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### MLTC STEERING COMMITTEE (SC) MEETING

MINUTES / Friday, November 18, 2016 / 10:00 AM - 1:00 PM

Assabet River National Wildlife Refuge Visitor Center / 680 Hudson Road, Sudbury, MA

**Attendees:** Attendance on record at MLTC office.

**Hand-outs:** Sept. 16th meeting minutes as posted ([www.massland.org](http://www.massland.org)); Agenda; TNC Policy Update

**10:09 A.M.** Lisa Vernegaard (Lisa V.), MLTC SC Vice Chair and Executive Director of Sudbury Valley Trustees (SVT), called the meeting to order, led introductions around the room and acknowledged the general concerns about the upcoming Federal leadership change and how it might impact all aspects of conservation.

**Steering Committee Minutes of Sept. 16th meeting:** Lisa V. called for discussion and hearing none, Rich Hubbard moved and Amy Janovsky seconded to approve the minutes. **VOTE:** Unanimous.

#### 1. Partnerships & Relationship Building Discussion – Lisa V.

- a. Colin Novik described joint stewardship projects between Greater Worcester Land Trust (GWLT) and surrounding land trusts (LT) and noted benefits of collaborative sharing of goals and experiences. GWLT provides technical advice on conservation stewardship, and, noted that often agencies have funding. Encouraged maximizing the benefit of getting everyone engaged in trail work and walks.
- b. Amy Janovsky shared two collaborative efforts of the Andover Village Improvement Society LT:
  - i. Described the AVIS and Shawsheen River Watershed Association collaboration to improve greenway connections between AVIS LT lands and those of the watershed. Goal is to improve trail networks and increase options for funding. Described some specific trail projects that require collaboration.
  - ii. Described AVIS's work managing a property that was deeded to The Boston Foundation and how its programs expand involvement in the community and increases AVIS's visibility. The group observed that this appears to be a very unique arrangement.
- c. In response to Lisa V.'s request to describe programs that engage and broaden the conservation Community, Bob O'Connor described the Commonwealth's Greening the Gateway Cities Tree Planting Program which partners with Gateway cities and effectively engages students, neighbors and community members, and, local academic institutions through dialogue about trees, tree planting and stewardship. 6.5 million trees have been planted or adopted in MA. He noted if everyone adopted one tree, it would provide the equivalent of 100K acres of land conservation services. Bob O'Connor also referenced the Kennebunkport LT's program to engage students on the land.
- d. Justine Kent-Uritam, The Upper Charles Conservation LT (UCCLT) representing eight towns, described their work:
  - i. To engage local LTs in developing rail trails and the inherent challenges of cross-town collaborations to obtain funding through CPA and other town-based sources.
  - ii. To educate about drought and heighten awareness around water resource shortages.
  - iii. Working with their local town's water boards and relevant commissions to develop water study committees to study water resources. Noted that there is no State law around private wells and water use.
- e. Lisa V. described SVT's work in S. Framingham on "greening" the community by listening to the community describe needs and asking for their ideas. Ray Lyons described rail trail work in Lowell as relayed by Jane Calvin, the Executive Director of Lowell Parks and Conservation Trust, at the Nov. 16th Wildlands and Woodlands Regional Conservation Partnership (RCP) meeting, specifically, what they are doing to create a future rail trail under the Lowell connector and protect noted graffiti artworks. He also described a Groton property with art (bells) installation in the woods on the property.
- f. Ray Lyons described a program at Lookout Mt in TN (LTA Rally) to engage youth in farming which increased graduation rates, reduced discrimination and increased collaboration in the community.

- g. Ray Lyons also asked about how to engage veterans and those with physical mobility challenges for all access. Ed Becker noted that MA Audubon's program that was featured on WBUR recently for all access trails. Lisa V. emphasized that we can take a "crawl, walk, run" approach to improving accessibility on trails, because a fully accessible trail can be cost prohibitive. Peter Jensen is the consultant who's been working with MA Audubon on these projects. Amy Janovsky described a process for developing accessible trails with All Volunteer Land Trusts by working with local towns on funding and using volunteer labor and town employees to create accessible trails.
- h. Rob Warren, The Trustees of Reservations (TTOR) described Youth Corp work teaming urban and suburban groups to do summer stewardship projects.
- i. Rita Grossman described idea shared at the RCP meeting on creating a "virtual hike" through images and films of local trails and sharing with the elderly at community-based settings.
- j. Lisa V. described SVT outreach to more diverse communities including cross-lingual advertising for SVT events to participants whom would not normally be reached with usual approach.
- k. Bob O'Connor described the joint effort between Mt. Grace LT and Franklin LT with Commonwealth for tree planting in western MA Gateway Cities and emphasized the local, community led component of the program. Sometimes engage Garden Clubs, however, usually need to branch out to other local groups more representative of community.
- l. Dave Outman described Harvard CTs trail run. Others including Lincoln LT have trail run fundraisers with participants from urban/suburban communities; raises money for the LT. Engages the local schools in publicity for these events.
- m. Please send ideas to ML Gentry which will be posted on MLTC's website for LT resources.

