

Meeting Minutes

ENFIELD CONSERVATION COMMISSION MEETING

03/07/2013

Present: Alan Strickland, Chair, Gary Gaudette, Jeanine King, Sue Hagerman, Shirley Green, Dwight Marchetti (by phone), Phil King

Meeting called to order at 7:00 PM

Introduction: New Minute-taker Shelley Geoghegan.

Discussion Topic: New Town of Enfield website under construction.

Motion made by Gary to accept December 2012 minutes. Seconded. Passed

Survey discussion with Enfield Town Manager, Steve Schneider:

The Town has hired Chris Rollins to survey the remaining line on the Bicknell Brook property. Steve met with Mr. Poitras (?) and Mr. Rollins to walk the line, and all parties were agreeable. The first line, based on the tax map, was found to be inaccurate based on deed research done by Mr. Rollins. The end result will be a land swap and a boundary line adjustment. This will go before the Planning Board in March/April. If we had gone with the line as stated in the Deed, we would have lost access to the trail.

A discussion followed about the costs of the survey, and what is considered a Town expense versus a Conservation Commission expense. It was pointed out, that as per the April 2012 Minutes, Alan and Steve had a conversation about the survey resulting in Steve telling Alan to have the survey done and to bill the town. The total to date is \$2,800 (2012) plus unbilled work to date for 2013. Steve pointed out that it is the Town of Enfield's property, which the Conservation Commission helps to manage. The costs are related to establishing the property. The Selectboard was aware the work had to be done. They are the stewards of our resources.

Citizen Forum: Craig Sanborn

Mr. Sanborn explained that he has thirty one years of experience building and maintaining hiking trails, including Mt. Cardigan and Mt. Sunapee, and that he would like to volunteer to rehab Cold Pond Trail. His request was for help from members of the Conservation Commission, or a resolution of support that he can use when he approaches Fish and Game.

A discussion followed about the condition of the trail, recent maintenance, and state involvement with lands.

Motion made by Gary that the minutes include a statement of general support of Mr. Sanborn's application to maintain and fix Cold Pond Trail. Seconded. Passed.

Craig will keep the Commission informed about the status, and if approved the work schedule and volunteer needs.

Discussion about correspondence received about Graham property on Spectacle Pond (John and Sharon Graham):

The cover letter was read out loud, basically saying that a waiver was granted to let them do what they want to do. (Refer to scanned copies of letters attached to minutes).

Old Business – Update by Shirley Green on watershed study:

As relates to EPA Section 319 Grant, Crystal Lake is a high quality pristine lake. The focus of this grant is on controlling phosphorous entering the lake by developing a management plan. Plans run from \$25 – 35,000, with a high of \$150,000. The grant would require a forty percent match from us, which can include meeting attendance, meeting space, and

volunteer labor. UNH partners would also count as a match. We would work with a project manager from DES. The forty percent match of \$60,000 is \$24,000. The logistics of the forty percent including matching is all laid out. The first phase is to create a solid watershed management plan, and then apply for another grant for the implementation phase, which involves finding the sources of the phosphorous and making plans to address those sources. A motion is needed to continue with the process.

Motion made by Sue for the Conservation Commission to pursue the watershed assistance grant. Seconded. Passed.

Discussion about procedure for handling requests for permit support/approval between meetings:

Steve's take is that it depends on how time sensitive the matter is, and in response to concerns about liability he asserted that there is no liability as no approval is being given. A recommendation was made to create procedures. Shirley: "I believe that the whole commission should have the opportunity to review applications before they are signed by the Chairman and sent to DES."

Motion made by Dwight to adjourn. Seconded. Meeting adjourned at 8:17.

Post-adjournment discussion of New Business: Bicknell Brook Trail violations:

The violation involves the same violation and individual that occurred years ago. Steve turned it over to the police, but it may be hard to pursue legally. It was suggested that this could be pursued as a civil case. See attached scanned letters.

Submitted by:
Shelley Geoghegan

NOTE: Scanned letters follow.

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WETLANDS COUNCIL

Appeal of John and Sharon Graham

11-06-WtC

**MOTION TO APPROVE SETTLEMENT AGREEMENT AND TO DISMISS APPEAL
WITH PREJUDICE**

NOW COME the Appellants, John and Sharon Graham ("Graham") and the Appellee, New Hampshire Department of Environmental Services, Wetlands Bureau ("Department") (collectively referred to as the "Parties"), and by their respective counsel of record respectfully move the Wetlands Council to approve the Settlement Agreement filed contemporaneously herewith and dismiss this Appeal with prejudice (the "Motion"). This Motion is based on the Settlement Agreement filed herewith, the record in this Appeal and on the following:

1. The Parties have negotiated the terms of the Settlement Agreement in good faith and, in their best judgment have determined that those terms are in the best interest of the Parties.
2. The Parties assert that the terms of the Settlement Agreement resolve all issues currently pending before the Wetlands Council.
3. The terms of the Settlement Agreement are reasonable, lawful and within the discretion of the Department.

