



Londonderry Conservation Commission
Tuesday, March 25, 2014
Minutes

1 Present: Deb Lievens; Gene Harrington; Mike Considine Paul Nickerson; Truda Bloom Mike Speltz,
2 alternate; and Kellie Walsh, alternate

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4 D. Lievens called the meeting to order at 7:30 PM. She appointed M. Speltz to vote for Marge Badois
5 and K. Walsh to vote for Ben LaBrecque.

6
7 Monitoring- The Rockingham County Conservation District (RCCD) submitted an invoice to the
8 Commission for the December, 2013 monitoring of the Ingersoll easements on map 1, lots 1 and 3-2
9 in. **P. Nickerson made a motion to authorize the Chair to expend an amount not to exceed \$650.00**
10 **from the line item budget to pay RCCD for the 2013 monitoring of the Ingersoll conservation**
11 **easements on map 1, lot 1 and lot 3-2. G. Harrington seconded. The motion was approved, 7-0-0.**
12 M. Speltz suggested the report be checked to make sure the Department of Environmental Services
13 (DES) received a copy since the land was conserved with funding from the DES Water Supply Land
14 Protection Program.

15 M. Speltz provided an update regarding the 26 easements that were part of the Carousel Estates
16 development (Map 5, Lot 31; see September 24, October 8, and October 22, 2013 minutes). Those
17 easements were mandated by the State Wetlands Bureau as mitigation for wetland impacts associated
18 with the development. M. Speltz said he would be going through each property deed to see if any
19 reference the conservation easements. From the few he has reviewed, he has not found any reference
20 beyond the broad statement that the deeds are 'subject to easements of record.' Someone performing
21 due diligence such as a title researcher, he explained, would not likely discover the conservation
22 easement based on that statement. He said the owners will need to be made aware of and educated
23 about the preserved portions of their property.

24 T. Bloom said she and G. Harrington would be monitoring the Estey easements (Map 3, Lots 100,
25 161, and 161-1) in the near future.

26
27 Invasive plant species (Phragmites)- D. Lievens reported that entomologist Mike Morrison, who was
28 hired by the Commission to remove Phragmites from the Town owned property on map 6 lot 113, has
29 reapplied for the requisite State wetlands permit so that he may continue his work later this year if
30 need be. She said he had intended to perform some of the removal during the winter months while
31 the ground was frozen and will follow up with him on his progress.

32
33 Town Forest (Invasive Species)- In the fall of 2013, D. Lievens contacted licensed invasive species
34 specialist Prescott Towle about continuing the effort to removed Oriental Bittersweet from the Town
35 Forest in 2014. A contract will be required and D. Lievens said she will forward it to the Town Manager
36 once she receives it from P. Towle. She added that Town Sexton Kent Allen is still interested in assisting
37 with the Bittersweet removal (see September 10, 2013 minutes), however it will be up to P. Towle as to
38 whether any assistance would be effective.

39
40 Saving Special Places- D. Lievens stated that this annual event will take place on April 5 at the Laconia
41 Middle School. The deadline to sign up is March 28 and she said the Commission can consider



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42 subsidizing some or all of the \$60 fee if anyone is interested in attending.

43

44 Rockingham County Conservation District annual report- D. Lievens made this annual report available to
45 Commissioners.

46

47 Old Home Day- Londonderry Old Home Day Parade Committee member Rick Mansfield emailed staff
48 with a request that the Commission consider participating in this August's 115th Old Home Day parade.
49 D. Lievens made Commissioners aware of the request.

50

51 March 11, 2014 minutes- **G. Harrington made a motion to approve the minutes of the March 11,**
52 **2014 public session as written. M. Speltz seconded. The motion was approved, 4-0-3** with D.
53 Lievens, T. Bloom, and K. Walsh abstaining as they had not attended the meeting.