## **2. Article 97 Land Use Issues.**

- a. ML Gentry updated the inappropriate use proposal on APR land in Westford noting that the Board of Selectmen (BoS) has pulled the Westford Town Meeting warrant article and intends to obtain a second opinion. ML Gentry further noted that MLTC's letter to the Westford BoS (on MLTC's website) probably made a difference and Buzz Constable said the letter probably had an impact in favorably slowing down the process to sort through the legal APR issues.
- b. Dave Outman asked how the MLTC could be of more assistance in advising the Town of Westford, and other communities facing similar issues, on how to revitalize these types of properties, some with possible 21E issues, within the legal context of the APR. He advocated for MLTC to "add value" by offering solutions and provide additional services in addition to legal advocacy for APRs/CRs.
- c. Colin Novik noted that early engagement is the best with communities when Article 97 challenges emerge. MLTC should build a learning curve with each experience and he cited the Wellesley North 40 project noting the work of the Wellesley LT to confront the development plans for this land. He also noted great need for providing alternatives to development in "sprawl" zones where there's constant pressure for development and athletic fields. In the Wellesley case, the Town needed to recoup their investment. In depth discussion followed on the complexities of this project and challenges represented by it and the need for proactive work on value of conserving land.
- d. Another Article 97 issue emerged on land affecting Martha's Vineyard Water Supply Protection Land as a solar developer approached the Town of Oak Bluffs with request to build solar farm on land taken by the town and dedicated to water supply protection. MLTC wrote a letter outlining the Article 97 process that the Water Commissioners would need to follow if they approved the request. Steve Long noted that the Oak Bluff's Water Commission voted not to permit the solar development.
- e. Don MacIver noted a possible Article 97 issue in Littleton and Acton concerning the Town of Concord's water supply proposals for Nagog Pond. ML Gentry said the Board has already discussed this and will follow up with Don MacIver.
- f. Bob O'Connor noted that the state sees about fifty bills per every two year cycle concerning Article 97 land changes and the EEA has been successful in getting mitigation for no net loss. He noted that the Article 97 bills passed are about 2/3's involving Towns conservation or park land and 1/3 EEA agencies. About 300 bills get passed out of over the **5000** bills filed. He also noted that Article 97 issues are the second most prevalent topic in bills. Bob O'Connor follows these bills and can share his data with MLTC.

3. **IRS Disallowing Deductions for CRs with Amendment Clauses.**

- a. Mark Robinson, Compact for Cape Cod Conservation Trusts, described the status of the IRS ruling that will not allow tax deductions for CRs with amendment clauses. Mark R. was most concerned about the impact on CRs as a conservation tool if the tax advantage is compromised. The IRS sees these CR amendment clauses as affecting perpetuity and therefore their proposed ruling. Issue causing significant problems for LTs and land owners where CR tax benefits are realized. LTA's perspective is to fight to keep the clauses in but Mark R. pointed out that Massachusetts is different because we have a review process at the state level to keep these abuses from happening. He is very concerned about threatening the integrity of a CR with amendment clauses and thinks Massachusetts's CR should leave out the amendment clause. He noted an IRS publication referring to CRs with amendments as "abusive" of the tax deduction.
- b. Mark R. proposed that MLTC should consult with MLTC's attorney panel (MEDS) on CRs and take a position on the issue. Ray Lyons referenced the Belk golf course case in North Carolina that caused the IRS ruling. Ray Lyons reiterated that amendments are not required by statute, and, that CRs can be amended by statute. MA is different that some of the other states on this issue, and, Ray Lyons believes that CRs are better without amendment clauses.
- c. Rita Grossman moved and Whit Beals seconded to send this topic to the MEDS group for a recommendation that can be shared with membership and the community at large. Buzz Constable clarified that this only affects tax deduction/benefit CRs, and, perhaps there is consensus at this meeting to not include amendment clauses in tax benefit CRs and it probably does not need to go to MEDS. Lisa Vernegaard suggested the motion be amended to ask MEDS for their statement on this issue within the next two weeks with a suggestion as to how to circulate.
- d. Kevin Case indicated that this summarizes the LTA's position on this and the IRS's will be making a ruling on this.
- e. Whit Beals asked about the Commonwealth's Conservation Land Tax Credit (CLTC) and how the IRS ruling could affect it.
- f. Bob O'Connor will consult the legal team at DCS on how to address in the model CR and noted that current model included MEDS recommendations. DCS may insert a link on the master CR linking to MEDS and MLTC's advisory. Ray Lyons clarified that current legal process requires four "yes" votes to amend a CR: the BoS, the landowner, the DCS and the CR holder. Bob O'Connor clarified that the State law is linked to Federal law and IRS ruling would affect. **Amended motion:** MEDS will draft a statement on this issue speaking to efficacy of amendment language and how LTs should proceed with CRs that involve charitable deductions within the next two weeks. Rita Grossman and Whit Beals accepted the amended motion. In further discussion, Rob Warren asked if EEA will be reviewing CRs with this insight and Ray Lyons emphasized that the State has a statute that provides a government process to address. Lisa V. called for the vote after hearing no further comments. **VOTE:** Unanimous

