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TOWN OF DURHAM CONSERVATION COMMISSION  
THURSDAY, December 8, 2011  
TOWN HALL, COUNCIL CHAMBERS - 7:00 P.M.

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

**Alternates Present:** Ann Welsh

**Alternates Not Present:** Peter Smith

## 1) Call the meeting to order

Acknowledge absentees and those with voting authority. Approve agenda.

Chair Parry called the meeting to order at 7:02 pm and noted that alternate Peter Smith was not present.

*Robin Mower MOVED to amend the agenda to add item H) Capstone Project Developments under Old Business, and to add item C) Building Construction and Erosion Sedimentation Control under New Business. This was SECONDED by Julian Smith and APPROVED unanimously.*

## 2) Presentations – None Scheduled

## 3) Acceptance of November 10, 2011 Minutes

The members discussed editorial changes to the November 10, 2011 minutes.

*Robin Mower MOVED to accept the minutes of November 10, 2011 as amended, this was SECONDED by Derek Sowers and APPROVED unanimously.*

\*Jamie Houle and Ann Welsh abstained as they were not present at the November 10, 2011 meeting.

## 4) Old Business

### a) Discussion of Capstone Water Quality Reports

Jamie Houle said he is concerned about the reporting of the data and the low turbidity levels (reported at zero). He said this raised a flag regarding the accuracy of the testing.

Jamie Houle said construction is wrapping up for the winter, so the developers will be finalizing and stabilizing earth moving operations for the winter.

1 Robin Mower said she, Julian Smith and Tom Johnson visited the construction site and it appeared  
2 that erosion sedimentation controls were well placed and additional measures recommended were  
3 intact.

4  
5 Mr. Houle said the construction company is doing an excellent job.

6  
7 Derek Sowers said the problem is that only one sample is being taken.

8  
9 Mr. Houle said two samples were captured prior to development activities and one sample at two  
10 locations are being looked at during construction for turbidity, total nitrogen and total phosphorous.  
11 He said the samples above the construction site were dirtier than the samples below the construction  
12 site.

13  
14 Mr. Sowers said at least three samples at each site need to be viewed to see the range of water  
15 quality.

16  
17 Mr. Houle said the sampling being done is called “grab samples” and what should have been required  
18 was representative sampling of the stream throughout a storm event. He said ‘grab samples’ are a  
19 snap shot and what the Commission is concerned about is the mass of sediments throughout a storm  
20 event.

21  
22 Mr. Sowers said the method of monitoring is inadequate and needs to be changed.

23  
24 Mr. Houle said he agreed, but even using the “grab sample” method it is suspicious when zeros are  
25 reported.

26  
27 Mr. Sowers asked if the monitoring requirements were written in the conditional use permit.

28  
29 Mr. Houle said the Commission needs to be explicit in the future when requiring monitoring as part  
30 of a permit.

31  
32 Mr. Sowers said if the majority of construction is shutting down for the winter, there is not much  
33 point in changing the water quality monitoring system, but once the project is built and fertilizing and  
34 cars are present, we should have some storm sampling done.

35  
36 Mr. Houle said it is a lot more expensive to do the monitoring correctly.

37  
38 Malin Clyde asked what will happen if there is found to be a problem with sampling.

39  
40 Ms. Mower said it is up to the Town Engineer to ask that a mitigation plan be established to resolve  
41 any degradation issues.

42  
43 Mr. Houle said he wants the developer to realize that the water quality testing reports are being  
44 reviewed.

45  
46 Ms. Mower said a copy of the report needs to be sent to Conservation Commission.

47  
48 Mr. Sowers said the current methods of monitoring are not adequate and the Commission should  
49 request more rigorous monitoring once the project is built.

1 Mr. Houle said for future use the monitoring they are doing is within the specifications, the  
2 Commission was not specific about the number of samples and the type of samples.

3  
4 Ms. Mower said if the Conservation Commission advises the Planning Board and the Planning Board  
5 does not have expertise in an area, it should either accept the recommendations of the Conservation  
6 Commission or seek outside advice.

