

DATE: November 5, 2012

## COUNCIL COMMUNICATION

**INITIATED BY:** The Durham Conservation Commission

**AGENDA ITEM:** **PRESENTATION AND PUBLIC HEARING: REQUEST BY THE DURHAM CONSERVATION COMMISSION THAT THE TOWN OF DURHAM ACCEPT FEE TITLE TO A 176±-ACRE PROPERTY LOCATED ALONG MILL AND PACKERS FALLS ROADS KNOWN AS SPRUCEWOOD FOREST (TAX MAP 13, LOTS 14-2 AND 6-3), SUBJECT TO AN EASEMENT OWNED BY THE U.S. NATURAL RESOURCES CONSERVATION SERVICE, AND THAT THE TOWN COUNCIL AUTHORIZE THE ADMINISTRATOR TO SIGN A PURCHASE AND SALE AGREEMENT AND OTHER RELATED DOCUMENTS WITH THE TRUST FOR PUBLIC LAND ON BEHALF OF THE TOWN**

**CC PREPARED BY:** Robin Mower, Councilor

**PRESENTED BY:** Gregg Caporossi, The Trust for Public Land  
Jeremy Lougee, Natural Resources Conservation Service  
Todd I. Selig, Administrator

**AGENDA DESCRIPTION:**

As prescribed by the Town's "Guidelines for Acquiring Legal Interest in Conservation/Open Space Land," the Town Council, with the recommendation of the Town Administrator, voted at its October 15, 2012 meeting to set a date for a public hearing on a request from the Conservation Commission requesting that the Town accept legal interest in the property known as the Sprucewood Forest (also attached to this Communication). The proposal passed unanimously.

The boundaries of the 176-acre Sprucewood Forest include Mill Road to the south and southeast and the UNH College Woods to the northeast, and on the west it abuts the Spruce Hole Conservation Area off Packers Falls Road.

Note: The property under consideration is sometimes referred to as the Oyster River Forest (for example, on some maps).

### **The Proposal**

For a history of the project and Proposal details, please refer to the Council Communication dated October 15, 2012 and accompanying documents.

The Proposal entails ownership of the property by the Town of Durham, subject to an easement held by the U.S. Natural Resources Conservation Service (NRCS) through its Wetlands Reserve Program (WRP). NRCS would manage a portion of the property for New England cottontail habitat and mitigate impacts to degraded wetlands and streams. NRCS would also provide majority funding for the project and become responsible for all costs related to NE cottontail habitat management, wetland restoration, and monitoring of the easement.

On October 3, 2012, after a duly noticed site walk was held on the Sprucewood Forest property, the Conservation Commission held a public hearing related to the expenditure of monies from the Conservation Fund in support of this Proposal. The Commission subsequently deliberated and reaffirmed that this project has been its *highest priority* for the past few years, primarily for the protection afforded to two public water sources: the Oyster River and the Spruce Hole Aquifer. It then voted unanimously to appropriate \$375,000 from the Conservation Fund and to request authorization from the Town Council to accept legal interest in the property in the form of fee title, subject to an easement owned by the U.S. Natural Resources Conservation Service.

On November 1, the Town received word that a survey of the property had just been completed. Previous discussions have referred to an acreage estimated from GIS mapping and Town of Durham tax maps. The survey shows that the property covers approximately 172 acres ("172± acres"). Motions associated with this agenda item reflect the revised acreage.

The question before the Town Council is to determine whether the Town of Durham *shall take title to the land subject to the recorded easement held by NRCS.*

### **The Oyster River Initiative**

As noted in the October 15th Council Communication, the Sprucewood Forest conservation project would complement the pending Amber Acres Farm conservation project by providing over a mile and a half of protection along both sides of the Oyster River. The complementary nature of the two projects is underscored through a cooperative private fundraising campaign, which refers to those two projects together as the "Oyster River Initiative," and was recently launched by the projects' nonprofit land conservation partners, The Trust for Public Land and the Southeast Land Trust of New Hampshire.

### **Boundary line adjustment**

As noted in the Council Communication dated October 15, 2012, the Sprucewood Forest project consists of two existing lots of record with two different owners:

(1) Map 13, Lot 14-2 owned by Sprucewood Retirement Trust and (2) that portion of Map 13, Lot 6-3 south of the Oyster River and approximately 47 +/- acres, owned by the Chet Tecce, Jr. Revocable Living Trust. Lot 14-2 in its entirety and only that portion of Lot 6-3 located south of the Oyster River would be included in the project. An application for a boundary line adjustment on Lot 6-2 is scheduled for the Planning Board meeting to be held on November 14. The Town of Durham is a co-applicant with The Trust for Public Land.

### **Public access: passive recreation**

Also noted in the October 15th Council Communication, public access for Sprucewood Forest would include low-impact recreational uses, such as birding, fishing, hiking, and cross-country skiing. The property provides easy access from an abandoned forest road and affords significant opportunity for trails on the property itself and as part of a network of trails on nearby properties.

### **Forestry management**

The Durham Conservation Commission may develop a stewardship plan for the property, as it has done for four other Town properties to date. In conjunction with NRCS, it may recommend forestry management to promote conservation values, as noted in the attached NRCS letter to new landowners subject to Wetlands Reserve Program easements.

### **Formal presentation**

Gregg Caporossi of The Trust for Public Land will attend Monday night's Council meeting, as will Jeremy Lougee, representing NRCS. They will provide a brief presentation and answer questions.

### **SUPPORTING DOCUMENTS**

A number of documents were provided to the Council and public in the October 15, 2012 packet. Additional supporting documents are included in this packet. Most of these may also be downloaded from the Conservation Commission website at <[http://www.ci.durham.nh.us/boc\\_conservation/sprucewood-forest-conservation-project](http://www.ci.durham.nh.us/boc_conservation/sprucewood-forest-conservation-project)>:

- 1) Letters of general support for the Sprucewood Forest project from:
  - a) Thomas Lee, Associate Professor, Forest Ecology, UNH
  - b) Tom Kelly, Chief Sustainability Officer, UNH
  
- 2) Letters to Rick Ellsmore, NH State Conservationist, in support of a request for funding for the Sprucewood Forest project via the Wetlands Resource Mitigation program from:
  - a) Roger Krussman, NH State Director, The Trust for Public Land
  - b) Paul Chamberlin, Associate Vice President for Facilities, UNH
  - c) Cory Riley, Manager, Great Bay National Estuarine Research Reserve
  - d) Dea Brickner-Wood, Great Bay Coordinator, Great Bay Resource Protection Partnership
  - e) David Houghton, Vice President for conservation programs, National Wildlife Refuge Association
  - f) Rachel Rouillard, Director, Piscataqua Region Estuaries Partnership (PREP)
  - g) Brian Hart, Director, Southeast Land Trust of New Hampshire (SELTNH)
  
- 3) Maps showing:
  - a) Sprucewood Forest sited within the “Coastal Conservation Focus Areas from the Land Conservation Plan for New Hampshire's Coastal Watersheds”
  - b) aerial detail of Sprucewood Forest and Amber Acres Farm
  - c) Sprucewood Forest and Amber Acres Farm sited among public and private conservation lands in Durham and neighboring communities
  
- 4) Minutes from the February 1, 2010 Town Council meeting reflecting Public Comments in support of the Sprucewood Forest project. *NOTE: At that point in time, the proposal for Sprucewood Forest project had a different configuration, potentially involving the then-Town-owned Grange. Many comments remain relevant to the 2012 proposal. No public hearing was held, nor required, on the project in that configuration. Public comments referred to a request that the Town Council indicate support for a grant application.*
  
- 5) Sample letter from the Natural Resources Conservation Service to new landowners of property subject to WRP easements that indicates responsibilities of NRCS and of the new landowner; the Town of Durham will receive such a letter.
  
- 6) Purchase and sale agreement (“Contract”) between The Trust for Public Land and the Town of Durham (draft as of October 31, 2012)

**LEGAL AUTHORITY:**

(1) RSA 36-A:4 and 5; and (2) Town of Durham "Guidelines for Acquiring Legal Interest in Conservation/Open Space Land" (May 19, 2008; formerly titled "Policy for Acquiring Legal Interest in Conservation/Open Space Land," dated May 3, 2004)

**LEGAL OPINION:**

The NRCS Wetland Reserve Program Warranty Easement Deed was forwarded to Town Attorney Laura Spector-Morgan for review, as was the purchase and sale agreement between The Trust for Public Land and the Town of Durham.