WHEREFORE, the Parties pray that the Wetlands Council grant this Motion by entering an Order approving the Settlement Agreement and dismissing this Appeal with prejudice.

Respectfully submitted,

JOHN AND SHARON GRAHAM

By their attorney,

GALLAGHER, CALLAHAN & GARTRELL

Date: 12/17/12

By:

Ari B. Pollack
Ari B. Pollack, Esquire
Gallagher, Callahan & Gartrell
214 North Main Street
P.O. Box 1415
Concord, NH 03302-1415

N.H. DEPARTMENT OF ENVIRONMENTAL
SERVICES, WETLANDS BUREAU

By its attorney,

MICHAEL A. DELANEY
ATTORNEY GENERAL

Date: December 17, 2012

By:

Peter C.L. Roth
Peter C.L. Roth, NH Bar #14395
Senior Assistant Attorney General
Office of Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, NH 03301

CERTIFICATE OF SERVICE

December 17, 2012

The Parties hereby certify that a true and correct copy of this Motion to Approve Settlement Agreement and Dismiss Appeal With Prejudice along with the Settlement Agreement was sent this day, by first class mail, postage prepaid, to the following persons as required by Env-WtC 203.01(c):

Paula Scott, Appeals Clerk
Wetlands Council Appeals Clerk
P.O. Box 95
Concord, NH 03302-0095

Collis Adams
Wetlands Bureau
P.O. Box 95
Concord, NH 03302-0095

Lawrence Morse
Presiding Officer
P.O. Box 95
Concord, NH 03302-0095

Enfield Conservation Commission
P.O. Box 373
Enfield, NH 03748-0373

Enfield Planning Department
74 Lockehaven Road
Enfield, NH 03748



Peter C.L. Roth

#842505



THE STATE OF NEW HAMPSHIRE

Wetlands Council

George Kimball, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Council Clerk/Secretary (non-appeal related): (603) 271-3434; Appeals Clerk (appeal related only): (603) 271-6072

TDD Access: Relay NH 1-800-735-2964

Council Website: <http://www.des.nh.gov/councils/>

December 21, 2012

Via E-mail and Regular Mail

Ari Pollack, Esq.

Robert Dietel, Esq.

Gallagher, Callahan & Gartrell, P.C.

PO Box 1415

Concord, NH 03302-1415



Via E-Mail and Messenger Mail

Peter Roth, Esq.

Office of Attorney General

33 Capitol Street

Concord, NH 03301

Re: Docket No. 11-06 W/C – John and Sharon Graham

Dear Attorneys Pollack, Dietel and Roth:

Please be advised the hearing officer has granted the Motion to Approve Settlement Agreement and To Dismiss Appeal with Prejudice.

If you have any questions, please contact me at (603) 271-6072 or by e-mail at paula.scott@des.nh.gov.

Sincerely,


COPY
Paula Scott, Appeals Clerk
NH Wetlands Council

cc: NH Wetlands Council
David Conley, Hearing Officer
Patrick Queenan, Esq., DOJ
Harry Stewart, Director

STATE OF NEW HAMPSHIRE

Executive Council

STATE HOUSE ROOM 207

CONCORD, NEW HAMPSHIRE 03301

(603) 271-3632 FAX: 271-3633



JOHN H. LYNCH, GOVERNOR

EXECUTIVE COUNCILORS:
CHRISTOPHER T. SUNUNU

RAYMOND S. BURTON
RAYMOND J. WIECZOREK

DANIEL I. ST. HILAIRE
DAVID K. WHEELER

December 1, 2012

Enfield Conservation Commission
PO Box 373
Enfield, NH 03748

Dear Members of the Commission:

This letter is to acknowledge receive of you communication dated 11/20/2012 regarding State of NH Department of Environmental Services (DES) #2011-3070 for Daniel Signor/Gaye LeCasce.

By copy of this letter to Commissioner Burack, I've asked Commissioner Burack and his staff to give immediate attention to this case that dates back to November 2011.

Please keep in mind that the Executive Branch is performing their duties with 1200 fewer state employees than this time last year due to budget cuts by the House and Senate.

