

OFFICIAL CONSERVATION COMMISSION MEETING MINUTES

December 14, 2015

S. Couture called the meeting to order at 4:00 p.m.

Attendance: Steve Couture, Chair; Cindy Robertson Vice-Chair; JoCarol Woodburn, member (4:22pm); Deborah Miville, alternate (4:04pm); David Ross, Town Council Rep.; Phil Fitanides, member; David Hess, member

Excused: Todd Lizotte, alternate

Public Input

None.

Meeting Minutes

C. Robertson motioned to approve the meeting minutes for November 9, 2015. Seconded by P. Fitanides. Motion passed.

Appointments

a. Oliver Mack, Jr., Eagle Scout Project, Merrimack Riverfront Trails

O. Mack: Hello, I have the materials and plans that you had asked me to get to you. This starts off with an agenda. There's a kiosk example on the second page. This is the Head's Pond trail kiosk and that's what I plan on having it look like. In January I plan on going before the Eagle Board to discuss the plans with them and hope that they sign off on it. I hope to build it in March through May. On the next page are all the costs for materials. I was wondering if I am all set to receive funds for this project.

S. Couture: Going back to the dates, we should be able to enable you to do that in that time frame. We don't have the construction dates set yet but we know when we want to start building. We plan to start with the trailhead so I think it should be done in that timeframe, March through May. It's still tentative, so you may need to be a little flexible. I think the earliest we will get out there is March. As far as costs, yes, we have the funding to cover your proposal. Will the Board require you to do some fundraising for this project?

O. Mack: The Board says I can ask for funds from the beneficiaries, as little or as much as they want to contribute. I'm not required to fundraise.

P. Fitanides: At the last meeting, I had suggested soliciting Home Depot or Walmart or Lowes. Has anyone tried that to obviate any money or materials before we provide it?

D. Ross: I would personally suggest that we give our blessing to this project in some formal fashion so that he has something in hand and then he approaches Home Depot and others because you will have more success than we would. You could go there in your uniform as a Scout and find who is in charge and that would be a learning experience for you to learn how to ask for these things.

O. Mack: My Scout Master's son did the same thing and they gave some money towards him. First I have to ask the beneficiary, because I can't spend any money out of pocket. Once I have it confirmed through you, then I can ask the stores. I need to go to the Eagle Board after you sign off and once they approve it then I can go on to ask for money and build it.

P. Fitanides: If you go to any of the big box stores or anyone else and bring your materials list, can they donate the materials?

O. Mack: Yes, they could.

C. Robertson: They might be more willing to give you the materials because it's easier for them. Out of curiosity, you have eight people that are going to help you build this?

O. Mack: Yes, when I have a build session I can have eight Scouts there to help me.

C. Robertson: You would be the supervisor?

O. Mack: Yes, I would be building this at my house or my Scout Master's house and it wouldn't be installed until May.

C. Robertson: How will the kiosk be secured in the ground?

O. Mack: The poles are cemented in.

S. Couture: It seems like we need to approve the project and expend up to the amount that Oliver has depicted in his budget, provide Oliver with a letter saying that we support the project, and then enable Oliver to go out and solicit donations.

P. Fitanides: Who designed the price list?

O. Mack: I did. My Scout Master's son had the original price list because he did the Head's Pond kiosk. He gave me his price list and then I updated it.

P. Fitanides: I see you have a 10% contingency for miscellaneous. Whenever you're building a project like this, you never know. There may be a lot of unanticipated things that you encounter when you're building from scratch. Do you have another plan in case you need more money than you're asking?

O. Mack: If I need more money I could do a fundraiser in the spring.

D. Ross: It sounds like you've got it covered.

S. Couture: I really like the handout; nicely done. It's very professional and the detail on the budget is good work.

D. Ross motioned to write a letter supporting this project and to authorize expending up to \$1,500 to develop the kiosk as presented, hoping that the costs will be offset by fundraising. Seconded by P. Fitanides. Motion passed.

O. Mack: Could you please sign the beneficiary approval so I can go to the Eagle Board with it signed?

S. Couture: I'll read from this, "This service project will provide significant benefit and we will do all we can to see it through. We realize funding on our part is not required, but we have informed the Scout of the financial support (if any) that we have agreed to. We understand that the funds will be in our name and any funds leftover will come to us if we are allowed to accept them. We will provide receipts to donors as required. Our Eagle Scout has given us a copy of 'Navigating the Eagle Scout Service Project.'" With that I just have to check "yes" and sign.

