

## **Minutes: July 23 2018, Open Space Commission Meeting**

Attending: Becca Benner, Jean-Ann McGrane, Kay Hoiby, Kellie , Linda Geary, Laura Rose, Laura Wong-Pan.

### **Quotes of the Day:**

- “The remembrance of my country spoils my walk.” Henry David Thoreau
- “Your planet’s immune system is trying to get rid of you.” Kurt Vonnegut
- “Beneath All is the Land.” 1st Sentence in the Realtor Code of Ethics

## **Reports on Outreach to Environmental and Conservation Organizations:**

### **Report from Becca on programs that fund preservation projects. Discussion with the DEC.**

Becca listed a number of programs that are available through the DEC, including Title 9, the Climate Smart Community Grants, the Environmental Protection Fund, a Historic Preservation project, a Heritage Area development project and a separate, connected land acquisition project; a Water Quality Improvement program and Trees for Tribes. Her full report on each of these resources is attached to the end of these minutes.

Next Steps for Becca: Contact the Ag & Markets programs

### **Conversation between Jean and Fran Dunwell, Director, Hudson River Estuary Program.**

NYS Open Space funding goes through her program. The funding is tied to the NYSDEC Open Space Plan. <https://www.dec.ny.gov/lands/98720.htm>

In creating the Open State Plan, each DEC region has an Advisory Open Space Committee. The regional open Space Advisory Committee recommends priority projects to be included in the State Open Space Plan. These priority projects are then eligible for state funding.

Gardiner is located in Region 3.

See pp 92 – 114 in Gardiner's 2016 Open Space Plan for the entire list of Region 3 priority projects. Priority Projects in the 2016 NYS Open Space Plan that connect to Gardiner include:

1. HUDSON VALLEY/NEW YORK CITY FOODSHED {p 103} Priority farmland clusters include, but are not limited to, the following: • The Wallkill River Valley of Orange and Ulster counties, including productive farmland in the Towns of Crawford, Gardiner, Goshen, Minisink, Montgomery, New Paltz, Newburgh, Plattekill, Wallkill, Warwick, and Wawayanda. (See Orange County Open Space Plan, July 2004: [www.orangecountygov.com/filestorage/124/1362/1462/4586/4592/Chapter\\_IIIC\\_Agriculture.pdf](http://www.orangecountygov.com/filestorage/124/1362/1462/4586/4592/Chapter_IIIC_Agriculture.pdf)) p 98
2. SHAWANGUNK MOUNTAINS REGION (p 103 -114)
3. WALLKILL VALLEY – p 114

-Also See Appendix A of Gardiner's 2016 Open Space Plan ([https://www.dec.ny.gov/docs/lands\\_forests\\_pdf/osp16a.pdf](https://www.dec.ny.gov/docs/lands_forests_pdf/osp16a.pdf)) pp 39 – 91 for the complete Region 3 Open Space Committee Report.

Note the members of the Committee that are included on p 90 of this Appendix.  
This might be an opportunity for making great additional contacts for our Commission.

### **Linda Geary's conversation with Dennis Doyle, Director of the Ulster County Planning Department**

Farms are under tremendous pressure to sell out to developers. The UC Planning Board is involved in conserving farms. They are currently working with the federal Ag and Markets program on two PDRs in the Rondout Valley.

Dennis said he would like to see us solicit farms in Gardiner along Route 208. He said we should aim for the next two-year funding cycle. (Linda to print out the application.)

He talked about using a PDR to halt development, but not a conservation easement. He said easements create monitoring issues. This confused some in our group as we thought the two went hand in hand. We need more information to understand both of these preservation mechanisms.

The UC Planning Dept does a lot of development projects, including the scenic access trail currently being built connecting Highland to New Paltz. It is very involved in the Ashokan Rail Trail. They are making that into a bike path to connect to Kingston. Linda talked about their work on wildlife connectivity corridors. Dennis Doyle said he would be happy to come talk to us and was pleased that our Open Space Commission was revitalized.

### **Laura Rose update:**

#### **Conversation with Executive Director Christie DeBoer of the Wallkill Valley Land Trust**

WVLT has 11 conservation easements in Gardiner. These include:

#### **- *The Rail Trail (Public):***

- The Gardiner section of the Wallkill Valley Rail Trail is 43.2 acres.
- It is owned by the Town of Gardiner and maintained by both the Town and WVLT.

#### **-*Privately Owned Farms:***

- Phillies Bridge Farm: 65 acres.
- Rossetter Easement: 51.25 acres, aka Old Ford Farm.
- Kiernan Farm Easement: 140 acres.
- Mercaldi Farm Easement: 119 acres.
- Osbourne-North Easement: 69 acres.
- Abdels Easement: 64 acres. Seven Meadow Farm.

#### **-*Privately Owned Preserves:***

- Trapps Gateway Easement, 116.2 acres.
- Shiever Easement, .5 acres.