**FINANCIAL DETAILS:**

Described in the "Budget" sent as part of the September 24, 2012 update from The Trust for Public Land to Administrator Todd Selig and included in the Council Packet dated October 15, 2012 (line item labeled "Town of Durham Conservation Fund").

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION #1:**

*The Durham Town Council hereby OPENS the public hearing on the request by the Conservation Commission that the Town of Durham accept fee title to the 172±-acre property known as Sprucewood Forest, subject to an easement owned by the U.S. Natural Resources Conservation Service, and that the Town Council authorize the Administrator to sign a purchase and sale agreement and other related documents with The Trust for Public Land on behalf of the Town to bring the matter to closure?*

**MOTION #2:**

*The Durham Town Council hereby CLOSES the public hearing on the request by the Conservation Commission that the Town of Durham accept fee title to the 172±-acre property known as Sprucewood Forest, subject to an easement owned by the U.S. Natural Resources Conservation Service, and that the Town Council authorize the Administrator to sign a purchase and sale agreement and other related documents with The Trust for Public Land on behalf of the Town to bring the matter to closure?*

**MOTION #3:**

*The Durham Town Council hereby APPROVES the request by the Conservation Commission that the Town of Durham accept fee title to the 172±-acre property known as Sprucewood Forest, subject to an easement owned by the U.S. Natural Resources Conservation Service, and that the Town Council authorize the Administrator to sign a purchase and sale agreement and other related documents with The Trust for Public Land on behalf of the Town to bring the matter to closure.*

Thomas D. Lee  
471 Packers Falls Road  
Lee, NH 03861  
October 21, 2012

Mr. Todd I. Selig  
Town of Durham  
15 Newmarket Road  
Durham, NH 03824

Dear Mr. Selig,

I am writing in reference to the Sprucewood Forest Conservation Project. My comments are directed to the public hearing on this project, scheduled for November 5. While my home is not located in Durham, my wife and I own 5 acres in Durham adjacent to our house lot in Lee. Moreover, I work in Durham, specifically at the University of New Hampshire.

I encourage the Town of Durham to accept title to the Sprucewood Forest – subject to a conservation easement with NRCS – and to sign a purchase and sales agreement with the Trust for Public Land. I see four sound reasons for doing this. First the property will serve to protect the quality and quantity of water in the Oyster River, one of Durham’s drinking water sources and important wildlife habitat. While some of the Oyster River between Route 155A and the drinking water reservoir is now protected by College Woods and a conservation easement on my land, protection of the Sprucewood Forest and the possible easement on Amber Acres Farm would buffer the *majority* of river frontage and associated riparian habitat in this area. Second, the Sprucewood Forest would protect the corridor that connects critical conservation lands at College Woods (UNH) and Spruce Hole Bog (Durham), allowing unimpaired wildlife movement. Third, the Sprucewood land offers potential habitat and long-term conservation of the New England cottontail rabbit, a rare and declining species. Fourth, these lands would have outstanding value for education, with likely use (given town approval) by courses from UNH and the Oyster River School District. I am excited by the prospect of visiting this property with some of the classes I teach at UNH.

In conclusion, I believe that both the Town of Durham and the entire Seacoast Region have much to gain should Durham move forward with the Sprucewood Forest Conservation Project.

Sincerely,

Thomas D. Lee

*Tom Kelly  
63 Canney Rd  
Durham, NH 03824*

1 February 2010

Dear Members of the Durham Town Council:

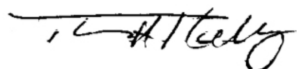
I am writing to express my full support for the Trust for Public Land (TPL) Oyster River Proposal.

All public decisions are important and take their place within the day-to-day life and landscape of our community. But some have greater impact and reach than others, and this proposal is one that is particularly significant for the immediate and long-term quality of life for the people of Durham. It is a legacy decision whose importance will continue to grow over the next century.

The long-term health of our water supply is so fundamental to sustaining our quality of life that, paradoxically, it can be easily taken for granted and assumed, naively, to be permanent and self-perpetuating independent of our actions. But nothing could be further from the truth. Our land use decisions within the Oyster River Watershed and the Spruce Hole Aquifer represent one of the most direct impacts that we have on the sustainability of our water supply. Over the past decade we have experienced droughts that by summer's end have raised serious concerns for our water quality and quantity. We all have a stake in this and we need to take purposeful steps to enhance the resilience of our water supply through a coordinated and coherent set of actions. The TPL proposal presents a unique opportunity for the Town of Durham to take such action and to do so in a way that that facilitates downtown development and the siting of much needed recreation fields.

In the field of planning, "wicked problems" arise at the intersection of complex interdependencies. In voting to pass and advance TPL's Oyster River Proposal you will be responding to the challenges of protecting long-term water supply, creating incentives for smart growth and developing recreational infrastructure, all in an integrated and coherent manner; you will tame a wicked problem with an elegant solution that strengthens the foundation of Durham's quality of life for generations to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Kelly", with a stylized flourish at the end.

Tom Kelly

August 16, 2012

Mr. Rick Ellsmore  
State Conservationist  
Federal Building, 2 Madbury Road  
Durham, NH 03824

**RE: Oyster River Forest Project, Durham, NH**

Dear Rick:

Please accept this letter and supporting documentation in request for funding for the Oyster River Forest Project in Durham, NH. Given the development threat, high easement value and importance of this project to the New England Cottontail Initiative, The Trust for Public Land (TPL) respectfully requests full funding through the Wetland Reserve Program (WRP) this year.

The proposed Oyster River project is a public/private collaborative to acquire 176 acres in Durham, NH. More importantly, acquisition will protect important wildlife habitat for the New England Cottontail (NEC) and other important species while also protecting drinking water for Durham (see attachments). Once acquired, the property will be owned by a local partner, with an easement held by the United States of America through the Wetlands Reserve Program. NH NRCS will manage the property for NEC as part of the NEC Rangewide Initiative in an effort to stabilize the population.

While this property has many important resource values, none are more imperative than the potential benefit to the New England Cottontail. The proposed Oyster River project is an outstanding opportunity for NRCS to meet multiple high level WRP objectives. Located within a NEC Focus Area, the proposed Oyster River project is regionally significant at a range-wide scale due to a number of factors. According to NRCS Biologist Don Kierstead, NECs are likely to be found on the property today and would be an ideal release site in the future. Additionally, the high quality NEC habitat on site is relatively remote with few existing disturbances, while simultaneously surrounded by existing viable habitat that is already conserved. As a result, future migration along natural linkages without any major obstacles is likely to occur. For these reasons, protection of the Oyster River property is thought to be critical to maintaining NEC populations within the watershed.

Over the past 3 years, TPL has worked closely with federal and state agencies to protect this important property. TPL believes that funding through the WRP represents the best opportunity to protect this critical NEC habitat. Therefore, we respectfully request a WRP grant of \$2,464,200 - the value of the easement as determined by the McManus Appraisal recently commissioned by NRCS.



Thank you in advance for considering this request. We would welcome the opportunity to provide further information about the project or host a site walk at your convenience. In the meantime, please do not hesitate to contact Rodger Krussman, TPL State Director, at (802) 223-1373 x. 13

Signed,

A handwritten signature in black ink, appearing to read "Rodger Krussman", with a long horizontal flourish extending to the right.

Rodger Krussman,  
NH State Director, The Trust for Public Land

CC: Kathy DeCoster, Vice President and Director of Federal Affairs  
Jeff Danter, Senior Vice President, Division Director

Enclosures



## UNIVERSITY *of* NEW HAMPSHIRE

July 30, 2012

Mr. Rick Ellsmore  
State Conservationist  
Federal Building, 2 Madbury Road  
Durham, NH 03824

Dear Mr. Ellsmore:

The University of New Hampshire endorses the Oyster River Forest (or Spruce Woods) Project in Durham and urges your consideration of Wetlands Reserve Program funding.

The parcel in question is a contiguous wooded area that is an extension of our College Woods; an area of woodlands and natural habitat that forms the western edge of the core campus that is a treasured part of the campus heritage. The proposed project would insure the preservation of the larger contiguous woodlands of which College Woods is a portion with the associated benefit a larger habitat provides. Additionally, this parcel includes 4,600 feet of shoreline along the Oyster River, one of the two surface water sources supplying drinking water to the University campus and the Town of Durham. Protection of our drinking water sources in particular and surface waters in general will be very beneficial impacts of the proposal under consideration. The parcel also includes a portion of the Spruce Hole aquifer, another source of potable water currently being developed to support the campus and community. Protecting the aquifer is another beneficial outcome of the project.