7  
8 Mr. Sowers said the Commission should express their concern to the Town Engineer that we do not  
9 feel the monitoring is being done in a way that would be able to detect issues and would like to  
10 suggest helping them come up with a more robust monitoring method.

11  
12 Ms. Mower suggested copying the Town Planner on that communication.

13  
14 Mr. Houle said the monitoring ultimately protects the Town.

15  
16 Mr. Sowers volunteered to draft a letter to the Town Engineer.

17  
18 Larry Harris said the water body involved is a portion of the Town's water supply and this is a very  
19 large development so monitoring needs to be taken seriously.

20  
21 Mr. Houle said the Commission could potentially do their own monitoring.

22  
23 b) DCC position vacancy

24  
25 Chair Parry asked if any of the members had any information on interested candidates for the  
26 vacancy.

27  
28 Mr. Sowers said he would check with an individual he knows that may be interested.

29  
30 c) DCC updating of the Environment Chapter of the Master Plan - Comments /discussion  
31 from those that reviewed chapter

32  
33 Chair Parry said he forwarded to the members an email from Jim Campbell with suggestions for  
34 preparing for the meeting next month discussing the Environment Chapter of the Master Plan. He  
35 said Mr. Campbell suggested the members read over the current Master Plan to become familiar with  
36 it.

37  
38 Malin Clyde said she feels it is worth pointing out the progress made since the last Master Plan was  
39 written.

40  
41 Mr. Sowers said the introduction should have a paragraph stating what has been implemented since  
42 the last Master Plan. He said he feels this will set the stage to have the new portion be an action plan.

43  
44 Ms. Clyde said she feels it is important to have some broad statements and goals in the chapter.

45  
46 Ann Welsh suggested having broad goals with some specific actions suggested.

47  
48 Ms. Clyde said the current Master Plan has a lot of verbage about "greenways" which is not  
49 something that is spoken of now. She said linking conservation lands is still a priority, but needs to  
50 be talked about in a broader sense.

1  
2 Mr. Sowers said he feels too much emphasis was put on trails along riverways.

3  
4 Ms. Mower said the Energy Committee is working on the implementation section of each  
5 goal/objective for their chapter in the Master Plan update. She suggested stating goals and a time  
6 line, and identifies who or what organization is responsible in taking the lead. Ms. Mower said she  
7 feels this framework is helpful.

8  
9 Ms. Clyde said the chapter should note the Commission's hopes for the next 10 years.

10  
11 Ms. Welsh said Master Plans are often referenced when considering projects, and can have  
12 unintended consequences. She said the Commission needs to be careful when updating the chapter.

13  
14 Ms. Clyde said the specifics in the current Master Plan seem to be the ones that were accomplished.

15  
16 Ms. Mower noted that at the time the current Master Plan was written the Town of Durham had a  
17 planner who was inclined to include conservation goals in planning.

18  
19 Mr. Sowers agreed that specifics are needed and that a statement should be made that makes it clear  
20 that environmental protection is one of the basis for zoning decisions and not an after the fact  
21 thought. He said much of the information in the chapter just needs to be updated.

22  
23 Ms. Clyde said the Oyster River Watershed Association was created after the current Master Plan  
24 was written and should be mentioned in the update.

25  
26 Mr. Houle said the Oyster River Advisory Committee (ORAC) is also new since the last Master Plan.

27  
28 Ms. Welsh said that a survey of properties should be done to determine where runoff causes a  
29 problem.

30  
31 Ms. Clyde said not a lot of outreach is done to private property owners.

32  
33 Ms. Mower suggested that anything to do with water quality should be considered for the update to  
34 the Master Plan.

35  
36 Chair Parry discussed his thoughts on the Master Plan update noting the following: (1) address  
37 conservation on private property, (2) there is a need for other public input to educate the Commission  
38 as to the public wishes, (3) "greenways" wording is confusing, (4) discuss the possibility of having a  
39 section on "capacity building" and resources (staff, budgets, partners, goals and objectives), (5)  
40 discuss having a separate section on threats to the environment (population growth, invasive, climate  
41 change, urban sprawl).

