

Approved July 10, 2008

DURHAM CONSERVATION COMMISSION

Meeting Minutes of Thursday June 12, 2008

Durham Town Office – Council Chambers

7:00 PM

Regular Members Present: Duane Hyde, Cathy Leach, George Thomas, Beryl Harper, Stephen Roberts

Alternate Members Present: Robin Mower, Peter Smith, Robin Vranicar

Regular Members Excused: Dwight Baldwin, Cynthia Belowski

Public Attendees: Nora Beem, Jack Farrell, Chris Kane, Wally Mosher, Josh Mosher, Jen Sayre-McKernan, John Halstead, Jeremy Halstead, Julian Smith, Dave Garvey

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

Vice-Chair Duane Hyde called the meeting to order at 7:02 pm. Peter Smith and Robin Mower will vote in place of Dwight Baldwin and Cynthia Belowski this evening.

2) New Business/Presentation

a) Oyster River fifth graders to present an interpretive panel on the Great Bay. Nora Beem, a graduate student from UNH working at the Jackson Estuarine Laboratory, explained that she does research with eel grass in the bay. She noted that part of the research involves sharing information about the Great Bay with the community. Nora told the Commission that the Oyster River fifth graders had attended an outreach event at the lab and learned about eel grass and the impact that it has on the Bay. The students were then invited to present their poster regarding eel grass to the Commission. They explained that there has been a 41% decline of eel grass in the Great Bay and that this creates many problems. The students reported that eel grass is the primary sea grass found in NH and creates habitats for shell fish, provides food and filters the water. They noted that ways to mitigate the human impact on the Bay include conserving green spaces, applying natural fertilizers, maintaining private septic systems and planting vegetation buffers on the shore lines. The students and Nora presented their poster to the Conservation Commission to be hung in the Town Hall to educate the public. The Commission members thanked Nora and the students.

b) Dave Garvey to present updated plans and findings for the ecological inventory for the Mill Road development. Jack Farrell reviewed the plan project. He reported that the access road previously suggested for the project from Mill Road has received public resistance. Jack stated that as a result of the public feelings the project is now looking at an access road from the Tecce property, across the river and abutting Route 155A. The developers are

currently in the process of looking at soils and evaluating the feasibility of this change. He noted that if this location is used it will need to meet the new storm water management regulations and asked for further input from the Commission. Peter Smith asked Jack what the down side for using this spot as the access road. Jack replied that the project was trying to avoid impact to the river, that this is a good access point, if it were not for crossing the river. He offered to have another site walk with the Commission members to show them the newly proposed access road. Beryl Harper asked if the emergency access road is still planned through the Spruce Wood property. Jack replied that it is still planned for that point, but it is only to be used as an emergency access road. He noted that they will be meeting with the Spruce Wood people shortly to discuss this. Robin Vranicar asked if the land being donated to UNH will be held in perpetual holding as Wildlife land. Jack replied that it will be permanently conserved as required by Town guidelines. Robin Mower asked about access for construction purposes. Jack replied that they would build the access road/bridge first. A site walk was set for Tuesday June 17th at 7:30 am.

Jack introduced Chris Kane, his consultant, a conservation biologist. Chris noted that he had been hired to determine and compare and contrast the conservation values of the two areas under discussion in this project. He noted that he had reviewed Town documents in terms of regulations, data search for rare plants and natural communities, GIS analysis for groundwater etc. He also did targeted field work with a special eye towards anything unusual, uncommon in terms of plants or wildlife. He did a walkthrough investigating different wetlands and uplands. Chris reported that he then tallied up the conservation values of each property to compare one to the other. He noted that in his opinion the eastern portion is the more valued portion to conserve. Chris explained that this piece of property is contiguous to protected land, and would result in protecting a significant frontage to the Oyster River and protect wetlands with unusual species and interesting aspects. He reported that there is a high yield aquifer area on the eastern portion of the wetlands. Chris presented a copy of his written report to the Commission. He added that he had also been asked to review the Mast Road access corridor. Chris' report on this was that Hickory trees and shrub species hug the boundary, there is nothing rare or exemplary, a lot of field, some trees and a stone wall where the road is proposed. Beryl asked Chris about the banks of the Oyster River. Chris replied that they are sandy soils. Duane asked is there would be a fragmentation affect on bird species if the access road is built at the proposed site. Chris noted that there are large field on either sides, adequate to maintain the bird species. Duane asked what would be the appropriate buffer for wetlands on the west side. Chris replied that he would like to see the setback be greater than the mandatory 75 ft setback. Duane expressed some concern regarding the crossing of the Oyster River and asked if there would be an affect on wildlife movement in the river and suggestions for minimizing impact. Chris replied that it would be important to minimize lighting and drainage off the bridge. Jack added that the span of the bridge will be 60-65 feet, there will be no structure in the river, but will need to be a structure in the flood plane. Duane asked what impact an abutment would have on the area. Chris replied that it may pick up drift from time to time and that shade may be an impediment to some wildlife. However, he noted that it may attract certain birds as well. Jack noted that they would like to minimize the width of the road/bridge for this project.

