko introduced the 5 programmatic topics that would be addressed through the Mohawk Trail Woodland Partnership including natural resource based economic development, natural resource based tourism, municipal financial sustainability, sustainable forestry practices and land conservation. The Community Preservation Act (CPA) was used as model. Some minimum amount could be spent in each of the 5 areas every year. The rest would be spent at the discretion of the governing body.

Comment: Some of these elements come into play as the program gets established. For instance, municipal financial sustainability becomes important after a significant amount of land has been protected.

T. Matuszko reiterated that some of the programmatic elements would receive higher funding amounts based on the priorities established by the governance body. However, based on this model, all of the 5 programs would receive some funding every year.

P. Sloan reiterated that comments from the towns indicated equal emphasis on economic development as well as conservation. One of the first big projects could be the creation of the multi-use "Center" for forestry education, wood product research, marketing of local wood products and tourism/visitor services.

Comment: The language regarding the annual payments to towns sounds just like PILOT (Payment In Lieu Of Taxes). This language should be revised.

T. Matuszko reiterated that the intent is to get a trust fund established with interest earned from the fund used to support annual payments to towns. Staff will work to revise the language to avoid association with the PILOT program which has been an unreliable source of funding for towns.

Question: Is the 10% minimum yearly funding flexible?

Response: Nothing is set in stone. This is a draft proposal to get the Advisory Committee's feedback. A more in depth examination of funding will be needed to determine the initial capitalization that will support a trust fund that would be self-sustaining. The governance board could be set up to allow for greater flexibility in determining funding priorities based on the 5 programmatic elements.

Question: Are these programmatic elements in conflict with U.S. Forest Service funding priorities?

Response: Staff has been keeping the U.S. Forest Service up to date with the activities of the Advisory Committee. No concerns have been raised so far.

Comment: I think that there are certain elements that need to be funded first. Certain activities, such as monitoring, are an obligation when CRs are established and will need to be funded regardless of priorities.

Question: Could town assessors be trained to monitor CRs?

Response: This could be explored, but this activity is typically carried out by land trust staff with experience in CR monitoring.

P. Sloan and D. Raimo stated that staff had met with the 3 branches of the Forest Service to discuss the project. The U.S. Forest Service was positive about progress that has been made. The U.S. Forest

Service Chief will be briefed soon as well. Staff is also working to brief state and Federal legislators so that they will be “in the loop” if the towns decide to pursue Federal funding.

Question: Would only 10% have to be spent on CRs?

Response: 10% is the minimum funding that has been proposed. However, the governance body would determine funding beyond the 10% level. This 10% level is not set in stone. More discussion will be needed to determine whether or not to include minimum yearly funding levels and what level each of the areas should be funded at.

T. Matuszko went through each of the 5 programmatic areas for the Mohawk Woodlands Partnership.

Question: Can a potential grant program that would cover expenses related to CR’s or term easements be added? This would cover things like surveys, natural resource inventories and appraisals.

Response: Staff will add this potential grant program.

Question: Can potential funding levels be added to these programmatic elements to help sell these ideas to the towns?

Response: That is the next step. These programmatic elements are being reviewed conceptually at this time and potential funding levels will be determined at a later date.

Question: Would the governing body have purview over other funding sources outside of the potential trust fund?

Response: More time and discussion will be needed to determine the type and structure of the potential governing body and its purview over funding sources.

Question: Do we have numbers on existing conserved lands? Some of the towns will say that they already have enough conserved lands.

Response: Yes, these numbers are included as an appendix in the report. Some Berkshire County towns will likely not be interested in additional conserved lands. However, many private property owners have expressed a wish to conserve their lands. A check and a balance has been added to this program to address concerns over potential loss of municipal revenue. Towns will be able to weigh in if the amount of conserved lands start to affect their incoming tax revenue.

Comment: I realize it is important to look closely at all aspects of a strategic plan, particularly a newly crafted one. I firmly believe there is no perfect plan. We need to come to some kind of consensus. Until the model is put forth and it is heard by the individuals who will administer and finance it, we will stand at the starting line, idling. When we have so many people with different philosophies, it is difficult to craft a perfect plan.