42  
43 Ms. Welsh said a discussion of threats to the environment could be in the introduction. She said she  
44 feels it is important to include concerns regarding our water and other things that impact our  
45 environment and that these should also be made in the beginning of the chapter.

46  
47 Ms. Mower said it is worth pointing out the economic value of the ecosystem.

48  
49 Ms. Clyde said there is very little mention of existing public lands in the current Master Plan and it  
50 should be pointed out how much has been conserved and also point out that UNH land is not

1 conserved. She suggested also speaking about public use of existing conservation land and the  
2 stewardship of those lands.

3  
4 Ms. Mower suggested having a discussion with the Parks and Recreation Committee during the  
5 update process since there is some overlapping.

6  
7 Mr. Sowers suggested the introduction be framed to discuss the threats and challenges being faced  
8 and discussing the guiding principal of clean air and clean water. He suggested pointing out that  
9 conservation is an asset to the community and tie it to the economics; if the Town invests in it, there  
10 will be a payback that the community will see in the future.

11  
12 The members discussed the appropriate way to approach the updating of the chapter. The idea of  
13 forming a subcommittee was discussed. The members asked if there is a specific structure in mind  
14 for the chapter rewrite. Ms. Mower will send an email to Jim Campbell asking him questions about  
15 the structure of the update and if he and the consultant would meet with the subcommittee prior to the  
16 January 12<sup>th</sup> Conservation Commission meeting.

17  
18 The subcommittee will consist of John Parry, Derek Sowers, Malin Clyde, Ann Welsh and Robin  
19 Mower and will meet on Wednesday January 4<sup>th</sup> at 8:00 am in the Town Council Chambers. Ms.  
20 Ann Welsh will lead the subcommittee.

21  
22 Ms. Mower suggested the Master Plan survey be referenced in the Master Plan update.

23  
24 The members discussed if there was a need for further public input. It was decided that the ‘visioning  
25 forum’ and the ‘Master Plan survey’ were appropriate sources of public input and should be  
26 referenced in the update.

27  
28 d) Annual Report

29  
30 Chair Parry suggested updating Mr. Houle’s report to the Town Council and submitting as the  
31 Annual Report. Larry Harris suggested adding information regarding the two invasive species work  
32 sessions that were held.

33  
34 e) New Hampshire Association of Conservation Commission website

35  
36 Ms. Clyde said the Town Manager has approved the request to have access to the website from the  
37 NH Association of Conservation Commissions. She said the website is available to the Commission  
38 since we pay dues to the NH Association of Conservation Commissions. Ms. Clyde said links to  
39 documents could be included on the website, but the Commission would have to do it themselves.

40  
41 The members discussed if this was a direction they wanted to go in.

42  
43 Ms. Mower said the members would need to be responsible for the website and keeping it updated.

44  
45 Ms. Welsh said it is a good idea if someone is willing to keep up with it.

46  
47 Ms. Clyde said it is better if the members have control over the website. She said it is relatively  
48 simple to use.

1 Mr. Sowers suggested using the website as the workspace for the Land Stewardship subcommittee  
2 and evaluate it after a trial period for expanded use.

3  
4 The members decided this would be the approach they take with regard to the website.

5  
6 f) DCC Budget

7  
8 Robin Mower reported that the Town Council has not discussed the various Committee budgets. She  
9 noted the history of the Conservation budget over the last several years indicates that the expenditures  
10 have not gone over \$500. Ms. Mower suggested that if the Committee finds it is in need of additional  
11 funds it could make a request to the Town for additional funds. She recommended that the  
12 Committee not ask for additional funds if there are no specific requests at the moment.

13  
14 The members agreed with this approach.

15  
16 g) DCC Calendar of Annual Tasks/Events

17  
18 Chair Parry suggested creating a calendar of items that need attention on a regular basis such as the  
19 Annual Report and budget request preparation, preparation for Durham Days and Stewardship walks.

20  
21 The members agreed this was a good idea and suggested trying an on line calendar.