In their endorsement of the project, Durham notes additional benefits with which the University fully concurs.

We fully support the Oyster River Forest Project and encourage the Natural Resource Conservation Service to allocate funds through the Wetlands Reserve Program to support a conservation easement.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Chamberlin".

Paul D. Chamberlin  
Associate Vice President



# New Hampshire Fish and Game Department

**HEADQUARTERS:** 11 Hazen Drive, Concord, NH 03301-6500  
(603) 271-3421  
FAX (603) 271-1438

**www.WildNH.com**  
e-mail: [info@wildlife.nh.gov](mailto:info@wildlife.nh.gov)  
TDD Access: Relay NH 1-800-735-2964

June 28, 2012

Mr. Rick Ellsmore  
New Hampshire State Conservationist  
Natural Resource Conservation Service  
Federal Building, 2 Madbury Road  
Durham, NH 03824

RE: Support for Oyster River Forest Project, Durham, NH

Dear Mr. Ellsmore,

I am writing to lend support for the Oyster River Forest Project in Durham and to encourage your consideration of Wetlands Reserve Program funding for the project.

Like many communities surrounding Great Bay, Durham faces many challenges in this rapidly developing region of New Hampshire. Development of our shorelines and uplands results in habitat loss, water quality degradation and loss of public access.

The Oyster River Forest Project would conserve 176 acres of Tier I habitat, while also providing connectivity between 2,200 acres of existing conservation land, including Spruce Hole Bog – a designated National Natural Landmark. The diverse array of habitats contained within this block of conservation land is home to 14 State threatened or endangered plants and animals as well as several exemplary ecological communities. The early successional habitat found on the property is of critical importance to helping stabilize and manage land for New England Cottontail (NEC). If acquired, this property could be managed to improve habitat for NECs and serve as a future release site.

In addition to the habitat benefits discussed above, the Oyster River Forest Project would also help protect water quality in several important ways. The property includes over 4,600 feet of frontage on the Oyster River – the secondary water supply shared by Durham and the University of New Hampshire, serving a population of 16,000. In addition, the property sits atop the Spruce Hole Aquifer, identified as a future water source for Durham. Finally, protecting remaining undeveloped uplands such as along the Oyster River a major tributary to the Great Bay Estuary, is critical if we are to have any hope of maintaining water quality in the Estuary.

The Great Bay National Estuarine Research Reserve manages the abutting property to this parcel with compatible conservation goals, and a conservation easement on this property advances our own organizations' interest in protecting natural areas to enhance water quality and wildlife and fish habitat. For these reasons, we strongly support the Oyster River Forest Project and encourage the Natural Resource Conservation Service to allocate funds to support a conservation easement acquisition through the Wetlands Reserve Program.

Sincerely,

A handwritten signature in black ink that reads "Cory Riley".

Cory Riley  
Manager, Great Bay National Estuarine Research Reserve





June 27, 2012

Mr. Rick Ellsmore  
New Hampshire State Conservationist  
Natural Resource Conservation Service  
Federal Building, 2 Madbury Road  
Durham, NH 03824

RE: Support for Oyster River Forest Project, Durham, NH

Dear Mr. Ellsmore,

On behalf of the Great Bay Resource Protection Partnership, I am writing to lend support for the Oyster River Forest Project in Durham and to encourage your consideration of Wetlands Reserve Program funding for the project.

Like many communities surrounding Great Bay, Durham faces many challenges in this rapidly developing region of New Hampshire. Development of our shorelines and uplands results in habitat loss, water quality degradation and loss of public access.

The Oyster River Forest Project would conserve 176 acres of Tier I habitat, while also providing connectivity between 2,200 acres of existing conservation land, including Spruce Hole Bog – a designated National Natural Landmark. The diverse array of habitats contained within this block of conservation land is home to 14 State threatened or endangered plants and animals as well as several exemplary ecological communities. The early successional habitat found on the property is of critical importance to helping stabilize and manage land for New England Cottontail (NEC). If acquired, this property could be managed to improve habitat for NECs and serve as a future release site.

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For these reasons, the Partnership supports the conservation of the Oyster River Forest Project and encourages the Natural Resource Conservation Service to allocate funds to support a conservation easement acquisition through the Wetlands Reserve Program.

Sincerely,

A handwritten signature in blue ink that reads "Dea Brickner-Wood".

Dea Brickner-Wood  
Great Bay Coordinator

Great Bay Resource Protection Partnership

*Partners in Protecting New Hampshire's Great Bay Habitats* PRINCIPAL PARTNERS: AUDUBON SOCIETY OF NEW HAMPSHIRE  
DUCKS UNLIMITED, INC. GREAT BAY NATIONAL ESTUARINE RESEARCH RESERVE NEW HAMPSHIRE DEPARTMENT OF FISH & GAME  
SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS THE NATURE CONSERVANCY, NEW HAMPSHIRE CHAPTER  
U.S. ENVIRONMENTAL PROTECTION AGENCY U.S. FISH & WILDLIFE SERVICE U.S. NATURAL RESOURCES CONSERVATION SERVICE





National  
**Wildlife Refuge**  
Association

Mr. Rick Ellsmore  
New Hampshire State Conservationist  
Natural Resource Conservation Service  
Federal Building, 2 Madbury Road  
Durham, NH 03824

June 27, 2012

RE: Support for Oyster River Forest Project, Durham, NH

Dear Rick,

NWRA is happy to throw its support behind TPL's application for funding from the Wetlands Reserve Program for their Oyster River Forest Project in Durham.

What impresses us most about the project are its important geographic position in the broader programmatic initiative to protect the Great Bay ecosystem, the collaborative nature of that initiative – with multiple agencies and organizations playing significant roles, the connectivity and quality of the Oyster River Forest's habitat, and the benefits that the project can bring to NEC recovery. This is an excellent project with an important wetland restoration component, and NWRA strongly supports its WRP application.

Thank you for your consideration, and all the best.

Warm regards,

David Houghton  
Senior Vice President for Conservation programs  
National Wildlife Refuge Association



June 29, 2012

Mr. Rick Ellsmore  
New Hampshire State Conservationist  
Natural Resource Conservation Service  
Federal Building, 2 Madbury Road  
Durham, NH 03824

**RE: Support for Oyster River Forest Project, Durham, NH**

Dear Mr. Ellsmore,

I am writing to lend support for the Oyster River Forest Project in Durham and to encourage your consideration of Wetlands Reserve Program funding for the project.

The mission of PREP is to protect, restore, and monitor the health of the Great Bay and Hampton-Seabrook estuaries and their associated watersheds. PREP's 2010 Piscataqua Region Comprehensive Conservation and Management Plan (CCMP) provides a 10-year blueprint of actions that are needed to protect and restore the ecological integrity of the Great Bay watershed. The Oyster River Forest Project directly implements several of the highest priority Action Plans in the CCMP:

- Land Use-14: Work with landowners to permanently protect land and water through conservation easements and fee acquisitions, particularly associated with Conservation Focus Areas. Priority Ranking: Highest
- Land Use-15: Work with public and private landowners to manage habitat for species in greatest need of conservation by implementing strategies and priorities from the NH Wildlife Action Plan. Priority Ranking: High

In addition, PREP's Management Plan Objective LU 3.1 establishes a land conservation target of protecting 75% of lands identified as Conservation Focus Areas in the Land Conservation Plan for NH's Coastal Watersheds by 2025. The Oyster River Forest Project is located within the Oyster River Conservation Focus Area, and thus permanent protection of this land is top management priority for PREP.

The Oyster River Forest Project would conserve 176 acres of Tier I habitat, while also providing connectivity between 2,200 acres of existing conservation land, including Spruce Hole Bog – a designated National Natural Landmark. The diverse array of habitats contained within this block of conservation land is home to 14 State threatened or endangered plants and animals as well as several exemplary ecological communities. The early successional habitat found on the property is of critical importance to helping stabilize and manage land for New England Cottontail (NEC). If acquired, this property could be managed to improve habitat for NECs and serve as a future release site.

