

Peterborough Agricultural Commission

Report on Mr Fries proposal on grazing Cheney Field June 4, 2018

Site review done by Agricultural Commission on June 4, 2018 with additional input from Glen and Jake from Overlook Farm

As has been said the field does have an agricultural use in the easement, which we encourage. We do however want things done well to allow for further encouragement of agriculture in Peterborough.

Findings on the field do suggest that there is potential for agriculture uses. Intensive management grazing would improve this field if done properly.

CONCERNS

With the plans put forth by Mr. Fry for amending the field and even watering the animals an access road would be needed. A truck delivering bio char enough for that field can weigh up to 20-30 tons and can be messy. Also the loading and unloading of animals requires a truck and trailer. Is there a plan to put in an access road? Watering the animals would, depending on the tub size, be a twice a day event. A gator with big sap tanks is not going to work. Water tubs create a lot of traffic and should be monitored and moved frequently.

We do not recommend key-lining this field. Most of it is too wet and we feel that grazing the field alone could have the same or better results.

As Mr. Fry said water issues are much more extensive than obvious. For this reason we would have concerns about even grazing the west side of the trail and would recommend grazing only the east side of the trail. The field on the west side is wet, marshy and has sinkholes plus what is growing is not palatable....and would just turn to mud.

We would recommend an electric charger over a solar but feel the solar could work as long as it is in accordance with NRCS and USDA standards with a battery back up.

We would not recommend the fence line be in the tree line. It somewhat defeats the purpose of the benefits of the cows grazing and depositing manure where it is needed-in the field- the cows would graze go for a siesta in the shade and leave manure in one spot, degradation in the area would be greater.

The apple trees in the field would be killed by the cows eventually. If this is a concern they would need to be fenced out.

Intensive grazing requires a huge commitment to moving the cows through paddocks quickly and making sure the paddock matches the herd size. The best practices call for the animals to be moved every 24 hours. The maximum time on any given paddock would be three days. Due to these concerns we would definitely recommend a person have a vast amount of experience with livestock grazing.

Suggestions

We would highly recommend a soil test be done including a carbon test now that could be repeated in a year to show the improvements made.

The grazing of these fields with a lighter animal such as sheep would also improve these fields, possibly not as quick but with less impact of larger livestock.

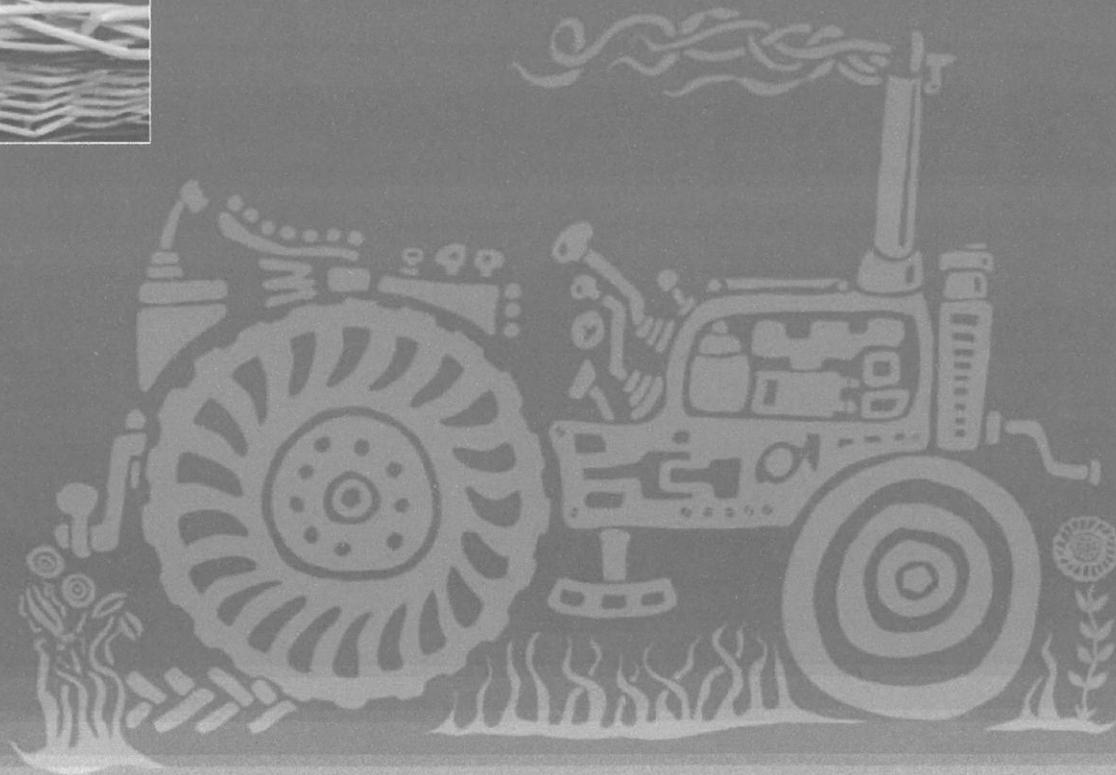
A trial year lease could be given. Temporary fencing that could be removed. Temporary fencing does have the potential for more escapes but not if done correctly.

