

Approved - June 9, 2011

Meeting Minutes

May 12, 2011

Durham Town Office – Council Chambers

7:00 PM

Members Present: Jamie Houle, Robin Mower, Julian Smith, Larry Harris

Members Not Present: John Parry, Dwight Baldwin, Derek Sowers, Malin Clyde

Alternates Present: Peter Smith, Ann Welsh

Alternates Not Present: Stephen Burns

Also Present: Duane Hyde (The Nature Conservancy) and Emma Carcagno (UNH Cooperative Extension)

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

Chair Houle called the meeting to order at 7:02 pm and elevated alternate members Ann Welsh and Peter Smith to voting members for the evening.

Julian Smith MOVED to amend the agenda to add items 1b) Robin Mower's report and 1c) Chair Houle's update on Trust for Public Land project. This was SECONDED by Robin Mower and APPROVED unanimously.

1b) Robin Mower reported that she received an email from the Town Administrator discussing the potential purchase of the property next to the site of the new library, which has been discussed as a site for the new Town Hall. She said there may be a question of wetlands impact. Ms. Mower asked if the Commission had any feedback regarding this for her to bring to the Town Council and the Town Administrator. She said the Town Administrator would like to respect the wetlands and buffers.

Chair Houle said he feels the Town should be held to the same design constraints that everyone else would be held to.

Peter Smith suggested inviting the Town Administrator to a future meeting if the Town will be proposing plans for the property that may not conform to ordinances.

Robin Mower volunteered to bring comments from the Conservation Commission to the Town Council and also bring the comments from the Town Council to the Commission.

Peter Smith said he feels it would be better to not take a position without having a proposal to review. Chair Houle said he feels the Commission's preference would be to hold the Town to the zoning codes of the Town.

Ann Welsh said it would be prudent to hold the discussion in a public forum.

Peter Smith said the Commission has frequently had conversations where people present to the Commission to ask for an exemption. He said he does not like the precedent of saying the Commission

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heard about this project and will not approve it before the project is presented. Mr. Smith said he feels procedure is important.

Robin Mower asked if she should report to the Council the Commission's general feeling on the subject, but extend an invitation to meet with the Commission.

Peter Smith said he believes the Town Administrator should be told that if he wishes to pursue this he should present to the Commission.

Chair Houle said he did not agree, he said the Commission was asked for an opinion and the Commission has every right to give it. He noted it is well within the power of the Town Administrator to bypass the Commission altogether. Chair Houle said since the Commission has been asked, they should provide input.

Robin Mower said there is no intent to build a Town Hall in the near future and it is possible that no Town Hall will be built on the property and that it may remain in private hands.

Chair Houle said he believes it is a good educational opportunity, he said the Commission knows the Town has certain rights, but the Commission's position has been consistent and clear and has been accepted and adopted by the library building committee. He said this shows there is a process that is working. Chair Houle said the Commission would advocate for any developer to respect the zoning ordinances.

Chair Houle MOVED to have the Conservation Commission write a simple memo that underlies the basic philosophy and approach to any given project; whether a Town or any entity coming before the Commission; that would advocate for the adherence to Town zoning which falls under their jurisdiction. This was SECONDED by Larry Harris.

Discussion:

Ann Welsh suggested adding that the Commission looks forward to a chance to comment on any actual proposal for this parcel regardless of the owner.

Vote on the motion:

Approved 5-1 (Peter Smith opposed).

1c) Trust for Public Land Update:

Chair Houle said he spoke with Greg Caparossi of the Trust for Public Land. He reminded the members that the Conservation Fund has limited funds and if all committed funds were expended the fund would be \$47,000 in deficit. Chair Houle said one of the outstanding commitments from the Fund is to the Trust for Public Land. He said there is uncertainty with the project due to federal funding questions. Chair Houle said this should be resolved somewhat on May 14th. He said there is optimism that the project will be funded, but there are still many questions regarding the project and the timeline for the project and for when the funds committed by the Commission will be needed. Chair Houle said it is likely that the funds will not be needed until March 2012.

2) Presentations

- a) Presentation on a potential conservation easement for the Beaudette Farm, Durham NH.
Duane Hyde, TNC

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Duane Hyde said the Beaudette property is a farm at the corner of Routes 108 and Bennett Road. He said the property consists of 72 acres that has approximately 2800 feet of frontage on Route 108 and 1400 ft of frontage on Bennett Road. Mr. Hyde said the Nature Conservancy and the Great Bay Partnership are proposing to acquire outright 66 acres of the farm. He said this would leave 6 acres of the property where the house and some other outbuildings are located to be retained by the estate.