O. Mack: How would I access the funds?

S. Couture: Once you are at that point you could come back to us and we will make arrangements.

O. Mack: Thank you.

Other Business: Invoices, Correspondences, etc.

a. Merrimack Riverfront Trails Project

i. Temporary Construction Access Memorandum of Understanding

S. Couture: We have the two temporary construction access memorandums of understanding. I just signed the Therrien memorandum and Dave signed off so it's official we have that access. The second one I negotiated with the property owner on the other side of the stream and has a road already built in. We have gone back and forth several times with it but we are about 90% there. She is going to be constructing a house there so she has some concerns. I think we've found some reasonable middle ground to get access. The only potential hiccup is if something happens during construction of her house she has the ability to say "no, you can't go across my property," so there's a little bit of risk. Since the majority of our construction is going to be in March and April, I think the risk is pretty minimal. There are some unknowns but we have it in the MOU that we will have open communication.

D. Hess: I have two questions. It says "access shall only be by the existing dirt road." Does that include a bridge over Brown Brook?

S. Couture: Yes, it does.

D. Hess: With a culvert that can handle our construction?

S. Couture: She expressed that concern about the culvert and I talked to Dan Tatem about it and he said we can put a temporary support over it to allow our machinery to go over it. Also, there's language here that says if we mess up the culvert, we need to fix it.

D. Hess: The other thing I would suggest we consider is in Paragraph 1, you limit access solely to the bridge over Brown Brook, the easement across her property, and the property just to the north of that which is adjacent to the Mason property. Wouldn't it be helpful for us if we could get access over her property to clear out the woodlands area from where the woodlands start up to the middle field?

S. Couture: I think we can.

D. Hess: That doesn't seem to be included. That property above the woodland is not adjacent to the Mason property. You could read this to say that you can only work on the land that's immediately adjacent to Mason's property. I would suggest clarification on this if you're still in the negotiation stage.

S. Couture: We could. The way I was reading it was that this would get us access to the field. She wanted to make sure we weren't using the access to construct the entire project all the way down to the other end. Reasonable proximity was the intent here. She's ready to sign this that I know of.

D. Hess: You may want to discuss clearing that woodland.

D. Ross motioned to authorize the Chair to sign the MOUs with allowing minor edits to amend the Smith MOU for clarity. Seconded by C. Robertson. Motion passed.

D. Ross: Did you ever hear back from the Town Administrator on the issue with the Rowing Club agreement that apparently it's missing? Has the Town been receiving any compensation?

S. Couture: The way I read the agreement was that the \$5,000 was in-kind for membership and if not used then it wasn't required. The way it is written is that if the Town doesn't ask them to leave, the agreement is renewed automatically.

D. Hess: The Town has to give them notice one year in advance. It's a two-year term. The term is renewed this month. The agreement specifically states that it can't be amended unless one of the parties gives the other party written notice one year before the renewal date. My concern is not having enough room between the trees and the fence.

D. Ross: I brought that up at the Council meeting, if there's a way to move the chain link fence and come in that way. If it saves us money, we could move the outhouse and fence and move it back again. Wouldn't that be the ideal way to access the property?

S. Couture: I'll talk to Dan Tatem again to see what the best access is.

P. Fitanides: Dave, can you look back to 2003-2006? There was a subcommittee set up about the Rowing Club when they tried to take the property. We ended up finding out that the Boston and Maine owned it and then we paid the taxes off and got total ownership of it and they went ahead and built it with permission from the Building Inspector at that time. The Rowing Club was supposed to answer the questions of the subcommittee before they started operating and they never did. Can you find that information?

D. Hess: I believe that's superseded by the agreement.

S. Couture: As our Council Rep., Dave, is this information you can request at the Council? Can you express to them that we are going out to bid in January and we need certainty of what we can and cannot do near the Rowing Club?

D. Hess: While you're doing that the Council may want to ask Diane if during this warm winter when the men may have some free time, they could spend a couple hours and clear out all the underbrush between the large trees and the fence.

