

Draft Draft Draft

Durham Conservation Commission  
Meeting Minutes of Thursday January 8, 2009  
Durham Town Office - Council Chambers  
7:00 pm

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

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

Regular Members Excused: Beryl Harper

Public Attendees: Susan Fuller, Todd Selig, Eric Tannenbaum

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

Acting Chair Duane Hyde called the meeting to order at 7:04 pm and designated Peter Smith as the alternate member charged with voting in place of regular member, Beryl Harper this evening.

**2) Presentations:**

a) None Scheduled

**3) Acceptance of minutes of December 11<sup>th</sup> meeting** - this item was moved to 7) Other Business due to time constraints.

**4) New and Old Business**

a) Discuss a request from the Economic Development Committee as to whether the Conservation Commission has concerns/recommendations with regard to the zoning provisions in the rezoned area along the Oyster River and the area proposed for rezoning at Beech Hill (Susan Fuller invited)

Susan Fuller thanked the Commission for having her at the meeting. She noted that the Economic Development Committee (EDC) is interested in hearing what the Conservation Commission's concerns might be if there were to be development in the Oyster River and Beech Hill areas. She noted that in the one area by the Oyster River there has been a

1 conceptual idea brought forward, while the other area, Beech Hill Road area, there is no  
2 specific development proposal that has been brought before the Planning Board..

3  
4 Duane Hyde said that the two areas being discussed happen to overlap with areas that the  
5 Conservation Commission has decided are conservation areas of high interest for the  
6 Town. He noted that the Conservation Commission's focus area is north of Beech Hill  
7 Road, and that there is property south of Beech Hill Road which is zoned ORLI.

8 Duane said that the Conservation Commission has concerns with the rezoning of the  
9 Oyster River area with regard to protecting the Town's water supply. He explained the  
10 Conservation Commission was concerned when the Town Council took the action to  
11 rezone the area, without following the recommendations made by the consultant to  
12 protect the water supply. Duane said that the Conservation Commission would like to  
13 see the recommendations made by the consultant instituted. Such recommendations  
14 include: impervious surface limits, set backs from river, buffers, usage in area limited.  
15 Peter Smith noted there are two positions the Conservation Commission is concerned  
16 with 1) looking at making the current allowable uses consistent with responsible  
17 development in the immediate vicinity of the Oyster River and the Spruce Hole aquifer,  
18 2) obtaining more information to be able to know (particularly with respect to the aquifer)  
19 with confidence what risks there would be in the area. He said that the Conservation  
20 Commission feels that certain development might be appropriate, but it was too early at  
21 this moment to know that and because of the enormous importance of the Spruce Hole  
22 Aquifer to the Town's future it would not be responsible to move ahead with an  
23 application before the science was in place (testing wells, etc). Duane noted that water is  
24 a very valuable resource long term for the community. He said it would be very  
25 expensive to increase treatment of water and considering that, what most communities do  
26 is to try to protect areas around water sources. Jerry Needell said he felt it important  
27 when a rezoning is brought forward, that all factors are considered and that whoever  
28 brings forward the rezoning must take on the task of doing the research. He said this is  
29 zoning and zoning is typically done as an outgrowth of the Master Plan and at the request  
30 and interest of the town planning department and not with a developer in mind. Jerry  
31 said it appears that the Town is being asked to make a change to zoning to accommodate  
32 a developer. He noted it needs to be asked why would we change what was set out by the  
33 master plan, why would we want to make a change to a well thought out process.

34  
35 Duane said if the Town is thinking about rezoning with a particular developer in mind,  
36 that is not good policy for the Town as a whole. He explained that developers change  
37 very quickly for any number of reasons, and to rezone for a particular developer could be  
38 problematic if why the area was rezoned, does not come to fruition.

39  
40 Stephen Roberts said the issue he had as a Planning Board member, was that the Council  
41 forwarded zoning changes to the Planning Board that had unintended consequences.

42  
43 Peter Smith said it has been 10 years since the Town adopted the most recent Master  
44 Plan. He noted that it is developed and adopted by the Planning Board, it is not an  
45 ordinance, but a planning document and needs to be utilized. Peter said the Master Plan  
46 keys into lands for various uses, and it seems that is the time when these basic questions

1 should be asked and committees and representatives are formed to focus on these  
2 different questions. He said if the Master Plan is done carefully, it leads to a rational plan  
3 and a community consensus. Peter said, thereafter when a developer brings a project  
4 forward, the Master Plan should be consulted.

5  
6 Duane said he thought best to begin the discussion of the Beech Hill area.

