

Approved - October 14, 2010

**Durham Conservation Commission
September 9, 2010
Durham Town Office – Council Chambers
7:00 PM**

Members Present: Jamie Houle, Dwight Baldwin, Larry Harris, Derek Sowers, Robin Mower, Julian Smith, Malin Clyde

Alternates Present: Ann Welsh, Stephen Burns, Peter Smith

Also Present: Zachary Taylor, Mr. and Mrs. Johnson

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

Chair Houle called the meeting to order at 7:02 pm

2) Presentations

- a) Presentation on a proposal to repair existing docking facilities at 190 Piscataqua Road. – Zachary Taylor Project Planner, Pickering Marine

Zachary Taylor presented the proposal. He said the project has been submitted as a DES permit by notification and has been approved. Mr. Taylor noted that the proposed project is a permitted use within the shoreline protection overlay (175-71b). He said the project is to repair and replace the existing foundation structure of the existing boat house and dock at 190 Piscataqua Road. He said NH DES determined that since it is a replacement in kind of a grandfathered structure, the project is qualified to file a permit by notification. Mr. Taylor said the project would replace deteriorated support walls on back side and the pilings on other sides. He said for erosion control they will adhere to all standard erosion controls and stabilizations – in this case they will use siltation fence around perimeter as well as siltation booms. He explained that the primary method for erosion control would be that they would be working at periods of low tide so no construction will be done in open water to minimize any disturbance and all work will be within the footprint of the structure and will not be creating any new disturbance. Mr. Taylor said the upland disturbance on the back side of the boat house will be properly seeded and replanted with native bush vegetation to stabilize the embankment. The members discussed with Mr. Taylor how the construction would logistically occur. Mr. Taylor noted a crane barge would be used as a working platform; on the barge will be construction drills, generators and other needed equipment. He said the barge would be parked in front of the boat house. The members discussed with Mr. Taylor the replacement of the pilings. Mr. Taylor said the replacement pilings will be made of pressure treated southern pine and will sit on large boulders that are located at the site. He said everything would be done from underneath the building, which will be jacked up to work the pilings in. The members asked if there were any less toxic alternative to the chemically treated wood. Mr. Taylor said other alternatives have decreased life span, which decreases the cost effectiveness, he said this wood has been dried to a certain standard to reduce the amount of bleaching of the pilings, is sold specifically for marine applications and has been studied extensively.

The members discussed the need and possibility of elevating the structure within the footprint to accommodate rising water levels. Mr. Taylor agreed that this would make sense and said it is possible. The members discussed if this was a recommendation that the conservation commission should make or the planning board.

Chair Houle thanked Mr. Taylor for the presentation.

The members **MOVED** to move the discussion of the permit up on the agenda. This was **APPROVED** unanimously.

Chair Houle said 175-71B of the zoning code states that the Planning Board with advice from the Conservation Commission will determine that appropriate erosion control measures will be used, any disturbed area will be restored and the activity will be conducted in a manner that minimizes any impact on the shoreland.

The members discussed with Mr. Taylor the use and placement of the silt fencing. There was a discussion as to the pros and cons of using silt fencing in the intertidal, as well as an explanation and discussion of the proposed silt boom. The members expressed their feeling that the silt fencing should be placed above the high tide water line for any disturbance along the shore and the silt boom should be used for erosion control of the intertidal areas.

Jamie Houle MOVED to recommend acceptance of the application with the recommendation that the planning board approve this permitted use in the shoreland protection overlay with these additional sediment controls;

1) Silt fence and straw bales established at toe of the slope of the high tide line

2) Silt boom to be installed around the perimeter of the construction site

This was SECONDED by Julian Smith.

The members discussed if an additional recommendation should be made to the Planning Board regarding the structure being built at a height that takes into consideration the changing tide levels.

Dwight Baldwin MOVED to amend the motion to include a third recommendation to the Planning Board to take into consideration the rising sea levels in the reconstruction of the existing structure. This was SECONDED by Robin Mower and APPROVED unanimously.