In addition to the habitat benefits discussed above, the Oyster River Forest Project would also help protect water quality in several important ways. The property includes over 4,600 feet of frontage on the Oyster River – the secondary water supply shared by Durham and the University of New Hampshire, serving a population of 16,000. In addition, the property sits atop the Spruce Hole Aquifer, identified as a future water source for

[University of New Hampshire / Nesmith Hall / 131 Main Street / Durham/ NH / 03824](#)

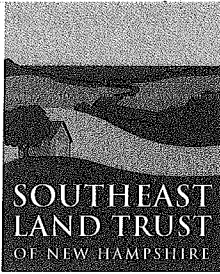
Durham. Finally, protecting remaining undeveloped uplands such as along the Oyster River a major tributary to the Great Bay Estuary, is critical if we are to have any hope of maintaining water quality in the Estuary.

For these reasons, we strongly support the Oyster River Forest Project and encourage the Natural Resource Conservation Service to allocate funds to support a conservation easement acquisition through the Wetlands Reserve Program.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Rouillard".

Rachel Rouillard  
Director



*Formed by the merger of the Rockingham Land Trust and Seacoast Land Trust  
to conserve the significant land and natural resources of southeastern New Hampshire*

July 3, 2012

Mr. Rick Ellsmore  
State Conservationist  
Federal Building, 2 Madbury Road  
Durham, NH 03824

RE: Support for Oyster River Forest Project, Durham, NH

Dear Rick,

I am writing to lend our organizational support for the Oyster River Forest Project in Durham and to encourage your consideration of Wetlands Reserve Program funding for the project.

Like many communities surrounding Great Bay, Durham faces many challenges in this rapidly developing region of New Hampshire. Development of our shorelines and uplands results in habitat loss, water quality degradation and loss of public access.

The Oyster River Forest Project, if successful, will conserve 176 acres of Tier I habitat, while also providing connectivity between 2,200 acres of existing conservation land, including Spruce Hole Bog – a designated National Natural Landmark. The diverse array of habitats contained within this block of conservation land is home to 14 state threatened or endangered plants and animals and several exemplary ecological communities. The early successional habitat found on the property is of critical importance to helping stabilize and manage land for New England Cottontail (NEC). If acquired, this property could be managed to improve habitat for NECs and serve as a potential release site in the future.

In addition to the habitat benefits discussed above, the Oyster River Forest Project will also help protect drinking water quality in two important ways. The property includes over 4,600 feet of frontage on the Oyster River – the secondary water supply for Durham and the University of New Hampshire – which serves a population of 16,000. In addition, the property sits atop the Spruce Hole Aquifer, which has been identified as a future water source for Durham. As a major tributary to Great Bay Estuary, it is critical that we protect critical remaining undeveloped uplands if we are to have any hope of maintaining water quality in the estuary.

Finally, the Oyster River Forest Project will build on the proposed conservation of the adjacent Amber Acres Farm, which shares thousands of feet of shoreline along the river. The Amber Acres Farm, as you know, is the recipient of a Farm and Ranchland Protection Program grant and will be acquired by the Southeast Land Trust of New Hampshire in December 2012.



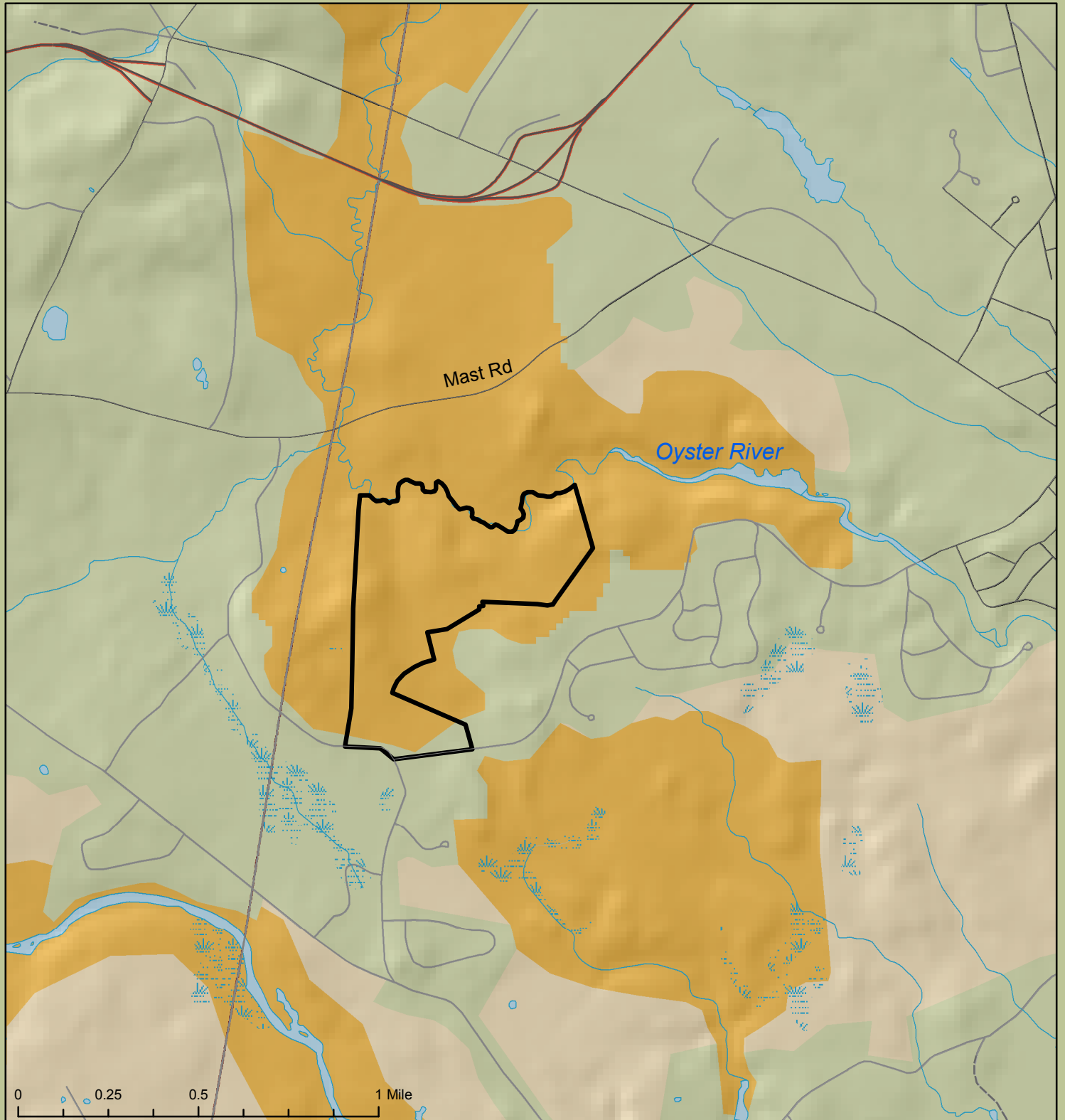
For these reasons, the Southeast Land Trust of New Hampshire strongly endorses the Oyster River Forest Project and encourages the Natural Resource Conservation Service to allocate funds to support a conservation easement acquisition through the Wetlands Reserve Program.


Sincerely,

A handwritten signature in black ink, appearing to read "Brian Hart", with a long, sweeping horizontal flourish extending to the right.


Brian Hart  
Executive Director


# Coastal Conservation Focus Areas and Sprucewood Forest Durham, NH



 Sprucewood Forest

**Conservation Focus Areas**

 Core Area

 Supporting Natural Landscapes

Sprucewood Forest Property boundaries courtesy of Broken Arrow Realty and Durham tax maps. Coastal Conservation Focus Areas from the Land Conservation Plan for New Hampshire's Coastal Watersheds. Determination of focus areas incorporated large, unfragmented forest blocks, intact floodplains and riparian zones, high quality stream networks and small watersheds, irreplaceable coastal and estuarine features, significant fish and wildlife habitats, critical habitat supporting rare species and exemplary natural communities and important connectivity zones. Conservation Focus Area data courtesy of The Nature Conservancy. All other data from GRANIT. Map created by the Trust for Public Land on 3/31/10. Information on this map is provided for purposes of discussion and visualization only.

