

Approved - April 6, 2010

**Durham Conservation Commission
March 11, 2010
Durham Town Office – Council Chambers
7:00 PM**

Members Present: Jamie Houle, George Thomas, Larry Harris, Dwight Baldwin

Alternates Present: Peter Smith, Stephen Burns

Members Not Present: Beryl Harper, Stephen Roberts

Alternates Not Present: Ann Welsh

Public Attendees: Malcolm McNeill

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

Chair Houle called the meeting to order at 7:00 pm and requested an addition to the agenda: under “Presentations” add Jim Campbell to present regarding the Shoreland Overlay District changes. The Commission Members agreed to this addition to the agenda. Due to absences Peter Smith and Stephen Burns were both appointed as voting members for the evening.

2) Presentations: Shoreland Overlay District Changes – Jim Campbell

Mr. Campbell referred to the previously distributed copy of Article XIV, Shoreland Protection Overlay District. He explained that this is being put forward due to recent changes in the State statute and some of the changes have been incorporated directly from the State statute.

Peter Smith noted that the members had reviewed a previous draft and asked if there have been any changes since that draft of the Article. Mr. Campbell noted that there have been three (3) minor changes that were editorial in nature.

The members discussed specific restrictions within the Article; including the restrictions of pesticide and fertilizer use within 50 ft of the Shoreland, the exemption of Pettee Brook and College Brook from many of the restrictions, and the overall increased protection to the smaller streams in town. The members expressed their support of the Article and noted that it is consistent with the Town’s history of having adopted the overlay district more than 10 years prior to the State instituting regulations for the Shoreland.

Dwight Baldwin MOVED to reaffirm the Durham Conservation Commission’s support of the Shoreland Protection Overlay District proposed changes. This was SECONDED by Peter Smith and APPROVED unanimously.*

**Stephen Burns abstained from the vote.*

- 3) **Acceptance of minutes of old minutes** – February minutes will be reviewed and approved at the April meeting.
- 4) **New and Old Business**
 - a) Report/discussion of new DPB subcommittee work regarding ORLI zoning updates and advanced water resource protection needs.

Public Comments:

Mr. Malcolm McNeill of 44 Colony Cover Road in Durham NH asked to speak to this issue. Mr. McNeill said he felt a developer should have been involved in the development of the Site Plan Review Regulations to give it some balance. He expressed his concern about the affects such a regulation would have on the development of the few parcels of land in Durham that are suitable for development. He noted that 1.5 years ago he spoke with the then Chair of the Conservation Commission regarding putting family owned property into conservation and the Town Council at that time advised them that they were not interested in conserving the property because they wanted to see it developed. Mr. McNeill said he is concerned that changes in the regulations may have a detrimental affect on how developable this property and others will be. He also expressed his opinion that such changes should be made as a zoning ordinance rather than a site review regulation considering the impact it would have on land use. Mr. McNeill also stated that he feels more public input is needed on this subject.

Chair Houle explained that this subcommittee had been commissioned by the Planning Board to look at the protection of water resources. He noted that, with the assistance of Dave Cedarholm, the subcommittee has finalized adjustments to the Site Plan Review Regulations. Chair Houle will circulate to all members a copy of the proposed regulations.

Dwight Baldwin noted that a subgroup of the subcommittee has been working on redoing the aquifer overlay district and have made progress and will be presenting a draft to the subcommittee shortly. He explained that after presenting to the subcommittee the draft will be presented to the Conservation Commission for comments and then to the Planning Board.

Chair Houle said the subcommittee recognized that the Site Plan Review Regulation was an area where adjustments could be made quickly as opposed to a Town ordinance. He said they feel codifying the regulations are a better way for the Town Engineer and developers to see what is expected of them. Mr. Houle said Jim Campbell informed them that a public hearing will be held on this topic March 24th, 2010.

- b) Update on Thompson Conservation Land.

Chair Houle informed the Commission that an appraisal was performed on the property and once the Commission pays its portion (\$1500) of the appraisal costs it will receive a detailed copy of the appraisal. The members discussed the proper procedure for securing the funds from the Conservation Fund. Mr. Houle said the property owner is reviewing the appraisal and will decide how they wish to proceed.

- c) Discussion of a letter of support from the DCC regarding the nomination of the Oyster River to the State Designated Rivers Program.

Stephen Burns distributed to members a copy of the letter he drafted from the Conservation Commission in support of the nomination of the Oyster River to the State Designated Rivers Program.

Chair Houle explained to the members not present last month that the Strafford Regional Planning Commission is moving forward with a designation plan for the Oyster River. He noted that such a designation would put the river in a higher tier for protection, making the protection watershed based rather than town based. Chair Houle said this approach to protecting the river is in the best interest of the Town because Durham is located downstream in the river and advanced protections upstream would help to protect the downstream locations as well.

