



Londonderry Conservation Commission

Tuesday, Aug 24, 2010

Minutes

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

3
4 D. Lievens called the meeting to order at 7:32.

5
6 **G. Harrington made a motion to go into Non-Public Session per RSA 91-A:3 for the purpose of**
7 **discussing possible land acquisition per RSA 91-A:3. M. Considine seconded.**

8
9 **Roll call vote: Aye, Deb Lievens; Aye, Gene Harrington; Aye, Paul Nickerson; Aye, Mike Considine; Aye,**
10 **Truda Bloom**

11
12 M. Oswald arrived at approximately 7:35, just after the non-public session began. D. Lievens appointed
13 him to vote for Ben LaBrecque.

14
15 M. Speltz arrived during the non-public session at approximately 7:50 PM. D. Lievens appointed him to
16 vote for K. Henault.

17
18 **G. Harrington made a motion to go out of Non-Public Session. T. Bloom seconded. The motion was**
19 **approved, 7-0-0.**

20
21 **G. Harrington made a motion to seal the minutes of the Non-Public Session indefinitely. T. Bloom**
22 **seconded. The motion was approved, 7-0-0.**

23
24 **G. Harrington made a motion to authorize the Chair to enter into negotiations with appraisers and**
25 **other interested parties regarding the parcel discussed in non-public session and to expend an amount**
26 **not to exceed \$4,000 from the Open Space Fund. T. Bloom seconded. The motion was approved,**
27 **7-0-0.**

28
29 K. Henault arrived.

30
31 Bosch Thermotechnology, 14-44-33; CUP, D+F & DRC- Jeff Merritt of Keach-Nordstrom Associates, Inc.
32 presented a site plan involving a 6,400 square foot second floor office addition and associated two-story
33 vestibule and one-story canopy within an existing 70,000 building utilized primarily as a warehouse.
34 Built in 2002, the site's stormwater detention pond and treatment swale in the southeast corner of the
35 property eventually created jurisdictional wetland pockets, which J. Merritt pointed out when he
36 identified the two wetlands in the same area that existed prior to 2002. With the increase in square
37 footage of the facility comes an increase in the required number of parking spaces per the Town's zoning
38 ordinance. Phase I of this project will satisfy those requirements by adding 28 spaces (in three separate
39 areas) to the existing parking along the east side of the building. Phase II would add another 16 spaces
40 on the western side, but only if their need is determined in the future. D. Lievens asked if the building's
41 use actually justifies the current amount of parking. J. Merritt replied that although it is not filled to
42 capacity every day, both regular employees and those visiting the site for training make use of the
43 majority of the parking on a regular basis. (See also DRC comments below).



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44 The increase in impervious surface of Phase I generates the need to expand the existing
45 detention basin as well as the treatment swale. This is in part because of the need to modify and
46 increase the efficiency of the outlet structure but also due to the change in standards for treatment
47 swales by the Department of Environmental Services. (Phase II would have a separate drainage
48 treatment facility if ever built which would have no wetland or buffer impacts). The net result of those
49 changes is that treatment swales are both wider and longer than previous designs in order to better
50 slow the stormwater for more effective treatment. Resulting impacts to wetlands in three areas around
51 the swale would total 1,416 sf (110 of which would be temporary) while infringement on the 50-foot
52 Conservation Overlay District buffer would total 5,855 sf. When D. Lievens asked if shrubs could be
53 used as part of the mechanism of the treatment swale, J. Merritt explained that the swale is most
54 effective when maintained as four inches of grass only. Shrubby vegetation, he explained, blocks the
55 sunlight needed to help break down any oil remaining in the water after being processed through the
56 proposed oil separators. M. Speltz noted that the trade off for that accomplishment is a decrease in the
57 capture of sediment and nutrients but J. Merritt countered that the enhanced DES standards slow the
58 stormwater enough to capture sediment sufficiently.

59 M. Speltz inquired about management instructions to be included on the plan for the drainage
60 system. The Alteration of Terrain Bureau, J. Merritt replied, would require regular mowing along with
61 both annual inspections as well as examinations after major storm events. When further asked what
62 methods are in place to enforce those duties, he replied that while the Town has no authority in the
63 matter, part of the Alteration of Terrain Permit includes requirement of an up to date management plan
64 that must be kept on site since DES has the authority to inspect those reports at any given time.