The members APPROVED unanimously the amended motion.

3) Acceptance of minutes

a) August 12, 2010

The members made grammatical corrections to the minutes.

Julian Smith MOVED to recommend approval of the August 12, 2010 minutes as amended. This was SECONDED by Dwight Baldwin and APPROVED unanimously.

4) New and Old Business

a) DCC 2011 Budget Proposal

Chair Houle distributed copies of the new budget request. The new budget request has no increase over the current year budget. He explained the budget consists of salary for the minute taker (\$2400), membership dues and miscellaneous expenses (\$1000) and associated staff payment (\$183).

Julian Smith MOVED to recommend approval of the new budget request. This was SECONDED by Robin Mower and APPROVED unanimously.

The members asked for an update on this years budget. Chair Houle reported that there is approximately \$2200 left in this year's budget.

b) Timber cutting in Spruce Hole vicinity

Chair Houle noted this subject was raised at the August meeting. Robin Mower said she emailed Mike Lynch and asked for an update on the timber cutting in the Spruce Hole vicinity. She reported that she received an email reply from Mike Lynch which stated that the cutting occurred in the late spring by GC Morse & Sons (who had the best bid price). Mr. Lynch reported that the gross stumpage paid for the timber was \$2730.58, less Charlie Moreno's fee of \$2561.25, resulting in a net profit to the Town of \$169.33. He further explained that the cut opened up several thick tree canopies, and eliminated invasive species. Mr. Lynch said Mr. Moreno is currently working on the Natural Resources component of the plan.

Malin Clyde noted that stewardship of public land is not always popular and she thought this was a great start. The members discussed who was responsible for which Town owned lands and what the next step should be with regard to the stewardship plans that were written by the consultant last year. Chair Houle noted that the recommendation portions of the stewardship plans have not been implemented. The members discussed the need to have information both on the website and available as hard copies. Ms. Clyde volunteered to speak with Mike Lynch about these topics. Peter Smith said he feels decisions need to be made as to types of uses for different properties and to decide whether there needs to be anything written in ordinances regarding allowable and non-allowable uses.. Chair Houle said he would put this topic on the agenda for the October meeting.

c) Durham Day 2010 has been set for Sunday, September 26th from 1:00 – 4:00 PM at Wagon Hill Farm.

Chair Houle reported that the Commission will have a table at Durham Day, which will be manned by volunteers from the Commission and include: a visual presentation, an oyster demonstration by Ray Grizzle and Ray Konisky, a one page informational sheet written by Malin Clyde and a walk guided by Malin Clyde at 2 pm. Peter Smith will also be providing boat rides and invited any member to join him to give informational talks during the boat ride. Chair Houle will provide Jenny Berry with information about the walk for Friday Updates.

- d) Update: Oyster River-Nomination for Designation into the Rivers Mgt. & Protection Program

Chair Houle asked if anyone participated in the public session. Derek Sowers said the director of PREP went to the public meeting and said all public comments were positive.

- e) Update: Lamprey River-nomination for designation into the Rivers Mgt & Protection Program

Derek Sowers said he attended this meeting in Epping and noted that the public testimony was positive and expressed enthusiasm and appreciation for the volunteers that put the nomination packet together.

5) Ongoing Business

- a) Wetlands Applications

Chair Houle said he was informed of a preliminary application that is not a wetland application but will involve wetlands. He asked all members to familiarize themselves with article 19 (conservation subdivision standards) and noted that the members may be asked to join a site walk before the next conservation commission meeting. Julian Smith said he would discuss this as part of the Planning Board update.

- b) Land Protection Activities

Malin Clyde reported that she and Julian Smith went on a site walk of the Oyster River Forest area and learned that the Southeast Land Trust has agreed to be involved in the project begun by the Trust for Public Lands.

- c) Town Owned Land/Conservation Easements

Chair Houle noted this topic was discussed earlier in the evening.

