

Approved: December 8, 2011

Durham Conservation Commission  
Thursday, November 10, 2011  
Durham Town Hall Council Chambers

**Members Present:** Derek Sowers, Julian Smith, Larry Harris, Robin Mower, John Parry, Malin Clyde

**Alternates Present:** Peter Smith

**Members Not Present:** Jamie Houle

**Alternates Not Present:** Ann Welsh

I. Call the Meeting to Order

Chair Parry called the November 10<sup>th</sup>, 2011 meeting of the Durham Conservation Commission to order at 7:04 pm and elevated alternate member Peter Smith to a voting member for the evening.

Malin Clyde asked to add an item to “New Business”; (d) website alternatives.

*John Parry MOVED to amend the agenda as recommended. This was SECONDED by Robin Mower and APPROVED unanimously.*

*Julian Smith MOVED to accept the agenda as amended, this was SECONDED by Robin Mower and APPROVED unanimously.*

II. Presentations: None

III. Acceptance of October 13, 2011 minutes

Minor changes were noted by the members.

*Peter Smith MOVED to approve the minutes as amended. This was SECONDED by Larry Harris and APPROVED unanimously.*

**IV. Old Business**

A. Petition on Mill Pond – HDC/Heritage Commission

Chair Parry reviewed that there has been a petition circulating regarding the Mill Pond and dam. He said he spoke with a member of the HDC/Heritage Commission regarding the recommendations included in the petition, and how they had developed the recommendations. Chair Parry said the HDC member noted that they had not personally made the recommendations, but that the HDC was supporting the petition and the idea

that the Mill Pond should be managed and maintained and that the Town needed to research this idea. He said the HDC feels the Conservation Commission are the experts and defer comments to the Commission.

Robin Mower asked who initiated the petition.

Chair Parry said Andrea Bodo began the petition, wrote it and initiated getting it signed. He said he had intended to phone her to discuss this, but has not done so yet.

Derek Sower asked if the petition is from the HDC or from Ms. Bodo.

Chair Parry said it is his understanding that the petition it is not from the HDC but they have sent a letter supporting it, asked for the Commission's comments and suggested we support it.

Mr. Sowers asked if the HDC wants to discuss the petition with the Commission.

Chair Parry said no other member of the HDC will attend one of our meetings to discuss it further with regard to management details.

Robin Mower explained that the petition was initiated by a resident who owns property on the Mill Pond.

Malin Clyde suggested conveying to the HDC that as written, the Commission has concerns about the recommendations; which do not seem appropriate to the problem. She suggested telling the HDC the Commission would be happy to discuss management issues with the HDC if they are interested.

Mr. Sowers suggested tabling the issue. He said the issues of the pond are related to the dam and until the Town makes management decisions about the dam the issue should be tabled.

Chair Parry said he made no commitment to the HDC member about the Commission supporting it or making a recommendation.

Larry Harris said the drawing down of the water level to kill invasive species is not a good idea.

Robin Mower said the Town Engineer, Dave Cedarholm pointed out that unless there is an extensive drawdown it would not have a significant impact on the invasive species.

Peter Smith said if the person who wrote the petition or others from the HDC want to meet with the Commission we are open to meeting. He said he agrees with tabling the issue.

B. Prioritization of parcels for land protection in Durham (see Conservation Lands Policy posted on the Conservation Commission website).

Julian Smith distributed maps to the members of the Commission. Mr. Smith discussed the four parcels indicated as Priority Three on the map presented by Mr. Sowers at the October meeting. He said the brook that runs through these parcels have 20 beaver ponds and dams on it and the brook and adjacent trails are entirely (other than 150 ft) on University land. Mr. Smith said he would like to think about ways to encourage the University to protect these trails. He said he will be giving a talk at the Durham Public Library next Tuesday regarding encouraging beavers; and giving a tour of beaver ponds at 10 am and 2 pm on Saturday the 19<sup>th</sup>. Mr. Smith said if anyone has suggestions on how a group of neighbors might be encouraged to protect their land through conservation easements or other ways, he would be glad to convey that. He said he and his wife have discussed putting some permanent access on their land so the back part of their land would be open – (it is the only way to cross the brook system). Mr. Smith said he was inspired to do this by Derek Sowers' presentation last month and hope that others would come forward and think about conserving or protecting their land.