7  
8 Robin Mower noted there is a history with the Beech Hill area and redevelopment.  
9 Duane said this area is an area that the three adjoining communities have all agreed is an  
10 important area (only a small part is in Durham, most is in Lee and Madbury). Robin said  
11 it would be helpful for the Conservation Commission and the EDC to work together on  
12 looking at specific parts of town that are good for development. Dwight asked Susan  
13 what the charge of the EDC is. Susan replied that the charge is to bring about orderly  
14 development in the Town of Durham and to increase the resources and information for  
15 the community. Dwight asked how the EDC is accomplishing this charge. Susan replied  
16 that they are working on a survey in conjunction with UNH to find out what businesses  
17 and residents would like to see downtown. Dwight asked if the EDC has discussed areas  
18 proposed for development with businesses and residents. Susan replied that people had  
19 attended some of their meetings to discuss areas for development. Dwight urged the  
20 EDC to walk the areas being discussed for possible development, so the committee can  
21 see the pros and cons of development in any area.

22  
23 Susan said if the EDC had any further thoughts or information that should be shared with  
24 the Conservation Commission she would ask to come back and share the information  
25 with the Commission.

26  
27 Duane noted that the Chair of the Madbury Conservation Commission, Eric  
28 Tannenbaum, was in the audience.

29  
30 Duane supplied Susan with a copy of the Coastal Conservation Plan spread sheet that  
31 describes what important resources are found in the areas discussed this evening.

32  
33 Joe Moore recommended when visiting the Beech Hill area to go up to where the power  
34 line is, there is a brook that runs from top of hill all the way into Madbury. He noted that  
35 this is a better vantage point to see the problems of trying to develop that site.

36  
37 Duane asked the Madbury Conservation Commission Chair if he had any comments.  
38 Eric replied that he wanted to reiterate that what is done in certain portions of Durham  
39 affects other towns as well.

40  
41 Duane thanked Susan for taking the time to speak with the Commission.

42  
43 Susan said she will take back to the EDC the concerns that she has heard at this meeting.

44  
45 b) Discussion with Town Administrator Todd Selig on general coordination/activities  
46 with Town Administration and Town Council – Todd Selig

1 Dwight Baldwin explained that he had spoken with Todd Selig about what he perceived  
2 as a fissure developing between the Town Council and the Conservation Commission.  
3 He said he felt the lines of communication were breaking down. Todd Selig said that he  
4 felt there were a few things occurring that were leading to this distance between the two  
5 groups; 1) the community is transitioning from one phase, where conservation was a  
6 major focus, to another phase where a lot of focus is on the high taxes in Durham and  
7 what can be done to help relieve this and 2) the difference in personalities and working  
8 styles between the members of the two groups. Todd Selig said he does agree that  
9 communication has broken down and that Conservation Commission members are  
10 frustrated, disheartened, demoralized and discouraged. He commented on Duane Hyde's  
11 resignation from the Commission and said what a loss it is. Todd Selig said that he does  
12 not want to see other good members become discouraged and leave the Commission.  
13 The members and the Town Administrator discussed the recent interaction between the  
14 Commission and the Council with regard to the Misty Meadows project. Todd Selig  
15 suggested bringing projects to the Council earlier in the process to allow them a longer  
16 period of time to become familiar with the projects. Duane said that he understands such  
17 an approach, but cautioned that the time frame does not always allow for such lengthy  
18 preparation. Todd Selig also suggested that if the Commission felt appropriate, he be  
19 used as a sounding board on projects before presenting them to the Council. He noted  
20 that the Council had set goals and that conservation has dropped down substantially on  
21 the list. Todd Selig explained that conservation has not been a major priority for him,  
22 because it is not a major priority for the Council. He explained that he has come to speak  
23 to the Commission, on his own, because he sees problems arising between the two groups  
24 and would like to help. Todd Selig said he would like to try to understand the land  
25 conservation process better, to help shepherd projects with the Council. He noted that he  
26 struggles with how tracts of land are prioritized. The members discussed the topic of  
27 land conservation and how it is sometimes not possible to wait to conserve the "top" tract  
28 on the list, because it may never become available. Duane commented that if the areas  
29 that have been conserved are reviewed, one can see how they work together and the  
30 resource values that are delineated in them. Jerry Needell said that part of the problem  
31 others have with land conservation is the inability to effectively budget for it, since you  
32 do not know when tracts will become available and funds will need to be expended.  
33 Peter Smith commented that the conservation of land is one of very few items in the  
34 Town budget where the majority of the funding does not come from taxpayers, but from  
35 grants and other nonprofits. The members and the Town Administrator also discussed  
36 the need to work more closely with the Council on subcommittees where it is appropriate  
37 for the Conservation Commission to make recommendations. Todd Selig encouraged the  
38 Commission to speak with him and ask for suggestions and assistance regarding projects  
39 to go before the Council. Duane Hyde offered to review with the Town Administrator  
40 the list of lands under consideration for conserving and review their resources which are  
41 important to conserve. Jerry Needell commented that the Commission is in need of new  
42 members. Duane Hyde noted that the Lamprey River Advisory Commission also has a  
43 vacancy due to Cynthia Belowski's resignation. The Commission thanked the Town  
44 Administrator for his thoughts, suggestions and taking the time to meet with the  
45 Commission.

