

Approved December 11, 2008

**Durham Conservation Commission
Meeting Minutes of Thursday, November 13, 2008
Durham Town Office – Council Chambers
7:00 PM**

Regular Members Present: Stephen Roberts, Jerry Needell, Dwight Baldwin, Duane Hyde, Beryl Harper, George Thomas

Alternate Members Present: Robin Mower, Peter Smith, Jamie Houle

Public Attendees: Christina Potter, David Potter, Derek Sowers

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

Acting Chair Duane Hyde called the meeting to order at 7:01 pm. He noted that Peter Smith would vote in place of the commission member seat vacated by Cynthia Belowski.

2) Presentations:

a) David Potter presenting proposed project that involves stabling horses at 281 Mast Road Extension. Discussion of potential direct or indirect wetlands impacts. David Potter distributed a map of the property involved in the request. He explained to the members the project being proposed, is a small equestrian facility for breeding horses. Mr. Potter noted the facility is to include an indoor arena, stable and small barn which will not impact the wetlands or the setback. He explained that he is presenting this plan to the Conservation Commission as a courtesy “For Your Information”. Mr. Potter said that he will be going before the Planning Board to request approval of the project. The members discussed the total acreage of the lot, how much land would be cleared, what types of wetlands are located on the property and access issues to the arena and other buildings on the property. The members thanked the Potters for their presentation.

b) Susan Faretera of NHSC presenting a proposed septic replacement within the tidal buffer at 265 Durham Point Road. Ms. Faretera noted that she filed the wetlands application that morning. She explained that tax map 20, lot 16-4 is located on a piece of property that has multiple buildings on it that were built prior to any shore land protection requirements. As such, the septic systems would not meet current regulations. Ms. Faretera explained that in 2001 a variance was permitted for an easement for each property to have leach fields away from Little Bay when the septic systems were replaced. She noted that this request is to replace the septic system with a new tank with pump chambers, pump along the gravel drive, avoid wetlands, reach the proposed easement leach field away from Little Bay. Jamie Houle asked how this would be viewed under the new State Shoreline Protection Act. Ms. Faretera responded that she felt the State would view this as a much improved system over the current system and therefore hopefully, approve it. Jamie asked how the variance site was selected. Ms. Faretera responded

that NHSC had done test pits and worked with the surveyor to find the best site. She noted that the easement for leach fields was set up for future redevelopment of the lots to be year round properties, so are designed to handle 4 bedroom year round homes. Ms. Faretera noted that the old tank would need to be pumped, crushed and filled – causing a temporary impact. She explained that part of the driveway will be removed and reseeded as grass. Duane summarized the Commission’s feeling that the septic system will be an improvement, but noted that the Commission should be consulted if the capacity and size of the home is increased in the future. George Thomas will report to Dori Wiggin that the Commission has no comments on the application.

3) Acceptance of minutes of October 9th and October 23rd Workshop

October 9th, 2008 minutes:

Beryl Harper noted a change of wording on page 4, line 10 This should read; “Cynthia reported that she distributed to the subcommittee members a list of town properties with proposals for action.”

Peter Smith moved to accept the October 9th, 2008 minutes as amended. This was seconded by Dwight Baldwin and approved unanimously.

October 23, 2008 workshop minutes:

Peter Smith moved to accept the October 23rd, 2008 minutes as written. This was seconded by Jerry Needell and approved unanimously.

4) New and Old Business

- a) Discuss Wiswall Bridge replacement project and any comments the Commission may wish to make. Duane noted that some of the Commission members met at the bridge with the Lamprey River Advisory Committee members, local citizens and David Cedarholm to hear about the reconstruction project of the Wiswall Bridge. Duane reminded the members that the project will include removing the center pier. He noted that the bridge will span the river, and that there will be some fill and disturbance on the Lee side of the bridge where a new retaining wall will be put in. He also noted that for construction purposes, either a barge will carry the equipment out into the river or a temporary pier, to transport the construction equipment, will be built. The members discussed their concern regarding the management of erosion and sedimentation issues during construction. Duane asked if requesting to review the construction plans would be helpful. Jamie Houle said he felt it would be evident by the construction plan sequencing if measures were being taken to address erosion and sedimentation. Duane asked for a volunteer to write a letter to David Cedarholm expressing the Commission’s concerns and hopes that measures will be taken during construction to minimize erosion and sedimentation issues. Jamie volunteered to write a letter to David Cedarholm. George Thomas will forward a copy of the letter to Dorrie Wiggins at DES to have the Commission’s comments on file.