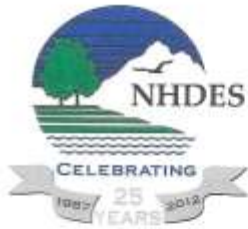
I encourage you to contact your local Senator-elect David Pierce of Hanover who will be sworn in on December 5th and other legislators in your area.

Sincerely,

Raymond S. Burton
Executive Councilor

cc: Governor Lynch
Commissioner Burack

DISTRICT ONE	DISTRICT TWO	DISTRICT THREE	DISTRICT FOUR	DISTRICT FIVE
RAYMOND S. BURTON 338 RIVER ROAD BATH, NH 03740 TELEPHONE 747-3662	Daniel I. St. Hilaire 10 GREEN ST. CONCORD, NH 03301 TELEPHONE 568-5515	CHRISTOPHER T. SUNUNU 71 HEMLOCK COURT NEWFIELDS, NH 03104 TELEPHONE 658-1187	RAYMOND J. WIECZOREK 1060 RAY STREET MANCHESTER, NH 03104 TELEPHONE 624-1655	DAVID K. WHEELER 523 MASON ROAD MILFORD, NH 03055 TELEPHONE 672-6062



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



December 12, 2012

Enfield Conservation Commission
PO Box 373
Enfield, NH 03748

RE: Wetlands Bureau File #2011-03070, 422 Lockeaven Road, Enfield

Dear Commissioners:

The Department of Environmental Services (DES) is in receipt of your letter dated November 20, 2012, in which the Enfield Conservation Commission (ECC) expressed concern regarding a lack of response from DES after a complaint was filed by the ECC regarding the above-referenced property. I have reviewed the matter and case history with my staff. The following is a brief synopsis of the activities taken by DES after receipt of the complaint.

- By letter dated January 4, 2012, DES notified Mr. Signor and Ms. LeCasce of a complaint alleging violations of RSA 482-A for establishment of a retaining wall and; RSA 483-B for cutting of vegetation within the waterfront buffer of Crystal Lake. The letter requested a response within 20 days. DES records indicate a response was not received.
- On February 15, 2012, DES issued a follow up letter to Mr. Signor and Ms. LeCasce notifying them an inspection of the property would be conducted.
- DES issued a second follow up letter dated May 14, 2012, to Mr. Signor and Ms. LeCasce, requesting a response to the complaint. Because the property was for sale, a copy of this letter was sent to the listing agent, the Corvus Group (copy enclosed).
- On May 24, 2012, DES received written correspondence, which included a copy of a letter to DES that was dated January 24, 2012, from Mr. Signor and Ms. LeCase. This was the first that DES had seen of the January 24th letter from Mr. Signor and Ms LeCase (copy enclosed).
- On June 19, 2012, DES personnel conducted a field inspection and met with Ms. LeCasce on-site to discuss the alleged violations on the property. As a result of the field inspection, DES determined that vegetation within the waterfront buffer had been cut below three feet in height in violation of RSA 483-B:9, V,(a), (2),(c) and minor restacking of rocks along an existing rocky shoreline had occurred but that this activity would not have required a permit from DES.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

- By letter dated October 30, 2012, DES notified Mr. Signor and Ms. LeCasce that the natural shrub layer must be allowed to regenerate naturally to comply with RSA 483-B and that any future work in the bank and bed of the lake may require a permit from DES. Because no further actions were required, the case was closed. DES records indicate a copy of this letter was sent to the ECC (copy enclosed).

The process of investigating a complaint to determine what, if any, violations are found includes contacting landowner(s), contractors, and other witnesses to obtain as much information as possible. This includes meeting with the property owners, preferably on-site during an inspection. One of the objectives of an on-site inspection is to educate the property owner about DES regulations and how they may apply to the subject property and activities that may have been conducted on the property.

DES routinely sends municipalities copies of correspondence issued to parties relating to enforcement actions and decisions, such as was done in this case.

DES appreciates the efforts of the ECC to ensure the protection of wetlands and shoreland resources. If you have any questions, please feel free to contact me at (603) 271-4054 or by e-mail at collis.adams@des.nh.gov.

Sincerely,



Collis G. Adams, CWS, CPESC
Bureau Administrator

Enclosures

cc: Commissioner Thomas Burack
Rene Pelletier, Assistant Director, DES
Linda Magoon, Compliance Supervisor, DES
Jeff Blecharczyk, DES

cc: Governor John Lynch
Councilor Raymond Burton
Representative Paul Mirski