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DURHAM CONSERVATION COMMISSION
Meeting Minutes of Thursday January 10, 2008
Durham Town Office – Council Chambers
7:00 PM

Regular Members Present: Cynthia Belowski, Beryl Harper, Julian Smith,
George Thomas, Stephen Roberts

Alternate Members Present: Dwight Baldwin, Peter Smith, Robin Vranicar

Regular Members Excused: Duane Hyde, Jim Hellen

Alternate Members Excused: none

Public Attendees: Steve Eisenhaure, UNH Woodlands Office and
Roger Roy, MJS Engineer, John Doty and James Bolduc

1) Call the meeting to order and acknowledge absentees and those with voting authority.

Cynthia Belowski called the meeting to order at 7:05 pm. It was noted that Peter Smith and Robin Vranicar would vote this evening in place of regular members Duane Hyde and Jim Hellen.

Cynthia Belowski suggested amending the agenda to add under “Other Business, Item D: Discuss date to meet with Town Council.

Julian Smith moved to accept agenda as amended. This was seconded by Dwight Baldwin and approved unanimously.

2) New Business/Presentations

a) Steve Eisenhaure, update on UNH properties and opportunities to work together on management plans – Steve Eisenhaure introduced himself to the members and noted that he attempts to visit the local conservation commissions once a year to discuss properties that UNH is doing work on. Steve discussed with the Commission, Durham land that is either adjacent to or in close proximity to UNH lands. Cynthia noted that the Commission is considering hiring a forester to help manage some of the lands and asked Steve for a recommendation, noting that they had used Charlie Marino in the past. Steve, agreed that Charlie Marino would be a good choice and noted that Durham has the same issues that UNH has with regard to their properties; that the highest usage of the properties are those that do not create high income – creating a challenge to manage the

1 properties with limited resources. He suggested, at times it may be productive to
2 combine efforts in seeking grant funding for adjacent properties. Steve said he would be
3 happy to work with a forester that the Town may hire. Beryl Harper complimented Steve
4 on the signage at the UNH properties. Peter Smith asked Steve to describe his
5 responsibilities. He replied that he manages approximately 1500 acres of woodland
6 properties in this area and 1500 in Carroll County. This includes, acting as a field
7 forester, developing management plans and operation plans. He noted that many of the
8 management plans are available at www.unh.edu/woodlands. Steve explained that a
9 management plan is a description of the property and what should be done. An
10 operations plan is an assessment of that plan and the stating of specific means to
11 accomplish the plan. The Commission thanked Steve for meeting with them.

12
13 b) MJS Engineering – discussion of modifications to plans to repair retention pond off
14 Sumac Lane in Canney Farms that now requires an access road to the pond. Roger Roy
15 from MJS Engineering introduced himself to the Commission and noted that he was here
16 to discuss improvement to the retention pond. Roger brought in a photo and plans for the
17 Commission to review. He explained that the retention pond is eroding and the berm
18 needs to be repaired. He said MJS submitted an amendment because the original intent
19 was to enter through a property on Canney Road to access the pond. This did not work
20 out and now another means of access to the pond for maintenance is needed. Cynthia
21 asked if there had been any plans for a maintenance easement. Roger said there was not a
22 maintenance easement but that there is a sewer easement they would like to utilize.
23 Roger explained that there are some wetlands impacted in this proposal which would
24 make use of a clearing that is currently there. He explained that they would like to enter
25 from Sumac Lane, come down into the area of the sewer easement, proceed through the
26 clearing through the trees and end 200 feet from the pond. Cynthia asked if gravel fill is
27 proposed for along the easement. Roger replied that they would be cutting down grasses
28 as short as possible, grubbing it, putting fabric down, then gravel – so there would be no
29 bulldozing of topsoil. Cynthia asked if the gravel will stay there. Roger replied that he
30 felt it should stay there for long term maintenance access to the pond. Julian asked what
31 equipment will be needed for maintenance of the pond and why. Roger replied that the
32 berm has to be cut down square and compacted appropriately. The goal is to have a berm
33 of equal soil material in all areas of the pond, for this an excavator and a roller will be
34 needed. Julian asked if there would be dredging of the pond. Roger replied that there
35 would be no dredging. Peter asked if after this work is completed, there will be a need
36 for heavy equipment. Roger replied that hopefully it will not be needed. Peter asked
37 why the need to maintain the gravel structure. Roger noted it would be good to have for
38 the unlikely possibility that heavy equipment will be needed. Also, the DPW has said
39 they would like to have this kept to make access for them easier. George Thomas noted
40 that David Cedarholm wrote a letter stating that this gravel “road” will provide much
41 needed access to manholes that cannot be favorably maintained. Dwight asked if there
42 were any other alternatives plans. Roger replied that they could enter from common land
43 which a wetland scientist determined was not all wetlands. There is some portion of
44 wetlands – there would be less impact to wetlands coming from that direction. However,
45 we would have to clear a swath of trees behind 4 house lots, and would still need to cross
46 a small area of wetlands. Roger reiterated his feelings that their plan creates minimal