22  
23 Chair Parry will start a draft and share it with the members for comments.

24  
25 h) Capstone Easement –

26  
27 Robin Mower reported that the Town Administrator has signed an agreement with Strafford Rivers  
28 Conservancy to move forward with the stewardship of the easement held by the Town of Durham on  
29 property located on the site of the Capstone project. She said Executive Director, Anna Boudreau has  
30 indicated the scope of services to be executed and the contributions from Capstone to financially  
31 ensure the services, in theory, in perpetuity through an endowment. Ms. Mower said Ms. Boudreau  
32 suggested having a conversation with the Conservation Commission about performing one of the two  
33 recommended monitoring of the site after the first year to stretch the endowment dollars.

34  
35 Derek Sowers noted that the Capstone contribution has been suggested to be between \$20,000 and  
36 \$30,000 based on two visits per year.

37  
38 Ms. Mower said there is a question if that amount will be adequate for two visits a year.

39  
40 Mr. Houle noted that the amount of contribution being discussed would potentially provide  
41 monitoring for 25 years without the money being invested in anyway.

42  
43 Ms. Clyde noted that legally the easement needs to be monitored once a year and asked why the  
44 Conservancy is suggesting monitoring twice a year.

45  
46 Ms. Mower said the Conservancy believes it is a more complex property and requires the two times a  
47 year monitoring.

1 Mr. Sowers suggested doing a best effort budget estimate and if the Commission does not think  
2 enough of a contribution is being offered, negotiate to get to the point where the contribution is  
3 adequate.

4  
5 Chair Parry noted that the Conservancy suggested the Town receive a contribution equivalent to 20  
6 years' worth of monitoring upfront.

7  
8 Ms. Mower said she feels it is important for the Conservation Commission to review the draft of the  
9 easement to determine the conservation values and public access and provide input. She said she will  
10 keep the Commission updated.

11  
12 **5) New Business**

13 a) Plans for timber cutting on town property next to the Transfer Station and Langmaid Farm  
14

15 Julian Smith noted that at a recent Town Council meeting Mike Lynch was asked about the status of  
16 selective cutting and cleaning forest litter in the area near the transfer station and the basic cutting of  
17 the Langmaid Farm area. Mr. Smith said Mr. Lynch's response was that he was waiting to hear back  
18 from this Commission.

19  
20 Malin Clyde noted that the Langmaid Farm property does not have a lot of timber of worth. She said  
21 the deed of the property shows that the Conservation Commission has authority.

22  
23 Mr. Smith said there are two parcels being discussed and asked if the Conservation Commission has  
24 any objection to cutting on the transfer station land.

25  
26 Ms. Clyde responded that she is not familiar with that parcel of land and it was not part of the  
27 discussion the Commission had with Mr. Lynch.

28  
29 Derek Sowers said the Commission would like to see what is being suggested for the Langmaid Farm  
30 property, what the objectives are and who is being proposed to do the work. He said the Commission  
31 would then be able to comment on the proposal for the property.

32  
33 Ms. Clyde noted that the Conservation Commission has authority over the Langmaid Farm property  
34 and the stewardship plan for that property does not discuss timber resources because the value of the  
35 trees is not high.

36  
37 Jamie Houle said the Commission would appreciate a procedure being followed; have a plan and  
38 proposed action submitted to the Conservation Commission with the objective, the Commission can  
39 then review the plan, discuss it, point out concerns and comments.

40  
41 Ms. Mower asked if the Commission would like to proceed by having the DPW bring a plan to the  
42 Commission for them to review and react to.

43  
44 The members agreed this was the approach they would like to see occur.