Chair Parry said he would also like to revisit the list of prioritized land parcels for conserving.

Ms. Clyde asked if the members had a chance to look at the "Land Acquisition Policy" that she distributed to the members.

Peter Smith said he reviewed it for the purpose of appropriate language on water protection. He said he found it appropriate.

Ms. Clyde said Section 7 is the pertinent section. She noted the list is not prioritized and that priorities shift over time so the policy needs to be fluid.

Derek Sowers said he feels the document is what it is supposed to be; guidelines. He said he feels the Commission should define priorities in terms of a map.

Malin Clyde said the Town gets a lot of value from UNH properties that are not conserved or permanently protected. She said the Town has not gone forward with putting permanent protection on its own properties which would make it difficult to pressure UNH to put permanent protection on its properties. Ms. Clyde suggested that the Commission might want to think about working with the Town to permanently protect its own lands.

Julian Smith suggested that as the Town works on the Master Plan and helps UNH with its Master Plan, conservation protection can be discussed.

Derek Sowers suggested articulating an open space plan that includes those thoughts, i.e., about protecting Durham lands and advocating for protection of UNH lands and a section on priorities for future land conservation.

Peter Smith said he believes the Commission needs to be more aggressive about getting protection on Wagon Hill. He said he also believes College Woods should be protected but believes there is little chance of it happening. He said the Commission should focus on Durham properties.

Robin Mower said it is generally thought that the Parks and Recreation Committee has egis over Wagon Hill, so there may be a political element involved.

Chair Parry said the Conservation Commission did a review of the lands and discovered that Parks and Recreation has a deed restriction on that property and it is part of the Parks and Recreation responsibility since it is a park.

Ms. Mower said the Commission had a meeting with Mike Lynch a couple of years ago regarding the expansion of parking at Wagon Hill, which is something of great interest to the Parks and Recreation Committee. She said the 1995 management plan for Wagon Hill is something that should be reviewed and then perhaps consider an option of a secondary interest holder and how much it would cost to permanently protect.

Malin Clyde said the Town does have a basic conservation plan for Wagon Hill. She suggested devoting time over the next four meetings to work on this.

Derek Sowers suggested having a subcommittee submit drafts to the whole group for feedback. He said this could be part of the duty of the Land Stewardship Committee.

Peter Smith said the process started by the land stewardship consultant should be continued with respect to all town lands and should be done in a subcommittee format.

Ms Clyde said she believes Duane Hyde will be joining the Land Stewardship Committee and suggested getting others familiar with the lands to assist in this process.

Robin Mower reported that the Town Administrator received notification that a property owner is interested in purchasing a small adjacent lot that is town owned. She suggested this would be a good time to review the little pieces of town owned lands, so the Commission can advise the Town Administrator.

Chair Parry said a joint committee consisting of representatives from the Parks and Recreation Committee, the Conservation Commission and the Department of Public Works reviewed the small lots and made recommendations. He said he does not believe any transactions have occurred on any of them.

Ms. Clyde said the supporting documents have been scanned and a chart has been developed. She said this information should be made available on the Town website.

Ms. Clyde asked if the members support having the Land Stewardship Committee deal with the Conservation Plan for the Town.

Mr. Sowers said he thinks it is logical to proceed that way. He said he believes the Conservation Plan will help to identify priorities for future acquisition and land stewardship.

Ms. Clyde said the plan can clarify in writing who is responsible for activities on different lands, and that some may have shared responsibilities by different groups.

Chair Parry said the Parks and Recreation Committee reviewed the Stewardship Plan that the Conservation Commission had done on Wagon Hill. He said the Parks and Recreation Committee felt that part of the plan fits with them and their responsibilities and part did not.

Ms. Clyde asked Chair Parry if he believes there could be a meaningful way for the Committee to partner with the Conservation Commission on Wagon Hill.

Chair Parry said when the Parks and Recreation Committee received the stewardship plan they felt the objectives were not taken into consideration before the stewardship plans were written. He said they felt the stewardship plans were well done but there should have been a discussion up front about what the objectives are.

Ms. Mower suggested inviting Parks and Recreation to speak to the Conservation Commission about Wagon Hill.

Ms. Clyde said the Conservation Commission's charter is to care and protect the natural resources in Durham. She said she feels strongly that Wagon Hill has as much habitat and water protection value as it does as a park.

