

COVER LETTER: SPECIAL MEETING TO DISCUSS DRAFT AGREEMENT ON SAWYER PARK

27 November 2018

Dear neighbors,

The Kensington Board of Selectmen is hosting a special meeting on Monday, December 3, from 5:30 PM - 6:30 PM at the Town Hall, to present a draft agreement for Sawyer Park to the public, take public comments, and answer questions. Representatives of the Sawyer Kensington Trust and Kensington Leadership Center Trust (Alan Lewis), the other major parties to the agreement, will also be available to answer questions and clarify any points of confusion.

This file includes the major documents that will be addressed at this meeting, including:

- (1) a clean copy of the draft agreement, without revisions
- (2) a copy of the report filed by the committee to review this draft agreement, outlining their concerns, recommendations, and suggestions
- (3) a copy of the draft agreement with mark-up from the committee to review this draft agreement.

Please review these documents and attend this meeting to learn more about the proposed agreement, ask questions, and voice your concerns. This is a great opportunity to share input and make a difference in the long-term maintenance of the park, at a time when all parties still have opportunity to improve the agreement.

Thank you!



Ben Cole

AGREEMENT

The Kensington Leadership Center Trust (hereinafter, "KLCT"), Alan E. Lewis, Trustee, a New Hampshire not-for-profit corporation with a mailing address of 347 Congress Street, Boston, Massachusetts 02210; the Town of Kensington, by and through its Board of Selectmen, with an address of 95 Amesbury Road, Kensington, New Hampshire 03833 (hereinafter, "Town"); and the Sawyer/Kensington Trust (hereinafter, "the Trust") 22 Cottage Road, Kensington, NH 03833 (hereinafter collectively "the Parties") agree to the following terms:

Whereas, KLCT prepared a comprehensive plan for the land currently owned by the Town, known "Sawyer Park" (the "Town Land"); and the land adjacent thereto having been deeded to the Town by KLCT ("KLCT Land"). The Town Land and the KLCT Land are referred to collectively as the "Park"; and

Whereas, KLCT (and/or related parties) donated land to the Town and paid for the development of the Park at a cost of about \$3.2 million; and

Whereas, since the Park's inception, the Town has spent about \$450,000, and the Trust has spent about \$360,000 for the maintenance and operation of the Park; and

Whereas, the Parties are desirous of seeing the Park's continued development for park and recreational purposes in a cohesive fashion; and

Whereas, the Parties are desirous of seeing that the Park is maintained for the purposes for which it was built for the foreseeable future;

Therefore, the Parties agree as follows:

1. The term of this Agreement is thirty (30) years from the date hereof;
2. KLCT will fund the internal operating costs of the Trust, which has qualified as a public charity under Internal Revenue Service statutes and regulations. The Trust consists of five members, three of whom are currently appointed by the Board of Selectmen ("Town Trustees"). Hereafter, subject to approval by the Town of Kensington, the Town Trustees shall be elected at Town Meetings in similar fashion to other Town Trusts, such as the Library Trust, Grange Hall Trust and the Cemetery Trust. The remaining two Trustees shall be appointed by KLCT. The Parties agree that four Trustees constitute a quorum, and four votes are needed to take any action on behalf of the Trust.

3. The Town agrees to provide \$30,000 annually to the Trust. KLCT agrees to provide all remaining funds necessary to maintain the Park (“Necessary Funds”). All permit fees shall be remitted to the Trust.
4. KLCT shall hire a Park Manager, to be selected by the Parties, to oversee the operations of the Park, in consultation with Bruce Cilley. Key responsibilities of the Park Manager shall include the coordination of all Park activities, including but not limited to Park rentals, event scheduling, advertising, concession stand, and community and nearby communities outreach. In effect, to help the Parties manage the Park efficiently. Funds paid to the Park Manager shall also be considered Necessary Funds.
5. KLCT will provide the Necessary Funds to the Trust each year for a period of thirty (30) years commencing from the date hereof.
6. The Park will be used by for-profit and not-for-profit groups who will benefit from the use of the Park and they may retain the revenue that such groups may earn from concession stand sales, ticket sales, or other revenue-generating activities. The Parties agree that the first priority for use of the Park shall be given to Town residents. Town residents shall not be required to pay a permit fee. The Parties further agree to establish minimum Permit Fees consistent with the attached “Permit Fee Schedule” (the “Fee Schedule”) attached hereto as Schedule 1, and incorporate the Fee Schedule as part of this Agreement. The Parties agree that all Permit Fees shall be used by the Trust solely to benefit the Park.

The Parties agree to revisit the Fee Schedule annually, prior to March 1st, to make such adjustments to the Fee Schedule as may be reasonable and necessary, including any modifications to the “Definitions” used therein, keeping in mind that the Fee Schedule set forth herein established minimum fees that are to be honored for the period of this Agreement.