We would also suggest monitoring by qualified people to ensure a successful outcome.



Leasing Land to Farmers:

A Handbook for New England
Land Trusts, Municipalities
and Institutions



APPENDIX 2

Leasing Land to Farmers!

A Checklist for Land Trusts, Institutions and Municipalities

From the time your institution or municipality first considers leasing land for agricultural use to the time you sign a lease with a farmer, there are many important details to consider. These details are compiled in a convenient list format here, to help you keep track of each step on your way to a successful contract.

ASSESSING YOUR LAND

Identify the parcel(s) available and suitable for agriculture. Be creative! Land for farming can have diverse characteristics. Maybe a property is well suited for bee hives. Maybe it is a forest that would provide the perfect location for a mushroom grower to place cultivation logs. The following points will help you identify the land's valuable agricultural features:

A. What is the suitability of the property you are considering leasing?

- Soils (prime farmland with no or few constraints, or soils with significant constraints such as wetlands, drainage problems, stoniness, ledge)
- Topography (level, moderate or steep slopes)
- Land orientation and micro-climates, such as frost pockets
- Current management (open fields mowed, recently tilled, hay, pasture, orchard, tree farm, forested)
- Invasive species or other aggressive vegetation that creates management issues
- Water source (existing supply, spring or creek that could be developed)
- Existing fences and stone walls
- Existing buildings and their condition (barn, house, storage facility)
- Access for the farmer (good road, driveway, unimpeded, or with constraints)
- Neighbors (farmers or suburban residents, how many, how supportive of agriculture)
- History of public access or use for recreation
- Non-agricultural resources (wildlife habitat, wetlands, vernal pools, drinking water supplies) and their compatibility with agriculture
- Other land uses such as hiking, biking, skiing, hunting or swimming

B. Are there legal constraints to leasing your property for agriculture?

- Conservation easement that restricts some uses and activities
- If the property was donated, does the donor's intent restrict some uses and activities?
- Deed restrictions on uses and activities
- Restrictions created by the funding used to acquire the property, such as a bond's purpose, grant provisions or federal funding purposes
- Zoning limitations and restrictions
- Municipal leasing process and requirements (for municipalities)

C. Who needs to be involved in the decision to lease your land?

- Land trust or institution executive director/town manager
- Board of directors or town or city council
- Legal counsel for your organization
- Committees, commissions or boards, such as a land trust's property or stewardship committee; or the municipal conservation, agricultural, parks, or open space commission or committee