- b) Discuss whether the Commission wishes to seek authority provided for under Senate Bill 381. Duane Hyde stated that this senate bill was passed to address the variety of ways Towns are handling conservation fund monies. He explained that this bill gives authority to Conservation Commissions to make contributions towards the land conservation process by non profits towards property for which the Town does not have a legal interest in; this authority is given after being approved by the town's governing body. Duane recommended that this bill not be brought forward to the Town Council at this point in time. The members had a brief discussion on the proposed bill. It was the consensus of the Commission not to bring this item forward to the Town Council at this time.
- c) Discuss Proposal from Town Administrator to Use Conservation Fund for the Dredging of Mill Pond. Duane Hyde reported that there is a place holder in the Town Capital Improvement Project Budget with respect to repairs of the dam at Mill Pond and dredging of Mill Pond. Jerry Needell commented that the Town Administrator is recommending the use of the Conservation Fund for these costs. He also noted that the wetlands permit for this project will expire in 2010. Duane asked the members to be thinking about whether this is an appropriate use of Conservation Fund monies. The Commission discussed the effects of removing the dam versus paying for major repairs (if needed) and dredging. The long term history of Mill Pond was discussed and if dredging was done, would more dredging need to occur in 5 or 10 years. The members discussed that there are funds available for the removal of dams that would cost the Town very little money versus the cost of maintaining and the upkeep of the dam. Derek Sowers urged the members to look at the removal of the dam as an ecological restoration project. He noted that removing the dam would open up 4-5 miles of the river corridor. The members noted that they felt having the item in the budget before the engineering report was concluded to be premature. Jerry noted partial reasoning for it being included in the budget is because of the permit expiring. George Thomas will research to see if the permit can be extended or renewed. Jerry asked if the Commission would like him to make a comment at the next Town Council meeting recommending this item be deleted from the budget. It was the consensus of the members to make no comment, to see if the permit can be renewed. If funding is requested from the Conservation Fund it will require extensive discussion among the Commission members.
- d) Discuss whether and how Conservation Commission should be engaged in any changes to the ORLI district relative to protecting water supply sources. Robin Mower began a discussion regarding possible changes to the ORLI zoning to provide better protection to natural resources. Jerry Needell noted that Douglas Clark and Mike Sievert are in the process of preparing wording for changes to the zoning and will bring this forward to the Council for their review and input. Robin suggested writing a letter to the Planning Board stating the Conservation Commission's support for changes that would better protect the area. The members discussed the pros and cons of this suggestion and any action regarding recommendations for rewording to the zoning ordinance. Members expressed their feelings that they had stated their concerns numerous times and were not sure that making those same points again would be helpful. Robin Mower and Jamie Houle argued that the Conservation Commission should try again, in a simple, concise manner to suggest changes that would offer more protection. The members discussed the importance of this issue. The consensus of the Commission was to form a subcommittee to bring forward suggested

changes to the next meeting of the Conservation Commission for review by the full membership.

- e) Proposal to provide photos of Town's conservation land for Town website. Robin Mower suggested expanding the use of the Town's website to provide education about the Conservation Commission, their purpose and to promote use of Town lands. She suggested having new maps and pictures from site walks uploaded to the website. Beryl Harper volunteered photos. Duane Hyde asked for Robin to let the Commission members know when there are updates to be viewed.

5) Ongoing Business

- a) Wetlands Applications – George Thomas said that he received an expedited minimal impact application from Ray Konisky regarding the presentation he gave to the Commission regarding the reintroduction of Oysters to the Oyster River. Duane Hyde recused himself from this discussion due to a professional conflict of interest. Beryl Harper asked if the size of the area was the same as previously discussed. George responded that the size and location are the same as previously described. It was the consensus of the Commission for George to sign the expedited minimal impact application.
- b) Land Protection Working Group – Duane Hyde reported that the Misty Meadows project will not be pursued with Town conservation funds based on his meeting with the Town Council.
- c) Town Owned Land/Conservation Easements -- Beryl Harper will be taking over the lead on this group. She suggested members review the Great Bay Partnership website (greagtbaypartnership.org). Beryl noted that the website has two maps for each of their lands; one is ownership and one is hunting. She suggested linking to this on the Town website.
 - i) Fogg Conservation Easement Monitoring – Duane Hyde noted that he would be going to this property to do the required monitoring on Sunday at 2pm and asked other members to join him. He said that he would meet with the Fogg's to see what they have done and any plans they have for the near future.
 - ii) Whether to apply to NHEP TAP program to fund Stewardship planning -- Duane noted that this program could help fund the work for preparing land management plans and help select contractors. Beryl Harper will look into this program.
- d) Mill Pond – There was nothing new to report this month.
- e) Jackson's Landing – Dwight Baldwin reported that there will be a work session on Saturday November 15, 2008 to help develop trails on the other side of Piscataqua Road.

6) Board and Committee Reports

- a) Town Council – Jerry Needell reported that he requested Jenny to advertise the opening on the Commission in the Friday updates. He noted that there is a place holder in the

proposed CIP to take the Spruce Hole Aquifer Well through the permitting process next year for drilling and pump testing in the amount of \$600,000. The total cost of the project is estimated at 2 million with UNH funding two-thirds and money from the water reserve fund paying the remainder.

- b) Planning Board – Stephen Roberts reported that the Planning Board is working on revising the septic system ordinance, but the final draft is not ready. When it is Stephen will share with the Commission. He reported that a technical review request was made by Peter Murphy for property off of Rosemary Lane. This would be a change in the interior of a building which only has a 13.1 ft setback from Pettee Brook. This item will come before the Commission. Stephen said when the Planning Board schedules a site inspection he will inform the Conservation Commission members.
- c) Zoning Board of Adjustments – Robin Mower reported that there is a request for a retaining wall replacement on Oyster River Road.
- d) Lamprey River Advisory Committee – Duane will speak with Cynthia to see if she is resigning as this representative. If Cynthia does resign the Town Council will need to recommend a new representative.

7) Other Business

- a) Chair – Duane Hyde agreed to take over the Chair until March, at which time he will step down from the Commission. He noted that he will need assistance from members for various items.
- b) 2008 Annual Report – Duane noted that this is due December 1st. Robin volunteered to draft the report and circulate to members for comment.

8) Administrative –

- a) Correspondence - Beryl Harper reported that the Roselawn Farm walk was well attended, and there was a newspaper article published about it.
- b) Next regular meeting December 11, 2008 at 7 PM in Council Chambers

9) Adjournment – The November 13, 2008 meeting was adjourned at 9:45 pm

Beryl Harper moved to adjourn the November 13, 2008 meeting of the Durham Conservation Commission. This was seconded by Peter Smith and approved unanimously.

Respectfully submitted by,

Sue Lucius
Durham Conservation Commission Recording Secretary