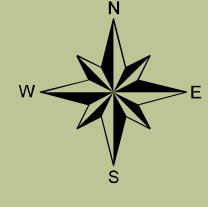
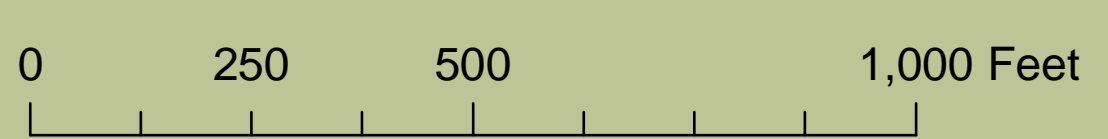




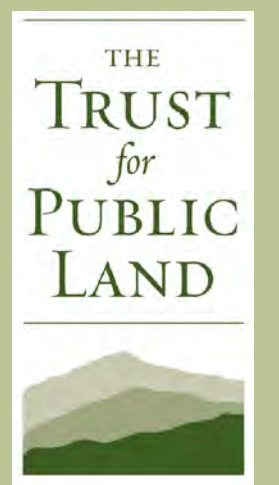


- Sprucewood Forest
- Amber Acres Farm
- Public & Private Conservation Areas
- Other Municipal or University-Owned land
- Wetlands
- Streams & Rivers
- Town Boundaries
- Roads

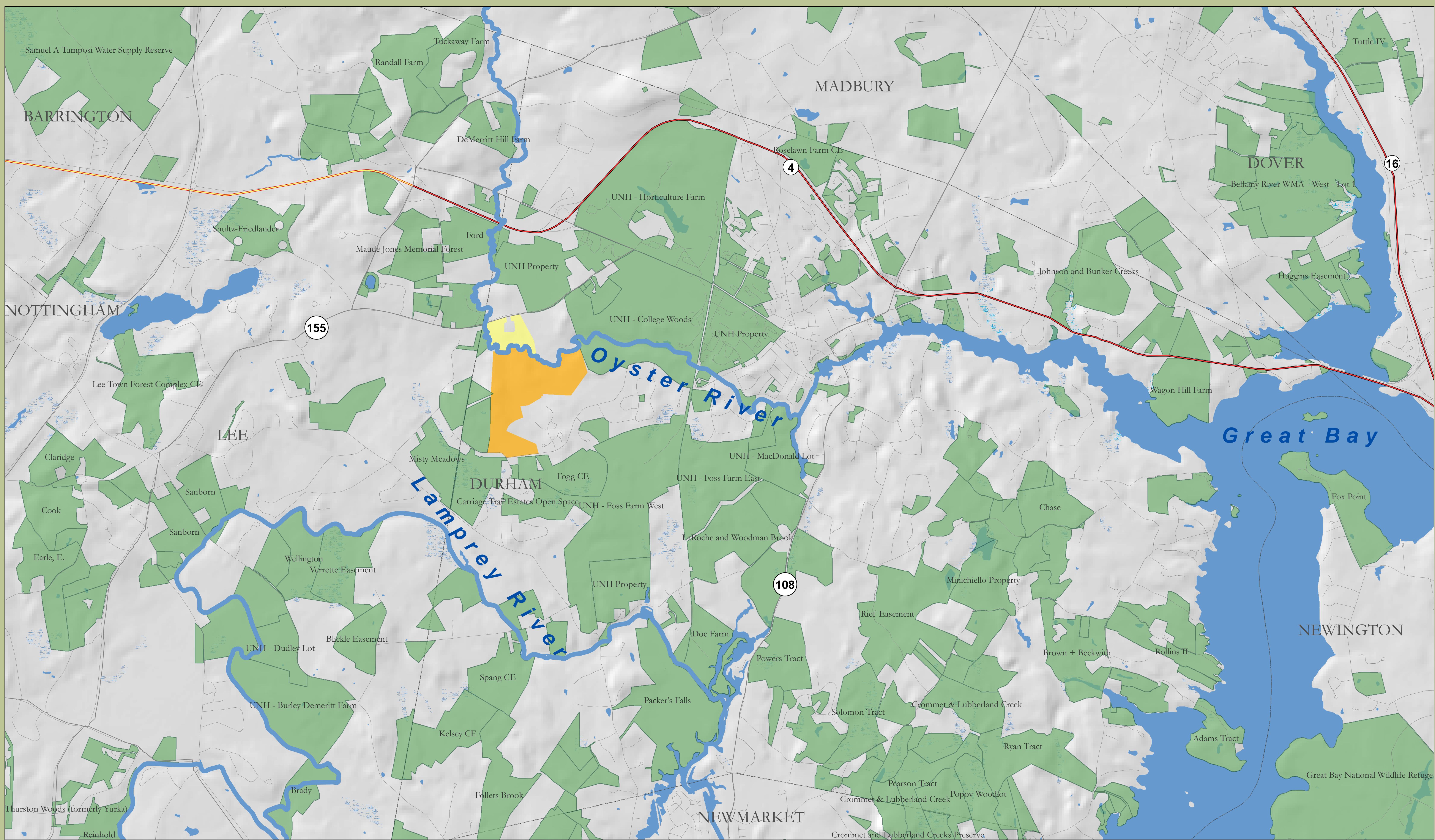
## Oyster River Initiative Durham, NH


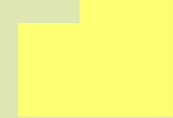
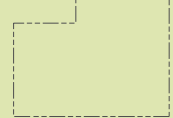


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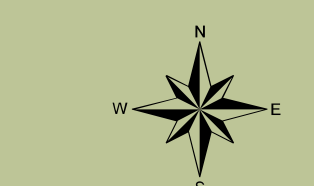
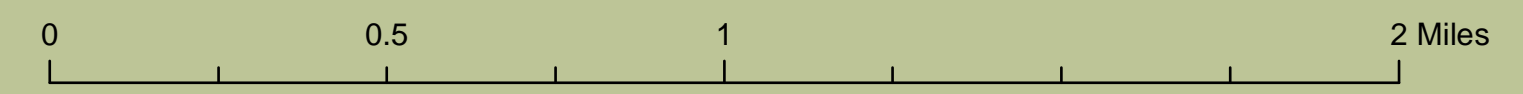




|  |                   |   |                                    |
|--|-------------------|---|------------------------------------|
|  | Sprucewood Forest |  | Public & Private Conservation Land |
|  | Amber Acres Farm  |  | Town Boundaries                    |

# Oyster River Initiative

## Durham, NH




10/9/2012





**This set of minutes was approved at the March 15, 2010 Town Council meeting**

**Durham Town Council  
Monday February 1, 2010  
Durham Town Hall - Council Chambers  
7:00P.M.   
MINUTES**

**MEMBERS PRESENT:** Chair Neil Niman; Councilor Karl Van Asselt; Councilor Jerry Needell; Councilor Julian Smith; Councilor Doug Clark; Councilor Peter Stanhope; Councilor Mike Sievert; Councilor Diana Carroll; Councilor Robin Mower

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig; Police Chief Dave Kurz; Public Works Director Michael Lynch; Code Enforcement Officer Tom Johnson

**I. Call to Order**

Chair Niman called the meeting to order at 7:05 PM.

**II. Approval of Agenda**

*Councilor Van Asselt MOVED to approve the Agenda as submitted. Councilor Needell SECONDED the motion.*

Councilor Mower asked if Item X D could be moved before Item X C, and Chair Niman suggested amending the Agenda later if needed.

Administrator Selig recommended postponing Item VII E, the public hearing on proposed fire prevention code amendments, until the March 1<sup>st</sup> Council meeting, because the key presenter was out of the State until that time.

*The motion PASSED unanimously 9-0.*

**III. Special Announcements**

Drawing of candidate names running for elected offices to establish order of listing on the March 9, 2010 Town Election ballot – Christopher Regan, Town Moderator; Lorrie Pitt, Town Clerk-Tax Collector

Town Councilor  
Peter Stanhope  
William Cote  
Jay Gooze

nearly double the current charge for doing it by itself, and said she had the technical details on this if Councilors wanted to see them. She said the IWMAC was looking into other possibilities, along with Administrator Selig.

Administrator Selig said the Durham Business Association would coordinate the upcoming “Meet the Candidates” night. He also said the School District budget deliberative session would be held on February 2<sup>nd</sup> at the High School.

Councilor Needell said the Conservation Commission had recently met, and that they received a presentation from the Trust for Public Lands on its proposal. He said the Commission had sent a letter of support for the project to the Council, which the Council could discuss as part of discussing the project itself. He said the Commission had encouraged the Council to seize the opportunity to work with the TPL.

Councilor Smith updated the Board on the most recent Planning Board meeting. He said the public hearings on the Seacoast Repertory Theatre site plan and conditional use permit applications had been continued to the February 10<sup>th</sup> meeting at the request of the applicant. He also said the Board had accepted a site plan application from Xmed to build a new building in place of its existing building because the company had outgrown it. He said a public hearing on this application was scheduled for February 10<sup>th</sup>.

