

Approved - February 12, 2009

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 Fiegenbaum, Joe Moore

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 11th 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 conceptual idea brought forward, while the other area, Beech Hill Road area, there is no specific development proposal that has been brought before the Planning Board.

Duane Hyde said that the two areas being discussed happen to overlap with areas that the Conservation Commission has decided are conservation areas of high interest for the Town. He noted that the Conservation Commission's focus area is north of Beech Hill Road, and that there is property south of Beech Hill Road which is zoned ORLI. Duane said that the Conservation Commission has concerns with the rezoning of the Oyster River area with regard to protecting the Town's water supply. He explained the Conservation Commission was concerned when the Town Council took the action to rezone the area, without following the recommendations made by the consultant to protect the water supply. Duane said that the Conservation Commission would like to see the recommendations made by the consultant instituted. Such recommendations include: impervious surface limits, set backs from river, buffers, limiting permitted uses. Peter Smith noted there are two positions the Conservation Commission is concerned with 1) looking at making the current allowable uses consistent with responsible development in the immediate vicinity of the Oyster River and the Spruce Hole aquifer, 2) obtaining more information to be able to know (particularly with respect to the aquifer) with confidence what risks there would be in the area. He said that the Conservation Commission feels that certain development might be appropriate, but it was too early at this moment to know that and because of the enormous importance of the Spruce Hole Aquifer to the Town's future it would not be responsible to move ahead with an application before the science was in place (testing wells, etc). Duane noted that water is a very valuable resource long term for the community. He said it would be very expensive to increase treatment of water and considering that, what most communities do is to try to protect areas around water sources. Jerry Needell said he felt it important when a rezoning is brought forward, that all factors are considered and that whoever brings forward the rezoning must take on the task of doing the research. He said this is zoning and zoning is typically done as an outgrowth of the Master Plan and at the request and interest of the town planning department and not with a developer in mind. Jerry said it appears that the Town is being asked to make a change to zoning to accommodate a developer. He noted it needs to be asked why would we change what was set out by the master plan, why would we want to make a change to a well thought out process.

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

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

Peter Smith said it has been 10 years since the Town adopted the most recent Master Plan. He noted that it is developed and adopted by the Planning Board, it is not an ordinance, but a planning document and needs to be utilized. Peter said the Master Plan keys into lands for various uses, and it seems that is the time when these basic questions should be asked and committees and representatives are formed to focus on these different questions. He said if the Master Plan is done carefully, it leads to a rational plan

and a community consensus. Peter said, thereafter when a developer brings a project forward, the Master Plan should be consulted.

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

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

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

Duane noted that the Chair of the Madbury Conservation Commission, Eric Fiegenbaum, was in the audience.

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

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

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

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

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

b) Discussion with Town Administrator Todd Selig on general coordination/activities with Town Administration and Town Council – Todd Selig
Dwight Baldwin explained that he had spoken with Todd Selig about what he perceived as a fissure developing between the Town Council and the Conservation Commission.

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

5) Ongoing Business

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

b) Land Protection Activities

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

Duane reported that a piece of property was acquired on December 18th in the Follett Brook area by the Nature Conservancy, which will be transferred to the Audubon Society

c) Town Owned Land/Conservation Easements

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

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

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

6) Board and Committee Reports

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

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

c) Zoning Board of Adjustments – Robin reported that the ZBA is reviewing a request for a septic system at one of 5 camps. She reminded the Commission that this project was brought before the Commission for review and comment in November and it was agreed

by the Conservation Commission that the proposal would be an improvement over the current situation.

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

7) Other Business –

December 11th minutes:

Duane noted that Sandra Strauss and Joe Moore should be added as public attendees.

Dwight noted some grammatical changes and an addition on page 4, regarding the topic of the memo sent to Duane Hyde from the Town Administrator.

Duane asked that the word “manage” on page 4, line 6 be changed to “conduct”.

Stephen suggested alternate wording regarding the subject of alternate septic systems on page 4, “...the plan to allow alternate septic systems is being brought before the Town Council based on the NHDES approval of such systems that provide a higher level of treatment on sites But such systems must be inspected once every two years by a certified septic inspector, with a certificate of inspection included with tax bill payment.”

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

8) Administrative

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

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

b) Next regular meeting February 12, 2009

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

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

Respectfully submitted by,

Sue Lucius, Durham Conservation Commission Secretary