



Londonderry Conservation Commission
Tuesday, June 13, 2017
Minutes

1 **Present:** Marge Badois, Chair; Gene Harrington, Vice Chair; Deb Lievens, member; Roger Fillio, member;
2 Bob Maxwell, member; Mike Noone, member; and Mike Speltz, alternate member

3
4 **Absent:** Mike Byerly, member; Julie Christenson-Collins, alternate member; Ted Combes, Town Council
5 Member; Margaret Harrington, alternate member

6
7 **Also present:** Beth Morrison, Recording Secretary; Jack Szemplinski; John Kalantzakos; Rick Welch;
8 Morgan Hollis; and Susan Mesiti

9
10 Marge Badois called the meeting to order at 7:30 pm. M. Badois appointed M. Speltz to vote for M.
11 Byerly.

12 **Land Sale Agreement between the Town of Londonderry and Cross Farm Development, LLC:** Jack
13 Szemplinski introduced Susan Mesiti, Rich Welch, John Kalantzakos and Morgan Hollis the Commission. J
14 Szemplinski started with a general explanation of where the project is in Phase 1 development with 17
15 units plus the clubhouse. He noted that it was brought to his attention at the last meeting the
16 Commission wanted to be shown the differences in wetland impacts with the proposed new access off
17 102. He passed out an information sheet noting the wetland impact for the Commission to look at. He
18 pointed out that Cross Road access would have 6406 SF of wetland impact. He also stated it was brought
19 to his attention that the Commission at the last meeting wanted to know why the detention ponds are
20 adjacent to wetlands. He explained that wetlands are located at the lower most part of the land and
21 thus the detention ponds would be adjacent to them to help with run off. He pointed out on the sheet
22 that the wetland's main function is to provide flood protection. He noted that the State plans do not
23 show this to be a flood zone, but the culverts that were installed in the 1950's are substandard to
24 control run off of this site. Jack Kalantzakos pointed out that the last time he was here before the
25 Commission at the last meeting, the topic of obtaining access from 102 was the topic. He stated that the
26 team then re-engineered the plans to have access on 102 and now the project is behind 4-5 months. He
27 clarified that he felt the team was here before the Commission to show the difference in wetland impact
28 from the first design of Cross Road access to access of 102 now. Morgan Hollis echoed J Kalantzakos
29 request that the focus of tonight's meeting for the Commission should be the difference in wetland
30 impact. M Hollis noted that the Town land will have little wetland impact and will remain undeveloped,
31 except for the access road if the development purchased the land. M Hollis explained that the team
32 would be happy to answer questions regarding the wetland impact, but as far as anything else such as
33 something being too close to the buffer or moving units, would be premature at this point. M Hollis
34 stated that the team presented to the Planning Board and the Board's recommendation was for the sale
35 to proceed.



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36 D Lievens stated to J Szemplinski that the intent is to keep the activity out of paralleling the wetlands
37 and this plan has a parallel detention area that is in more than 50%, thus being the Commission's least
38 favorite approach to detention areas in the buffer. J Szemplinski responded by stating that site was
39 chosen for a detention pond because of the natural grade of the land. He stated he was utilizing the
40 existing land. He explained that the other alternative for the detention pond was on the other side and
41 he would have to blast a 10 foot hole, which in his opinion would create more disturbance to the land.
42 He stated the main reason for choosing the site for the detention pond is the topography of the land. D
43 Lievens asked if the buildings could be moved further up then could use more of the upland. J
44 Szemplinski stated that he tried to work with the natural terrain and slopes of the existing land rather
45 than cause more disruption. M Speltz clarified that the area that is southwest of the clubhouse was
46 impacting the buffer because of topography. J Szemplinski stated it was the lowest point on the
47 property. M Speltz asked why the access could not be moved 100 feet east. J Szemplinski pointed to a
48 picture for the Commission to look at explained the existing topography off the land versus blasting at
49 another location, which in his opinion may not be worthwhile. M Speltz stated that in his opinion it
50 would make the contrast between the 2 alternatives, Cross Road and 102, more appealing noting a
51 difference in 7000 SF of buffer and 5000 SF of wetlands. M Badois added that if there was a better
52 location for the clubhouse, the detention pond could go less into the buffer. M Speltz noted that if the
53 road was moved 50 feet east, the development might have do more digging to get detention pond in,
54 but the wetland would be preserved. J Szemplinski noted that if the road was moved 50 feet over he
55 would have to start digging at 15 feet before he even gets to the elevation of the current site, and cause
56 more disturbance. M Speltz noted it would be disturbing more upland than wetland.