#### **-*Privately Owned Homes and Land:***

- Finn: 8.5 acres along the Shawangunk Kill.
- Greene: 1st parcel the trust conserved, 1989. 7 acres.
- Katz-Hollander: 65 acres.

**-New Easements:** They're working with the Smith family at this time. (Endangered turtle habitat.)

- What do they look for in their easements?
  - They are looking to conserve, rather than to own parcels. They place a deed restriction on the parcel, and then they monitor it for changes annually. Day to day upkeep is left to the landowner. The Rail Trail is something of an exception, as they're involved in mapping, signage and extending it.
  - Willing partners
  - Important habitats
  - Especially helpful if the parcel comes to them with funding
  - Contiguous parcels wherever possible
    - This is part of Gardiner's Open Space Plan too
  - There are two town owned parcels that Laura R. knows of that are contiguous to a WVLT preserved parcel
  - We can look to see which other town owned parcels may also touch existing easements or offer important habitats to preserve.
  - WVLT is happy to work with us moving forward or send someone in to speak with us; they're open to questions.
  - Every easement is very individual, each is drafted specific to the parcel being preserved.
- It took Gardiner years longer than New Paltz to buy back their portion of the Rail Trail from the land trust. It took that much time for the town to see the value in it.
- Some of the issues with easements include that a landowner can be fined or expected to clear up a violation of the easement terms on their parcel (ex. if a neighbor dumps trash there) and that land changes over time, so the original easement terms may not make as much sense 50 years later (wetlands can change their size and shape, so a pre- determined building envelope may not be as sensible 50 years later.)

**Town owned parcels** – these are town owned lands that aren't being used at this time. The town has discussed selling them and getting them back on the tax rolls.

- We could potentially help conserve some of these – opportunity for discussion

### **All conservation easements in the town –**

Kellie, Kay, and Linda have to go through the files; could all be in boxes – need to figure out how big a lift this is and figure out what needs to be done.

Conservation easements recorded by the Ulster County Clerk – could try to look for an existing list of Gardiner easements – check online – Linda to call the County Clerk

- Does the town of Gardiner own any conservation easements?

**History of open space commission** – Jean to set up a meeting with Michelle Mosher and get a start on researching this – Jean to follow up

- Jean met with Warren Weigand and will type up notes
- Sadell Cantor – was on the Open Space Commission. Jean will meet with her in August to review her experience on OSC as well as her files.

**Laura Wong-Pan – Zoning Laws**

### *Overview of Zoning Law*

- Zoning law was revised, and number of zoning districts expanded. There used to be only 3 Districts – Ridge (SP), Valley (RA), Hamlet Commercial/Hamlet Residential
  - But now there are additional Districts -for example, SP district is divided into SP-1, SP-2 and SP-3.
  - Steve's Lane is its own zoning district
- Several tables in the Zoning Code:(1) the Uses Table shows the uses allowed in each of the districts and (b) The dimensional tables shows where building can occur on a particular parcel, minimum parcel size, and maximum building size
  - Defines when need building permits and where to go for that – usually either the building inspector or the planning board if site plan approval is required.
  - Higher level of inspections would go to the planning board for site plan approval or special permits, or the town board for special permits
- 220-7 – defines different overlay districts – areas that are specifically protected drawn between the zoning districts – floodplain, rail trail – may have additional restrictions on them
  - Mainly to protect environmental benefits
  - Though there is one for soil mining
- etc
- Planning board approves most minor and major development projects
- Site plan approval process is where open space protection comes in
  - Site plan approval process requires certain submissions – major and minor sub divisions; distinguished by the number of new parcels and homes – cannot build more than one single or multifamily house on a single parcel, as well as accessory structures– if want a second house need to subdivide or can get a variance from Zoning Board of Appeals (ZBA)

### *Ways zoning protects open space*

- Zoning Law has several sections focused on conserving the natural resources and rural character of the town – trying to encourage development to protect scenic resources – as stated In Purpose Clause
- Section 220-19 – Encouraging Open Space Development
  - Residential development options
    - Open space development – town encourages this – alternative to conventional subdivisions – units are clustered or cited on areas most suitable for development leaving large swaths of open space. There is a formula for calculating the number of dwelling units allowed in this type of development.
    - Conventional development – e.g. have 4 acres per parcel certain number of set backs, max it out with acres per house/parcel, etc
  - Open space development – developers need to do a conservation analysis – could be costly.
    - Analysis requires a professional planner or engineer – map everything on the land that is listed in the zoning code with potential environmental value
      - Scenic viewsheds, aquifers, unfragmented forest land, buffers, stonewalls, DBH- etc
    - Planning board decides which areas have most conservation value and which should be protected by conservation easement
    - 50% of the total acreage has to be preserved in open space – from conservation analysis planning board decides what to keep as open space – for every 10% more that is conserved, the developer is permitted the right to build an additional dwelling unit.