Mr. Hyde explained the ownership history of the property from 2000 on. He said the property was at that time the 72 acres plus another 134 acres across the street and was owned by Norman Beaudette who the Land Protection Working Group made initial contact with. Mr. Hyde said Mr. Beaudette passed away and the estate was contested but eventually went to Roland Beaudette. He noted the property has always been a priority conservation property. He said after Roland Beaudette took ownership he sold the 134 acres across the street (which was a wood lot) to the Great Bay Partnership with assistance and funding from the Town of Durham. Mr. Hyde said the purchase went through the Town process and the Town provided \$200,000 for the acquisition of the land. He said the town received a deed restriction on the property. Mr. Hyde said Roland passed away this past summer and he was subsequently contacted by the attorney administering the estate to see if the Conservancy was interested in purchasing the 72 acres. Mr. Hyde said the Conservancy was very interested but felt the timing was bad; with questions regarding the federal budget and the Great Bay Partnership funding not fairing very well. He explained they were able to get the project under contract but is \$50,000 short of funding the project and is looking for a source of money to finish this project. Mr. Hyde explained that the purchase price for the property is \$490,000 for the 66 acres (it was appraised in April by the Stanhope Group). He reminded the members that the Commission had previously committed \$5000 to the Partnership to support conservation projects, so he is asking now for \$45,000 to cover the shortage for this project.

Mr. Hyde said the Great Bay Partnership and the Nature Conservancy would cover all other expenses associated with the purchase.

Robin Mower asked when the closing date would be. Mr. Hyde said early August, so the funds would be needed then.

Robin Mower said the Town Council would ask if there are potential developers for this property. Duane Hyde said as part of the appraisal New Hampshire Soils looked at the property to check the wetlands delineation and worked with Bill Doucette to do a conceptual development analysis to see what the potential use would be. He said it was determined that seven oversized house lots would be the best potential use.

Chair Houle said from a health and safety issue it is a critical area to maintain as open area. Duane Hyde said it is an important flood storage area; he said during major storms much of this property has been under water and under current provisions there is nothing that prohibits development of this property. He suggested it would be very important to keep the property open as a place for flood storage and a place where the Town does not have to worry about rescuing residents. Mr. Hyde said he believes there is a big positive from getting this land into conservation and letting nature take its course.

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Peter Smith asked if there is room for negotiation in the purchase price. Mr. Hyde said the attorney representing the estate has to maximize the value for the estate and he is required to disclose the fair market value. He said he does not feel the estate would take kindly to a reduction and may test the market to see if there is a developer is interested if the purchase price were lowered.

Chair Houle said in light of discussions regarding the Trust for Public Land project and knowing the short time frame for this project, it seems it would be beneficial for the Commission to discuss this tonight and in a few days when more information is available regarding the TPL project make a more definite decision.

Duane Hyde said he is requesting only a sense if the Commission feels this is a good project and one that the commission finds consistent with the goals of the Conservation Fund. He said it would be appropriate to hold off on the amount of funding pending the results of the TPL project. Mr. Hyde said the Town will need to hold a legal interest in this property and this needs to be accepted by the Town, so needs to go through the Town Council. He also noted that when the Commission expends funds for land a public hearing is required. Mr. Hyde said his purpose this evening was to provide information to the Commission.

Chair Houle said he believes when discussing lands to be conserved it is important to consider timing and availability. He said it is not advisable to hold up a project on one property to wait for another property that it is unknown when it will become available. Chair Houle said this property meets many of the values that the Commission considers when evaluating conservation land; it abuts other conservation properties; it also abuts recreational trails and can provide access to year round recreation; there is also a public safety issue to consider since the property has flooded significantly three or four times in the last five years and further development in that area will exacerbate flooding.

Larry Harris said he feels that if the TPL project does not happen this would be a very good project to invest in.

Chair Houle said the timing of the two projects may allow the Commission to assist with both.

Peter Smith asked if there will be LUCT funds to come into the fund and if so what would be the timing. Robin Mower said the money comes into the fund once construction begins on a project. She said the amount estimated from the Capstone project might be in the area of \$50,000 or more.

Chair Houle said it is accurate to say that the Commission is interested in the Beaudette project and that it seems very compelling.

Chair Houle said the best case scenario for the TPL project to begin is March 2012, but the terms still need to be negotiated. He also noted that the option is only until October of this year.

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Peter Smith asked Duane Hyde if he had any advice regarding what steps should be taken by the Commission with respect to communicating with Town Council. Mr. Hyde said his next step is to meet with Todd Selig to get his insight regarding how to proceed with regard to discussing this topic with the Town Council. He said he would like to invite Chair Houle to join that meeting.

*8:04 pm Robin Mower excused herself from the meeting.

- b) Presentation on Durham's being a new focus area for New England Cottontail restoration projects. Emma Carcagno, UNH Extension.

Emma Carcagno passed out pamphlets regarding the New England cottontail habitat. She explained that she works at the University of New Hampshire Cooperative Extension as a wildlife assistant. Ms. Carcagno said that for the past three years she has been working on the recovery of the New England cottontail in New Hampshire.

