



TOWN OF DURHAM
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AGENDA ITEM: **# 7A**

DATE: October 19, 2015

COUNCIL COMMUNICATION

INITIATED BY: Southeast Land Trust of New Hampshire

AGENDA ITEM: SHALL THE TOWN COUNCIL SCHEDULE A PUBLIC HEARING ON MONDAY, NOVEMBER 2, 2015 ON ACQUISITION OF THE FEE INTEREST BY THE TOWN OF DURHAM OF, AND THE GRANTING OF A CONSERVATION EASEMENT BY THE TOWN TO THE SOUTHEAST LAND TRUST OVER AN APPROXIMATELY 43-ACRE PROPERTY SHOWN AS TAX MAP 14, LOT 8-3 SITUATED OFF OF WEDNESDAY HILL ROAD KNOWN AS THE THOMPSON FOREST PROPERTY?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd Selig, Administrator

AGENDA DESCRIPTION:

At the Town Council meeting on June 1, 2015, the Council was presented with a summary with accompanying maps and budget information prepared by Duane Hyde of the Southeast Land Trust of New Hampshire (SELT) relative to conserving the Thompson tract on the Lamprey River. **(Attachment 1)**. SELT and the Town have been working with the family of the late Shirley Thompson and the Town to acquire the fee simple interest in the approximately 43.4-acre Thompson property which has approximately 2,000 feet of frontage on Wednesday Hill Road and approximately 3,500 feet of frontage on the Lamprey River. Upon acquiring the land the Town would then permanently conserve the land by granting a conservation easement to SELT. The Town Council adopted a policy on May 3, 2004 (Revised May 19, 2008) describing the process for acquiring legal interest in conservation/open space land. **(Attachment 2)**

A Purchase & Sale Agreement has been executed between the Murell G. Thompson Revocable Trust, Kim Loughton, Trustee, and the Southeast Land Trust of New Hampshire for a purchase price of \$425,000 **(Attachment 3)** and SELT has worked to secure and finalize funding for the purchase of the Thompson property from a number of different sources.

At the Conservation Commission meeting on May 14, 2015, Mr. Hyde provided Commission members with a presentation relative to the proposed Thompson tract conservation project. Following the presentation and discussion the Commission voted unanimously to *"support the purchase of the Thompson property by providing \$99,000 from the Conservation Fund and also encouraging the Town Council to approve using funds from the Conservation Bond to provide the remaining funds needed for the project (\$37,000 minus whatever funds are provided by the Water District for this purpose"*. **(Attachment 4 – Excerpt of 5/14/15 DCC minutes)**.

On June 15, 2015, the Council held a Public Hearing on and adopted Resolution #2015-18 authorizing the acceptance and expenditure of two grants totaling \$25,000: \$15,000 From the NH Moose Plate Program and \$10,000 from the Piscataqua Region Estuary Partnership (PREP) to be used for the acquisition of the Thompson Forest Property Located on the Lamprey River in the manner prescribed by New Hampshire Revised Statutes Annotated (RSA) 31:95-b III (a): *"For unanticipated moneys in the amount of \$10,000 or more, the selectmen or board of commissioners shall hold a prior public hearing on the action to be taken. Notice of the time, place, and subject of such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the hearing is held."* **(Attachment 5, 6, & 7 – Resolution #2015-18 & award of grants notifications)**

A grant from the Land and Water Conservation Fund (LWCF) totaling \$150,000 has been awarded and adoption of a resolution to accept and expend the grant funds is on the Council agenda for approval this evening. **(Attachment 8)**

It should be noted that the Lamprey River Local Advisory Committee (LRAC) has also been an integral partner in financing this conservation acquisition, contributing \$141,000.

On May 21, 2015, the Administrator attended a meeting of the Water, Wastewater, and Stormwater Committee. The Committee discussed the Thompson conservation project and generally supported the idea of using a portion of the funds that were allocated but not completely spent on the Spruce Hole Groundwater Supply & Artificial Recharge Facility Project as a means of funding the remaining Town portion needed for the Thompson parcel acquisition. As of 10/14/15, funds remaining in this account totaled \$439,143.06. The Committee believes this would be an appropriate use of the funds as it would be a way of ensuring the protection of the land surrounding the Lamprey River water intake. In doing so, it would ensure UNH as also contributing toward the protection of the parcel for the benefit of our joint water system, and specifically the recharge capacity at the Spruce Hole Well.

SELT has provided the final Conservation Easement Deed and Letter of Understanding language for the Town's consideration, as well as the updated budget information for this project . (**Attachment s 9, 10, & 11**).

If the Council still desires to move this process forward, a Public Hearing will need to be scheduled and held in accordance with the Town's acquisition policy.

After holding the Public Hearing, the Town Council may vote that evening to authorize the Administrator to enter into the proposed contract with the landowner as presented. If, however, the Town Council wishes to amend any of the use or management provisions from that which was presented to the Conservation Commission in the project package, it shall refer such proposed amendments to the Conservation Commission for review and comment prior to the Town Council taking final action. Any vote to authorize funding for the project shall also specify the funding source.

LEGAL AUTHORITY:

RSA 31:95-b - (**Attachment 12**)

Town of Durham "Policy for Acquiring Legal Interest in Conservation/Open Space Land" dated May 3, 2004 (Revised May 19, 2008).

LEGAL OPINION:

The Town's legal counsel has reviewed all documents relating to the Town's interest in acquiring the Thompson parcel and finds everything to be acceptable.

FINANCIAL DETAILS:

<u>Purchase Price</u>	<u>Overall Project Cost</u>	<u>Funding Sources</u>	<u>Amount</u>	<u>Total Remaining</u>
\$425,000	\$471,825,000	LRAC contribution	\$141,000	
				\$330,825
		NH Mooseplate grant	\$ 15,000	
				\$315,825
		PREP grant	\$ 10,000	
				\$305,825
		LWCF grant	\$ 150,000	
				\$155,825
		NHDES Source Water Protection Program	\$ 19,950	
				\$ 135,875 (Town Portion)
		Spruce Hole Well Development 2014 Acct # 07-1423-221-36-000	\$ 135,875	\$ 0.00

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby schedule a Public Hearing for Monday, November 2, 2015, in accordance with paragraph 2 (C) "Process for Action on a Project" of the Town's Conservation Land Acquisition Policy (Adopted on 5/3/04, revised on 5/19/08), on acquisition of the fee interest by the Town of Durham of, and the granting of a Conservation Easement by the Town to the Southeast Land Trust over an approximately 43-acre property shown as Tax Map 14, Lot 8-3 situated off of Wednesday Hill Road known as the Thompson Forest property.