7. The Town Board of Selectmen will, from time to time, in consultation with KLCT and the Trust, establish policies for the Park’s use.
8. The Trust will, according to its governing documents, have as a purpose the monitoring of the use and maintenance of the Park and recreational facilities, and will make periodic recommendations to the Town. Subject to the Board of Selectmen’s

- approval, the Trust will enter into contracts, oversee and manage the grounds and building maintenance for the Park, including but not limited to:
- a. Mowing, fertilization, athletic field turf care, pesticide application, plus general purpose plant, shrub and tree oversight;
 - b. Monitoring and routine maintenance of building structures, fencing, and playground and fields; and
 - c. Making capital improvements to the Park.
9. To accomplish the goals set forth in paragraph eight (8) herein, the Town and Trust agree to sponsor a jointly conducted comprehensive review of the Park Grounds, buildings, playground equipment, and athletic fields for purpose of developing a maintenance schedule which will remain intact during the life of this Agreement. This review will be conducted annually, and the schedule may be amended if all parties agree.
10. The Town shall create an annual report reflecting the annual expenditures and sources of funding for the Park.
11. This Agreement may be modified only in writing and only by the agreement of the Town, KLCT and a vote of not less than Eighty Percent (80%) of the Trustees of the Trust.
12. This Agreement will expire thirty (30) years from the date hereof, unless extended in writing by the Town, KLCT and the vote of not less than Eighty Percent (80%) of the Trust.

[signature pages to follow]

TRUST QUESTIONS:

1. How could the BOS enable public access to the document?

- Town web site. This is where people look. This is the 21st century. The majority of this town will not go to the community board and read papers outside. Our town web site should be the center of all business/publications/minutes.... access to the community.
- Of course, post paper copies at the usual places, because that's past practices and some of our older community members do not always access technology, ie) one copy posted at the Country Brook Community Board and have several copies made available for the taking at the Kensington Town Hall and the Kensington Town Library.
- Post flyers around town, to allow people to know where to access agreement (whether online or paper copies).
- Post in our town newspaper when the information will be presented to public and/or where to go to see the SKT Agreement via online or a get a "paper copy."

2. How could the BOS explain its important clauses to those unfamiliar with the park, trust, or previous agreement, or for people who struggle with reading legal documents?

- Have a Park History and "Q&A" presentation to share the information. A one hour posted presentation, could be by the committee members or a selectman, to explain the document. But make it known, it is not a discussion in which anything will be changed. It's for informational purposes only. This could be done by:
 - BOS Agenda Item
 - Public Hearing before a BOS meeting

3. How could the BOS incorporate public feedback?

- The BOS could collect all public feedback and forward it to each of the trust agreement committee members. The members along with the appointed selectman member, could then review each "item" brought to the committee and decided if its valid or unnecessary. Once that has happened, it would be forwarded back to the BOS with the committee recommendations. The BOS could then bring it forth to the community for voting.
- On the Town of Kensington website, after the proposed SKT Agreement document, there could be a "feedback from the community" link. This link would be a group email to be forwarded to the BOS (and possibly to the committee members) to allow those thoughts from the community.

4. What are the BOS's options, and their pros and cons, for reaching a decision on this agreement?

- Pros:
 - 30 years at \$30k per year is a deal for the town as for just the mowing contract is \$36k this year. Add in the possibility of a Sawyer Park manager salary, inflation, maintenance/improvements and any unknown expenditures in the future, allows for the town to pay out way less then what is being spent.
 - A manager for the park to be sure that all aspects of the park are being managed; maintenance, improvements, lights, overseeing of advertising, scheduling, paperwork (freeing up that Kathy Felch or other townspeople from doing that) and overseeing mowing contract.
 - What just happened between the town and trust will not, hopefully, happen again (for at least 30 years).
 - Town of Kensington residents get use of the park free of charge and are of first priority to scheduling events within the park.
 - Town Trustees are a better representation of the town yet if seats go unfilled, there is a plan to secure the "town voice."
- Cons:
 - We are stuck with a 30 year agreement that if issues arise, make for long, possibly difficult, amendments.
 - 20 year agreement and this agreement are two separate entities and expire at different times. By making it a 10 year agreement, both agreements would come due in 10 years and we could make them go hand in hand.

AGREEMENT

The Kensington Leadership Center Trust (hereinafter, "KLCT"), Alan E. Lewis, Trustee, a New Hampshire not-for-profit corporation with a mailing address of 347 Congress Street, Boston, Massachusetts 02210; the Town of Kensington, by and through its Board of Selectmen, with an address of 95 Amesbury Road, Kensington, New Hampshire 03833 (hereinafter, "Town"); and the Sawyer/Kensington Trust (hereinafter, "the Trust") 22 Cottage Road, Kensington, NH 03833 (hereinafter collectively "the Parties") agree to the following terms:

Whereas, KLCT prepared a comprehensive plan for the land currently owned by the Town, known as "Sawyer Park" (the "Town Land"); and the land adjacent thereto having been deeded to the Town by KLCT ("KLCT Land"). The Town Land and the KLCT Land are referred to collectively as the "Park"; and **If all the land is town-owned, why refer to the Park this way? An exhibit detailing the parcels of land constituting the park will be added here.**

Whereas, KLCT (and/or related parties) donated land to the Town and paid for the development of the Park at a cost of about \$3.2 million; and