65 A Minimum Impact Expedited Wetlands Permit will need to be filed with DES and a Conditional
66 Use Permit sought from the Town for the buffer impacts. G. Harrington and M. Considine volunteered
67 to perform site walks on August 26 and 28 respectively and will sign the D+F application once they
68 confirm that the conditions of the site match those presented at this meeting. Since the CUP application
69 was ready for review and will be brought before the Planning Board for approval on September 1, the
70 LCC decided to consider a recommendation for it at this meeting. Before doing so, M. Speltz offered two
71 separate comments to his fellow Commissioners. He suggested that while this proposal is an example of
72 a use exceeding the amount of buildable land on a lot, the impact to occur is arguably offset by the
73 enhanced stormwater treatment that will allow a business to operate at its desired level. He also
74 recommended that the LCC encourage the Planning Board to condition the site plan approval of Phase II
75 on the applicant's research of alternative forms of employee parking such as carpooling to preclude the
76 need for parking beyond Town standards. Following further discussion, **P. Nickerson made a motion to
77 recommend approval of the CUP to the Planning Board, pending the confirmation based on site visits
78 by two Commissioners that conditions on the property are the same as reflected in the documents
79 presented at this meeting. K. Henault seconded. The motion was approved, 7-0-0.**

80 The LCC then made the following comments for the Design Review Committee: "The Commission
81 urges the Planning Board to make the approval of Phase II parking contingent on having the applicant
82 submit a report to the Planning Department indicating that they have investigated alternative forms of
83 employee ridership and parking (e.g. carpooling) to obviate the need to exceed Town required parking."
84

85 DRC's (see also DRC for 14-44-33 above)-

86 1. Guinesso/Ham lot line adjustment, 6-27 and 7-36:

87 No comments



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88
89 2. Stonyfield Farm manufacturing addition, 14-44-13:
90 No comments

91
92 Conservation easements & Charitable Trust requirements- D. Lievens provided information entitled
93 Amending Town Conservation Easements Conforming to State Charitable Trust Requirements. G.
94 Harrington borrowed the information to review it.

95
96 CIP- The LCC reviewed the Capital Improvement Plan project worksheet as filled out by M. Speltz. The
97 outcome was a request for \$1 million that could be matched by a Farm and Ranch Lane Protection
98 Program grant of equal value in order to “maintain the natural services provided by open spaces
99 identified in the 2005 Open Space Plan.” M. Speltz will present a slide show to the CIP Committee to
100 show how the conservation of open space reflects the goals of the Town’s Master Plan. He also plans to
101 review accomplishments to date while demonstrating the need to preserve the lots remaining in the
102 original list of top 20 parcels from the first OSP. **M. Oswald made a motion to submit the CIP form to
103 the Planning Department as written. P. Nickerson seconded. The motion was approved, 7-0-0.**

104
105 Open Space Task Force- When the Town Council announced a list of goals at the beginning of the year, it
106 included charging a committee to review and reassess the 2006 Open Space Taskforce report. The
107 Council reviewed a draft charge at their August 23 meeting written by M. Speltz on behalf of the LCC.
108 Some minor amendments were made, he reported, but the Council did ultimately approve the charge.
109 He described their expectations as “ambitious,” adding that it will require significant time on the part of
110 the Town GIS Manager.

111
112 39 Rockingham Road variance- At the August 10 meeting, D. Lievens and G. Harrington reviewed a plan
113 associated with a variance request being sought by the owner of map and lot 13-65-1 to replace a
114 garage on that property. Utilizing the existing footprint would allow the owner to update a deteriorating
115 structure without having to apply to the Planning Board for site plan approval. The alteration, however,
116 would still trigger the 50-foot Conservation Overlay District buffer and necessitate a variance since a
117 corner of the garage would lie within that buffer. G. Harrington had suggested asking the ZBA whether
118 any of the existing pavement in the buffer could be removed. When D. Lievens conveyed the request to
119 the Zoning Officer, he suggested that such comments should be addressed during the process of the
120 Design Review Committee. The variance request was approved by the Zoning Board at their August 18
121 meeting.

122
123 New England Cottontail habitat- Town Forester Charlie Moreno will be joined by Emma Carcagno,
124 Wildlife Program Assistant from the UNH Cooperative Extension, at the September 14 LCC meeting to
125 discuss possible use of Town owned land to connect to the recently established New England Cottontail
126 Rabbit habitat on the Stonyfield Farm property (map and lot 14-44-13). While the Town would be
127 providing the land, funding would be available to manage the land appropriately to sustain a population
128 of this highly endangered species. D. Lievens met with the two in the northeastern part of the
129 Musquash Conservation Area along with a representative from the U.S. Fish and Wildlife Service. It was
130 thought that if trees were cut in some spots, the variety of shrubby vegetation there could provide



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131 preferable conditions for the rabbits. The main question the LCC will have for E. Carcagno will be how
132 the rabbits are going to be transported into whatever area is selected.