1   **5) Ongoing Business**

2  
3   a) Wetlands Applications – George Thomas reported that there are no new wetlands  
4   applications.

5  
6   b) Land Protection Activities

7       i) Mill Pond Center Field Mowing Discussion- This item will be discussed at the next  
8   meeting.

9  
10   Duane reported that a piece of property was acquired on December 18<sup>th</sup> in the Falls  
11   Brook area by the Nature Conservancy, which will be transferred to the Audubon Society

12  
13   c) Town Owned Land/Conservation Easements

14       i) Update on potential NHEP TAP program to fund Stewardship planning – This item  
15   will be discussed at the next meeting.

16  
17   d) Mill Pond – The members discussed the Mill Pond Dam situation with the Town  
18   Administrator. Todd Selig noted that there will be a public forum to discuss the situation  
19   and that the Town is interested in having the Conservation Commission, the Historic  
20   Committee and the Planning Board represented. He noted that the forum would present  
21   the findings from the engineers report and solicit feedback and thoughts from the boards  
22   and the public. The members encouraged the Town Administrator to have information  
23   presented on the benefits and costs of repairing the dam, as well as removal of the dam.  
24   Duane Hyde added that it would be helpful for the public to know not only the cost of  
25   dam removal, but also that the State has a Dam Removal Task Force, what the ecological  
26   benefits would be, the sedimentation concerns and other issues that might arise from the  
27   removal of the dam. He encouraged Town staff to gather as much information as  
28   possible before the public forum, so they would be knowledgeable on all alternatives  
29   regarding the dam.

30  
31   e) Jackson's Landing - Dwight Baldwin reported that the silt fences have been put back,  
32   the gravel on the down slope of the road going to the landing has not been replaced, and  
33   the water back up on the landing is being looked in to.

34  
35   **6) Board and Committee Reports**

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37   a) Town Council – Jerry Needel noted that there is nothing additional to report at this  
38   meeting.

39  
40   b) Planning Board – Stephen Roberts reported the Chinburg group has just begun the  
41   process of discussing a project at the Business Park with the Planning Board. Peter stated  
42   his concern that any prospective developer be encouraged to present a view of how the  
43   project will be viewed from the river.

44  
45   c) Zoning Board of Adjustments – Robin reported that the ZBA is reviewing a request for  
46   a septic system at one of 5 camps. She reminded the Commission that this project was

1 brought before the Commission for review and comment in November and it was agreed  
2 by the Conservation Commission that the proposal would be an improvement over the  
3 current situation.

4  
5 d) Lamprey River Advisory Committee – Duane noted that a replacement for Cynthia  
6 Belowski’s position will be needed and asked Town Administrator, Todd Selig to list this  
7 vacancy.

8  
9 **7) Other Business –**

10  
11 December 11<sup>th</sup> minutes:

12  
13 Duane noted that Sandra Strauss and Joe Moore should be added as public attendees.  
14 Dwight noted some grammatical changes and an addition on page 4, regarding the topic  
15 of the memo sent to Duane Hyde from the Town Administrator.  
16 Duane asked that the word “manage” on page 4, line 6 be changed to “conduct”.  
17 Stephen suggested alternate wording regarding the subject of alternate septic systems on  
18 page 4, “...the plan to allow alternate septic systems is being brought before the Town  
19 Council based on the NHDES approval of such systems that provide a higher level of  
20 treatment on sites ..... But such systems must be inspected once every two years by a  
21 certified septic inspector, with a certificate of inspection included with tax bill payment.”

22  
23 *Stephen Roberts moved to approve the December 11, 2008 minutes as amended. This*  
24 *was seconded by Peter Smith and approved unanimously.*

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26 **8) Administrative**

27  
28 a) Correspondence – Duane noted that several items of correspondence had been  
29 distributed for the members to review.

30  
31 Robin requested Commission members to write a brief biography and statement of  
32 interests to be posted on the Conservation Commission’s website. She suggested  
33 reviewing the Energy Committee website for an example.

34  
35 b) Next regular meeting February 12, 2009

36  
37 **9) Adjournment** – The January 8, 2009 meeting of the Conservation Commission was  
38 adjourned at 9:50 pm

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40 Dwight Baldwin moved to adjourn the January 8, 2009 meeting of the Conservation  
41 Commission. This was seconded by Jerry Needell and approved unanimously.

42  
43 Respectfully submitted by,

44  
45  
46 Sue Lucius, Durham Conservation Commission Secretary