57 M Speltz asked either J Szemplinski or M Hollis for a primer on curb cuts, such as where can you have
58 one versus not have one. M Hollis explained the NHDOT sets a curb cut and establishes it, and if you
59 want to change a curb cut there is a process involved with NHDOT. M Speltz asked specifically where the
60 curb cut was. M Hollis stated that it would be on the NHDOT state maps of curb cuts, already
61 established. M Speltz asked about the street that the development was committing to putting in and
62 why not enter 102 off of that street. J Szemplinski noted that there was no curb cut there. M Speltz
63 stated that he thought he just heard the development could ask NHDOT for one. M Hollis clarified that
64 the development could petition the NHDOT to change the curb cut, but NHDOT does not change them
65 most of the time. G Harrington asked if the proposed curb cut was where the curb cut was now. J
66 Szemplinski stated it was. G Harrington asked on the map that the Commission has where the old spring
67 was because as he looks at the map, the spring is just uphill from the proposed detention pond, and he
68 thinks the pond will fill as the water flowed to the surface. J Szemplinski stated the water is not flowing
69 now. G Harrington asked where the water went then. J Szemplinski stated that the aquaphor is not
70 producing the water and it has lowered naturally. G Harrington noted that area was 5 feet above the
71 existing curb cut and if the development lowers it to make the new road, Harvest Moon Road, the



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72 development will cut into it. J Szemplinski stated in his opinion, he did not believe it is a problem as they
73 are going at least 50 feet away from it.

74 M Badois asked if the development acquires the state land as planned would they consider a deed
75 restriction on Cross Road with the finger of wetland. R Welch stated they would be glad to do that.

76 (The public member addressed J Szemplinski regarding the wetlands that are identified on the map and
77 having applied to the State. J Szemplinski stated they had not applied to the state as this is Phase 1. M
78 Badois noted at this point in the presentation, it was just not a public hearing, just for the Commission).

79 M Speltz noted that tonight's presentation is for the Commission to give advice to the Council on
80 whether or not to purchase the land, but emphasized that the Commission has already provided their
81 recommendation to the Planning Board on Phase 1 that the clubhouse was problematic. He noted that
82 the development has a large lot and the development should not have to build structures that require
83 impacting the buffer. He concluded that any recommendation the Commission makes tonight regarding
84 preferability of access does not construe that the Commission has changed its mind about the
85 inappropriate location of the clubhouse. M Hollis agreed and noted that the development cannot
86 proceed with any other plans until a decision is made whether to purchase the land or not by the Town.
87 M Speltz asked where the development stood with the Planning Board on Phase 1 now. J Szemplinski
88 stated it is being reviewed by Stantec. M Speltz asked if there was a date for approval and J Szemplinski
89 stated they did not.

90 J Kalantzakos wanted the Commission to know that the development has really spent a lot of time trying
91 to make this project nice. He stated that they could have put 700 units in this piece of land, but are
92 going with 200. He pointed out that Hickory Woods has 98 houses on 60 acres and was seen as well
93 spread out. He noted that this development is going to be 200 units to 200 acres with more land per
94 unit.

95 B Maxwell asked what the rectangles on the map around the clubhouse represented. J Szemplinski
96 stated that some are bocce courts, tennis courts and rain garden. J Szemplinski noted that the
97 improvements are not in the CO district. D Lievens asked specifically where on the map this would be. M
98 Hollis pens an area on a map for D Lievens. D Lievens asked if these were in the buffer. R Welch stated
99 the rain garden is in the buffer.