C. Cronin: I asked Diane and Jim if there was any work they could do from the construction bid task list. They said that they are just so understaffed right now and for their “free time” projects they are already committed to working on the Old Town Hall, doing the renovation on that. Diane says that she wishes she could help, and maybe they can in the future, but right now they are unable to help with this project.

D. Miville: When I spoke to Jackie McCartin, who is in the Rowing Club, she said that there might be something about it being the Rowing Club’s responsibility to mark where people park and can’t park so there is room for the boats?

D. Ross: That was one of the issues back in 2006. Only the Town has the authority to regulate parking.

D. Miville: OK, thanks. She wasn’t sure so I figured while they were looking things up they could look into that.

ii. Construction Bid Documents

S. Couture: Dan Tatem is going to send something by Friday. The Town Engineer has agreed to look at the documents. Dan is planning to come to the January meeting with the phased approach and to get our blessing to go out to bid and we will have our signed agreements. Also, we didn’t get the Moose Plate grant for the ag bridge.

J. Woodburn: Is there going to be an RFP that’s distributed for the construction bid?

S. Couture: Yes, there will be a formal bid process and Stantec develops it. The farmer is going to forward us his usual agreement.

C. Cronin: Yes, his wife was supposed to send me their use agreement but I haven’t received that yet.

D. Hess: Did we look at the pins after the survey of the access point?

S. Couture: I went out with SPNHF to look at the potential easement violation and it’s hard to tell when it was cleared. The aerial photos don’t capture the timeframe that we need. We can’t tell if we owned the property at that point yet. It comes down to whether or not they made any profit from the timber. It’s less of a legal issue if they didn’t get any income from it. They didn’t submit a timber tax for the Town. I haven’t heard back from SPNHF so I don’t think it’s going to be an issue.

C. Cronin: I have one last question before we move on from the Merrimack Riverfront property. I had a question from Finance. They were curious why we weren't using the \$100,000 impact fees for the Stantec contract.

S. Couture: The way I communicated with the Parks and Rec Advisory Board and with Council, on both the Warrant Article and the impact fees, was that the Conservation Commission was paying for the design, permitting and bid out of their funds, and the impact fees and warrant were going to be for construction only. We decided it was a show of good faith that we would do the front end and get it all set up and then find the money from there.

b. Pike Easement Baseline Documentation Report

S. Couture: You have the baseline documentation report and also a document I pulled together, which I grabbed basically from LCHIP. Pike is coming to us with this baseline document that they have to do as part of their mitigation requirements. In previous meetings, especially after all our easement monitoring this past year with our intern, we talked about how we have done things differently in the past, but now that we have to manage these properties we should have been a little more diligent and specific about what we required from developers before we accepted property. It should be like what Land Trusts require before they accept property and everyone kind of agreed that that would be a good thing to do. Pike kind of spurred me to do that, which is what this document does. It tells them how they survey the property, which includes monuments, blazing, and putting up our medallions. It says that they need to do a title examination just like we do before we acquire a property. This time it's on the developer. They're the ones that have the responsibility right now to satisfy us. They should do the environmental site assessment and clean up the property before we accept it. There's a junk car on the property and we don't want to accept a junk car. This document also has a baseline documentation standard in there. The majority of this document came from LCHIP's procedures and guidelines, which are based on the Land Trust Alliance National document. Dan Kern had a couple comments and Dave did too. We need to build in a waiver provision for ourselves to be flexible in the future. Dan didn't think it was necessary to have granite bounds at all turning points, but I like having it at the corners. He said that all turning points should be monumented unless there is a natural feature that is easy to follow like a stone wall or other. I think working that language in would be good for Pike. Why is this all relevant now? Because now would be the time to let Pike know. We want to tell them what standards they need to achieve in their baseline documentation report and we want the survey standards for the entire property. We'd like them to do the periphery of the combined existing and proposed easement area. They should do the environmental site assessment and title research for the proposed easement areas. I don't think it's fair to make them go back and do the existing properties with that. I think a survey of all the properties is reasonable though. My thought was that in order to accept the property they meet these requirements. I'm interested to see what people think about that, if you think it's reasonable. Also we need to figure out what the

best mechanism is to enforce these standards, either as a policy document for us or something within the development guidelines. We could do some of this on buffer areas as well.