6) Board and Committee Reports

- a) Town Council

Robin Mower reported that a first reading was held regarding the removal of the minimum contiguous lot area (from the zoning ordinance). She said it is scheduled for a public hearing at the end of the month. The members discussed what if any conservation impact deleting this ordinance would have.

Robin Mower said the Town Council has not heard back from the Planning Board about a decision to extend the conservation subdivision regulations to ORLI and MODOR. She noted this item would most likely be discussed at the September 27th Council meeting.

- b) Planning Board

Julian Smith reported that the Planning Board closed its public hearing on the matter of applying conservation subdivision regulations to ORLI and MODOR; however, due to the absence of a few key members the Planning Board decided to delay deliberation until their next meeting.

He also reported that Jack Farrell came before the Planning Board for a preliminary discussion regarding the Neemey parcel. He said the proposal would form 8 new lots. Chair Houle noted the wetland areas located on this lot. Mr. Smith suggested that the Conservation Commission might want to monitor the application once it is received and volunteered to email the members when the application is received.

Julian Smith also reported that the subdivision on Durham Point Road was approved as one additional lot.

c) Water Resource Protection Subcommittee

Chair Houle reported that the subcommittee will be meeting on September 24th at 7:30 am.

Robin Mower said the subcommittee is dealing with the question of how Durham should approach jurisdiction regarding large water withdrawal. The members discussed this issue noting pros and cons of the State water regulations as well as the difficulties in defining the term “aquifer” and issues involved with the map used to delineate the aquifers in town.

d) Zoning Board of Adjustments

Ann Welsh reported that the project heard by the Conservation Commission last month regarding parking spaces at Strafford Avenue came before the ZBA requesting 11 spaces. The ZBA denied this application.

Robin Mower said the upcoming ZBA agenda deals with a number of items regarding wetlands. The members discussed the mechanism, determination and guidance that occur in the process of whether an applicant goes before the Planning Board and the Conservation Commission or to the ZBA. The members agreed this is a critical point. Chair Houle will follow up.

e) Lamprey River Advisory Committee

Stephen Burns noted the committee has not met this month – he will update the commission on their activities next month.

7) Other Business

Julian Smith informed the members that he will be applying for a variance to the ZBA to erect a shed within the Wetlands Conservation Overlay District to replace one that is already there. He noted the shed will be used to mount a solar array and that this area receives the most sun while allowing minimal disturbance of soil to bury the cable needed. He invited any members to view the site.

Chair Houle asked Mr. Smith why he is going to the ZBA for a variance rather than filing an application with the Planning Board. Mr. Smith explained that he applied for a building permit, which was denied because of the location. He explained once the building permit was denied he was eligible to go before the ZBA for either a variance or a special exception. Mr. Smith noted that applications brought before the Planning Board with wetland issues may go to the ZBA before beginning (or early in) the process with the Planning Board to get a variance. The members noted by the time an application gets to the Conservation Commission for comment they already have a variance on what the commission is supposed to be commenting on. Chair Houle said he will speak with Jim Campbell regarding the process and report to the members at the October meeting. Julian

Smith also suggested speaking with the Chair of the ZBA and suggesting it would be helpful for that board to seek comments from the Conservation Commission regarding projects concerning wetlands.

Malin Clyde asked if all members would like to be signed up for the New Hampshire Association of Conservation Commissions email service. All members agreed.

8) Administrative

a) Correspondence

Chair Houle reported the members had received an invitation to the fundraiser to benefit the Strafford Rivers Conservancy to be held at Three Rivers Farm (Cost: \$125/person) on September 18th.

b) Next regular meeting October 14, 2010 at 7:00 pm

9) Adjournment

Julian Smith MOVED to adjourn the September 9, 2010 meeting of the Durham Conservation Commission at 9:02 pm. This was SECONDED by Robin Mower and APPROVED unanimously.

Respectfully submitted by,

Sue Lucius, Secretary at the Durham Conservation Commission