The Commission thanked Jack and Chris for their presentation on the JLB project.

3) Acceptance of May 8th, 2008 Minutes –

Cathy Leach moved to accept the minutes as presented. This was seconded by Beryl Harper and approved unanimously.

4) Other Business

a) Request for supplemental funding from the conservation Fund in the amount of \$25,212.72 for the Fogg Easement -- Duane explained that the original appraisal of this property was performed over a year ago. Another appraisal was needed in order to meet the timing requirements of the grant, and came in lower than the first appraisal. For this project, the portion covered by the DES is 25% of the appraised value. Since the value went down, the portion paid by DES went down as well. This created a greater amount that needs to be covered by the Town and therefore the Town Administrator requested that the funds come from the Durham Conservation Fund. A public hearing is needed since this regards using money for the acquisition of land. Duane recommended having a public hearing at the next meeting. The Commission members agreed to have a Public Hearing on this issue at their July meeting.

b) Request for \$600 from the Conservation Fund for the placement of a plaque on the Merrick Easement. Duane explained that Dwight Baldwin has met with the Merrick family to get their input on a plaque to be placed at the site of the generous donation to the Town of the Merrick Conservation Easement. He noted that Dwight has determined that a 6" by 8" wide plaque made of bronze will cost \$450, plus \$150 for installation by the Tasker monument company in Lee.

Cathy Leach moved to approve the request for \$600 from the Conservation Fund to pay for the production and installation of a plaque at the Merrick Conservation Easement. This was seconded by Peter Smith and approved unanimously.

c) Update regarding zoning changes for trails.

- i) Draft memo to Town Administrator on Trails -- Duane said that he does not feel he has a conflict of interest (noting that the firm he works for does do trail work in the Town of Durham, but that this issue is not about a particular trail) but if anyone did feel he had a conflict of interest he would recuse himself. No member felt there was a conflict of interest. Duane explained that Todd Selig had contacted him saying that the Planning Board had recommended to the Town Council a zoning amendment that would remove the clause in the ordinance that would require the Code Enforcement Officer to take the most conservative reading of the ordinance. This rewrite will be brought before the Town Council for their approval. The Town Administrator felt this would be a means to allow trails to be worked on without having to go through the planning process if the trails are considered a conservation activity. Todd Selig asked the Commission to look at the definition of conservation activity and advise him if the commission

feels trails are a conservation activity. Duane responded by drafting a memo and distributed it to the members for their response. Beryl said that she felt the memo addressed the issue and covered the questions being asked. Peter suggested two slight editorial changes; line 11 replace “said” with such or these and add a comma between plans and there (line 17). Cathy noted that parking lots are considered a structure, so if a parking lot is included in the trails plan it will need to go through the planning process. Stephen Roberts had emailed an amendment to Duane’s draft memo. Stephen noted that he felt Duane’s memo was well done and should stay as is, but he requested that his amendment be added to the memo. Stephen said that he felt his amendment would deal with parking lots at trail sites. The Commission discussed the amendment and while most agreed with it technically, it was thought that the response memo should be kept simple and clear.