P. Sloan and T. Matuszko reiterated that the program is designed to be broad to meet many needs. Funding will cover a blend of different programs addressing natural resource based economic development and forestry. P. Sloan asked for comments via email as to whether all 5 programmatic elements should receive equal funding, or if some should be weighted. The next step is to run numbers and determine the amount of Federal and state funding that would be needed to pursue the goals of the project and to allow the program to be sustainable over the long term. The program could also be

designed to attract foundation grants or additional funds beyond any funding allocated through legislation.

Question: Will a yearly “management fee” need to be taken out of the funding to cover those costs of the program?

Response: Yes, potential staff and operating costs will be need to be addressed. The next step is to develop a budget.

Comment: Leave the funding priorities up the future governance. The minute we start putting funding numbers or priorities with the 5 programmatic elements, it will create conflict and argument. By leaving the funding allocations general and up the future governing body, it will allow for greater flexibility.

Comment: We should focus on making a “big splash” in the first few years of funding with targets to get a set number of CRs and establish the multi-use Center. After this, we can focus on other aspects of the program.

Comment: The economic development aspect of this project will be the biggest selling point to the towns.

Comment: Stable municipal payments to the towns from interest earned on from the capitalization of the trust fund is a very important aspect of this project.

Comment: What if the governing body decides to just make municipal payments every year to run down the tax rate? The Forest Service would likely not support this. Maybe during the first 5 years, 50% of funds should be targeted for land conservation, after that the governing body can make its own decisions.

Comment: There needs to be development of how this is a self-sustaining idea and program. Some of the alternative Forest Service designations and their funding models need to be revisited to determine the best structure for the Mohawk Trail Woodlands Partnership.

T. Matuszko reiterated that the establishment of the trust fund is the best model for this. How to get funding for this trust needs to be figured out. P. Sloan stated that the level of initial capitalization that would cover the program costs still needs to be determined. T. Matuszko called for volunteers that would like to be part of a working committee that help to develop a business plan. Staff is working to develop a new scope of work with the state to continue with the process of developing the plan. Over the summer, the business plan could be developed and ready to present to the towns in the fall. Regional meetings and community meetings would take place to determine whether or not towns would like to pursue legislation to create a Special Designation for the 20-town region. P. Sloan asked for 4-5 volunteers for the working committee to email her if they are interested. The working committee will also address funding levels as well as the potential governance structure and make a proposal to be discussed by the full committee next Fall.

6. Review and Vote on Final Drafts of Chapters 5-8

Staff did not have sufficient time to prepare all the final drafts. They will be reviewed at the next meeting in the Fall or voted on via email.

7. Review and Discussion of Draft Management Structure

D. Raimo explained the potential structures of the governing body including how they interact with the Federal government, and funding mechanisms based on past Federal special designation areas. D. Raimo asked for Advisory Committee members to send her any questions via email.

Question: If the Federal government gives funding for CRs, could some of this money be used to jump start the trust fund?

Response: This would depend on whether the authorizing legislation allowed it.

P. Sloan reiterated the draft schedule for the committee. The business plan and draft governance structure will be developed by the working committee over the summer. Advisory committee meetings will resume in Fall followed by regional and community meetings. Staff will send potential dates to the committee to schedule the September meeting. Staff announced that the towns of Charlemont and Heath in the Mohawk Trail Regional School District have received SAPHIRE grants for renewable heating to help them to convert to wood based heat. DOER is nearly ready to hire a consultant to study the amount of wood in the 20-town region that could be sustainably harvested for wood based heat and possibly to support a small scale pellet manufacturing plant. Staff also introduced the DOER Municipal Energy Technical Assistance Grant, which could be used for wood heat feasibility studies or energy audits. The MA Forest Alliance also recently received a grant from the U.S. Forest Service to establish a state wide wood energy action team. The MA Forest Alliance will hire a project coordinator to help with technical assistance regarding wood energy in the 20-town region. Single municipalities or groups of 3 municipalities may apply for assistance. Staff will e-mail additional information and grant applications to the group.

The meeting was adjourned at 7:53 p.m.

Next Meeting: Fall 2015