



Londonderry Conservation Commission  
Tuesday, October 14, 2008  
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**Present: Deb Lievens, Gene Harrington, Ken Henault (late), Paul Nickerson, Truda Bloom, Mike Speltz and Mark Oswald**

Call to order; 7:33 P.M.

D. Lievens appointed M. Oswald to vote for Mike Considine and appointed M. Speltz to vote for Stephen Fassi.

Membership- D. Lievens informed fellow Commissioners that Stephen Fassi will be resigning from the LCC in the near future for personal reasons.

Page Road driveway D+F- Aaron Wechsler of Aspen Environmental Engineering presented a proposed subdivision combining lots 17-30 and 17-30-1 to create a five lot subdivision. Four of those lots would be subdivided out of lot 17-30 and a Dredge and Fill permit is required for a wetland crossing of two driveways between proposed lots 30-3 and 30-4. A 15" x 56' concrete pipe would be installed under a northerly flowing intermittent stream, creating 1,376 square feet of wetland impact. A. Wechsler noted that the impact would be slightly less if a shared driveway were installed there but such an access would detrimentally impact the value of those lots. D. Lievens stated that any less pavement, even the 12 feet that would be saved with a shared driveway, is still less impact on the stream. M. Speltz suggested that lot 17-30 would perhaps be better suited for a three lot subdivision instead of four. Although it is unclear whether the difference in impact would affect the DES' decision to issue the D+F permit, the LCC decided it was still important enough to suggest the two alternatives to lessen wetland impacts (a shared driveway, at least at the crossing, or a reduction in the number of proposed lots).

K. Henault arrived during the above discussion.

Following further discussion, **M. Speltz made a motion to suggest to the Wetlands Bureau that while the LCC realizes the proposed impact is minimal, they note that the impact could be further reduced by a shared driveway crossing or eliminating the crossing completely by reconfiguring proposed lots 17-30-3 and 17-30-4 into one lot. P. Nickerson seconded. The motion was approved, 7-0-0.**

Higgins easement (9-85)- Dick Higgins, owner of lot 9-85 which is under a conservation easement, provided the LCC with a request regarding the easement's provision under the reserved rights to construct a driveway. Under the current language of that provision, when the Higgins' try to sell the rental house on lot 9-85, they will suffer a loss in value because the driveway would be one shared with the Higgins' own driveway on lot 9-85-1. The only other option under the terms of the easement would result in an impact of the stream which roughly bisects lot 85. This option, D. Higgins explained, would be contrary to the easements own "Goals and Objectives". The best solution for all parties involved, he suggested, would be to extinguish the language of the reserved rights that restricts a driveway to only connect to Pillsbury Road "along the most direct route". He could then subdivide lot 9-85 along the stream and create a new driveway at the southeastern lot line where a Town right of way extends off the end of Winding Pond Road. (D. Higgins noted that Century Village Condominium Association had been approached with the alternative request to access Winding Pond Road directly via their property but the idea did not meet with their approval).

Connecting with this town right of way could be done while leaving lot 85 in its current configuration, however, a wetland crossing would still be a possibility if a future owner wishes to access the "back" portion of their lot along Pillsbury Road. The subdivision along the stream line would preclude such a crossing, but like the proposed driveway, it would not be allowed under current terms of the easement. Aside from a single lot



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line adjustment option already exercise by the Higgins', page 4, paragraph B of the easement states "[t]he property shall not be subdivided". If the LCC and the Town were amenable to those changes, D. Higgins' final request of the LCC would be their support for a zoning variance which would be required since the new lot would lack the necessary 150 feet of road frontage mandated by the zoning ordinance.

M. Speltz stated that as a future abutter to this property, he would recuse himself from any vote taken on the subject but offered an additional issue that has recently come to light concerning bargain sale or donated easements in New Hampshire. The State now views such easements as being part of the "public trust" and would therefore have a legal interest in them, meaning the Attorney General's office would need to be part of the approval for any amendment to such an easement. M. Speltz thought it best that D. Higgins to be aware of that additional task since this particular easement was obtained through a bargain sale. Considering this proposed amendment would cause no net loss in conservation value and may actually create a gain, M. Speltz thought the task may not necessarily be a difficult one. He also advised fellow Commissioners that the Town Attorney's input be sought regarding the issue.

**K. Henault made a motion that the LCC concurs with the goals and rationales detailed in D. Higgins' memo to the LCC dated October 14, 2008 as presented at this meeting. G. Harrington seconded. The motion was approved, 6-0-1 (M. Speltz recused himself). D. Higgins will return in two weeks with further details.**

NHACC annual meeting- The 38<sup>th</sup> annual meeting of the New Hampshire Association of Conservation Commissions will take place in Concord on Saturday, November first. D. Lievens reminded LCC members that they will be reimbursed the \$40 fee if they wish to attend.

SB 381- One of the topics of discussion at the above mentioned NHACC meeting will be the NH Senate bill 381 passed earlier this year. Under this new law, NH conservation commissions are allowed to expend funds via a land trust or another "qualified organization" to either purchase land in their own towns or other towns without having to retain any executory interest in the property. All NH conservation commissions would need a warrant article passed in their respective towns after January, 2009 to adopt the provisions of RSA 36-A:4-a, I(b). If passed, a conservation commission would still need approval from their governing body (e.g. the Town Council), to expend funds on projects *outside of their town* but would no longer need such permission for land purchased *within their municipal boundaries*.