D. Hess: You should specify the minimum distance at which blazes are required. I think there's a standard for that.

S. Couture: The way Dan Kern put it is that you should be able to see from one blazing to the next as you are walking the property. Some of the early Clay Pond properties were done that way.

J. Woodburn: Would they use our medallions?

S. Couture: Yes, or we will provide where they can order our medallions. We are trying to look out for the best interest of the town. Considering they are getting a 50-year permit to extract gravel from Hooksett, I don't think these requirements are outlandish.

P. Fitantes: Is there anything in the baseline documentation about what happens when they are done with this project down the road, with the area that will be completely mined out?

S. Couture: No, because it's out of our purview. We are concerned with the land that they are not impacting.

D. Hess motioned to move forward with the proposed standards to Pike, including monumentation, blazing, medallions, surveying, title examination, environmental assessment and clean up. Seconded by C. Robertson. Motion passed.

D. Ross: On their map I see that the expansion area for Pike includes a vernal pool. What's the idea with that?

S. Couture: They plan to expand in there. I guess they decided that vernal pool was expendable.

D. Hess: I didn't realize there were so many existing trails in there.

S. Couture: Yes, and this goes all the way up to Austin Woods and Nottingcook.

D. Hess: Two trails come down from Nottingcook. Bow has one square mile of conservation area. There's one trail that comes down through. I walked it once. It goes from Pike land and eventually connects to Pine Street.

S. Couture: I'm actually going to Bow tonight to talk about this project and the Merrimack Riverfront Project at the Upper Merrimack River Local Advisory Committee. It has representatives from Bow, Concord, Boscawen and Franklin. They are meeting in Bow tonight. They are a regional group so they may be interested in making a connection.

P. Fitanides: Can we ask Pike to fix the letters that are missing on the map?

S. Couture: Thanks, I'll let them know.

c. Heroux Acquisition – Approval of \$90,188.38

S. Couture: We are closing on Thursday on the Heroux property. It abuts Candia. It's about 80 acres. We are all set. I just need approval of the \$90,188.38 from the Conservation Fund. So far, we are getting \$10,000 from LCHIP and \$15,150 from the Merrimack Conservation Partnership. We applied for a Drinking Source Water Protection grant. As long as we have a stream or wetland that drains to something within five miles linked to Massebesic we are good.

C. Robertson motioned to authorize expending \$90,188.38 from the Conservation Fund for the Heroux acquisition. Seconded by D. Hess. Motion passed.

S. Couture: This will be going to Council on Wednesday. If we receive all the grants, about \$33,000 will be coming out of our fund for the property. Are we all set with Mark Dunn?

C. Cronin: Yes, Finance can cut a check as soon as they can on Thursday and when I get it I'll meet Mark at his office with the documents and the check.

d. Other Committee Updates

i. Town Council

D. Ross: We are still waiting to hear back on the determination regarding funding for harvesting timber. My approach would be that it goes to the General Fund with the understanding that the Town will deposit it into the Conservation Commission Fund.

S. Couture: I guess the issue is that legally by State law, harvest revenue may have to go directly to the General Fund, but it may be moved after the fact to the Conservation Fund. It's a policy decision now for the Council.

ii. Planning Board

C. Cronin: They last met on December 7th. They approved the CIP Plan. They approved Enterprise Rent-a-Car, which is moving from Londonderry Turnpike to the corner of Hooksett Road and West Alice Ave. They ended up denying the lot line adjustment on Rowes Corner Lane that you folks had a chance to review. They received a variance for frontage and lot size

and they were trying to squeeze two house lots on them but they weren't quite showing all the wetlands and there were other problems and missing items. We never heard from the applicants to correct it so it was denied.

a. Master Plan Update

C. Cronin: As far as the Master Plan, they decided that they just want staff to work on it internally and give updates once a month to the Planning Board. We haven't done much with it yet. It's on the back burner right now because Zoning Amendments are coming up. As far as conservation related items, I know they want to look at Conservation Subdivisions, which you get a lot of your easement properties from. I have a meeting later this week with two Planning Board members who want to give input, Paul Scarpetti and Tom Walsh. Hopefully we can start working on it after getting some of their comments.

