



**Londonderry Conservation Commission
Tuesday, July 14, 2009
PUBLIC HEARING**

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1 **Present: Deb Lievens, Gene Harrington, Mike Considine (late), Paul Nickerson, Truda Bloom, Ben**
2 **LaBrecque, Mark Oswald and Mike Speltz**

3
4 **Also present: Brian Farmer, Town Council Liaison and Andy Mack, Sr.**

5
6 D. Lievens entertained a motion to enter into a public hearing regarding the amendment of the Moose Hill
7 easement project to be limited to the purchase of a conservation easement on parcel 10-15 (44 Pillsbury
8 Road) owned by Moose Hill Orchards, contingent upon receipt of a federal Farm and Ranch Lands
9 Protection Program grant. M. Oswald so moved. P. Nickerson seconded. The motion was approved,
10 7-0-0.

11
12 Town Council Liaison Brian Farmer began by stating that the issue of M. Speltz's prior recusal at
13 the May 12, 2009 public hearing (regarding the purchase of conservation easements on both 9-49 and 10-
14 15) needed to be addressed before continuing with this public hearing. Under the Town's ethics policy,
15 once a board or committee member recuses themselves from voting on an issue, they can no longer
16 participate in discussions of said issue. B. Farmer explained, however, that when M. Speltz recused
17 himself, he did so in error because he is not an abutter to parcel 10-15, nor does he have any direct
18 connection to the land and would not directly profit in any way from the acquisition of an easement. To
19 rectify the error, B. Farmer advised the LCC to accept that M. Speltz recused himself in error and thereby
20 dissolve the restriction concerning his participation.

21 **M. Oswald made a motion to accept that M. Speltz recused himself in error at the May 12,**
22 **2009 public hearing. G. Harrington seconded. The motion was approved, 6-0-1 with M. Speltz**
23 **abstaining.**

24
25 M. Speltz then explained that this public hearing was an administrative matter to reflect the fact
26 that circumstances have changed since the first public hearing on May 12. At that hearing, the potential
27 purchase involved lots 9-49 and 10-15. At the May 26th meeting, M. Speltz reported that A. Mack Sr. had
28 opted to forgo any transaction concerning 9-49. When the LCC presented their recommendation to the
29 Town Council shortly thereafter, they presented their amended recommendation concerning lot 10-15
30 alone, which the Council approved. The purpose of this second public hearing, he explained, is to clarify
31 and officially vote on the LCC's adjusted recommendation. Town Counsel advised that a second public
32 hearing was not required but that it would not be detrimental to confirm the issue for the record.

33
34 M. Considine arrived during M. Speltz's introduction. As D. Lievens had appointed alternate M.
35 Speltz to vote for M. Considine until such time as he arrived, M. Speltz would not be needed to fill the
36 vacancy of any full voting members.

37
38 D. Lievens asked for comments or questions from Commission members. There were none. She
39 then asked for public comment and/or questions. Tom Freda, 30 Buckingham Drive, asked for
40 confirmation based on the draft minutes posted on the Town's website that there was no intervening LCC



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41 meeting between the LCC's first public hearing regarding the two-parcel transaction (May 12) and the
42 Town Council meeting where only lot 10-15 was discussed. M. Speltz replied that was his recollection of
43 events and D. Lievens stated no other vote was made by the Commission between May 12th and this
44 meeting regarding a one-lot scenario. T. Freda then asked for confirmation that the original negotiation
45 with A. Mack for the two lots included the right to withdraw three house lots on lot 9-49. M. Speltz
46 replied that no Purchase and Sale agreement was in effect at the time, but that there was a verbal
47 agreement regarding the withdrawal of three house lots by A. Mack. The appraiser, however, chose lot 9-
48 49 as the lot to apply the 3-lot withdrawal to since the land would be of higher value than 10-15 and
49 would therefore represent the highest impact on the overall value of the two lots.

50 Based on a total purchase price of \$900,000 for 10-15, T. Freda asked whether A. Mack would
51 have to reimburse the Town if he exercises his right to withdraw the agreed upon number of house lots.
52 M. Speltz stated that the final purchase price will be determined by another appraisal required by the
53 Natural Resources Conservation Service in order to determine the fair market value of the easement as
54 part of their approval of the LCC's application for FRPP funds. That appraisal would *include* A. Mack's
55 right to withdraw a set number of house lots. If the final appraisal values 10-15 higher than \$900,000, the
56 Town will pay the \$900,000 and A. Mack has the right to withdraw if the value is lower than \$900,000.
57 Regardless of what exact value the final appraisal determines, the appraiser will assume that the right to
58 withdraw the set number of house lots will in fact be exercised and he will devalue 10-15 accordingly.
59 Therefore A. Mack would not owe the Town any money when he exercised his rights of withdrawal. T.
60 Freda asked if A. Mack understood this to be the case and agrees to that set of circumstances. A. Mack
61 replied that he did understand and agree.

62 T. Freda acknowledged the explanation made at the beginning of the hearing that M. Speltz did
63 not need to recuse himself but asked why D. Lievens was continuing to Chair the meeting, given the
64 definitions of the Ethics Committee. D. Lievens replied that her role is an administrative one and that
65 according to Town Manager Dave Caron, she has no conflict of interest in the matter.

66 B. Saur, 4 Mountain Home Road, asked A. Mack whether he would be in favor of adding a
67 condition to any future easement on 9-49 that would still permit political signage along Mammoth Road.
68 A. Mack replied that he would like to include such a condition, although it would be a moot point at this
69 time since an easement was not being considered for 9-49. Ann Chiampa, 28 Wedgewood Drive, asked
70 what the status was concerning that lot, particularly with regard to the Town's proposed Workforce
71 Housing ordinance. M. Speltz explained that the Planning Board removed 9-49 from the Workforce
72 Housing overlay district. A. Mack stated he was unsure of his plans for 9-49 but has not ruled out the
73 option of negotiating with the Town again. He offered to all those present copies of a work in progress
74 outlining his ideas and preferences regarding the future of the land.

75
76 As there were no further questions or input, D. Lievens entertained a motion to close the public
77 hearing. **M. Oswald made a motion to close the public hearing at 7:58 PM. T. Bloom seconded.**
78 **The motion was approved, 7-0-0.**
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80 **G. Harrington made a motion to recommend to the Town Council that the Town proceed**
81 **with the acquisition of the development rights to parcel 10-15 as outlined in the public hearing. T.**
82 **Bloom seconded. The motion was approved 6-0-1 with D. Lievens abstaining.**

83
84 Respectfully submitted,

85
86
87
88 Jaye A. Trottier
89 Secretary