ASSESSING YOUR ORGANIZATION

A. What are your organization's interests, purpose and goals for leasing your land for farming?

- Advancing your organization's mission
 - Sustaining agriculture and working farms in your community
 - Addressing stewardship for your property
 - Promoting and increasing sustainability in your community
 - Protecting the environment including water quality, natural habitat, etc.
 - Providing outdoor recreation opportunities and encouraging agritourism
 - Providing educational opportunities
 - Engaging the community or your members
 - Protecting and improving the scenic character of your community or specific vistas
 - Protecting an historic or culturally important landscape
 - Supporting developing your community's agricultural economy
 - Maintaining or increasing local food production
 - Encouraging, assisting or supporting beginning farmers
 - Helping an existing farmer expand his or her operation
 - Partnering with a well-established farmer with a good reputation
 - Maintaining or improving your organization's relationship with your community's farmers
 - Maintaining or enhancing the quality of life in your community
 - Growing food for food bank or schools
 - Other
-
- Other
-

B. What level of agricultural activity do you want on your property?

Agriculture is a diverse industry and various crops require land with different characteristics. Intensity of agricultural management or cultivation varies from minimal to significant and has correspondingly diverse impacts on land and the visual landscape. For example, mature forest may provide the shade needed for a mushroom farmer who locates cultivation logs; fields of wildflowers provide locations for honeybee farmers to sit their hives; long-term and perennial crops such as nut trees and highbush blueberries may require minimal cultivation once they are planted; fields may



be used for pasture or hay; vegetables and row crops require annual tilling and continuous cultivation until harvest; and farmers can extend their growing season with high tunnels or hoop houses that permit cultivation earlier and later in the year than would be possible in an unprotected field.

- Decide what level of cultivation and intensity of agricultural management and activity your organization wants on its property.
- Are you willing to permit a farmer to raise animals on the property? If so, what types (e.g. chickens, turkeys, sheep, cattle, pigs, etc.) and how many?
- What is your organization's perspective or preference for organic farming practices, including the use of fertilizers and pesticides?
- Can the farmer bring the public onto the property as part of a CSA, pick-your-own operation or farmstand?

C. What compensation does your institution or municipality want for leasing the farmland?

- Cash payment
- Share of produce
- In-kind exchange for stewardship activities such as mowing fields, maintaining fences, managing invasive species or conducting programs for the public

D. What is the length of term for the lease?

- Annual renewal
- Short-term, two to five years with provisions for renewal
- Rolling lease
- Long-term ____ years
- Very long-term ground lease

INVOLVING THE STAKEHOLDERS

A. Who needs to be informed and/or consulted about the plan, process and decision to lease your land to a farmer?

- Boards or committees not already involved in the initial discussions
- Organization(s) holding the conservation easement, if any
- Neighbors
- Land trust members or town residents

B. What is the process for involving them?

- How are decisions at your organization made and recorded? Do they need to be made at public meetings?

C. How will your organization maintain communications with the interested committees, organizations and neighbors?

- How will information related to the selection be shared?
- What is the process for input and feedback if appropriate?

FINDING AND WORKING WITH A FARMER

A. How will you find and select a farmer for your property?

- Clear and transparent process for farmer selection
- Legal requirements met
- Request for proposals drafted and distributed. What information should be in the proposals?
How will you distribute the request for proposals?
- Selection criteria clearly established based on your organization's interests and goals
- Opportunity for prospective farmers to visit the property and ask questions
- Follow-up meeting with top prospects. Do you understand the farmer's perspective?
What are his or her needs, interests and plans for farming?

B. How will you communicate with the farmer?

- Determine the primary contact from your organization for monitoring the lease, addressing issues and questions, and solving problems
- Determine the process for routine communication
- Determine the process be for emergencies

C. Can the farmer improve the property?

You also should consider the extent to which your organization is comfortable allowing a tenant farmer to use, improve or change your property. Below are some important points to keep in mind.

- Fencing to keep animals in and/or to protect crops from predators or wildlife damage
- Water (well, spring development, other)
- Temporary structures, including hoop houses and high tunnels to extend the growing season, or animal shelters such as chicken coops
- Planting perennial or long life cycle crops (nut trees, fruit trees, berries)
- Soil improvements (fertilizer, lime, other)
- Drainage improvements
- Are you able and willing to share the costs of improvements?
- Do you want to provide the farmer with some equity if he or she makes improvements to the property?