The members discussed the draft of the letter presented to them and agreed to the draft with two minor editorial changes (“...since the Oyster River ends in Durham at the Mill Pond Dam, it is particularly important...” and “...nomination of the freshwater portion of the Oyster River.”)

It was the consensus of the members to have Stephen Burns make the editorial changes and sign the letter on behalf of the Commission.

d) Town Forestry Operations

Chair Houle reported that the forester hired by the Town of Durham came to the February meeting of the Conservation Commission to inform the members of the Town’s logging plans. Larry Harris noted that he felt the Commission should have been involved earlier in the process. The members discussed the sensitivity of the area where logging is scheduled to occur, the benefits to establishing sustainable practices on town owned lands, the wish to review the foresting plan and outcome objectives, and possible steps that can be taken to achieve these goals.

There was a lengthy discussion by members regarding the function of the Commission; their support for forestry operations on Town owned land; and their feeling that they would be derelict in their duties if they did not review foresting plans prior to implementation.

Peter Smith MOVED that before proceeding with all proposed forestry operations on town owned land, the Conservation Commission be given the opportunity to review the implementation plans so as to be able to communicate any comments to the Town Administrator. This was SECONDED by Larry Harris and APPROVED unanimously.

Chair Houle will phone the Town Administrator to discuss the members request and follow up with a letter from the Commission.

e) Draft Shoreland Protection Overlay (SPO) changes.

This was discussed earlier in the meeting.

5) Ongoing Business

a) Wetlands Applications

George Thomas reported that he had emailed the comments from the Commission to DES regarding the culvert project located at the B & M railroad. Jamie Houle noted that the company representing this project had sent three employees to the Commission’s February meeting to discuss the project. Mr. Houle said one of the representatives was the hydrologist and he stated that the contaminant involved is highly immobile and insoluble and the sealing of the culvert will do a lot to contain the

contaminant. He also explained that there is a large scale implementation plan for dealing with the contaminated site in incremental steps.

Mr. Thomas reported that a new wetlands application had been received for property located at 28 Cedar Point Road. He explained the application is proposing to install 130 ft of riprap with geo-textile woven materials underneath (12 ft). Mr. Thomas said the riprap is proposed to be large boulders with smaller boulders as it is built up to the top of the area. He said the applicant has noted that there is no vegetation there at the moment and that erosion is occurring due to east winds. He noted this project is proposed to go across the width of the property line and re-vegetation at the top of the riprap is being proposed. Mr. Thomas said the company for the project is Riverside and Pickering.

Mr. Houle said he feels this type of approach is short sighted and that riprap does not have a stabilizing affect, does not address the issue and moves the erosive force downstream (to neighbors). He suggested doing a site walk with the engineer.

A tentative date of Wednesday March 17th at 8 am was set. George Thomas will email the contractor and notify the Durham Town Office and the Conservation Commission with a final date, time and location.

b) Land Protection Activities -- no further discussion of this topic.

c) Town Owned Land/Conservation Easements:

i) PREP CTAP applications for 2010

Chair Houle reported that the PREP Request for Proposals will be released this summer (July/August). He said the Town may be interested in applying for another CTAP grant with respect to hiring a professional to assist with the writing of legislation for a source water protection overlay district to protect surface water regions.

6) Board and Committee Reports

a) Town Council -- no new Town Council representative has been appointed to the Commission at this point.

b) Planning Board -- Stephen Roberts sent an email update to Chair Houle reporting that the Planning Board awaits the Conservation Commission's comments on the Shoreland Protection Overlay; the Charrette report on the Central Business, Church Hill, Courthouse and Coe's Corner Districts were reviewed with the Dennis Group; Pettee Brook is improved with a trail system; there is a development proposal for the Woodward property by Capstone (a large student housing builder) for a mixed use development with single, duplex and multi buildings supporting between 500 and 900 beds. The DPB is drafting a zoning change to allow single family a unit in the zone, the application is more than a month off; the next DPB meeting is March 24, 2010.

c) Zoning Board of Adjustments -- no update at this meeting.

d) Lamprey River Advisory Committee -- no further update.

7) Other Business

- a) Terms ending for members Larry Harris and George Thomas and alternate Peter Smith after the April meeting.

George Thomas reported that he will be leaving the Commission after his term expires in April. Larry Harris stated that he wishes to continue with the Commission for another term. Peter Smith having left the meeting prior to this discussion will be contacted regarding his wishes. The board suggested appointing Peter Smith as a regular member to fill the absence of George Thomas and to seek a new alternate member.

8) Administrative

- a) Correspondence - Chair Houle reported that the expedited wetland permit for the oyster bed has been accepted.
- b) Next regular meeting April 8, 2010

- 9) Adjournment** – The March 11, 2010 meeting of the Durham Conservation Commission adjourned at 9:10 pm.

Jamie Houle MOVED to adjourn the March 11, 2010 meeting of the Durham Conservation Commission at 9:10 pm. This was SECONDED by George Thomas and APPROVED unanimously.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Conservation Commission