S. Couture: Great, is that something that you can bring a draft to us?

C. Cronin: Yes, we will definitely bring it to you for review. I don't know how in depth the changes will be. It might just be minor tweaks. Something else I asked Jo Ann Duffy about was where it would be appropriate to put your proposed developer requirements. She said it would be more appropriate in the Development Regulations, which haven't been updated since 2012. The good thing about that is it can be updated at any time. It doesn't have a specific timeframe or town vote; it just gets Planning Board approval. For Zoning, we are also looking at an article on the keeping of chickens because it's something people are very interested in.

iii. Parks & Rec Advisory Board

D. Miville: We had a meeting but nobody was there again. We still don't have our 5-year plan. We don't have a meeting this month.

e. Conservation Easement Workshop (February)

C. Cronin: Since we had our intern this summer and we have been learning more about what we should be doing with our easement properties, we need to come up with some policies and priorities. It's a good idea to do a workshop outside of our regular meeting time where we only go over easements. I've been working really hard to get all the information down to a two-pager about how we should handle policies and enforcement and taking all of Mila's work with the possible easement breaches she found and potential projects and priorities for each property. I thought we could go through them all and you can determine if those are breaches or not and what projects you want to undertake for each property. We got all this great info from Mila and we don't want it to get lost. At the conclusion of this workshop I'd like to be able to send all the property owners copies of their easement monitoring reports because it's a good education tool for them and it's better if we cement all our policies in a cohesive way. I don't know if you want to schedule that now or wait until our January meeting.

S. Couture: What do people think about doubling up and having our regular meeting, then a break and the workshop?

D. Hess: Will we have someone come in who has experience?

S. Couture: I invited Dan Kern. The other thing is we've been going back and forth with him about possibly sharing a stewardship position. That may be part of the discussion too.

D. Hess: What about Lauren Kraas from the Forest Society? They're a lot more technical and formal.

S. Couture: Yes, we could invite her too.

D. Ross: It would be good to bring up forestry then too.

C. Cronin: Also, Mila offered to come back and sit in if it fits her schedule.

Consensus to hold the easement workshop immediately following the February 8, 2016 regular meeting.

f. Reimbursement for NHANRS Quarterly Meeting - \$45.00

S. Couture: I attended. There was a legislative committee looking at wetlands buffer. NHANRS was involved in those discussions. They presented their findings at this meeting. It was very interesting and they are basically identifying significant wetlands by habitat type as determined by the Natural Heritage Bureau. They are recommending a 75-foot no disturb buffer. I thought it was good to know for the future if we are updating our Master Plan or Zoning Ordinances this would be a good resource. This is the scientific recommendation to the State because the State is looking into a state-wide regulation and right now they have nothing. It defers to the local ordinances. There's a balancing act because developers like to have certainty but some people don't want the State to have control over it. Other states have been addressing wetland buffers for 5 to 10 years, but New Hampshire only has about two paragraphs of regulation. It could be useful information to us so that's why I went. It was a good meeting. I paid and that's the reimbursement.

C. Robertson motioned to reimburse Steve Couture \$45.00 for the NHANRS Quarterly Meeting. Seconded by J. Woodburn. Motion passed. S. Couture abstained.

S. Couture: We will have Cindy sign this because I don't feel comfortable signing my own reimbursement.

g. Stantec Invoice - \$6,649.50

C. Robertson motioned to authorize payment of an invoice from Stantec for Merrimack Riverfront Trails preliminary design charges in the amount of \$6,649.50. Seconded by D. Ross. Motion passed.

D. Hess: How much do we have in the Conservation Fund?

S. Couture: It will be below \$400,000 most likely after the invoices and Heroux transaction. Once we finish with Stantec and everything else, it will probably be around \$350,000. We have an invoice for the Merrimack Riverfront survey work for \$950.

D. Ross motioned to authorize payment of an invoice from McEneaney Survey Associates, Inc. in the amount of \$950. Seconded by C. Robertson. Motion passed.

S. Couture: We have two invoices from Mark Dunn. One is for legal research on Class VI roads relevant to the Clay Pond gates. The other is relevant to the Edgewater Drive condominium easement. The total for the two is \$740.

D. Ross motioned to authorize payment of two invoices from Mark Dunn, Attorney at Law for legal research and Eagle's Roost Condominium review in the amounts of \$360 and \$380, totaling \$740. Seconded by P. Fitanides. Motion passed.

h. NH Association of Natural Resource Scientists Annual Dues - \$20.00

S. Couture: This is dues renewal for NHANRS in the amount of \$20, which is worth it because it saved us \$30 on that one meeting that I just went to.