Ms. Mower suggested this topic be a goal of our Master Plan chapter. She suggested setting an implementation date and who is responsible for doing what on the property.

Mr. Sowers said the first priority is to articulate what we would like to achieve in the next couple of years with regard to land stewardship and protection and then act on that.

Ms. Clyde asked if anyone else would be interested in coming to the Land Stewardship meetings.

Chair Parry said he would be interested.

Peter Smith said any land that the Town owns should have a purpose. He said each property needs to have a plan in more detail and that takes time and there may be conflicts.

Mr. Sowers said the focus should be on larger parcels with the most conservation value and the parcels that we want to acquire and preserve. He asked if there is an inventory or final report regarding properties.

Ms. Clyde said there is an inventory and a table that should be put on the website.

Julian Smith said the Commission needs to start paying attention to threats to some of the lands that we feel should be preserved.

#### C. Discussion of Capstone Water Quality Reports

Chair Parry said at Jamie Houle's suggestion, a request was made to have this Commission begin receiving the Capstone Water Quality reports. He reported that he has received the second report, but not the first, which he will request.

Robin Mower suggested postponing this discussion until December when Mr. Houle is present.

The members and Chair agreed.

#### D. Update on DCC position vacancy

Peter Smith said Dwight Baldwin contacted former commission member, Beryl Harper to see if she was interested in rejoining the Commission. Peter Smith said she declined the offer at this time.

Derek Sowers said he knows of an individual who might be interested and he will encourage them to file an application.

The members said they would also encourage Duane Hyde to rejoin the Commission at some time in the next year.

#### E. Land Use Change Tax Project Valuation Update

Chair Parry said that Robin Mower has requested that the Conservation Commission be notified regarding any new activity or changes with appraising properties.

Robin Mower said she spoke with the Town Assessor who noted that he had discovered a couple of projects in subdivisions in which some portions no longer qualify for the current use tax rate. She said that he expects to be notifying the Town Clerk, who will send out a warrant and that the Conservation Fund should receive the money before the end of the year. Ms. Mower said the Capstone project is still being worked on and may take a while. She said the Town has been asked to notify this commission of any progress.

#### F. Jacksons Landing:

(1) Status of the application to NHDES for maintenance permits on the boat ramp - Robin Mower reported that the Town Administrator updated her that he is waiting for a report from an independent engineer (Don Rhodes) regarding tidal modeling of the area and his recommendations regarding maintenance on the boat ramp.

(2) Other suggested maintenance on property- Chair Parry said he contacted the Director of Public Works about this, who said there are 6 or 7 items mentioned, and he would look at the items and address them as needed.

## V. New Business

### A. DCC updating of the Environment Chapter of the Master Plan

Robin Mower said she distributed the schedule for updating the Master Plan to the members. She said Jim Campbell and/or the consultant plans to meet with the Commission in January regarding the Environmental Resources Chapter and commence writing the draft and then meet with the Commission again in February.

Malin Clyde suggested having a subcommittee read the Environmental Chapter and discuss with the members where it is lacking.

Ms. Mower said an Environmental and Culture Resources chapter is in the current Master Plan. She said she separated the cultural resources section and sent it to the Historic District Commission and volunteered to send the Environmental section to the Conservation Commission members for them to review.

Chair Parry said the Town Planner suggested going through the chapter and asking if it is still relevant, if it is no longer relevant, what sections need to be updated, comments on the data mapping, what should be included that are not currently included, if there are any studies available that can be included as background data and exhibits (he emphasized this).

Ms. Mower suggesting discussing a natural resources inventory map.

Ms. Clyde said Mr. Sowers may be able to provide this. She asked which members would like to review the chapter and provide comments. It was decided that Chair Parry, Mr. Sowers, Ms. Clyde and Peter Smith will all review the chapter and provide comments and suggestions at the December meeting.

Peter Smith noted that it would be useful to have the consultant attend the meeting in January along with the Town Planner.

Chair Parry said the Town Planner suggested reviewing the process of the Conservation Commission and note if there are things that need to be changed.

Mr. Sowers said the Commission spoke about the interaction with variances presented to the ZBA (or lack thereof).

Ms. Mower agreed, saying the impact on conservation goals of variances should be mentioned in the Master Plan.