133
134 American Chestnut/Trees & Flowers Program- At the April 13 meeting, P. Nickerson relayed an offer
135 from a friend to present a slide show on the rebirth of the American Chestnut tree. D. Lievens posed the
136 possibility in June of expanding the presentation to a public program of the natural history of the New
137 Hampshire's southern tier. She had hoped to organize the event for the fall but asked Commissioners if
138 they felt the wintertime would be more suitable and would give her more time to devote to it. The
139 consensus was that the winter months might be a better time for such an event.

140
141 Monitoring- D. Lievens reminded Commissioners that the annual monitoring of the Plummer, Moose Hill
142 Orchards, Sunnycrest and Ingersoll easements will need to be completed before the end of the year. D.
143 Lievens asked P. Nickerson to again help coordinate this year's efforts. It was also decided to hire the
144 Rockingham County Conservation District to perform monitoring duties of the Ingersoll easement as
145 they have done in past years. **P. Nickerson made a motion to authorize the Chair to expend an amount
146 not to exceed \$650 from the line item budget to hire RCCD to perform the annual monitoring duties of
147 the Ingersoll easement. M. Oswald seconded. The motion was approved, 7-0-0.**

148 M. Speltz informed Commissioners that the Society for the Protection of NH Forests, owner of
149 map and lot 1-1 where the Ingersoll easement exists, is investigating damage done to a stone wall
150 separating 1-1 from an abutting parcel. That landowner has apparently dismantled and rearranged the
151 stone wall to gain access to 1-1 with ATV vehicles. D. Lievens mentioned a separate issue regarding the
152 three phases of Sunnycrest easements. While the Town of Londonderry was granted the easement of
153 Phase I, RCCD owns the easements of the last two phases. The former RCCD Director had been working
154 with D. Lievens on RCCD assuming ownership of the first phase as well in order to simplify issues
155 associated with all three. Where the Director left off with the issue when she retired unclear but D.
156 Lievens will continue to investigate the matter with the new Director.

157 M. Speltz advised that more effort should be made to monitor and document conditions of other
158 easements and conservation land in town on a regular basis. D. Lievens suggested coordinating an effort
159 to divide assignments amongst Commissioners. The issue will be revisited at the next meeting with a
160 complete list of easements and the appropriate forms to be used.

161
162 Purple Loosestrife- During a recent visit to the access point of the Musquash where the LCC installed a
163 bridge several years ago over Watts Brook at the end of Faucher Road, D. Lievens noticed that the
164 invasive species Purple Loosestrife has spread to a significant degree. Galerucella beetles, which feed
165 exclusively on loosestrife, have been used in the flax field off Pillsbury Road to control the same
166 problem. She recommended purchasing more beetles to release them next spring and establish a
167 colony in that part of the Musquash. She noted that they should be even more successful in that area
168 because mowing that could destroy the beetle eggs does not take place as it does in the flax field.

169
170 Higgins easement- The LCC reviewed comments and suggested changes made by Dick Higgins' attorney
171 to an amendment of the conservation easement on map and lot 9-85. Modifications to the conditions
172 of the easement were required to: 1) allow creation of a new lot through a subdivision on the eastern
173 portion of 9-85 and 2) create access from a point other than Pillsbury Road (i.e. a Town right of way off
174 Winding Pond Road). Both the Planning Board and Zoning Board have approved the subdivision and



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175 frontage variance respectively. The final step is for the LCC to recommend approval to the Town of the
176 amended easement. **K. Henault** noted that the specific intention of avoiding a wetland crossing in the
177 middle of 9-85 made this project a net gain for conservation purposes. He then **made a motion to**
178 **accept the changes made to the terms of conservation easement on map and lot 9-85 and recommend**
179 **to the Town that they accept the amendments. M. Oswald seconded. The motion was approved,**
180 **7-0-0.**

181
182 Aquatic Resource Mitigation Fund- When the Governor's Council gave approval of the disbursement of
183 ARM grant funds from DES to the Town, the surveyors hired to develop the wetland restoration plan on
184 map and lot 6-113 uncovered an issue with the deed. What was thought to be a 29-acre piece of Town
185 owned land might in fact have two different owners.