100 J Szemplinski pointed out that the current culverts on 102 cannot handle the water and will keep
101 building up. M Speltz asked if he anticipated being required to resolve the inadequate culverts that are
102 there now. J Szemplinski stated he would love to, so he would not have to deal with it, but if the culverts
103 are increased in size, someone downstream will have water issues and he cannot do that.



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104 M Badois opened it up to the public. The public member stated that he understood what was presented
105 and stated that the Town has water issues that have not been dealt with, and proceeding with the large
106 developments, is the hazardous mitigation plan being used. He felt that flood plain was not taken care
107 of. J Szemplinski stated the flood plain will be maintained. The public asked if this development was in a
108 flood plain. J Szemplinski stated that it is not listed in a flood plain on state maps, however this land
109 floods with major storms. The public member stated that he thinks the state's flood plains are not up to
110 date. M Speltz stated that he thought the hazardous mitigation was adopted but he does not know if the
111 project complies with it. The public member emphasized that according to insurance regulations the
112 flood plain is not up to date.

113 M Speltz made a motion to advise that access from 102 would create less impact than access from Cross
114 Road. This in no way changes our previous recommendation from our meeting on March 28, 2017, that
115 we feel the project has enough land to allow development of the clubhouse complex outside of the
116 buffer. We would encourage the applicant to include a deed restriction on the corridor of land that
117 extends from Cross Rd to the Constance cul-de-sac. G Harrington seconded the motion. The motion was
118 granted, 7-0-0.

119 J Szemplinski asked for the Commission's advice on the detention ponds. He asked if the Commission
120 would rather disturb 5 acres of land or 0.5 acre, as it does not make sense to him. B Maxwell stated that
121 the Commission would probably rather take 10-20 houses out. J Szemplinski stated that would not
122 matter as the pond would be in the exact same location. M Speltz stated that the Commission is not
123 opposed to a swale that connects the detention pond, wherever it ends up, to the wetland. G
124 Harrington stated, while pointing to the map, if the development moved the clubhouse to a different
125 location then extend the detention pond in a way to narrow it down to pull it out of the buffer. G
126 Harrington stated in his opinion, he has a lot less problem of earth moving on 5 acres of upland than 0.5
127 acre of wetland. M Speltz added that is the DES guideline, 10:1. (M Speltz stated that in full disclosure
128 he purchased his current home from the applicant.) The presentation concluded.

129 **New Business**

130 **ZBA Case No. 6/21/17-2:** M Badois stated that this is a request from The Nevins who are requesting a
131 variance with an aspect of their lawns. B Maxwell stated he would recuse himself as his parents live
132 there, but stated that someone told The Nevins that their lawns are violating the buffer and should take
133 them out. D Lievens stated that there was a lot of confusion with this development. M Badois stated
134 that in the plans it states "there shall be no further alteration of wetlands or lot development,
135 driveways, culverts, slopes, buildings or other construction related activities." D Lievens pointed out that
136 this is not the wetlands, but buffer, and would need a permit. M Badois voiced her concern in setting a
137 precedent. M Speltz stated the Commission had this conversation with The Nivens before and thought