Whereas, since the Park's inception, the Trust has spent about \$360,000 for the maintenance and operation of the Park; and

Whereas, the Parties are desirous of seeing the Park's continued development for park and recreational purposes in a cohesive fashion; and

Whereas, the Parties are desirous of seeing that the Park is maintained for the purposes for which it was built for the foreseeable future;

Therefore, the Parties agree as follows:

1. The term of this Agreement is thirty (30) years from the date hereof;
2. KLCT will fund the internal operating costs of the Trust, which has qualified as a public charity under Internal Revenue Service statutes and regulations. The Trust consists of five members, three of whom are currently appointed by the Board of Selectmen ("Town Trustees"). Hereafter, subject to approval by the Town of Kensington, the Town Trustees shall be elected at Town Meetings in similar fashion to other Town Trusts, such as the Library Trust, Grange Hall Trust and the Cemetery Trust. **In the event a trustee position fails to be filled by election, the Board of Selectmen shall appoint a trustee to serve until the next Town Meeting, at which time**

the vacant position will be filled by election. Initial trustee positions should be for one, two and three years so that only one trustee position is subject to re-election in any year. The remaining two Trustees shall be appointed by KLCT. The Parties agree that four Trustees constitute a quorum, and four votes are needed to take any action on behalf of the Trust.

3. The Town agrees to provide \$30,000 annually to the Trust. KLCT agrees to provide all remaining funds necessary to maintain the Park (“Necessary Funds”). All permit fees shall be remitted to the Trust.
4. KLCT shall hire a Park Manager, to be selected by the Parties, to oversee the operations of the Park, in consultation with a designee selected by KLCT. Key responsibilities of the Park Manager shall include the coordination of all Park activities, including but not limited to Park rentals, event scheduling, advertising, concession stand, and community and nearby communities outreach. ~~In effect, to help the Parties manage the Park efficiently.~~ Funds paid to the Park Manager shall also be considered Necessary Funds.
5. The Park will be used by for-profit and not-for-profit groups who will benefit from the use of the Park and they may retain the revenue that such groups may earn from concession stand sales, ticket sales, or other revenue-generating activities. The Parties agree that the first priority for use of the Park shall be given to Town residents. Town residents shall not be required to pay a permit fee. The Parties further agree to establish minimum Permit Fees consistent with the attached “Permit Fee Schedule” (the “Fee Schedule”) attached hereto as Schedule 1, and incorporate the Fee Schedule as part of this Agreement. The Parties agree that all Permit Fees shall be used by the Trust solely to benefit the Park.

The Parties agree to revisit the Fee Schedule annually, prior to January 15th, to make such adjustments to the Fee Schedule as may be reasonable and necessary, including any modifications to the “Definitions” used therein, keeping in mind that the Fee Schedule set forth herein established minimum fees that are to be honored for the period of this Agreement.

6. The Town Board of Selectmen may, after consultation with the Trust, establish policies for the Park’s use.

7. The Trust will, according to its governing documents, have as a purpose the monitoring of the use and maintenance of the Park and recreational facilities, and will make periodic recommendations to the Town. Subject to the Board of Selectmen's approval, the Trust will enter into contracts, oversee and manage the grounds and building maintenance for the Park, including but not limited to:
 - a. Mowing, fertilization, athletic field turf care, pesticide application, plus general purpose plant, shrub and tree oversight;
 - b. Monitoring and routine maintenance of building structures, fencing, and playground and fields; and
 - c. Making capital improvements to the Park.
8. To accomplish the goals set forth in paragraph seven (7) herein, the Town, Trust and park manager agree to sponsor a jointly conducted comprehensive review of the Park Grounds, buildings, playground equipment, and athletic fields for purpose of developing a maintenance schedule which will remain intact during the life of this Agreement. This review will be conducted annually, and the schedule may be amended if all parties agree.
9. The Trustees will prepare a financial report reflecting the expenditures and funding sources for the Park on an annual basis. The review and publication of this report is the responsibility of the Board of Selectmen."
10. This Agreement may be modified only in writing and only by the agreement of the Town, KLCT and a vote of not less than Eighty Percent (80%) of the Trustees of the Trust.
11. This Agreement will expire thirty (30) years from the date hereof, unless extended in writing by the Town, KLCT and the vote of not less than Eighty Percent (80%) of the Trust.

[signature pages to follow]

All of the changes proposed above are agreed to by the members of the review committee.

Sawyer Park Maintenance and Repair/Improvements Financial Report

	Sawyer Kensington Trust	KLCT
2017	\$24,572.66	\$8,000.00
2016	\$31,262.99	\$8,000.00
2015	\$7,867.72	\$8,000.00
1014	\$11,663.00	\$8,000.00
2013	\$9,085.26	\$8,000.00
2012	\$10,850.00	\$8,000.00
2011	\$19,851.37	\$8,000.00
2010	\$15,206.04	\$8,000.00
2009	\$52,971.51	\$8,000.00
2008	\$96,050.79	\$8,000.00
Total	\$279,381.34	\$80,000.00