4. **APR Program Changes Update – Report on Listening Sessions Changes outlined at:**

<http://www.mass.gov/eea/docs/agr/legal/reggs/proposed/330-cmr-22-00-redline.pdfv>.

- a. ML Gentry summarized that listening sessions on the amendments to the APR program were held. Rich Hubbard noted that the amendments address the federally driven issues on size of parcels; eligible entities to both *use* APR and to *hold* APRs. Feds are saying LTs are not eligible holders. Rich Hubbard said language in the original regulations clarified uses that the Feds are pulling out of the regulations and are putting into policies instead. Also, the State is getting APR applications that are not Federally eligible because of a revised ranking system.
- b. ML Gentry noted there will be one more listening session at the Farm Bureau meeting on Dec. 1 and 2 (see online agenda). Rich Hubbard said LTs working on APR projects are getting mixed messages on eligibility, and, for them to please let MLTC know if this is affecting their work. Bob O'Connor said there's a backlog of APRs and new Federal Farm Bill has not passed. Rich Hubbard also noted that State and Federal funding has decreased and there are challenges on how to manage the backlog and logistics of how funds are being used.

**5. EOEAA Update – Bob O’Connor, EEA Land and Forest Policy Director Update on funding and programs.**

- a. Martha Reicher is on maternity leave and will not return until February, however, he believes EEA is up-to-date on CRs.
- b. EEA is very hopeful that LAND grant awards will be announced before Thanksgiving. Applicants not awarded a LAND grant, may be able to re-apply for the Drinking Water grants because some applications may be eligible. Those applications are due Dec. 6th.
- c. Melissa Cryan is working on a land and water protection grant program with a mid-winter deadline. This grant will have a lower reimbursement rate which may be an option for LAND grant applicants not awarded. Last year all LAND applications were funded, however, due to the large number of applicants, it was not possible this year.
- d. In answer to Lisa V.’s question about impact of the change in Federal administration, there could be positive impact on land and park funding, especially if "infrastructure" is redefined to not include "green infrastructure" like parks and trees. Secretary Beaton is very supportive of forestry, handicapped access to parks, connecting conservation land across landscapes, protecting our most important habitats and stewardship of conserved land.
- e. The Forest Forum (12th year), a bi-yearly meeting for all forestry stakeholders including landowners, the environmental community and the forestry industry meets to find common ground amongst the leadership of these stakeholders. Next meeting will be on Nov. 30th at 3pm at UMass's new frost laminated timber building which Bob O’Connor described in detail. Made a plea for more LT participation especially from the regional LTs.
- f. Bob noted that a meeting was occurring at the same time as this steering committee meeting re: solar siting issues.

**6. LTA Update – Kevin Case, Northeast Director, Land Trust Alliance Program updates, Standards & Practices (S & P) revisions.**

Kevin Case commented on all the issues as follows:

- a. CR amendments and IRS discussion. LTA will pursue a legislative solution to the issue. Tax issues came up at Rally (e.g., syndication, LLC tax shelters). IRS is putting out a Notice on these transactions. LTA is following closely to assure that the "good" transactions are not swept up with the illegal ones.
- b. Lookout Mountain story that happened at Rally is on LTA's website. Encouraged all to watch.
- c. S & P revision update.
  - i. 1500 comments from 450 responders received and being processed and noted Jane Calvin is on revision team.
  - ii. New revision (#4) out for comment now. See LTA's website for update on each S & P with summary statements on each. Comment period open until Dec. 16th. Noted a tremendous interest on Community Engagement piece. PLEASE REVIEW ON LTA WEBSITE.
  - iii. Timeline: final revisions in January; board approval in February and new S & Ps in March. LTs will need to adopt June 2017. Sylvia Bates will be doing a workshop on new S & Ps at the MLCC in March.
  - iv. Ed Becker commented on the tight timeline. Buzz Constable noted that MLTC did provide feedback on the S & Ps by aggregating membership comments on the S & Ps. He asked that everyone review current version and that MLTC coordinate input. Expressed concern that Standard #4 may stifle creativity.
- d. May 1<sup>st</sup> – 3<sup>rd</sup> are LTA advocacy days in Washington DC.
- e. There were 12 ballot measures that approved. \$1.5 billion Federal funds secured for conservation.

**7. Legislative Update – Steve Long, The Nature Conservancy (TNC)**

- a. Steve Long provided Federal and State Policy updates. Summary is attached to minutes.
- b. He referenced Robert Fisher's book on 'Getting to Yes" in the context of new Federal administration and on positive messages for building communities.
- c. A group of 80 have signed on to ask that New England be considered with same weight as the Western U.S. for Federal conservation funding.



- d. Executive Order (EO) on Climate Change: The Commonwealth has to take an economy-wide approach to climate change and greenhouse reduction. New regulations have a challenging, ambitious deadline for 2020. Steve is encouraged by the nature-based solutions for resiliency in the EO and it recognizes climate change as a public health and safety issue. Commonwealth will be developing frameworks for community-based vulnerability assessments. Next step will be an adaptation action plan with an integrated approach with agencies. The EO only directs activities in state government and municipalities. TNC will push for including private sector. Loring asked about when the action plan will be released: within two years. Dave O asked about legislative action to incentivize urban agriculture by lowering cap on minimum acreage for Chapter 61.
- e. Rita asked about impact on CPA with new communities including Boston. Buzz indicated that folks are working on this now that Boston passed and the match will significantly be impacted by number of new adoptees.

**8. MLTC Reports Marylynn Gentry (ML Gentry)**

- a. Current financial report – John Page, MLTC Treasurer, recognized ML Gentry's excellent work and deferred to her report.
- b. Executive Director's report.
- c. ML Gentry thanked all members for their dues; MLTC is financially stable
- d. Mass Land Conservation Conference (MLCC) will be on March 25, 2017 with E.O. Wilson as keynote speaker. Quality workshop proposals are coming in. ML Gentry thanked all of the MLCC sponsors.
- e. Rally was well attended with 37 attendees from MA at the dinner.
- f. MLTC is currently working on two advocacy issues: to raise the cap on the CLTC and there is a group forming to work on Payment in Lieu of Taxes (PILOT) issues. All non-profit organization groups will be represented. The general consensus is that PILOT bills will be reintroduced in this year's legislative session. Conservation non-profit organizations need to reference their work and public benefit. Whit Beals noted that despite the Supreme Judicial Court (SJC) ruling that conservation NGOs are tax exempt, there are two towns refusing to recognize NEFF's tax exempt status and are choosing to ignore the SJC ruling. The Department of Revenue needs to advise assessors. Loring Schwarz asked for this to be an agenda item at the next SC meeting and that it is addressed at MLCC. Steve Long will forward material to ML Gentry to prepare for this agenda item. Further discussion on how to be visible and demonstrate the community LT public benefit.
- g. MLTC hosted a series of workshops thanks to the LTA grant. There will be a final one included in the SE Massachusetts Land Trust Convocation to be held on February 4th.
- h. MLTC Strategic Plan to be finalized today and the annual appeal has been mailed.

**9. Lisa V. asked participants to provide some real-time feedback on the meeting: what was good, and what changes could be made for future meetings?**

- a. Substantive issues were discussed and the participation of MASS Lift attendees and EEA staff recognized as very valuable.
- b. LTs reporting improvements and successes with their work and advocated for the issues facing the AVLTs should be addressed at the MLTC annual meeting. AVLTs should submit their concerns to ML Gentry.
- c. How to share productive ideas especially in current climate.
- d. MassLift staff member Ben Carver encouraged MassLift applicants, and, noted that this program has always had bipartisan support.
- e. Request for a State Agency – Land Trust retreat. ML Gentry said one is being discussed and that there was not one this year because of location issues.

1:05 PM Rita Grossman moved and Buzz Constable seconded to adjourn. Lisa V. adjourned the meeting.

Respectfully submitted,

Rita Gibes Grossman, clerk