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138 the way the conversation ended was to recognize that there is no prohibition against cutting in the
139 buffer. He noted the prohibition is against using chemical fertilizers, pesticides and herbicides. He added
140 the staff that the Commission talked to at The Nivens and their lawn care representative agreed to limit
141 fertilization to potash. B Maxwell stated that someone came to The Nevins council within the last 6
142 weeks and presented themselves as conservation commission, but it was not any of us, and said they
143 were in violation and have to stop. The Commission looked over the ZBA file and G Harrington stated
144 that Anthony Valente is the president of The Nivens board of directors. M Badois stated that she would
145 contact him and see who had spoken to him about this. M Badois asked if the Commission's opinion on
146 this would be that it is not a problem and no variance is needed. D Lievens stated as long as The Nivens
147 stick to potash. G Harrington stated the Nivens can mow the lawn and apply wood ash with no further
148 maintenance beyond that. M Speltz asked if there was written documentation of the previous
149 conversations. M Badois stated that she believes there are and she will review her notes. M Speltz
150 stated if there is documentation, to provide it to Richard Canuel and ZBA. G Harrington read from the
151 file stating the Nivens want to "continue to maintain the lawns seen by the developer in the affected
152 lands which is the outer 25 feet of the buffer". He added The Nivens want to reduce the buffer from 50
153 feet to 25 feet and also request to continue to mow, but not fertilize in any way, any existing lawns that
154 extend within the proposed 25 foot buffer. M Speltz felt that if the Nivens would be willing to just mow
155 and not fertilize then no variance would be needed. G Harrington stated The Nivens wanted to kill the
156 poison ivy. M Badois noted that organic options had been previously given. M Speltz noted there is a
157 company that does hand pulling of poison ivy. M Badois concluded that it appears as if this variance
158 would be unnecessary other than for The Nivens to gain the ability to fertilize. M Badois also noted she
159 would like to understand why this has percolated up when she thought this was resolved. G Harrington
160 stated maybe there is new lawn care company. It was the consensus of the commission to oppose the
161 variance.

162 **Permit to bait wildlife:** M Badois stated that the Commission received a permit to bait wildlife and G
163 Harrington pointed out the permit is dated one year ago. M Badois stated it was from someone who
164 lives on Elwood in Hudson, NH. G Harrington pointed out the applicant sent the permit originally to Fish
165 and Game, and Fish and Game said Musquash is not their property. M Badois reviewed an application
166 the Commission had received last year regarding baiting white tailed deer. D Lievens stated in her
167 opinion she feels baiting is unsporting and she could not think of any reason someone would need to
168 bait white tailed deer. M Badois also stated her opinion is she is ethically opposed, but did not think
169 there was any regulation. M Badois asked if it was gun or archery on the application, as the application
170 last year was for archery. G Harrington read from the application that state law states "no persons shall
171 place bait no less than 300 feet from a dwelling, public road, public path or public trail." M Speltz stated
172 that John Vogl performed an analysis when the Commission was dealing with guns in the Musquash and
173 it was discovered there was no safe place to shoot. M Badois concluded that she will contact the person



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174 telling them the Commission believes the application is out of date and not encourage them to resubmit
175 because cannot meet the 300 foot guideline.

176 **Kathy Bailey:** M Badois stated that Kathy Bailey who used to be the old recorder, is semi-retired from
177 Nutfield Publishing and is doing a Derry/Londonderry feature story in the Union Leader and would like
178 to do a tour of the Musquash to write an article. M Badois added that Kathy is free Tues, Wed, Thurs or
179 Fri in the morning next week and asked if anyone was available. M Badois stated she might recruit David
180 Ellis to go with her.

181 **Old Business**

182 **Musquash:** M Badois noted that when she was out for Trail Days she tried to take notes and mark
183 reference points on her map. She noted that there were at least 2 posts that are missing and 11 metal
184 signs that should be placed. M Badois stated that she can make up the signs and just happens to have 11
185 blank signs. M Badois stated she would order more as there are no more left. M Badois stated that the
186 Boy Scout who was making the post is no longer doing that project. M Speltz added he would email
187 someone about how to make the Trailway signs.