#### **VI. Public Comments (NLT 7:30 PM)**

**Henry Smith, Packers Falls Road**, said he was present to speak about the Spruce Forest conservation proposal. He noted a 1998 survey that indicated that conservation and preservation of the Town’s natural resources was the highest priority in terms of spending tax dollars. He also quoted from the 2000 Master Plan, which cited the Oyster River corridor as a priority in terms of preservation.

Mr. Smith said the Trust for Public Lands was a fine organization, and said their request for funding would almost eliminate tax burden on the Town. He also said it appeared that the project would not have a negative impact on the tax base, and in fact could add to it, by allowing the economic development of the Grange property and perhaps adjacent lands. He said this could be a significant event for the Town in terms of developing the downtown, and said he highly recommended going forward.

**Roger Speidel, 7 Nobel K. Peterson Drive**, said the School Board’s deliberative session would be held the following evening. He also said on March 9<sup>th</sup> Durham taxpayers would be voting on the School Budget, and wouldn’t know a single thing in it. He noted a Budget item for \$728,000 called Other Programs, and questioned what this was. He also questioned other Budget items, and then asked if anyone in Town knew how the School Budget was put together. He said the voters in Durham were passive.

Mr. Speidel said the town of Bow spent less per student per year than the Oyster River School District, although ten years ago its spending was 2 ½ times higher than the OR School District, and said it wasn’t money that made a good school system. He said from 2001-2007, Durham lost 246 students, but during that same time, 10 more teachers were hired.

He said the School Board voted on its Budget on January 20<sup>th</sup>, and said at the time, he was the only citizen present. He questioned why this was, and said an audit of the School system was needed now. He then provided written copies to the Council of his statement at the January 20<sup>th</sup> School Board meeting.

**Bill Hall, Smith Park Lane**, said the method the Town used to replace elements of its infrastructure defied reason, and noted in some detail how the Mill Pond road job and Woodman Road job were examples of this. He also said the action plan for Public Works projects was ridiculous.

**Jenna Roberts, Cowell Drive**, said that while the conservation idea was a good one, she hesitated about the idea of giving up the Grange. She said she felt there were few resources left for community spaces, and asked that the Council reconsider giving it up.

She thanked the Council for agreeing to talk about possible fiscal mismanagement by the School District, and said the Town, which distributed funds to the schools, should ensure that these funds were being spent properly. She said the School Board was not being transparent, and said the public was being treated with contempt. She said she was looking for the School Board to communicate with the public, in the public eye, and to be held responsible.

Ms. Roberts said Durham should work with the other towns in the district to do a forensic audit, and said after that, they should remedy the problems. She said the Town Budget was the gold standard, while the Budget presented at the School board hearing, for \$38,000,000, was only two pages long. She asked how someone could make a decision on a budget like that, and said this was totally unacceptable.

**Seth Bramante, Partridgeberry Lane**, said he echoed what others had just said about the School Board issue. He first noted that he had come before the Council a few years back concerning issues with the School Board, and he provided details on this. He said 2/3 of residents' tax dollars went to the School District, and said it was important to understand what was going on. He said whenever he spoke to the School Board, he was met with opposition and branded as a troublemaker, even when he backed up his comments with facts.

He said he felt the School Board was at a stalemate, and said nothing seemed to get done. He noted that they had started a long term strategic plan, and said keeping this effort alive was imperative in terms of where things would be at in 5 years. He also said the Resolution before the Council was a good start, and suggested that there should be a forensic audit, and then the process should move forward.

Mr. Bramante said there was a tremendous disconnect between the Town and the School, but said the Friday Update was great, noting that he had seen Councilor Clark's Resolution on Friday. He said the Town was doing a phenomenal job, keeping costs down, while the School Board was increasing its costs each year.

He noted that the School Board had been asked to provide details on the current Technology

improvement warrant article, but said there had been no answers. He also said the Technology improvement plan last year had been voted down by one vote, but it was later found that the money voted down was still spent. He said this meant the Board had used surplus money that should have been returned to the voters.

Mr. Bramante also spoke about the amount of time it had taken the School Board to come up with job descriptions. He said he had gotten the sense that they hadn't had these descriptions, and questioned how compensation was determined without them.

**Bob Eckert, UNH professor of Natural Resources**, noted that he was co-teacher of a land conservation course. He said he also chaired a group called the Bellamy/Oyster River Protection Partnership, whose goal was to foster communication between the towns that shared these water resources. He said he was present to represent the watershed view, stating that what was being considered with the TPL proposal was important on a larger scale than just Durham, and that other communities were watching to see what happened.

He noted that the latest data indicated that Great Bay had pollution problems, and said the actions the Town took to protect the Oyster River were important. He said he hoped the Council would consider this point of view.

**Joshua Myerowitz, 7 Chesley Drive**, said he was excited about the TPL proposal, which seemed like a once in a lifetime opportunity to protect these resources, and said he hoped the Council would figure out how to make it happen. He said parts of the proposal could be written more clearly, and said he would like to hear more about UNH's connection to it, also stating that perhaps the Town could provide more incentive for UNH to be involved.

Mr. Myerowitz said the point made about losing the Grange as a public space was a good one, and said perhaps it could be considered as part of a more systemic discussion about a Town Hall, Library, etc. downtown. He also said he would like to see more information on whether the conserved land at Spruce Woods would be accessible to the public, stating the importance of allowing residents to enjoy the beauty of what would be conserved.

**Lynn Holmes, 10 Meserve Road**, said she supported the Spruce Forest conservation proposal. She said she understood the concern about taxes, but urged the Council not to sacrifice what Durham was now for development. She said once land was developed, they could never get it back.

**Hillary Scott, 20 Davis Avenue**, encouraged the Town to partner with the TPL to preserve the land out at Spruce Woods. She noted that the Master Plan recognized the Oyster River corridor as a conservation priority, and urged the Council to consider the idea of conserving this land while not considering everything else right away. She said if they were in favor of this, they could find a way to make it happen. She said this was a unique opportunity that TPL had come forward with this project, and said it was important to consider the long term picture.

Regarding the Durham Business Park, Ms. Scott encouraged members of the public to watch the potential development there closely. She said that area of Town was fragile in term of



maintaining land quality, and said it would be important to really look at the plans to make sure shoreland setbacks, building height limits, etc., were maintained. She said it would also be important to see that public access was provided.

**Malcolm McNeill, 44 Colony Cove Road**, said he wished to speak regarding the TPL proposal, particularly concerning his February 1<sup>st</sup> letter, and also in the context of his December 21, 2009 letter and the 2000 Master Plan. He said the TPL proposal would have the effect of removing a significant property from the ORLI District inventory of developable properties, and said in effect it would rezone the property. He said this was the very same property where the owners had requested and received a rezoning of the property to ORLI in 2008, alleging there were reasonable grounds for commercial uses, and that no environmental dangers existed. He said the Council had accepted this and rezoned the property.

Mr. McNeill said questions continued to exist that should be answered prior to the Council consenting to a contractual agreement with the TPL that would effectively re-zone this property for 4 years, and tie up the Grange for up to 4 years. He said there should first be a public hearing regarding the proposal, with full disclosure of all its terms prior to the Council entering into an agreement.

He said if it was the Town Hall or the Court House building being traded, or a dam was going to be fixed, there would be a public hearing. He said public funds and property were involved, and said the public had a right to be heard after full disclosure of the issues. He said this would not come from simply reading the TPL letter to the Council.

Mr. McNeill said the discussions over the past 16 months had not been public discussions, yet they were talking about public resources. He said if there was time pressure regarding the grant deadline, this deadline was not created by the Town, and should not drive an unrealistic and uninformed decision-making process.

He said TPL's letter of December 4<sup>th</sup> indicated a meeting with Administrator Selig, Councilor Mower, Councilor Niman and a developer. He said this meeting was discussed at the December 21<sup>st</sup> Council meeting, but no one could explain what would be developed and what the terms would be.

He said the TPL in its correspondence indicated the Town's purchase price was the Grange lot, valued at \$649,000 risk free, and said further investigation would reveal that this was an understatement of the purchase price. He said with this deal, a significant portion of ORLI would in effect be removed from the tax rolls and he said those costs must be assessed, especially in light of the 2008 rezoning.