Since RSA 36-A:3 specifically states the conservation commissioners are appointed, M. Speltz noted that if such an article were to pass in Londonderry, there may well be objection to the idea that Town funds could be expended by residents who are not elected to their positions. He suggested that when developing their own warrant article, the LCC should consider adding wording that would require they still seek approval from the Town Council to expend any funds for conservation purposes. The Town could then still benefit from the improved opportunities the bill provides for greater and more efficient conservation of natural resources while still leaving the ultimate decision to the officials elected by the residents.

D. Lievens asked Commissioners to review the information on the issue provided by the New Hampshire Association of Conservation Commissions and the Center for Land Conservation Assistance and be prepared to take a position on the matter at the October 28<sup>th</sup> meeting. M. Speltz will seek the advice of the Town Counsel and D. Lievens will also ask the LCC's Town Council Liaison to attend the meeting on the 28<sup>th</sup>.

Merrill easement (17-6)- Ken Merrill recently asked D. Lievens if the LCC would support the Department of Environmental Services' proposal to place a temporary air quality station on map and lot 17-6 which is subject to a conservation easement. She informed him that since the Rockingham County Conservation District actually holds the interest in that easement, he would need to contact them for permission.



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Kendall Pond Conservation Area; sign- The freestanding wooden sign at the Kendall Pond Conservation Area was recently damaged and is in need of repair. D. Lievens provided the LCC with a photo of the sign taken by Town staff. K. Henault volunteered to try and repair it.

Kendall Pond Conservation Area; trash- Recently the LCC was informed of a trash disposal issue at the KPCA. the Town's current contract with Waste Management states they will only remove trash that has been brought out to the edge of the street. A resident was voluntarily performing that task but has since stopped, leaving the barrel in the parking lot to overflow with refuse. D. Lievens' investigation as to whether the Town could make other arrangements to regularly remove the trash or bring the barrel out to the street has not met with success. Seeing as the barrel itself may actually be attracting people not actually even visiting the KPCA to use it, the LCC decided it might be best to remove the barrel altogether and simply post a "carry in/carry out" sign in the parking area.

September 23, 2008 minutes- M. Speltz noted a typographical error in the list of Commissioners present at the September 23<sup>rd</sup> meeting (i.e. an omitted comma). **T. Bloom made a motion to approve the minutes of the September 23, 2008 meeting as corrected. P. Nickerson seconded. The motion was approved, 5-0-2 (G. Harrington and K. Henault abstained as they had not attended the meeting).**

Invasive species- D. Lievens reported on a recent Invasive Species Committee meeting of which she is a member. In the interest of control and disposal issues, the Committee discussed that on land where invasives are known to exist, logging should not be performed until after their blooming stage. (See next item).

Town Forest- As part of the LCC's proposed selective cut in the Town Forest by the LCC, the invasive species bittersweet will need to be removed properly to ensure it does not reoccur. A discussion ensued, during which it was decided that M. Oswald would invite the Town Forester to attend the next meeting in order to sort out the specifics and determine what time of the year logging and invasive species removal should take place. Two ideas discussed at this meeting were to utilize local boy scouts in the removal of the bittersweet and/or include the task in the Town's annual spring "Beautify Londonderry" project. The Forester could also advise whether proceeds from the timber cut would pay for a professional to remove the bittersweet if no other method is available. D. Lievens asked M. Oswald if he would also remind the Forester to provide an updated contract for the Town to approve and sign.

NH Granit- D. Lievens received a request from NH Granit, the Statewide GIS system, for an update on any land conserved in Londonderry over the last several years. She will be providing them with the information regarding the George, Cooper and Sales properties which were all purchased since the last update.

Monitoring; LCIP- D. Lievens provided the Paul Nickerson, chair of the easement monitoring subcommittee, with the annual self inspection reports submitted by the Land Conservation Investment Program for their monitoring of the Musquash and Kendall Pond Conservation Areas. She suggested he forward the Musquash report to Commissioner Mike Considine who is very active in issues regarding the Musquash.

She also provided him with the Rockingham County Conservation District's yearly stewardship reports regarding their portion of the Merrill and Sunnycrest easements. He said he would begin coordinating the Town's remaining annual monitoring duties on various easements.



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Mack property- Andy Mack will be in town between October 20<sup>th</sup> and the first week of November. D. Lievens asked M. Speltz if he could coordinate with the Town Attorney to meet with him during that time to expedite the negotiations of the purchase of an easement on A. Mack's property on map and lots 9-45 and 10-15.

Musquash; signage- A resident recently contacted D. Lievens with concerns about the quality and quantity of signage in the Musquash Conservation Area and whether the trails there were adequately marked. A local boy scout (Matt Saur) had recently approached the LCC for project ideas he could perform as an Eagle project. It was decided that if work needs to be done in the Musquash between trail blazing and fixing or adding signs, M. Saur would be asked if he is interested.

October 11<sup>th</sup> meeting- Since the Town Offices will be closed Tuesday, November 11<sup>th</sup> in observance of Veteran's Day, **G. Harrington made a motion to cancel the LCC meeting of November 11<sup>th</sup>. M. Oswald seconded. The motion was approved, 7-0-0.**

M. Speltz made a motion to adjourn. G. Harrington seconded. The motion was approved, 7-0-0.

The meeting adjourned at 9:25 PM.

Respectfully submitted,

Jaye Trottier  
Secretary