- SP district – at least 80% must be conserved, to form unfragmented blocks of land
    - Shaft Road is an example of this; 208 project (east side of Kettleborough inn)
- 220-21 Open space set aside in an open space development should be permanently preserved
  - Planning board approves such configuration of the open space
- As stated in the zoning code, Perpetual preservation by conservation easement – may be used only for agriculture, forestry, recreation, etc – this shall be granted to the town or to a qualified non profit
- Shaft road subdivision – did the conservation analysis – went to the last section – decided to give it to the Wallkill Valley land trust – land trust wouldn't just take it -
- TDRs – landowners can also transfer development rights to the town
  - The section appears to say that density transfer can be transferred from RA to SP district to any land in the Hamlet. May need to review this in more depth.

#### *Guidance to town*

- Town could use guidance on how conservation easements are handled. For example:
- There is no baseline documentation requirement in the zoning code (picture of everything on the land when acquire the easement so can monitor it)
- We are not aware of any guidelines adopted by the Town for monitoring easements
- There may be a need for monitoring forms, and procedures for notifying landowners of violations.
- Inventory for easements already held by the Town is needed.
- What to do in case of violations? We are unaware of any Town protocol
- Develop guidance for town that includes a list of organizations the Planning Board can approach and information about- how much time they need to consider the request, what their priorities are, contact people of organizations, what information the organizations need to know, whether there are stewardship fund requirements, etc.

#### *Next Steps (others included in yellow highlights)*

- **List of working farms** (Jean) – could then cross reference with other lists that are not protected
  - Agricultural exemptions – farm with ag exemptions – County approves list of farms that get agricultural easements and exemptions
  - Gardiner open space plan – list of farms – Ulster County Farm Bureau – good collaboration group
- **Linda to give an update on what Ulster County planning board does (next meeting)**
- Expert Speakers?
  - Have someone come and lay out the landscape to figure out how to move forward (?)
- September: discussion ideas of what makes us excited and what we want to do?
- Next Meeting: August 13 6:30 – 8:00om
  - **Quotes: Laura W**
  - **Snacks: Kay**
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#### **Full text of funding resources reported by Becca:**

Title 9 provides funds for local governments and not-for-profit organizations to purchase park lands or historic resources as well to develop and preserve these resources. Within the Adirondack and Catskill Parks, the Department of Environmental Conservation

administers the Title 9 grant program through the Division of Lands and Forests, Bureau of Public Lands.

- Climate Smart Communities Grant - 1) reduction of future flood risks, 2) increasing or preserving natural resilience, 3) replacing or right-sizing flow barriers, 4) extreme heat preparation, 5) emergency preparedness (excluding radio communications), 6) reduction of vehicle miles traveled, 7) reduction of food waste, 8) enhanced landfill gas capture, 9) reduction of refrigerant leakage, or 10) Climate Smart Communities certification.

<https://apps.cio.ny.gov/apps/cfa/programQuestions.cfm?programId=402>

- EPF – Environmental Protection Fund: Parks, Preservation, and Heritage Grants - • A Park project for the development or improvement of park and/or recreational facilities to preserve, rehabilitate or restore lands, waters or structures for park, recreation or conservation purposes.

- A Historic Preservation project to improve, restore or rehabilitate property listed or currently proposed for listing on the State or National Register of Historic Places to protect the historic, cultural or architectural significance thereof.

- A Heritage Area project to develop a site or facility identified in the approved management plan for a state-designated Heritage Area.

- A project to acquire property necessary for a Park, Historic Preservation or Heritage Area project described above.

- A stand-alone planning project for planning or structural assessment necessary for a Park, Historic Preservation or Heritage Area project described above.

- Water Quality Improvement Program (WQIP) - Does the applicant have available as local match: -at least at least 25% of the requested grant amount for nonpoint source abatement and control, land acquisition projects for source water protection, aquatic habitat restoration, municipal separate storm sewer system (MS4), or high priority wastewater treatment projects, or -at least 60% of the requested grant amount for general wastewater infrastructure improvement projects, or -at least 50% of the requested grant amount for salt storage projects?

- Trees for Tribs <https://www.dec.ny.gov/animals/77710.html> - Trees for Tribs provides landowners, municipalities, and conservation organizations with low-cost or no-cost native plants and free technical assistance. Native bareroot trees and shrubs are provided by the Saratoga State Tree Nursery, which has specialized in reforesting New York State since 1911. Trees for Tribs focuses on comprehensive watershed restoration designed to protect "green infrastructure," and serves as the first line of defense against storm and flooding events, protecting property, water quality, and fish and wildlife habitat. In addition to planting trees, the program also promotes best management practices for communities and encourages new programs, policies and investments in tributary protection. Hudson Estuary has a program