Mr. McNeill said the purchase price also indicated potential, as raised by Councilor Clark at the May 18, 2009 Council meeting, that the effect of rezoning it would also prevent further development of other commercially zoned parcels in that area. He said this was because infrastructure would not be extended, because the antigrowth people would then say there was even less land to be developed.

He read from the 2000 Master Plan concerning the impacts of the Town's tax burden, and noted that it spoke about the need to manage the growth of single family homes, and also to increase revenues from acceptable commercial development and office research growth. He said this was exactly what the ORLI district was created for.

Mr. McNeill said the land swap proposal didn't indicate how the Grange would get developed, and he questioned whether surrounding property owners had been spoken to. He asked if the plan was for 6-7 story buildings in order to offset \$200,000,000, which was what the Spruce Hole owners had at one time said was the value of developing that property. He asked where the fairness was of such a trade.

He also asked when the deal would happen, and said it should be conditioned upon there being a letter of agreement regarding the development, so the Town got the end of the deal that it was promised. He said otherwise, the easement would be irreversible because it would be perpetual. He said that property wouldn't be developed, the Town would get the Grange property back and there would be no development there either.

Mr. McNeill said the Town's trade of its asset, which was worth \$645,000 at least, in exchange for the loss of a Spruce Woods development was not only an undefined deal, but was clearly not a done deal. He questioned whether the entire deal should be dependent on a downtown development deal being consummated by an agreement before anything happened with regard to a conservation swap. He said the property under discussion was not rural, was not residential; it was ORLI. He said if conservation was going to exist there, perhaps all of the 3-5 parcels out there should be taken too.

**James Houle, 95 Mill Road**, said he was a water resource scientist and a member of the Conservation Commission, which supported this initiative. He noted that in 2008, he had spoken before the Council regarding the conservation of this area, and said he thought there was unanimous consent that the area necessitated some kind of conservation, which was represented by the pursuit of the easement.

He said he would not be up there if this was just a conservation initiative, stating that he was not anti-growth. He said growth should happen responsibly, and said this particular area was of extreme value in terms of its present and future water resources. He said UNH Professor Tom Ballestero had studied this issue for three decades, and said it was highly tied to economic development. Mr. Houle then read from a letter from Mr. Ballestero in support of the TPL project.

**Kevin Gardner, 1 Stevens Way**, noted that he was a faculty member at the UNH Civil Engineering Department, and was also a professional engineer. He said as Councilor Clark often liked to say, one had to look for those opportunities where many different interests came together. He said the TPL proposal struck him as just such an opportunity, where economic development, conservation, energy, and parks and recreation all came together. He said maybe it wasn't exactly perfect, but said it looked pretty close from his perspective.

He said this was not a conservation project, although it was great that people viewed it

that way. He said this was the Town of Durham's infrastructure they were considering; its water supply for 100 years, according to Dr. Ballestero. He said for \$650,000, which was incredibly inexpensive, he'd take it. He said this was an infrastructure project, where there would be the ability to infiltrate water and store it there. He said it was a good deal.

Mr. Gardner said a second point he wanted to make was that businesses located where the quality of life was good. He noted the research on this, and said a high-quality, high-quantity water supply was a really important part of quality of life. He said people tended to forget that the last 5 years had been, according to the state climatologists, the wettest years on record, and also said people tended to forget about the droughts that had been seen in the past. He also noted that having recreational opportunities at the conserved area was a nice feature of this proposal.

He said a third point was in regard to his major area of expertise, the remediation of places where gasoline, oil, solvents, etc., had spilled. He said \$650,000 wouldn't go very far if this needed to be done. He said the TPL proposal, which was a kind of insurance policy against future insults like those types of spills that were very likely to occur, was pretty cheap money.

**Duane Hyde, 47 Emerson Road**, said he was speaking as a citizen and as a Town water user. He congratulated the Town on all the hard work being done regarding the redevelopment of the downtown, as a primary focus area in order to expand the tax base. He said he was also there to support the TPL proposal, which was an incredible water supply protection project. He said there weren't many opportunities where two water supplies could be protected at once.

Mr. Hyde said this was also an incredible opportunity in that it had a conservation and infrastructure component as well as a potential economic development component, and he spoke in some detail on this. In addition, he said there could be the benefit of getting recreational fields, which the Town sorely needed. He said the TPL was an excellent organization, and said he hoped the Council would support this project.

**Nancy Lambert, 17 Faculty Road**, read a letter on behalf of the Strafford Rivers Conservancy. The letter stated that the 171 acre parcel under consideration was an excellent candidate for conservation, and said conserving it was an essential step toward protecting Durham's current and future water supplies. It said the extensive shoreline along the Oyster River, which was the Town's current water supply, as well as the proximity of the parcel to the Spruce Hole aquifer, which was the Town's future water supply, made this parcel particularly critical to ensuring adequate water quality and quantity.

The letter said a study by the Society for the Protection of NH Forests had noted that NH's public drinking water supply lands continued to be seriously underprotected, leaving them vulnerable to contamination. It said conservation was the least expensive option for guaranteeing the clean water and adequate supply necessary to sustain the Town's growth and economic development. The letter said towns in the Seacoast would be increasingly challenged to find adequate public water supplies, and said Durham was fortunate to have this opportunity to work with willing landowners.

The letter said the parcel was also noteworthy in enhancing the conservation value of existing open space in Durham, noting that contiguous open space had much more conservation and habitat value than isolated parcels of open space. It said the parcel was a key link to adjoining conservation areas, and said the investment in the parcel would enhance the conservation value of these other areas in this contiguous block.

The letter said the Strafford Rivers Conservancy was encouraged that this project bundled economic development and recreational interests with land conservation, stating that too often, conservation efforts were falsely portrayed as being anti-development. It said, as this project clearly demonstrated, conservation could help direct economic development to appropriate locations, while preserving the valuable ecosystem services conservation lands could provide. It also said protecting public water supplies now would enable continued growth and development of the Town into the future. It said if this project was successful, it would be held up as a model for similar projects.

The letter noted that the Conservancy had worked with Greg Caporossi and the TPL on a complex land conservation project in Barrington, and had great respect for them. It said the Conservancy was pleased they were leading this effort in Durham, and said they had demonstrated in many projects throughout the State their ability to execute complex projects that required significant resources and extensive partnerships.

**David Hills, Piscataqua Road**, noted the point made by Mr. McNeill that if land zoned for development was instead conserved, this gave up a potential future source of revenue. He said this was an issue the Town continually faced, and said it put people against each other. He also said the Town hadn't been very successful in developing areas that it had set aside for development. He noted as an example the Durham Business Park, but said it sounded like there might be something in the works for it now.

Mr. Hills said there was more discussion in the world these days about sustainability, and said a town had to be sustainable in order for people to be able to live there. He said this was becoming more of a challenge, and he noted that the School Budget drove a large percentage of the tax bill. He said the TPL proposal was an amazing opportunity, in that the TPL had said it would raise the money to do the easement, if the Town chipped in the Grange property. He said this was a dramatic amount of leveraging, which most towns would love to have.

**Beth Olshansky, Packers Falls Road**, said she was present to support the TPL proposal, which she said was balanced in terms of the goals it would achieve. She said based on Tom Ballester's comments, she couldn't see how one could think about developing this land. She said there couldn't be economic sustainability without good water, and said she didn't see how the Town could turn this proposal down.

Regarding the issue of the accuracy of the appraisal, Ms. Olshansky said she wasn't sure this mattered, when the Town's contribution right now was so small. Regarding the issue that the Grange would be given up to outside developers as a result of this proposal, she noted that whatever happened with the site, it would have to go through a review process. She also said if

the Council was concerned that the Ordinance wasn't sufficient in terms of supporting the kind of development they all would like to see downtown, there would be 18 months to refine it.

Ms. Olshansky said this was an incredible opportunity, and said the Town's water supply should be the most important issue in terms of sustainability. She said this was a time limited offer, so the Council would need to make a decision soon or else lose this opportunity. She also noted for those who would like to see economic development on this site that it was the landowner's preference to put a conservation easement there.

Ms. Olshansky pointed out that there were a number of people present who had not spoken but who were in support of the proposal.

**Carroll Birch, 17 Garden Lane**, said she supported the TPL proposal. She spoke about the importance of the Spruce Hole aquifer, and asked the Council to preserve this water supply.

**Dwight Baldwin, 6 Fairchild Drive**, said hydrogeology was his specialty, and he noted his recent letter in Fosters, which strongly supported the TPL proposal. Regarding the point made that one could go ahead and develop this area at no risk to the property, he said if the area was contaminated, it would be difficult to clean up. He said the best way to preserve the water quality of Spruce Hole and the Oyster River was to maintain the land in its natural state.