George moved to accept the memo and send to the Town Administrator. This was seconded by Peter Smith and approved unanimously.

d) Discussion regarding Town Council changes to the policy for acquiring interest in conservation land. Duane noted that he received the final changes to the policy earlier in the day from the Town Administrator and that he has not had a chance to review them. Cathy said that the Council had voted on the changes and approved them. Peter said that he was not happy about the action taken by the Council. Duane noted that he was disheartened that the Council took the action without the Conservation Commission being present. Cathy noted that she had emailed the Commission members that the item would be on the agenda. She said that questions were brought up, but that in the end the Council did not change anything from the proposed changes.

Ongoing Business

a) Jackson’s Landing –

i) Discuss Phragmites removal component. Duane explained that there had been some concern that the phragmites removal was going to be dropped from the project. He noted that Mike Lynch has informed him that is no longer the case. The phragmites will be removed using short term herbicides and then some dredging, which will allow salt water flow, which helps to keep phragmites away.

Peter Smith moved to support the removal of phragmites and targeted dredging in the Jackson’s Landing project as discussed by Mike Lynch. This was seconded by Robin Mower and approved unanimously.

b) Wetlands Applications – George Thomas reported that there is a new application from Joe and Catherine Nadeau asking permission to build a pier, ramp and float on the Oyster River. Duane asked if there is currently a dock on the property. George responded that there is not one at this property. George reported that the ramp will be 30’ and that the float will essentially be in a mud area. He said that he contacted Pickering Engineering to confirm the location of the dock. Commission members were in agreement that a site walk

would be helpful. A site walk was scheduled for Wednesday June 18th at 3 pm. George will check with the owners and email the members to confirm.

c) Land Protection Working Group – Duane Hyde reported that the newsletter “Scenic Durham” has been mailed out. He said that the site walk at Emery Farm was a success with a large turn out. Duane reported that Farmer Brad took the group on a tour, explained the farm operations, guided the group through the woods and taught some ecology. He said there will be another site walk done at a different location in the fall. Beryl noted that she had received positive comments from people attending the event.

d) Town Owned Land/Conservation Easements – no report at this time

e) Mill Pond – no report at this time.

6) Board and Committee Reports

a) Town Council – Cathy Leach reported that there is nothing conservation related on the next agenda.

b) Planning Board – Stephen Roberts reported that there are no new applications. The three projects in the process of planning development are the Caldarola project, the Perry Bryant property, and the Tecce property. Robin asked if there is a question of rezoning in the Spruce Wood area to ORLI. Stephen responded that there will be a public hearing with the Planning Board on this issue. Duane asked Stephen if he felt the issues raised by the Conservation Commission with the Economic Development Committee at the May meeting would be discussed at the public hearing. Stephen replied that it may be best to put the Commission’s concerns in a letter to the Planning Board. The members discussed options for expressing their concerns about the possible rezoning. A joint meeting was discussed, as well as requesting that the public hearing be held open until after the next Conservation Commission meeting --- giving the Commission time to comment, requesting information from Jim Campbell on the rezoning and then asking Jim to attend the next Conservation Commission meeting. The need for a second meeting in the month of June was also discussed. The Commission’s consensus was to request the information from the Planning Board and then invite Jim Campbell to attend the next Conservation Commission meeting so the members can comment on the rezoning issue.

c) ZBA – Duane noted that the Commission needs to decide if providing technical comment on zoning variances is within the Commission’s prevue, and if the Commission wishes to provide such comments. He said that if this is the case the meeting schedules are not lined up to make this possible and a meeting change may be needed. Duane suggested that this be listed as an agenda item for the next meeting to be discussed. Cathy suggested inviting Jay Gooze, Chair of the ZBA, to attend the meeting.

d) Lamprey River Advisory Committee – no report at this time.

6 Administrative

a) Correspondence -- none at this time.

b) Next regular meeting is scheduled for Thursday July 10, 2008 at 7 pm.

8) Adjournment –

Beryl Harper moved to adjourn at 9:55 pm. This was seconded by Duane Hyde and approved unanimously.

The June 12^h, 2008 meeting of the Durham Conservation Commission adjourned at 9:55 pm.

Respectfully submitted by,

Sue Lucius

Durham Conservation Commission Recording Secretary