

Warrant Article 2019-15 - TALKING POINTS

Good [Morning/Afternoon] Mr. Moderator

My name is Paul Wainwright, and I live on Maple Avenue

For the past 21 years I have served as a member of the Town of Atkinson's Conservation Commission, and I currently serve as the Commission's chair.

I make a motion to amend this warrant article by replacing the current wording in its entirety with the following:

**Shall the Town vote to reduce the Land Use Change Tax (LUCT) percentage under RSA 79-A:25 that is deposited into the Conservation Fund from 100% to 99%, the remaining 1% to go into the General Fund?**

[somebody needs to second this motion to amend]

Mr. Moderator, I would like to speak to my **motion to amend**.

This warrant article was proposed during the month of December when I was away, so it was not written with the help of the Conservation Commission, or even our knowledge. I will personally accept the blame for that, since I was not here to participate in the process. So I appreciate the opportunity to address this issue here today.

The original intent of this warrant article was about changing the percentage of the LUCT going into the Conservation Fund and General Fund, and, although I am not in favor of making a change, I have worded my motion to remain consistent with that intent.

With all of the development currently taking place in this town, I feel that this is the wrong time to even think about decreasing funding for land conservation to protect environmentally significant places in town for future generations of Atkinson residents.

In 1998, the town voted to deposit 100% of the Land Use Change Tax in the Conservation Fund. [TM 1998-30 - passed] This policy was most recently re-affirmed in 2011. [TM 2011-14 - passed] Furthermore, the Town of Atkinson's 2015 Master Plan recommends that 100% of the Land Use Change Tax continue to be allocated to the Conservation Fund [Section 6, page FLU-1- "Future Land Use"]. Furthermore, all of our immediate NH neighboring towns – and many more – apply 100% of their LUCT to their Conservation Funds.

However, there is a much bigger question here that needs to be addressed...

And that question is...

**Do the people of Atkinson want an on-going, sustainable program to identify – and act on – opportunities to conserve additional land for current and future generations of Atkinson residents, with the goal of permanently protecting environmentally significant features of this town, such as**

- **endangered species habitat,**
- **nature trails, and**
- **watershed protection?**

...Because this is what your Conservation Commission is trying to do.

Having just finished my first year as Chair of the Commission, I realize we have a need for greater community involvement in this process. We need to develop a comprehensive plan for the future of land conservation in this town, and we can't do it by ourselves..., nor should we.

In the very near future, I will be asking the Commission to form a Working Group of both members and others, to set goals and recommend specific actions for land conservation. I invite the citizens of Atkinson to be involved in this effort, and to contact us at [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov) , or call my home phone number: 362-6589.

I do have additional information on this subject, but in the interest of time and as a courtesy to others who may wish to speak, I yield the microphone, but I will gladly return if there are questions about things, such as

- What the Land Use Change Tax and Conservation Fund are,
- The revenues from this tax and the balance in the Fund,
- What "conservation" land is, and the number of acres involved in town, or
- The process we must follow to spend Conservation Fund money.

Thank you.

Question: What are the Land Use Change Tax and the Conservation Fund?

**LUCT and Conservation Fund discussion:**

There are many new residents in town, and maybe some old ones as well, who might not have a clear understanding of the LUCT and Conservation Fund.

So, here's a 2-minute "Readers' Digest" explanation:

- In 1974, the town voted at Town Meeting to establish the Conservation Commission, as described in RSA 36-A. That's the state law that describes the purpose and responsibilities of a Conservation Commission. [TM 1974-23, available for public inspection in the Town Clerk's office.] This warrant article also established the Conservation Fund, and stated that the purpose of this fund was "to acquire and protect natural resource areas" in the town. This warrant article passed.
- In 2003, the purpose of the Conservation Fund was further clarified at Town Meeting to include both purchasing land for the town, and purchasing conservation easements on privately-owned land. [TM 2003-28, and can be found in the 2002 Annual Report.] This article also passed.
- As described in RSA-79A, the Land Use Change Tax is a byproduct of a property assessment law called Current Use, which enables owners of larger parcels of land to have their land assessed as it is currently being used rather than as potentially developable land. This is good for land owners because it enables them to retain their land without being taxed into selling it, and it is good for the town because it results in preserving open space.
- As described in RSA-79-A, if a piece of land in Current Use is sold for development, there is a Land Use Change Tax that is assessed and paid by the new owner – usually a developer. The assessment is 10% of its new value as buildable property.
- The logic behind the previous votes and recommendations to place 100% of the Land Use Change Tax into the Conservation Fund was... that land conservation efforts would then be funded in proportion to the amount of land being developed in town.

Question: How much revenue is generated by the Land Use Change Tax, and what is the current balance in the Conservation Fund?

### **LUCT revenues and Conservation Fund balance**

So, how much money are we talking about?