54

55 Fed Ex Ground Facility site plan- At the March 11 Commission meeting, M. Speltz reported that he
56 attended the March 5, 2014 Planning Board meeting where a public hearing was held regarding the
57 review of this site plan on map 14, proposed lot 45-2. He had called the Board's attention to past and
58 recent concerns of NH Fish and Game (F&G) regarding possible endangered species in the vicinity, as
59 well as a 2009 agreement between NH Fish and Game (F&G) and the Town concerning a wildlife study.
60 As a condition of the Town's Pettengill Road Alteration of Terrain (AoT) permit, the Town had agreed to
61 execute a wildlife survey in the subject area prior to any excavation for Pettengill Road because of the
62 possibility of the aforementioned endangered species. M. Speltz had asked the Planning Board to use
63 their authority to request that Fed Ex Ground perform a wildlife study, even if it was limited to the area
64 of proposed lot, since he believed the intent of F&G was to establish what areas need to be preserved
65 from development in order to protect the endangered species' habitat. The Board and Town staff did
66 not agree that the 2009 agreement and the Fed Ex Ground site plan were related and the Board
67 declined to request a study.

68

69 P. Nickerson asked about the status of a survey. M. Speltz replied that he has spoken with staff
70 in the Planning and Economic Development Department since the March 11 meeting. Staff reiterated
71 their position that the survey required of the Town is not an issue with regard to the Fed Ex site plan.
72 Fed Ex has to obtain their own AoT permit from the Department of Environmental Services (DES),
73 which will involve input from NH F&G, so a wildlife survey of some scope may become part of that
74 approval.

74

75 Doyle acquisition- M. Speltz said he and D. Lievens will be meeting with the Town Manager later in the
76 week and one of the topics will be placing this potential acquisition on an upcoming Town Council
77 agenda. The Commission recommended the purchase of a conservation easement on the property to
78 the Town Council on January 14.

79

80 Conservation funds- When M. Speltz and D. Lievens meet with the Town Manager later in the week,
81 they will also be discussing the various funds appropriated over the years in Londonderry for
82 conservation purposes (see December 10, 2013 and January 14, 2014 minutes). They will provide an



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83 update to Commissioners at the April 8 meeting.

84

85 Nevins public walking trails- In June of 2013, the Planning Board approved a site plan amendment for
86 the Nevins Retirement Cooperative Association to remove the public walking trails that were to be
87 constructed within their development per the original site plan. The Planning Board also
88 recommended to the Town Council that the developer reimburse the Town the amount of the cost to
89 construct the trail and then use those funds towards trails in other areas of town. The developer
90 determined construction of the trail would total \$19,200, but the Council opted to further consider
91 the amount due from the developer. Negotiations between the Town Attorney and the applicant's
92 attorney resulted in an agreement of a \$35,000 reimbursement amount. At the most recent Council
93 meeting, M. Speltz objected to the proposed solution, which includes the Town releasing public
94 interest in the trail, particularly since the amount was not based on a third party appraisal. An
95 additional resident opposed the agreement as well. The Council continued the discussion to their
96 April 7 meeting based on those objections.

97 M. Speltz said he also made the Town Manager and Town staff aware of the fact that when an
98 easement is held by a municipality, it is considered to be in "the public trust." Any amendment
99 therefore becomes an issue for the State Attorney General. The Town Attorney has disagreed with
100 regard to this particular easement, saying that the Town has the authority to disestablish a trail.
101 While M. Speltz acknowledged that to be true, he indicated that the issue is more complicated. He
102 explained that the Attorney General's office provides a guide on amending conservation easements,
103 which includes seven principles against which a proposed amendment is weighed. In general terms,
104 the amendment must result in the public's interest being better off or at least no worse off than it
105 was given the provisions of the original easement. In this scenario, M. Speltz said he would argue that
106 the public's interest would be negatively impacted by the loss of the trail. He contacted the Trust
107 Division of the Attorney General's office as a private citizen, asking their opinion of whether the
108 matter was subject to their review. He said he will follow up with the Town Manager at their meeting
109 later in the week.

110

111 DRC- Garden Lane; Two lot subdivision:

112 No comments.

113

114 **T. Bloom made motion to adjourn the meeting. G. Harrington seconded. The motion was approved,**
115 **7-0-0.**

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117 The meeting adjourned at approximately 8:15 PM.

118

119 Respectfully submitted,

120

121

122 Jaye Trottier

123 Associate Planner