D. What role does your organization want to play in the farming operation?

There are many variations and options, including:

- Leasing the land to a farmer and remaining uninvolved in the farming operation
- Leasing the land to a farmer with provisions for your organization to run events or educational programs related to the farming operation
- Establishing a community farm or community gardens
- Hiring a farmer and working with him or her on the farming operation

Draft a written lease that is reviewed and signed by both parties.

A comprehensive list of important items to consider including in your lease is available in the Elements of a Good Lease section, starting on [page 18 of this handbook](#).

Richard and Judith Fernald
150 RiverMead Road, #110
Peterborough, NH 03458

May 31, 2018

Peterborough Conservation Commission
Town House
Grove Street
Peterborough, NH 03458

Re: Favre Field, Cheney Avenue

Dear Conservation Commission:

We understand that you are considering a proposal by Stan Fry to lease the Favre Field for the grazing of cattle. We are writing to share with you the history of the field, how it has been used over the years, and how it came to be donated to the Town of Peterborough.

We moved to Lookout Hill Road in Peterborough in 1961. At that time, the field was already being used by neighbors for recreation--walking, wildflower picking, tobogganing, and skating on the two small ponds. After we moved to Cheney Avenue in 1966, part of the field was used as a baseball field, complete with backstop and limed foul lines (thanks to the efforts of Fred Koallick). Blueberrying also became popular for residents.

For a few years in the 1970s, part of the field was used to graze cows. That ended at about the time the property was subdivided, creating building lots along Old Street Road and on the east end of Cheney Avenue in the former orchard. The neighbors became concerned that the remaining land of approximately 23 acres would also be developed, depriving the neighborhood of a place for recreation, as well as the scenic beauty of the field. Forty-three neighbors pooled their money and purchased the field in 1984.

Because the intent of the neighbors was to ensure that the property was never developed, a conservation easement was granted to the Society for the Protection of New Hampshire Forests in 1986. The conservation easement makes reference to agriculture because some conservation purpose had to be included, and forestry obviously did not fit. The overriding purpose was preservation, not cattle, corn, or any other crop.

In 1987, the field was given to the "Town of Peterborough, acting through

its Conservation Commission."

After the gift to the Town, the field continued to be used as it had been for the previous 25 years: walking, blueberrying, tobogganing, skating, etc. Each year the neighbors contributed to the cost of annual mowing so that the field did not revert to forest.

The proposal to lease the field for the grazing of cattle is inconsistent with the intent of the gift to the town. The neighbors bought the field, and gave it to the Town, so that it would remain unchanged, and continue to be used for recreation by the neighborhood and the wider town. To fence the field off from the neighborhood that preserved the field in 1984, and maintained the field at the expense of over a thousand dollars annually, seems like a betrayal. I can assure you that if the neighbors had any inkling that the Town would someday exclude the neighborhood from using the field, it would never have been given to the Town. You should consider carefully how a leasing of the field for cattle against the wishes of the original donors will be a disincentive for people to give land to the Town in the future.

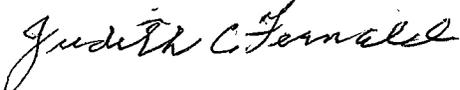
We understand that Mr. Fry's proposal includes measures to improve the field and the productivity of the soil. Assuming that his efforts do improve the soil, how does that benefit the people of Peterborough if they are barred from using the field? How can improving the soil for generations of cattle be more important than the daily recreational benefits the people of Peterborough enjoy because the field has been preserved? What is the sense of having public land, if only one person gets to use it, for a private commercial purpose?