1 overall disturbance. Dwight noted that the second scenario would not have the benefit of
2 giving the Town access to the sewer line. Pete asked if they had received any feedback
3 from the wetlands board. Roger stated that they had received no feedback yet.

4
5 Beryl said that she appreciated Roger speaking frankly to the Commission to give us an
6 overall view. Dwight commented that this work needs to be done, and the proposed plan
7 benefits the town as well as the owners association, and that the other plan will still
8 impact wetlands. He expressed his support of the MJS Engineering plan. The consensus
9 of the Commission was to recommend in favor of the plan. George Thomas will
10 comment to the wetlands board that the Durham Conservation Commission is in favor of
11 the proposed plan. The Commission thanked Roger for taking the time to meet with
12 them.

13 14 **3) Acceptance of minutes of December 13, 2007**

15
16 Beryl noted the following changes: 1) page three, line 35 correct spelling of Crommett
17 Creek 2) page four, line 15 remove the extra w in "Rosew lawn", 3) correct the spelling of
18 Diana Carroll in all appropriate places.

19
20 Dwight noted the following changes: 1) page four, line 15 change to "...some town
21 owned land or land on which the town holds easements for community gardens." 2) page
22 four, line 38 change to read "...regarding projects that do not come under the purview of
23 this Commission...."

24
25 Cynthia noted the following changes: 1) page five, line 11/12, add Service (NRCS) and
26 2) line seventeen, correct the spelling of Crommett Creek.

27
28 *Dwight Baldwin moved to accept the minutes as amended. This was seconded by Peter*
29 *Smith and approved unanimously.*

30 31 **4) Ongoing Business**

32
33 a) Wetlands Applications – George Thomas noted that there is an application from John
34 Riley at 275 Durham Point Road to build a dock. He is proposing to remove an old crib
35 dock (timbers) and in a different location, build a dock with a 50 ft ramp, 6 x 6 concrete
36 pad poured on top of rock. The ramp is proposed to be 3 x 50 ft to a 10 x 20 float. He
37 noted that this would be less impact and that there would be no vegetative impact. Beryl
38 asked how long the crib dock is. George replied that no dimension was stated, but that if
39 the map is to scale, the new dock will be a little longer. Peter asked if the 50 foot piece
40 would be a permanent structure. George replied that it is planned to be removable. The
41 Commission discussed that 50 feet seems to be quite long and the difficulty in removing
42 such a structure for the winter time. The members felt it would be helpful to have a site
43 visit with the contractor present (the contractor is Normandeau Associates). George will
44 call the contractor and then email the commission members with suggested dates.

1 b) Land Protection Working Group – Cynthia reported in Duane Hyde’s absence that the
2 NRCS did not get the completed paperwork for the Roselawn Farm project to
3 Washington DC in time for a closing in 2007. She noted that the owner (Jess Gangwer)
4 has agreed to extend his sales and purchase agreement to sometime in March 2008,
5 contingent upon the Federal government extending the gift tax benefit. The NRCS will
6 complete the paperwork and submit it. Peter Smith said he would look into the issue of
7 the gift tax and Cynthia suggested that the Commission write a letter to state legislators
8 expressing their concern over the failure of the NRCS office to submit the paper in a
9 timely manner.