188 **Conservation property improvements:** M Badois stated she met with Kevin Smith and Steve Cotton who
189 felt there was no need for the Commission to go to the Planning Board. M Badois stated the first step is
190 to detail out what the Commission wants done at each location, come up with the costs and to meet
191 with abutting neighbors. She then stated the Commission would create an RFP (Request for Proposal).
192 M Speltz suggested that M Badois craft an excel spreadsheet with projects and costs and he will write a
193 cover letter, and then send both documents to Steve Cotton. D Lievens asked specifically what projects
194 are going to be listed. M Badois stated that there are 3: Tanager Way, Kendall Pond and Scobie Pond. D
195 Lievens asked if the Commission was committed to do all 3. M Speltz stated that the Commission should
196 keep bids separate and be able to pick and choose. R Fillio asked how many abutters there would be. B
197 Maxwell stated that Tanager has a couple and M Badois stated that Kendall Pond would be the
198 immediate abutters who have been very involved with the Commission before for other reasons. M
199 Speltz asked how the Commission wants to notify the abutters. D Lievens suggested a personal letter. M
200 Noone suggested that if the Commission goes before the Planning Board with these improvements, the
201 Planning Board would then notify the abutters with an official letter. M Badois stated that she felt a
202 personal letter is more personal, as there is history with the abutters. (The public member then stated
203 he wondered about the Scobie Pond project. M Badois stated that for Scobie Pond the Commission
204 wanted to clean up the parking lot on Brewster Road and put in a kiosk. The public member noted that
205 there was not enough parking for 2 cars there now. M Badois stated that is the reason for the project.
206 The public member expressed his views that he thought there was a bigger vision for Scobie Pond. M
207 Badois stated that there is, but the Commission wants to start with a small project, see how it goes and



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208 what the public input is. M Speltz added that in the last election the Town Council voted unanimously
209 not to do any improvements and the voters voted 2:1 not to do any improvements, so he feels the
210 Commission needs to be mindful of that when starting to make improvements.)The Commission
211 members discussed the best approach to have a meeting with the abutters for the projects. R Fillio
212 suggested that the Commission should try and reserve the big conference room for this meeting with
213 the abutters and to have a picture demonstrating what each specific project would entail. M Badois
214 concluded that she would work on reserving the big conference room for possibly the next meeting and
215 if not then, the following meeting, depending upon availability.

216 **Eversource:** M Badois stated that Eversource has started work near Hickory Hill to put down a gravel
217 road to cross the sloppy parts under the power lines to get to their staging area. M Badois stated
218 Eversource is okay to leave the gravel roads for the Commission and Charlie.

219 **Eversource update Patty Quinn:** M Speltz stated that he found the grant agreement and in order to use
220 the project area, the 538 acres of Musquash that the Commission received the grant for, it can only be
221 used for the purposes of outdoor recreation. He pointed out that a commercial power line would not fit
222 under that. He noted that the Department of Interior Secretary can give a permission to do such a use,
223 but he felt it would be a huge bureaucratic effort and would have to go through DREAD, the Department
224 of Resource and Economic Development. He stated he has given Eversource and Patty Quinn, who is on
225 vacation next week, all the documents and the ball is their court. He stated that he had learned when
226 reviewing the grant agreement that one of the conditions the Town accepted was to make best efforts
227 to underground any existing utility lines in the project area and also that any new utility lines must be
228 undergrounded. He wondered if this pertained to the Merrimack Liability Project, but felt it certainly
229 would apply to the National Grid Project. He noted that that he made Colleen Mailloux, Town Planner,
230 and Kevin Smith, Town Manager, aware of this information. He also noted that the Town Attorney might
231 need to get involved.

232 **Dredge and Fills:** M Badois stated Colleen Mailloux, Town Planner, found information from NHACC, that
233 states the Commission has 14 days from when a Dredge and Fill is submitted not 10 days to intervene.

234 **Wheelwright:** M Badois noted that Eversource has proposed planting to cover up a new road that the
235 neighbors did not care for. She passed around a picture she received of proposed planting from
236 Eversource. M Badois felt the planting should be deeper rather than closer to cover more. M Speltz
237 stated that in the previous meetings with the agencies involved it was proposed to do both, put things
238 up close and along the ridge. D Lievens noted that in her opinion she would try to insert native plants,
239 not flowering vegetation. M Speltz asked if M Badois needed to get back to anyone regarding this and
240 she stated she had been CC'd on an email. M Speltz stated that M Badois could email back stating the



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241 Commission appreciates being CC'd and recall that they had committed to planting along the ridge as
242 well. M Badois concluded that Heidi is working on it and she check in with her.