45  
46 Mr. Houle noted the Commission is not opposed to forest operations and said it is a way of  
47 demonstrating the utility of conservation land. He said it is necessary though to follow due process.  
48

1 Mr. Sowers said if there is a stewardship plan it needs to be demonstrated how the forest plan meets  
2 those objectives and if there is not a stewardship plan the forest plan needs to discuss the objectives  
3 of the plan.  
4

5 Mr. Smith said the Town burns at the transfer station and last year a fire got out of control and moved  
6 into the area east of the transfer station where there is a lot of dead trees, charred brush and disturbed  
7 land. He said he is not concerned about timber harvesting, but is concerned that there are a lot of  
8 dead trees and a lot of dry area that would be susceptible if another burn got out of control.  
9

10 Mr. Houle said in this instance he would still prefer to see a scope of work or proposal that the  
11 Commission could then react to.  
12

13 Ms. Clyde said according to the stewardship plan, maintaining the status quo on the properties is  
14 acceptable and she asked Mr. Smith to convey this to Mr. Lynch.  
15

#### 16 b) Impact of Storms on Durham's Trees/Forests - Parry 17

18 Chair Parry said he is concerned about property owners' reactions to severe storms. He said he has  
19 seen many property owners reacting to the severe storms by doing extensive cutting in their yards.  
20 Chair Parry said his concern is that the property owners be educated and do an improved job of  
21 addressing hazards ahead of time, trees that are potentially hazardous and not be involved in  
22 extensive cutting after a storm. Chair Parry noted that this reaction impacts the amount of tree cover  
23 around town, which has changed measurably over the years and has an impact on storm water  
24 management. He said this idea gets back to the Town master planning and whether it should be a  
25 role to do more public education and provide incentives for conservation on private lands.  
26

27 Derek Sowers suggested including issues like this in a conservation note on the "Friday Updates".  
28 He said comments such as, "...in light of recent storms, the concern over trees falling on houses and  
29 power lines may be raised..." and point to resources and note that it is not necessary to clear cut, but  
30 there are ways to identify problem trees.  
31

32 Jamie Houle agreed with this approach and suggested having a "Conservation Corner" in the "Friday  
33 Updates".  
34

35 Ann Welsh noted that during the last storm a lot of trees went down in her neighborhood but  
36 properties were not damaged.  
37

38 Malin Clyde said that could be a good approach; point out the statistics by saying a certain number of  
39 trees fell but only a certain number of trees affected properties.  
40

41 Robin Mower suggested also addressing the issue of trimming limbs.  
42

43 Chair Parry volunteered to write spots for the "Friday Updates" on this issue.  
44

#### 45 c) Friday Updates 46

47 Robin Mower reported that the Police Department's "Drug Take Back Program" will be expanded to  
48 all weeks. She said this will help to keep prescription drugs out of the water supply.  
49

#### 50 d) Building Construction – sedimentation control



1  
2 **Robin Mower noted** that there are times when items required in a projects engineering oversight are  
3 not being accomplished and this may go undetected by the Town. Ms. Mower referenced an instance  
4 at the 9/11 Madbury Road construction site where an instance was reported to the Dave Cedarholm,  
5 who reviewed it and wrote to the construction site manager. Ms. Mower asked the members for  
6 suggestions on how to avoid this in the future.

7  
8 Jamie Houle noted that it is an issue of enforcement of the regulations and asked if the Commission  
9 has a role in that.

10  
11 Derek Sowers suggested having the regulations specify how many inspections a town staffer will  
12 perform at the site and when (such as a site visit before installation, a site visit after, an inspection  
13 following the first storm, an inspection once the project has gone into its new use). He said five  
14 inspections could be required by the Town and paid for by the developer.

15  
16 Mr. Houle said the issue is it has to be required by the Planning Board or written into the conditions  
17 of the permit.

18  
19 Ms. Mower said she would request from the Planning Board to amend the regulations to include  
20 specific site visit and inspection schedules.

21  
22 Mr. Sowers suggested the wording should be in the Master Plan as an action; an update to be  
23 included in the ordinance.

24  
25 Ms. Mower said she feels a comment needs to be made now as well as including it in the Master  
26 Plan.

27  
28 Ms. Mower suggested that the Commission request a status report from Dave Cedarholm on the  
29 issues at 9/11 Madbury Road construction site.

30  
31 Mr. Houle noted that Mr. Cedarholm permed an inspection, sent a list of issues and now the  
32 Commission needs to ask him to do a follow-up and report to the Commission on that follow-up.