186 M. Speltz explained that at some point prior to the creation of the Abbey Road subdivision to the
187 north, what is now considered 6-113 was actually two separate lots, the western portion of which was
188 Town owned land known as 6-111. Part of the approval by the Planning Board of the Abbey Road
189 subdivision was to deed the eastern lot (which was already known as 6-113) to the Town. The
190 Assessor's Office purportedly combined the two into the current configuration based on the assumption
191 of that common ownership. The eastern piece, however, was sold by developer Jon Weigler a month
192 *before* the Planning Board's final approval. The condition of deeding it to the Town was overlooked,
193 mainly since the issue would not normally come up again during development of the subdivision. The
194 subsequent owner has effectively failed to meet all of the conditions of that subdivision plan even
195 though the project was completed years ago. Since that time, the succeeding owner sold the property
196 to another entity that is now defunct.

197 A quitclaim deed is not a possibility unless a surviving entity can be identified. M. Speltz thought
198 the argument could be made to the subsequent owner that he is responsible since he did not fulfill all of
199 the conditions of the subdivision approval. The legal issues will need to be investigated further but the
200 net result at this time is that the wetlands restoration is on hold until ownership can be determined.
201 The LCC has 18 months to complete the work under their agreement with DES.

202
203 Town Forest- Monadnock Forest Products is prepared to commence the tree cutting they were hired to
204 perform at the Town Common along with a selective cut in the Town Forest. Now that Old Home Days
205 have passed, M. Oswald needs only to confirm with the Town Manager's secretary that no one has
206 reserved the Common for a private event and the work may begin.

207 It was discussed in July that a landscaper may need to be hired after the picnic area is cleared to
208 remove and grind stumps as well as grade and seed the spot. M. Oswald reported that the Public Works
209 Department should be able to take care of the stumps after Labor Day and perhaps even the loaming
210 and seeding (for which the LCC will purchase the materials). He will be performing a site visit with the
211 Asst. Director of Public Works to flag what will be cut to create the picnic area. He will also ask a
212 member of the Heritage Commission to join them, as they are the stewards of the Town Common.

213
214 M. Oswald left the meeting.

215
216 July 13, 2010 minutes- D. Lievens made the following corrections to the minutes of the July 13, 2010
217 public session:

218 1. Line 23; Add the word "staff" before the word "member".



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219 2. Line 24; Delete “members of the Massachusetts division of the” and replace with “volunteers
220 from the NEWFS’ Plant Conservation Program”.

221 **G. Harrington made a motion to approve the minutes of the July 13, 2010 public session as**
222 **corrected. T. Bloom seconded. The motion was approved, 5-0-1 with P. Nickerson abstaining as he**
223 **had not attended the meeting.**

224 **T. Bloom made a motion to approve the minutes of the July 13, 2010 non-public session as**
225 **written. K. Henault seconded. The motion was approved, 5-0-1 with P. Nickerson abstaining as he**
226 **had not attended the meeting.**

227
228 August 10, 2010 minutes- **G. Harrington made a motion to approve the minutes of the August 10, 2010**
229 **public session as written. K. Henault seconded. The motion was approved, 2-0-4 with M. Considine,**
230 **K. Henault, P. Nickerson, and T. Bloom abstaining as they had not attended the meeting.**

231
232 PSNH ROW D+F- Both the Derry and Londonderry Conservation Commissions recommended approval
233 earlier in the year of a Dredge and Fill request made by Public Service of New Hampshire for wetland
234 impacts associated with the installation of approximately 48 new utility poles that will connect
235 substations in both towns. Residents of the Spring Hills subdivision had contested the issue because of a
236 stand of Pine and Hemlock trees that would be cut. The LCC received a copy of the letter issued to PSNH
237 on August 13 by the DES Senior Wetlands Inspector approving the application and outlining the 14
238 points on which the decision was based. It also clarified that although the “Impact...to some abutting
239 property owners...is significant due to the required cutting of a mature stand of Pines & Hemlock...this is
240 not a matter to be resolved by the DES since most of the tree removal is in non-jurisdictional uplands.”

241
242 G. Harrington made a motion to adjourn at approximately 9:55. T. Bloom seconded. The motion was
243 approved, 6-0-0.

244
245 Respectfully submitted,

246
247
248
249 Jaye Trottier
250 Secretary