Mr. Baldwin explained that there needed to be diffuse infiltration of rain water in order to maintain the wells and the river for public use, and he questioned the idea of being able to develop this area and still maintain water quality. He said the land there was sloping, and noted that there were mature forests there because farmers had realized that if they cut the trees, there would be significant erosion. He said that had probably happened in the past.

Mr. Baldwin spoke about the use of stormwater management technologies, but said any engineer would say these structures were not foolproof, and could fail at the worst possible times. He said even if they worked perfectly and slowed the water down, infiltration would occur in a more limited area than would otherwise occur throughout the 171 acres, and that water would be channeled to the Oyster River.

Mr. Baldwin questioned the idea, as part of the TPL proposal, of putting Astroturf playing fields in the gravel pit, which would mean these fields would be built almost on top of the new water supply. He noted that the gravel pit was a likely place for the recharge basins to be located, and provided details on this. He also said there were still significant volumes of gravel to be taken out of the gravel pit. He said putting playing fields near the corner of Mill Road and Packers Falls Road made much more sense, stating that the aquifer material there had a lower transmissivity, and that the area was flat.

**Tom Lee, resident of Lee**, said he was a forest ecologist, and said the land in question was critical habitat, which supported a high diversity of species. He explained that it was a critical link in what was a regional wildlife corridor, which included protected lands to the east and to the west. He said it was a very significant piece of property.

Mr. Lee noted that the land abutted College Woods, which was a regionally significant property. He said these properties together were large blocks of forested ecosystem, and supported a remarkable diversity of life and ecological processes. He said if they were developed, the area would be turned into a habitat island, which would be impacted by various edge effects.

**Malin Clyde, 51 Mill Road**, said the highest and best use of the Grange was not as an empty building. She said she thought the TPL proposal was a great deal, and said she would love to see the Grange be a useful part of the downtown. But she also said she didn't think the Town should be in the development business. In addition, she spoke about recreational opportunities with the Spruce Wood parcel, and provided details on how she would love to see a trail system that tied into this project. She said it seemed like a great opportunity.

**Sarah Wilson, Cold Spring Road**, said while it would be great to have more recreational fields in Town, the cost of creating them on the Spruce Woods parcel and then managing them presented some large financial and other hurdles. She spoke in detail on this, and also questioned what would guarantee that there would be such fields, if this deal went through.

She said she trusted that the Council would make an educated decision on this deal, but asked that the fields be taken out of it, stating that she thought it was a tactic to make the deal a little more appealing. She said it would fall short of what the Town really needed for recreation fields, and asked that the Council make conservation the primary focus of the deal.

**Mike Glover, 10 Hemlock Way**, said he supported land conservation. He noted those who had said if the Spruce Woods land was put in conservation, this would represent a taking of property rights without compensation. He said the land in question had been rezoned a few years ago, and said perhaps this had been a hasty decision.

He spoke about the fact that College Woods stretched west, and said if the area in question was developed, the continuity of this whole area would be gone. He also noted that 50% impervious cover was allowed in the ORLI District, and then spoke about a development project in Texas that the company that had proposed the recent development at Spruce Woods had cited as an example of its work. He said he had seen this project, and said it was nothing to be proud of, in terms of the extent of impervious cover.

He said if the Spruce Woods land went into conservation, this raised property values, and was also something that made Durham a rich place to be. He noted that he was personally attached to this area, and said it was a wonderful place. He spoke in detail about the great extent to which the fields and forests of the country had been developed, and said it was important to consider what a more balanced approach was. He also noted he had been a soccer coach, and said there had never been too many soccer fields in Town.

**Peter Smith, Route 4**, noted that as a member of the Conservation Commission, he was fact-driven. He said the Commission had recently discussed the matter of the TPL proposal, and the Chair had sent the Council a letter regarding its position on it. He said that letter stated information that reflected the expertise of the Conservation Commission, and said its members were an amazing resource for the Town. He noted that the Council had heard from some of them

that evening, and asked that the Council also be fact-driven, and think very carefully about this expertise that had been freely given to the Council. He also said it was important to keep in mind that 80% of the human body was comprised of water.

**Margaret Bogle, Croghan Lane**, said she supported what others had said about the importance of having a clean water supply, whatever size the Town was. She said any development in the future would require clean water, and said she didn't think the Town could afford to pass up this opportunity.

**Bill Hall** said since 2008, the Town had for the most part gotten its water from the Lamprey River, and he provided details on this.

**Diane McCann, 27 Oyster Road**, said she supported the idea of a land swap involving the Spruce Wood property and the Grange. She then spoke about upcoming changes at UNH which would impact the Town's water supplies. She also noted the vote to preserve the Grange in the past, and said she hoped that whoever developed it would remember that it was an historic property.

Councilor Mower read a letter from Tom Kelly, UNH Chief Sustainability Officer & Director of the University Office of Sustainability. In the letter, Mr. Kelly said he was writing to express his full support for the TPL Proposal. He said some public decisions had a greater impact and reach than others, and said this proposal was one that was particularly significant for the immediate and long-term quality of life for the people of Durham. He said its importance would continue to grow over the next century.

Mr. Kelly's letter said the long-term health of the water supply was so fundamental to sustaining the quality of life that, paradoxically, it could be easily taken for granted and assumed, naively, to be permanent and self-perpetuating independent of their actions. But he said the land use decisions within the Oyster River Watershed and the Spruce Hole Aquifer represented one of the most direct impacts that they all had on the sustainability of their water supply.

Mr. Kelly's letter noted that over the past decade, there had been droughts by summer's end that had raised serious concerns about the Town's water quality and quantity. He said they all had a stake in this, and needed to take purposeful steps to enhance the resilience of the water supply through a coordinated and coherent set of actions. He said the TPL proposal presented a unique opportunity for the Town of Durham to take such action and to do so in a way that that facilitated downtown development and the siting of much needed recreation fields.

The Council stood in recess from 9:02 - 9:13 PM.

- VII. Unanimous Consent Agenda** *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*
- A. Shall the Town Council, upon recommendation of the Town Administrator, reduce the appraisal of property owned by William and Patricia White at 18 Williams Way from \$578,300 to

United States Department of Agriculture



Natural Resources Conservation Service  
Federal Building, 2 Madbury Road  
Durham, NH 03824-2043

(603) 868-7581 Fax: (603) 868-5301

www.nh.nrcs.usda.gov

October 15, 2012

[Landowner's Name]  
[Street Address]  
[City, State, ZIP Code]

To [new landowner's name]:

County records indicate that you recently purchased land located in [location of property]. The property you purchased has a WRP conservation easement held by the United States of America through NRCS. Although you should have received a copy of the easement during your negotiations with closing officials, I am enclosing an additional copy for your records.

The enclosed copy of the deed identifies the WRP easement [agreement number], which was conveyed to the United States Government for perpetuity and which remains with that land. Under the easement, the United States owns all rights, title, and interests in the land, except for the rights reserved to the fee title landowner. Reserved rights include record title, quiet enjoyment of easement area, control of access by the general public, undeveloped recreational uses, and subsurface resources with certain restrictions.

As the landowner, you may be allowed to manage certain areas of the easement for a specific land use if it is compatible with the long-term protection and enhancement of the wetland and other natural values. To do so, you must first request this specific use in writing, and these activities must be approved by NRCS in advance of implementation. If desired, you may also choose to develop specific management plans for forest stewardship, recreation, or other activities related to a compatible use. However, these additional planning activities will be the financial responsibility of the current landowner.

Along with the easement, it is important to note that WRP might include a restoration component which requires your attention. NRCS pays 100% of this restoration cost, but the landowner may be asked to assist with permitting or other local or state requirements. In general, these restoration activities occur during the first several years after easement acquisition. In addition, NRCS pays for all costs associated with monitoring of the easement area. Details regarding the restoration or monitoring plans will be described at our introductory meeting.

I would like to visit with you at your earliest convenience to review the terms of the easement and our respective roles. Please contact me by phone at (603)-868-9931 x142 or via email at [jeremy.lougee@nh.usda.gov](mailto:jeremy.lougee@nh.usda.gov). I look forward to working with you.

Sincerely,

Jeremy Lougee  
Soil Conservationist – Easements

Enclosure



**PLACEHOLDER FOR  
PURCHASE AND SALE  
AGREEMENT**