Mr. Sowers suggested the Conservation Commission recommend a policy change that would have the Commission notified if there is a variance request to waive wetlands requirements.

Ms. Mower said the Commission has a liaison to the ZBA to report back to the Commission regarding applications for variances of interest to the Commission.

Peter Smith said the issue is that the ZBA is under no obligation to seek the advice of the Conservation Commission, but it is under an obligation to hear what a citizen has to say for any application. He noted that there have been substantial changes made in the State Shoreland Protection Act this past year and one of the changes made this year may void Durham's 120 foot setback for structures.

Ms. Clyde reported that she attended the NH Association of Conservation Commissions meeting this weekend and that the Shoreland Protection Act was a popular topic. She said there was a session regarding the changes.

Ms. Mower said there is a session next Friday at the Gregg Center about the changes in the Act.

Mr. Sowers said this may be the kind of policy issues that the Commission might want to recommend in the Master Plan.

Chair Parry summarized that four members will review the document and he will forward the Town Planner's email to all members, and Ms. Mower will email the base document to be reviewed.

#### B. Changes to the Comprehensive Shoreland Protection Act

Chair Parry reported there would be a workshop on this issue next week and Robin Mower will be attending.

Robin Mower suggested having the Water Resource Protection Subcommittee of the Planning Board review what has been written by the subcommittee taking these changes into consideration.

#### C. Beech Hill rezoning

Julian Smith reported that there will be no rezoning. He said on October 5<sup>th</sup> and October 26<sup>th</sup> the Planning Board had discussions, initiated by Dave Garvey on behalf of the Cutter



family, (which owns large parcels on Beech Hill). Mr. Smith noted there is currently a Class 6 Road located there and their parcels are in the rural section, which has more stringent zoning. He said the Cutter family would like a zoning change to have the area north of Beech Hill Road and south of Route 155 changed from Rural to ORLI. Mr. Smith said the Planning Board held a site walk on November 5<sup>th</sup> and on November 9<sup>th</sup> the Planning Board decided to do nothing. He said there is a long range project in the CIP for fiscal year 2020 to design and build a 4260 ft road way and sewer line in and around Technology Drive and Beech Hill Road. Mr. Smith said he would like to see it removed from the Capital Improvement Plan.

Derek Sowers asked Ms. Mower if she spoke with the Planning Board about having a discussion with the Conservation Commission about areas zoned as ORLI which are conservation focus areas.

Ms. Mower said she wrote a letter to the Chair of the Planning Board and copied Chair Parry saying it would be appropriate for the Economic Development Committee, Conservation Commission and Planning Board to discuss land use. She said she received a response from the Town Planner. Ms. Mower suggested that Julian Smith request that the Planning Board Chair convene a joint meeting of the Planning Board and the Conservation Commission to have a discussion within the context of the Master Plan.

Julian Smith said the Planning Board will not meet again until December 14<sup>th</sup> and he would not be present for that meeting.

Ms. Mower suggested that Mr. Smith write an email.

Ms. Clyde suggested saying that the Commission is working on a conservation plan and anticipate as we work on the Master Plan to request a joint meeting in February.

#### D. Website alternative

Malin Clyde said the New Hampshire Association of Conservation Commissions provides local commissions with the opportunity to have a page on its website and would thus provide the Commission more control over the web content.

Derek Sowers suggested Ms. Clyde look into this possibility.

### VI. Ongoing Business

#### A. Wetlands Applications

Derek Sowers reported the following with regard to Wetlands applications:

- (1) He was notified by the Town Clerk of 2 new minimum impact expedited applications; one for property owned by May and Ted Kelsey and one for property owned by Judith Spang. Mr. Sowers reminded the Commission that

when it reviews an expedited application, if there are no concerns the Chair signs the application and it moves it forward. If the Commission has concerns and does not sign the application, the applicant must go through the normal application process. Mr. Sowers said he reviewed both applications and feels both permits are proposing enhancements to their properties and clearly have minimum impacts. He recommended signing both applications.