10
11 c) Town Owned Land/Conservation Easements – Cynthia Belowski noted that the
12 Commission will be holding a special workshop on January 24th. She said that she felt
13 the Commission needs to look at what are conservation priorities – to have a list of
14 suggestions to spend conservation dollars on and properties to be targeted (Duane Hyde
15 will draw up a straw list). Cynthia also noted that the Commission needs to discuss how
16 we want to present the information to the Town Council. The Commission members
17 discussed possible dates to meet with the Town Council. Town Administrator, Todd
18 Selig suggested to Cynthia March 3rd, the Commission agreed that the 3rd would be good.

19
20 d) Mill Pond – Dwight Baldwin reported that the Army Reserve will not be able to take
21 on the job of dredging Mill Pond. Cynthia asked what the next step will be for the pond.
22 Dwight replied that the Town needs to investigate other sources of funding to be able to
23 get the pond dredged. Cynthia suggested that Sue Hoy may have suggestions for funding
24 sources.

25
26 e) Jackson’s Landing – Dwight Baldwin reported that the Town has received a NRCS
27 grant of \$258,000 along with \$20,000 to do work on the path. He stated that both
28 projects can be done together once permits are obtained. Cynthia suggested having
29 someone come in and do a presentation of the work to be done. Dwight noted that Mike
30 Lynch would be the logical person to make such a presentation.

31 32 **5) Board and Committee Reports**

33
34 a) Town Council – Julian Smith reported that he has heard no further discussion of the
35 LUCT revenues at recent Town Council meetings. Julian asked if there would be any
36 interest on the part of the Conservation Commission in suggesting that the Council create
37 an Agriculture Commission as permitted by RSA 673. Cynthia noted that the
38 Commission had spoken briefly about this regarding the community gardens. Dwight
39 said that he had spoken to Diana Carroll and she was excited about this idea and thought
40 that the Agriculture Commission would be the perfect way to coordinate the project.
41 Beryl and Cynthia both expressed their support of the idea. Julian asked the
42 Commission, as the Town Council representative, if the Commission would like him to
43 suggest the formation of an Agriculture Commission to the Town Council and if the
44 Commission would like him to prepare a communication to the Council suggesting this.
45 The Commission members agreed that they would like Julian to proceed with this.

1 b) Planning Board – Stephen Roberts discussed the proposal from the Fish and Game
2 Department for their parcel on map 19, lot 9 on Daniel road. This proposal was to provide
3 an access road for their added two parking spaces and a trail leading to a view area over
4 the wetlands. The Planning Board had an extended discussion over this proposal, which
5 seemed out of balance for the small scope of the project. The Fish and Game suggested
6 to the Planning Board Chair a counter proposal. There was strong opposition from the
7 public. Again, this seemed unwarranted given the proposal. Fish and Game had intended
8 to have a carry in/carry out, no lights, minimal use space similar to other places in the
9 state. The Police had minimal concerns regarding parking and/or drinking on Dane
10 Road. The Public Works Commission wrote a letter in supported of the proposal.
11 However, abutters were fierce in their opposition. Stephen reported that he felt the
12 proposal was appropriate in keeping with current state/federal management plans for a
13 minor installation like this. Robin asked if Fish and Game owned the land. Stephen
14 replied that they did own this lot. He reiterated that the Fish and Game had come to the
15 Planning Board with a simple proposal of a “Carry in/carry out” concept.

