

Approved – September 8, 2011

**Durham Conservation Commission Meeting
July 14, 2011
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

Members Present: Larry Harris, Robin Mower, Julian Smith, Derek Sowers, Ann Welsh, Malin Clyde

Not Present: John Parry, Jamie Houle

Alternates Not Present: Peter Smith, Stephen Burns

Also Present: Brian Hart

**I. Call the meeting to order and acknowledge absentees and those with voting authority.
Approve agenda.**

Acting Chair Welsh called the meeting to order at 7:02 pm

Robin Mower MOVED to amend the agenda to include a report on the site walk for the proposed Capstone Conservation easement which was held by Strafford Rivers Conservancy. This was SECONDED by Julian Smith and APPROVED unanimously.

Julian Smith MOVED to approve the agenda as amended. This was SECONDED by Robin Mower and APPROVED unanimously.

II. New Business

- a) Discussion of a potential conservation easement for Amber Acres, Durham NH—Brian Hart, Southeast Land Trust

Brian Hart, Executive Director of Southeast Land Trust said the SE Land Trust has protected almost 8000 acres of land within the last seven years. He said the project tonight is regarding Amber Acres on Mast Road. Mr. Hart said the Trust is requesting that the financial discussion of the project be held as a non-public discussion since there is no agreement with the owner.

The members noted that RSA 91-A3, II(d)* constitutes a specific statutory reason for entering into a non-public session: “*Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.*”

Discussion of natural resources of the property:

Mr. Hart said the Oyster River Spruce Woods project is across the street from the Amber Acres property. He distributed maps of the area and noted that the property is 39 acres in size, has been surveyed and is owned by Amber Acres, LLC. Mr. Hart said the property is located on Mast Road and 155A with 3000 ft frontage on the Oyster River and is adjacent to the conservation land of Thomas Lee. He said the Trust is interested in conserving the property for the following reasons:

- 1) Farm soils – He said the farm soils are of prime state and local significance, that 23-25 acres of the 39 are prime soils and through conserving them it is hoped they will continue to be prime farm soils;
- 2) The property meets State wildlife action plan for tier 1;
- 3) The property is within one mile of a water supply and is located over an aquifer that is part of the Spruce Wood Aquifer.

Mr. Hart said they plan to use Farm and Ranch Land Funding and matching funds, but noted that the Town needs to be a partner in some way. He said his organization does not like to do a project unless the community is supportive of it, that it is still early in the process, and they are attempting to decide if it is viable. Mr. Hart said he wanted to discuss the outcome, timing and possible financial options. He said he recognizes that the Commission does not have binding powers, but is looking for the members' feelings regarding the project and the level of interest. He said the Trust does not enter into an agreement to acquire a property unless they believe it is likely it will go through – he said that in this project the Trust needs Durham as a partner.

Malin Clyde asked what portion of the purchase price would the Farmland Program provide.

Mr. Hart said the Farmland program would provide 50% of the property price.

Derek Sowers said the location is a bottleneck between two larger, intact areas that make up conservation wildlife parcels. He said connecting the two protective areas that exist is important to maintain that corridor.

Malin Clyde said she believes the amount of river frontage is important.

Mr. Hart said the Trust is working as quickly as possible to get funds in the current year to be utilized. He said the landowner's eligibility has been declared, the property application needs to be submitted, and an evaluation of the number needs to be done, then all the projects will be ranked in New Hampshire and it will be funded if the score is above a certain percentage. Mr. Hart said he believes the project will rank above the threshold for funding.

Mr. Hart noted that Amber Acres, LLC is owned by Veigh and Malcolm MacNeil.

Derek Sowers MOVED to enter into non-public session to discuss financial issues regarding this project in accordance with RSA 9:-A:3, II(d) "Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties"

whose interests are adverse to those of the general community.” The motion was SECONDED by Robin Mower and Approved unanimously on a roll call as follows:

Larry Harris, Aye; Robin Mower, Aye; Julian Smith, Aye; Derek Sowers, Aye; Ann Welsh, Aye; Malin Clyde, Aye; Jamie Houle, Aye.

The Commission entered non-public session at 7:30 PM.

The Commission returned to public session at 8:35 PM.

Robin Mower MOVED to seal the minutes of the non-public session, this was SECONDED by Derek Sowers and APPROVED unanimously.

Acting Chair Welsh said the members discussed the property owned by Amber Acres, LLC and Mr. Hart will take their input back to his board.

Mr. Hart thanked the members for their time and input.

III. Sitewalk of possible conservation easement on Capstone property

Robin Mower reported that a site walk was held on the area proposed for a conservation easement on the Capstone property. She said three members of the Planning Board, four members of the Strafford Rivers Conservancy and herself attended. She said the Strafford Rivers Conservancy people made it clear that the typical process for developing a conservation easement was not followed. Ms. Mower said there was no compelling argument for the Conservancy to take on this easement. She said they are going to take the suggestion to their land committee next Tuesday and get back to the Town with a final decision. She said the Planning Board was discussing its interest in having someone take this easement on as a holder. Ms. Mower reminded the members that the approval for the project was conditional upon this portion of land going into conservation or having a deed restriction placed on it.

Julian Smith noted the Planning Board felt if no one was willing to take on the stewardship of the easement then a deed restriction should be placed on it.

Robin Mower said there was frustration that no one was stepping forward to take this on as a holder. She said the Commission might want to provide some advice about the conservation restrictions in the deed to the Planning Board and may want some advice before doing so.

Malin Clyde suggested Phil Auger as a source for advice.

Robin Mower MOVED to amend the agenda to discuss a letter that will be submitted to DES (copying the UNH Director of Campus Planning) regarding the construction of the Peter T. Paul College of Business and Economics and the management of erosion sediment control, this was SECONDED by Larry Harris and APPROVED unanimously.

IV: Discussion of letter to NHDES Alteration of Terrain Program

Acting Chair Welsh noted that she took photos of the construction at the site and Jamie Houle captioned the photos and wrote a letter to NHDES Alteration of Terrain Program stating the project is lacking in adequate measures for erosion sediment control. He noted the construction is taking place in an area that is draining into the Pettee Brook, which is listed on the 303(d) as an impaired water.

The consensus of the members was to approve the letter and send to NHDES, as well as copy the Town Administrator and the Code Enforcement Officer.

III. Administrative

- a. Next regular meeting August 11, 2011 –

IV. Adjournment

Malin Clyde MOVED to adjourn the July 14, 2011 meeting of the Durham Conservation Commission at 8:55 pm. This was SECONDED by Ann Welsh and APPROVED unanimously.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Conservation Commission