Ms. Carcagno explained that the New England cottontails rely on a dense shrubby habitat for protection and a lot of that land has been developed and the habitat eliminated. She said there has been a sharp decline, especially in the past 10 years, so the New England Cottontail has become a candidate species for the Federal endangered list. Ms. Carcagno said it is currently listed as a state endangered species. She explained that New Hampshire Fish and Game, UNH Cooperative Extension, the Natural Resources Conservation Service, US Fish and Wildlife Service and researchers at UNH are working collaboratively to find the best approach for recovering the species. Ms. Carcagno said they are centering their approach on getting private land owners and State land to create habitat. She said the Beaudette wood lot is owned by Fish and Game and was cut to the proper specifications for a cotton tail habitat. Ms. Carcagno said there is a corridor of habitat which follows the railroad tracks from Durham to Dover. She said each state is required to create focus areas, New Hampshire has done that and the focus area includes a large part of Durham. Ms. Carcagno explained that as part of the process, modeling was done to choose the best places to find rabbits and then ranked the parcels for the southern portion of the state. She said in Durham there are several highly ranked properties and one of the most highly ranked is Wagon Hill Farm. Ms. Carcagno said currently it is past the point of providing the dense cover needed by the New England cottontail. She said the partnership has some funds to do management on town properties. Ms. Carcagno said she wanted to present this to the Commission and ask what the members think the Town Council reaction to this may be. She noted that Doe Farm is also a highly ranked property in Durham.

Ann Welsh asked if management would consist of cutting the tall trees and opening up the area for regrowth. Ms. Carcagno said that is the plan.

Peter Smith said he believes there may be issue with humans being opposed to cutting trees. He suggested that there needs to be some education regarding this project. Mr. Smith said more support for the project will be garnered if people are aware of why the trees are being removed. Ms. Carcagno said they have learned that this is important and will send letters to the abutters and beyond so that neighbors are aware of what is being done and why. She said they may also do workshops on the property before and after the work is done. Ms. Carcagno said part of her job is providing education, which may include articles in local papers or articles to be posted on

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more local websites. Peter Smith suggested door to door leaflets. He said problems arise when people are surprised. Ms. Carcagno agreed and said they are trying to prevent that from happening. She said doing work on public areas provides a demonstration area for private landowners and also provides a showcase which may help to educate more people.

Chair Houle said the Town has been pursuing timber harvesting on Town property with Charlie Moreno and suggested there may be some interest in doing additional timbering to the specifications needed for the New England Cottontail. He suggested contacting Mike Lynch and Todd Selig to discuss their plans for timbering and see if they could amend the scope of work to better suit the type of habitat desired for the New England cottontail.

Ms. Carcagno asked if her next step should be to speak with Mike Lynch. Chair Houle said the Commission does not make decisions regarding land management. He noted the consensus of the Commission is that they are in support of the project.

Ann Welsh said the Wagon Hill property is one that the Commission did a study of and there was a discussion of the potential of logging in the report which was done by Ellen Schneider. Ms. Carcagno said she would keep the Commission up to date on any discussions regarding this project.

3) Acceptance of April 14th minutes

Chair Houle noted that page one, line 33 needs to be corrected to read “..... 20 Cedar Point...”

Jamie Houle MOVED to approve the April 14, 2011 minutes as amended. This was SECONDED by Julian Smith and APPROVED unanimously.

4) New and Old Business

There was nothing further to discuss.

5) Ongoing Business

a) Wetlands Applications

Chair Houle noted there were no new applications to review.

b) Land Protection Activities

Chair Houle said this topic was discussed during the update on the Trust for Public Land project and Duane Hyde's presentation on the Beaudette Farm.

c) Land Stewardship Committee

Chair Houle said Malin Clyde is continuing the efforts of this committee, but is not present to give an update.

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Ann Welsh said the clean-up day was very successful. She reported that documents are being converted to PDF documents to be posted online.

- d) Town's Master Plan Advisory Committee Survey

There was no update regarding this topic.

6) Board and Committee Reports

- a) Town Council

Robin Mower was not available to provide an update.

- b) Planning Board

Julian Smith said the Planning Board met and discussed the Cedar Point project and later conducted a site walk. He noted there were not enough members of the Planning Board present to vote on the Conditional Use Permit.

Mr. Smith reported that last month the Planning Board approved the Capstone application by a vote of 6-1. He said he was the opposing vote.

Mr. Smith said the York Wildlife Rehabilitation Clinic will be doing a beaver pond tour on Sunday from 10-2 on his property. He said all are welcome.

- c) Water Resource Protection Subcommittee

Chair Houle said the Water Resource Protection Subcommittee is waiting for the official review of the Aquifer Protection District ordinance. He said the subcommittee suggested updates which will be reviewed by the consultant.

- d) Zoning Board of Adjustments

Ann Welsh said there is no update from the Zoning Board of Adjustments.

- e) Lamprey River Advisory Committee

Stephen Burns was unavailable for an update on the Lamprey River Advisory Committee.

7) Other Business

Julian Smith reported that the Planning Board has reappointed him as their representative to the Conservation Commission for another year.

8) Administrative

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- a) Correspondence – no new correspondence to report at this meeting.
- b) Next regular meeting June 9th, 2011

Chair Houle noted that June 9th 2011 would be his last meeting as Chair and that he would not be available for the July and August meetings. He reported that Ann Welsh has volunteered to be Vice Chair until a new Chair is selected.

Larry Harris noted that he would be out of town for the June meeting.

9) Adjournment

Peter Smith MOVED to adjourn the May 2011 meeting of the Durham Conservation Commission at 8:40 pm. This was SECONDED by Ann Welsh and APPROVED unanimously.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Conservation Commission