16
17 Cynthia noted that this brings to mind the item that was listed to be discussed under
18 “Other Business, item B: Alleged zoning violation on Crommet Creek Trail – She
19 noted that at the last meeting it was decided that she would meet with the Town
20 Administrator and legal representation to discuss this issue. She reported that she had
21 spoken with Todd Selig and he felt the discussion had already occurred. He expressed
22 that he felt it is the regulation that is causing the issue, noting that the regulation says a
23 trail is a recreational facility. He felt this needs to be cleaned up and the intent made
24 clearer and suggested that Cynthia meet with Jim Campbell to discuss this. Cynthia
25 stated that she and Dea Brickner Woods are meeting with Jim Campbell to try to clean up
26 the ordinance so trail work can be done without going through this process. She also
27 reported that The Great Bay Partnership wrote a letter stating that the original letter is in
28 error regarding some of the properties and also stating that the original letter was sent to
29 the GBRPP which is not a legal entity and that the land owners needed to be sent a letter
30 (land owners are: Forest Society in State of NH and Nature Conservancy). A letter will
31 be sent to these agencies. Stephen Roberts noted that the word substantial is used in the
32 ordinance. He suggested that the threshold of substantial is not being met by this project.

33
34 The Commission discussed how both projects present a conflict between the
35 Conservation Community and the Planning Community. Stephen suggested that Cynthia
36 request that Jim Campbell determine which portions of the ordinance they are bringing
37 forward in regard to these projects and discuss those points, as well as look at current
38 practices of woodlands management. Dwight asked how long it would take for the
39 ordinance to be rewritten. Stephen responded that it would have to be rewritten, go to a
40 public hearing, and then to the Town Council for approval. Julian noted that this could
41 process could proceed quickly or slowly. Cynthia noted that while she is meeting with
42 Jim Campbell on Monday morning, she felt it would be a good idea for a few of the
43 Commission members to meet with the Town Administrator before the meeting with Jim
44 Campbell. Cynthia will try to meet with the Town Administrator on Friday morning to
45 discuss what the Commission feels is an overreaction to minor projects and where such
46 reaction is coming from.

1
2 Beryl questioned why Cynthia is being asked to meet with the Town Director of Planning
3 to review an ordinance. She stated that she felt this should be the work of Town
4 employees. Stephen stated that he will write a memo of his concerns regarding the
5 reaction to this proposal.
6

7 c) Mill Plaza Planning Committee -- Julian Smith said that on Wednesday at 6 pm there
8 will be a meeting of the Mill Plaza Study Committee and AIA partners. He noted they
9 are moving toward getting some cooperation from the Town Council to make a concrete
10 offer to the owner of the plaza to give /sell or trade to the Town the space for a road that
11 would connect Mill Road along the southern edge of the parking lot to Chesley Drive. At
12 the end of Chesley Drive would be constructed a town library. The Town is considering
13 offering the grange property on Main Street as an inducement to the owner. The driving
14 force behind this offer is the great interest of people in surrounding areas to do something
15 to protect the brook. The Committee will suggest that the owner give the Town the
16 southern edge of the parking lot (it would then become a Town road, the Town would
17 then be responsible for any improvements and to maintain the road). The Town would
18 then own all property going down to the Brook. This would mean that plowing of snow
19 will not go into the brook. Study committee will make a recommendation to the Town
20 Council to do this.
21

22 d) Lamprey River Advisory Committee – Cynthia Belowski noted that David Cedarholm
23 presented on the water audit to the Committee. Additional background is needed,
24 however, preliminary results show we are not losing any more than 10% of water –
25 probably less. Also discussed at the last meeting was the Wiswall Bridge and the Fish
26 Passage. With regard to the Wiswall Bridge, two plans will be presented to the Town
27 Council soon. The original plan and a second design with retaining walls, costing more
28 but having less impact to wetlands. Cynthia added a single span is still being used in the
29 second plan. She noted that the original plan is a \$2.5 million project and the alternative
30 plan is an additional \$150,000. Julian reminded the Commission that the Town only pays
31 20% of the cost of the project, the rest of the cost is paid from State and Federal
32 government funds. Cynthia reported that the engineer's recommendation will be to
33 accept the alternative proposal with the retaining wall. The Lamprey River Advisory is
34 also in favor of the alternative plan.
35