243 **Water Withdrawal ordinance:** M Badois stated that someone ran over sign at Kendall Pond and the
244 sign survived but the post did not. M Badois updated the ordinance number on the sign since the sign
245 was down. M Speltz stated that there was a new spot where water is being taken on Kimball Road. M
246 Badois updated the Commission that she had received an email from Lisa, Assistant Town Manager, who
247 is trying to find a solution to the problem that the Town Council had suggested which is to find a place in
248 Londonderry for these people to go and get water. M Badois pointed out that there is a place in Derry
249 that people can get water for \$4.00/1000 gallons. D Lievens stated that there are not aquaphors in
250 Londonderry and with the influx of people living in Londonderry, the less water Londonderry will have.
251 The public member asked the Commission if there was a ground water protection plan on the master
252 plan for Londonderry. M Badois stated that she thought Town Council had been asked about this and
253 was going to do water quality survey, but because of budget issues it was not done. The public member
254 stated that he has a multiple meetings with people in town and has a meeting with Kevin Smith, Town
255 Manager, tomorrow and will bring this up. M Badois stated that Londonderry has the highest per capita
256 of wells in the state. The public member stated that he felt there was no monitoring of wells here in
257 Londonderry by the Town, only monitored yearly by the NH EPA. M Badois emphasized that she felt
258 there was no place in Londonderry where water could be withdrawn safely and wanted to know if any
259 Commission members did. G Harrington asked if M Badois knew where the Derry location was and she
260 stated that she thought it was at the transfer station. G Harrington pointed out that was the Derry water
261 company and Londonderry does not have a water utility. B Maxwell stated that without Londonderry
262 having a water utility company there would be no way to allow for this. D Lievens added that she felt
263 there should be a time limit to an ordinance if one is created in case of a drought situation, the Town
264 can decide to end their participation. M Badois concluded that the Commission did not feel that there
265 was anywhere in Londonderry to support this because no water utility in town with appropriate
266 infrastructure.

267 **July Walk:** M Badois asked if the Commission had some ideas. M Noone offered to do Scobie Pond with
268 a paddle.

269 **Correspondence**

270 **Upcoming Growth Ordinance Workshop:** M Badois stated at the last Town Council meeting the
271 Planning Board had stated this workshop was going to be offered and she thought it would good for
272 Commission members to attend and to look out for the date.



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273 **Meeting on June 22:** G Harrington asked if M Badois was going to the Right to Know meeting. M Badois
274 stated she has already been to it. Both R Fillio and M Speltz stated they were going.

275 **Minutes:** The Commissioners went over the public minutes from May 23, 2017. The Commissioners
276 noted that the non-public minutes from May 23, 2017, were not present and would be done at next
277 meeting. D Lievens made a motion to accept the minutes as amended. R Fillio seconded the motion. The
278 motion passed 7-0-0.

279 **Stantec:** M Badois stated that there was an invoice from Stantec for \$205.50 for making copies. The
280 Commissioners discussed how much money was left in the budget at this point. The Commissioners also
281 talked about taking money out of the budget to pay for the posts and signs as discussed previous. M
282 Speltz made a motion for the Chair not to exceed \$400.00 on trail blanks and posts from the line item
283 budget. G Harrington seconded the motion. The motion was granted, 7-0-0. G Harrington made a
284 motion for the Chair to pay the Stantec bill of \$205.50 from the line item budget. R Fillio seconded the
285 motion. The motion was granted, 7-0-0.

286 **Adjournment:** D Lievens made a motion to adjourn the meeting at 9:40 p.m. R Fillio seconded the
287 motion. The motion was granted, 7-0-0.

288 Respectfully Submitted,
289 Beth Morrison
290 Recording Secretary
291