- The Land Use Change Tax is a very variable source of funding. Many years it is zero. Some years it can be significant, such as last year when the Page Farm land was taken out of Current Use. According to Debbie DeSimone, our Tax Collector, over the past 11 years, the average revenue from the Land Use Change Tax has been just under \$22,500.
- The current balance of the Conservation Fund is \$510,479.36.
- That sounds like a lot of money, and it is..., except when you're trying to buy land in Atkinson. In Atkinson today, that amount of money will buy you a couple of house lots.
- Since taking over as Chair of the Conservation Commission, I have been committed to seeking out other sources of funding – grant funding – so that we can leverage our Conservation Fund. Grants usually require “matching funds,” and I propose we use our Conservation Fund in that way.
- But we need help [with grants]. **If there is anyone in town with experience writing grant applications, please get in touch with us.**
- Our email address is [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov). And my home phone number is 362-6589. We can't do this all by ourselves.

Question: What do you mean by “conservation” land, and how many acres are we talking about?

### **Discussion about “conservation” land**

- Most definitions of “conservation” land that I am familiar with include the following three things:
  1. Land that is set aside for a specific environmental purpose, such as endangered species habitat, adding upland buffer space to protect a wetland, or watershed protection for recharging groundwater,
  2. Land that is either owned by the town and administered by the Conservation Commission, or that is protected by a conservation easement deed that is owned by a conservation organization such as the Southeast Land Trust, and
  3. Is open to the town’s residents and others, for passive recreation or educational purposes.
- Atkinson’s Town Forest land certainly falls into this category, and these total 514 acres, or about 7% of the town’s land. There is a table and map of these lands on the CC website. Click the link “Land Conservation Resource Documents.”
- Another important land category is the Dedicated Open Space, which is required by zoning as part of Cluster developments. While much of this land would not meet the definition of “conservation” land, it is, nonetheless, important to preserving the rural character of the town, as called for in the 2015 Master Plan. These lands total 690 acres, and a table of these properties is on the CC website. [soon to be a map also]
- A third category that should be considered is Current Use lands, which currently total 867 acres. A table [and soon to be a map] of these is also on the web site.

Question: What is the legal process the Conservation Commission is required to follow when spending money from the Conservation fund?

### **The process for spending Conservation Fund money**

- According to RSA 36-A, the Conservation Commission is empowered to negotiate purchase and sale agreements, contingent upon two things:
  1. Holding a public hearing, and
  2. Getting Selectmen approval
- I think we need to do better than this. We need to find a way to have a community dialog to set goals and objectives for future land conservation in Atkinson, while at the same time respecting the privacy of land owners who do not yet want the future of their land publically discussed. In addition to inviting participation at monthly Conservation Commission meetings, ideas for community involvement include:
  1. Inviting others to participate in the Land Conservation Working Group I referred to earlier,
  2. Holding community forums, perhaps quarterly, and televised live on ACTV, specifically to discuss and receive public input to the land conservation process.
  3. Having informal “office hours” with me and/or 1 or 2 other Commission members, perhaps bi-weekly, perhaps Saturday mornings perhaps at the library, to meet with interested residents and discuss land conservation or other conservation-related topics.

The conservation Commission has a reputation for being a secret organization with a slush fund that it can spend in any way they want – a reputation that, IMHO, is not totally undeserved. We need more community involvement, and I am committed to doing that.

Question: Is it possible for land owners to make donations to the Conservation Fund?

### Gifts and Bequests

- The Conservation Commission is always delighted to receive donations or bequests, either money for the Conservation Fund, or gifts of land, or gifts of conservation easements to land.
- For monetary gifts to the Conservation Fund itself, if these are for a specific purpose, such as building a Kiosk at a particular trail entrance, the Conservation Commission has fiduciary responsibility to see that those funds are spent in that way. [*see note, below*]
- This past year, George and Lyn Kutzelman, long-time residents of this town, made an extremely generous gift of a conservation easement on about 10 acres of land that had been in their family for many years. The land fronts on Maple Avenue (between #51 and #55), and includes a good portion of the backland between Maple Avenue and Main Street (Route 121). This is a wooded lot that provides excellent wildlife habitat and watershed protection, and it will help preserve the “tree tunnel” along Main Street.
- As with all gifts to the town, these need to be approved by the Selectmen.
- So if you are philanthropically minded and would like more information, including possible tax advantages, please be in touch. As with all donations, in addition to making yourself feel good there are both income and estate tax advantages. 362-6589 or [conservation@atkinson-nh.gov](mailto:conservation@atkinson-nh.gov).

**Note** – This fiduciary responsibility of a Conservation Commission was the subject of a lecture at last fall’s NH Association of Conservation Commissions by Attorney Stephen C. Buckley, Legal Services Counsel to the New Hampshire Municipal Association.