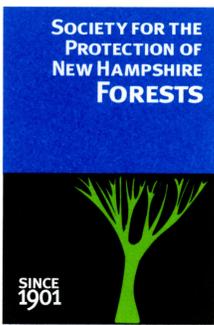
We are now happily ensconced at RiverMead, but the field remains very much in our minds. We were the field's stewards for many years. Dick and our sons spent many hours clearing brush, and many more hours preparing the ponds for skating, and maintaining the ice. We know that the field has great recreational value to the Town, because we witnessed that recreational use from our windows for 49 years. We strongly urge you to turn down Mr. Fry's proposal, so that the field can continue to be used as it has been for the last 55+ years.

Sincerely,


Richard R. Fernald

Judith A. Fernald





54 Portsmouth Street
Concord, NH 03301

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www.forestsociety.org

May 16, 2018

Frances Von Mertens
Town of Peterborough
Conservation Commission
1 Grove Street
Peterborough, NH 03458

Re: Fernald (Cheney Avenue property) Conservation Easement Interpretation

Dear Francie,

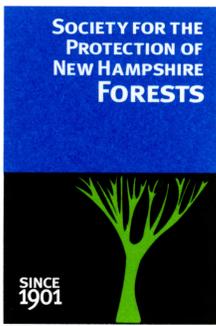
Thank you for your recent visit and communications with Abraham Ames regarding the Forest Society's 23 acres conservation easement on Cheney Avenue in the Town of Peterborough (which we refer to as the Fernald conservation easement). Per your request, this letter provides the Forest Society's interpretation regarding certain language in the Fernald conservation easement related to agricultural uses of the property. We understand that it has been suggested that the Fernald conservation easement requires that the property be managed for agriculture. That is not the case.

Conservation easements are created by the Grantor and Grantee to meet the IRS and conserving agency's requirements for "conserved land." The "Purposes" of a conservation easement are used to substantiate the value of conservation, as well as to offer a reference for interpreting acceptable uses in the future.

The Fernald conservation easement states that the conservation easement was granted for the following conservation purposes: "the preservation of open spaces, particularly the productive farm land of which the land area subject to the easement granted hereby consists, for the scenic enjoyment of the general public,..." Describing the land as "productive farm land," rather than, "producing farm land," denotes an emphasis on the preservation of soil quality in situ, rather than the conducting of agriculture. While the easement's purposes describe the property as farm land, it is the open space for *scenic enjoyment*, as well as the land's *capacity* to produce, which is to be preserved. Preservation of open space, even if it is farmland, does not equal a mandate to keep land in agricultural production under these terms.

The "Use Limitations" of the Fernald conservation easement describe which uses or management activities are prohibited, as well as how permitted activities are to be regulated. They must be written to sufficiently keep the activities conducted thereon in accord with the purposes for conserving, and principles of conservation.





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The need and value of the “Purposes” for conservation may change, and the “Use Limitations” must be comprehensive and malleable enough to withstand the test of time. In drafting a conservation easement, the creators must forecast potential scenarios and the language created at the time is intended to frame limits and to establish guidelines for permitted activities.

Neither the “Purposes” nor the “Use Limitations” of the Fernald conservation easement obligate the owner of the property to conduct agriculture. In preserving land as open space, the complete absence of agricultural management would not be considered a violation of the easement because the easement does not prescribe the need for affirmative agricultural practices.

As the Town of Peterborough’s Conservation Commission has demonstrated a history of managing the land for scenic enjoyment, the Society for the Protection of New Hampshire Forests, as the easement holder, considers the Purposes described in the conservation easement fulfilled. We monitor the property to confirm that the Use Limitations are in compliance every year, and to our knowledge, the property is not currently in violation of any of the conservation easement’s terms.

It is entirely up to the discretion of the Town of Peterborough, acting through its Conservation Commission, to manage the Fernald conservation easement land as it sees fit, so long as it does not conflict with the terms of the easement.

Should you have any questions or wish to discuss this further, please feel free to contact either Abraham or Reagan at (603) 224-9945.

Sincerely,

Abraham Ames

Conservation Easement Steward

Reagan Bissonnette, Esq.

Director of Easement
Stewardship & Counsel