C. Robertson motioned to authorize payment of dues for NHANRS in the amount of \$20 out of the operating budget training and dues line. Seconded by J. Woodburn. Motion passed.

i. Sign RSA Acknowledgement Forms

S. Couture: If everyone could please sign the RSA acknowledgment form and pass them in.

C. Cronin: This is something that Administration has asked all the boards and committees, as well as employees, to do. I emailed all the materials to everyone.

S. Couture: While we are talking about the RSA, just so everyone is aware, when an email goes out to the group it's a public record. We aren't supposed to have discussions on anything of significance by email among the group. If you have a question on something via email, don't reply to all, send it just to Carolyn or just to me.

D. Hess: I would suggest that if individuals have questions or comments and want to bring them up, the smart way to do that would be to send them to just Steve or just Steve and Cindy, the Vice-Chair. That way it's not a Right-to-Know issue because for it to be Right-to-Know it has to go to a majority of the members of the board.

S. Couture: Yes, we should not have group discussions via email. In other correspondence, we are informed that we have been awarded \$15,150 from the Merrimack Conservation Partnership. We need to formally accept the grant in writing.

D. Ross motioned to accept the \$15,150 grant for the Heroux acquisition. Seconded by J. Woodburn. Motion passed.

j. Chester Turnpike Parking Easement Plan

C. Cronin: Joe Wichert came up with a draft plan showing the proposed parking easement on Chester Turnpike. He wants to know if you are OK with this or if you have any comments, corrections, or questions. Once you are OK with it, he will do the final plan.

C. Robertson: How many parking spaces is it?

C. Cronin: It has ten spaces.

D. Hess: It looks like only nine spaces with a gravel road for access.

D. Ross: I see that too. I think that's just an old trail.

C. Cronin: Yes, that's an existing trail on the residential property. That's not something that the public will use.

D. Hess: I assume Chester Turnpike is not a scenic road so we can remove those stone walls.

D. Ross: I had asked that at the last meeting. There appears to also be a cellar hole there. What was the outcome of the issue about maintaining?

C. Cronin: DPW and Administration decided that they weren't going to do anything to change the class of the road. Public Works has agreed to maintain the lot.

S. Couture: We went through the town attorney with this and they said the easiest way was to claim it as an emergency lane because there is an access provision. If I remember correctly, that

meant that it was only in effect while you were accessing it. The Town decided that they didn't want to go that route. They will just maintain it.

D. Hess: This parking area is about 400 feet from where the trail starts?

S. Couture: Yes, it's between 300 to 500 feet away.

C. Robertson motioned to accept the survey plan and authorize formally accepting the easement and to expend the funds to be determined for Attorney Dunn to draft the language. Seconded by D. Hess. Motion passed.

P. Fitanides: I had a conversation with a friend of mine who lives in Colebrook and we talked about how there are other organizations that give grants. Can we try to get some of those for conservation? A company called Tillotson has some funds.

D. Hess: I believe those are only for the North Country.

P. Fitanides: OK, I'll double check.

S. Couture: We had a potential lead for the ag bridge through the Merrimack County Conservation District. Someone on the review committee might know of some agricultural funding. Carolyn has been trying to get in touch with her. Before we go, it looks like Blue Ribbon went out to look at the locations for the Clay Pond gates and they are thinking about putting them in this year.

C. Cronin: The last I heard, they are scheduled to install them this week. My last update for you is that we have the plaque for the Pinnacle. Kathie Northrup is thinking about putting a dedication ceremony together for the spring. Parks and Rec will pick it up tomorrow and bring a rock in to install it.

S. Couture: I want to thank Carolyn for all the work that she's done between the meetings. All the items on the agenda went pretty quickly but there's all the background work that happens for that to occur. I want to make sure we acknowledge Carolyn's efforts.

C. Cronin: Thank you, I enjoy working with you all.

S. Couture: Also, Happy Holidays to everyone.

P. Fitanides motioned to adjourn at 5:41 p.m. Seconded by C. Robertson. Motion passed.

Respectfully submitted,

Carolyn A. Cronin

Assistant Planner/Conservation Commission Staff Support