33  
34 Chair Parry said he would send a letter to Dave Cedarholm and ask him for a status update with  
35 photos and/or reports of the corrective actions taken and copy Jim Campbell and Tom Johnson.

36  
37 Mr. Houle said an ordinance dealing with this issue is needed and may be something the Water  
38 Resource Protection subcommittee can take up. He said there are other issues with the Site Plan  
39 Review process; such as instances of non-implementation of the site plan review regulations. Mr.  
40 Houle said the Planning Board needs to be aware of the regulation they passed and what it entails.

41  
42 Ms. Mower asked if the Commission copied the Town Planner regarding the UNH Business School  
43 construction issues. She asked if the Planning Board is aware that there are instances where the Site  
44 Plan Review process is not being followed.

45  
46 Mr. Sowers said the UNH Business School project required a variance from the Shoreland  
47 Ordinance, so shoreland infractions are actionable and should have penalties.

## 48 49 **6) Ongoing Business**

50 a) Wetlands Applications – no report

1  
2 b) Land Protection – none

3  
4 c) Land Stewardship Committee -- Town Properties Conservation Plans

5  
6 Malin Clyde reminded the members that before forest management is performed the area needs to be  
7 reviewed and a plan needs to be instituted to deal with any invasive species present. Ms. Clyde noted  
8 that the forest management done at Doe Farm created an extensive area of buckthorn.

9  
10 **7) Board and Committee Reports**

11 a) Town Council – no further report

12  
13 b) Planning Board

14 Request for joint meeting of the Planning Board and the Conservation Commission to  
15 have a discussion on the Master Plan.

16  
17 Robin Mower said she has not had a response to this request but will discuss it with Jim Campbell

18  
19 Julian Smith reported that he has nothing new to report at this time.

20  
21 c) Water Resource Protection Subcommittee - no further report

22  
23 d) Zoning Board of Adjustments – no further report

24  
25 e) Lamprey River Advisory Committee Appointment

26  
27 The members discussed that the Commission has no representative appointed to this Committee at  
28 this time.

29  
30 It was noted that LRAC has shown to be very consistent about reaching out to the Commission when  
31 there is mutual business involved. The members decided that a new representative would not be  
32 appointed to the LRAC, but the Conservation Commission would request copies of the LRAC  
33 meeting minutes.

34  
35 **8) Other Business/Announcements**

36 a) Septic Outreach Program – This item will be discussed at the January meeting.

37  
38 **9) Administrative**

39 a) Correspondence

40 Request for natural heritage bureau information

41  
42 Chair Parry said he wrote an email to the Leslie Schwartz and the Town Manager and informed them  
43 that the Commission had discussed the town management issue and decided not to make a  
44 recommendation at this time, but would be glad to meet with them.

45  
46 UNH Students Seeking Volunteer Opportunities in Durham

47 Chair Parry said he received an email from the Town Manager saying there are UNH students  
48 looking for volunteer opportunities and urged the members to keep this in mind for appropriate  
49 projects in the future.

Letter from DES concerning the Cottages of Durham (capstone) – 12/1/11  
Chair Parry said DES received request from Appledore Construction to reduce the frequency of environmental inspections from once a week to once a month during the winter. He noted DES approved the request.

#### Bioretention Centers –

Jamie Houle said there have been some complaints about the Bioretention Center in the Tedeschi parking lot about the aesthetics. Mr. Houle noted there is an excessive amount of debris in the parking lot that previously had been going directly into the brook, but is now being diverted to the bioretention center. He said it is better that it be intercepted than it go into the brook.

Mr. Houle said there have been five storms monitored by the center and the pollutant removals are at about 95% sediment removal. He said the results have been better than anticipated and they will be installing trash grates.

b) Next regular meeting will be January 12, 2012.

#### 10) Adjournment

*Robin Mower MOVED to adjourn the December 8, 2011 meeting of the Durham Conservation Commission at 9:58 pm. This was SECONDED by Malin Clyde and APPROVED unanimously.*

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Conservation Commission