36 With regard to the Fish Passage, Cynthia reported that the Committee had received an
37 email from the Town Administration stating that a lot of time and money has gone in to
38 the engineering of the Fish Passage,, but little research and time has gone into the idea of
39 a fish ladder. Beryl asked where the proposed site for this is located. Cynthia replied
40 that it is planned for Wiswall Falls. She noted that the Lamprey River Advisory
41 Committee has not come out with a recommendation, because little information regarding
42 the alternative of the fish ladder has been supplied. Cynthia noted that the impact to the
43 site that a fish passage would have is great and would only allow a few more fish to pass
44 through. She noted that David Cedarholm felt that the impact to the pocket park located
45 in that area would be huge. Beryl noted her agreement with this assessment. Stephen
46 expressed concern over the issue of water level. Cynthia informed the Commission that

1 there will be a presentation to the Town Council regarding the fish passage in the near
2 future.

3 4 **6) Other Business**

5
6 a) Stonemark proposal for 99 Madbury Road - Julian Smith reported that the Town
7 Council will be discussing this in the near future. Mr. Bolduc has proposed (99 Madbury
8 Road to railroad tracks) the town purchase a conservation easement on the back portion
9 of his property for \$950,000. Julian reported that he did not believe there was much
10 interest on the part of the Council to proceed with this purchase. Some Commission
11 members questioned if there was any connection to the neighbors appeal to the Zoning
12 Board of Adjustments regarding usage for the front portion of this property. Cynthia said
13 that she did not believe the Commission would list this property high on the Commission
14 priority list, it has not been targeted for conservation purposes. Peter stated that he was
15 not inclined to give consideration to making exceptions to the Commission's criteria that
16 have been utilized in the acquisition of conservation easements. He noted that he has
17 conveyed to the Town Council in non public session that he considers the case being
18 made in the letter frivolous and defamatory and would keep open the option to file legal
19 action against the owner for defamation.

20
21 Cynthia reiterated that the Commission needs to think about the position of purchasing
22 this land for conservation easement. She noted that it fits one criteria for conservation,
23 however, it doesn't fit high on the priority list, other properties have higher priority.
24 Dwight asked if this parcel of land should be looked at in our meeting and be prioritized.
25 Cynthia noted that Duane will give the Commission a strawman list and would expect
26 this parcel to be on that list. She said she would look in to getting a map for the meeting.
27 Stephen suggested a small map with the current easement lands listed on it.

28
29 b) Alleged zoning violation on Crommet Creek Trail – this was discussed under the
30 Planning Board section.

31
32 c) Letter of support for the GBRPP – Cynthia Belowski reported that Joanne Gload is
33 trying to get some funding from NH Trails to finish the trail and the overlook of the
34 wetlands area. She has asked for a letter in support of their grant from the Commission.

35
36 *Peter Smith moved to have the Commission write a letter of support to the GBRPP for*
37 *their grant proposal. This was seconded by Julian Smith and approved unanimously.*

38
39 d) Discuss date to meet with Town Council – This was discussed under 4) Ongoing
40 Business, Item c) Town Owned Land/Conservation Easements.

41 42 **7. Administrative-**

43
44 a) Correspondence – Cynthia noted that she has forwarded emails regarding DES
45 workshops that may be of interest to Commission members.

1 b) Workshop January 24, 2008 – The purpose of this workshop is to hold a discussion
2 regarding land conservation priorities.

3
4 c) Next regular meeting February 14, 2008 at 7 PM in Town Hall. Cynthia noted that she
5 will be unable to attend and that Duane Hyde will chair the meeting.

6
7 **8. Adjournment –**

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9 *Beryl moved to adjourn at 9:55 pm. This was seconded by Dwight Baldwin and*
10 *approved unanimously.*

11
12 The January 10th, 2008 meeting of the Durham Conservation Commission adjourned at
13 9:55 pm.

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17 Respectfully submitted by,

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23
24 Sue Lucius
25 Durham Conservation Commission Recording Secretary
26