*Malin Clyde MOVED to recommend that the Chair sign the two minimum impact applications on the Kelsey and Spang parcels. This was SECONDED by Julian Smith and APPROVED unanimously.*

B. Land Protection – no report at this time

C. Land Stewardship Committee – Doe Farm Invasive Species Workday

Malin Clyde reported that Ann Welsh did a great job of organizing a hurried work day this past Sunday at Doe Farm. She said that 15 volunteers joined them. Ms. Clyde said they will be attempting to schedule more work days with larger groups with the assistance of Timberland and the United Way Day of Caring in the spring. She explained that the area where the sun was hitting the forest floor over the summer was where the buckthorn had taken hold and needed to be removed. Ms. Clyde noted that there has been some growth of raspberry plants and baby oaks, but the buckthorn if left alone will overtake these plants. She said she received a letter from Dick Lord expressing his concern that this problem was made worse by the timber cut in the area. He suggested that the Town devise a plan to deal with the invasive species prior to a timber cut. Ms. Clyde suggested showing the Town Council photos from the work days and explaining the impact of timbering.

Chair Parry thanked Ms. Clyde and Ms. Welsh for their efforts.

## VII. Board and Committee Reports

### A. Town Council

Robin Mower reported that the Town Council heard from Durham's Legislative delegation on various issues of interest to the Town on October 3<sup>rd</sup>. She said Senator Amanda Merrill mentioned that a bill had been retained and not yet recommended for action consolidating some of the environmental permitting for development and may be voted on in January.

Ms. Mower also reported that the budget process is beginning and noted that the Conservation Commission's proposed budget was \$1000. She said the Town Administrator has recommended that this be cut in half.

Chair Parry noted that the New Hampshire Association of Conservation Commission membership fees are \$375, which would leave only \$125 in the Commission's budget.

The members discussed the distinction between the Conservation Commission's operating budget and the Conservation Fund.

Derek Sowers asked when the budget will be finalized.

Ms. Mower said the budget should be finalized on or around December 5<sup>th</sup>. She said the Commission can request from Gail Jablonski detailed information regarding the Commission's budget expenditures from the last year.

Chair Parry will investigate the budget issue and contact Robin Mower with information.

#### B. Planning Board

Julian Smith reported that the Capital Improvement Program (CIP) was presented to the Planning Board last month. He said the Town Council had its first presentation of the CIP by the Town Administrator this past Monday and that a Public Hearing on it will be held next Monday. Mr. Smith noted the following items of interest to the Conservation Commission in the CIP: (1) culvert projects to speed up the flow of water on Bennett Road, (2) Crommet Creek Bridge rehabilitation (replace as is) is scheduled to begin in fiscal year 2013, (3) fiscal year 2014 improvements at Old Landing Park to repair stone wall, install aluminum dock and a rope railing, raze the pump house and create a larger lawn area.

Derek Sowers commented that rising sea levels and high tides in that area make it a problem to spend money on improvements.

Robin Mower noted that the CIP for fiscal year 2014 includes the installation of a 60' x 250' gravel parking lot to hold 50 vehicles and be located between the barn and apple orchard at Wagon Hill Farm. She asked if the Commission wants to comment on this.

Malin Clyde asked how many days additional parking is needed.

Ms. Mower said the rationale for this is that the 1995 Wagon Hill Farm Master Plan called for improvements to Wagon Hill Farm and that in the past there have been calls for the possibility of establishing a resident and non-resident permit system for the use of Wagon Hill.

Mr. Sowers said the way parking is done is important; he said parking is not necessarily a problem but it needs to be done in the right location and done in a good way.

Larry Harris agreed, saying it is important how it is done.

#### C. Water Resource Protection Subcommittee – no report

#### D. Zoning Board of Adjustments – no report

E. Lamprey River Advisory Committee Appointment – no report

VIII. Other Business

A. Administrative

B. Correspondence

Chair Parry reported that the Office of Energy and Planning wrote a letter to the Town Planner saying that they performed a site visit to review Durham's process in administering the flood insurance program.

He also reported that the Commission received a brochure on workshops by the Extension and received a monthly report for the LUCT funds.

Chair Parry said the Commission received a copy of the Conservation Guide for New Hampshire birds by the Audubon Society and the Planner's Monthly Report.

The next regular meeting of the Durham Conservation Commission will be held on December 8, 2011 at 7 pm.

C. Adjournment

*Malin Clyde MOVED to adjourn the November 10<sup>th</sup> Durham Conservation Commission meeting at 9:55 pm, this was SECONDED by Robin Mower and APPROVED unanimously.*

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Conservation Commission