



Londonderry Conservation Commission
Tuesday, December 12, 2006
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Present: Deb Lievens; Gene Harrington; Mike Speltz; Mike Considine; Ken Henault; Paul Nickerson (late) and Mark Oswald, Town Council Liaison and voting alternate

Call to order

D. Lievens appointed M. Oswald to vote for the empty seat.

K. Henault made a motion to go into Non Public Session for the purpose of discussing possible land acquisition per RSA 91-A:3. G. Harrington seconded.

Roll call vote: Aye, Deb Lievens; Aye, Mike Speltz; Aye, Mark Oswald; Aye, Gene Harrington; Aye, Ken Henault; Aye, Mike Considine.

G. Harrington made a motion to go out of Non Public Session. K. Henault seconded. The motion was approved, 7-0-0.

G. Harrington made a motion to seal the minutes of the Non Public Session indefinitely. K. Henault seconded. The motion was approved, 7-0-0.

P. Nickerson* made a motion to authorize the Chair to expend an amount not to exceed \$4,000.00 from the Open Space Fund to enter into a contract to obtain an appraisal of three lots discussed in nonpublic session. G. Harrington seconded. The motion was approved, 7-0-0.

*(Paul Nickerson entered the meeting shortly after the nonpublic session began, therefore he was present but did not take part in the initial vote or roll call).

Carbon Coalition- The LCC received information this fall from the Carbon Coalition, urging local Conservation Commissions to initiate climate change resolutions to see if towns “will go on record in support of effective actions by the President and Congress” (see October 10, 2006 minutes). The LCC had voted to authorize the Chair to send a letter to the Town Council Chair requesting that a climate change resolution be included on the warrant for Town Meeting in March, 2007. D. Lievens reported to M. Oswald that she had emailed Town Council Chair Brian Farmer twice but had not heard back from him. M. Oswald said it had not been brought up at any recent Town Council meeting but that he would look into the matter.

December 26, 2006 meeting- The regularly scheduled meeting for December 26th is cancelled.

Musquash Field Day- Musquash Field Day has been scheduled for February 10, 2007. D. Lievens stated that she had contacted the UNH Cooperative Extension Service (co-sponsor of the event with the LCC), who will issue a press release to the local newspapers. She also contacted the owner of a wagon and horses that the LCC has used before who can provide wagon rides if there is snow. His services should cost approximately \$500-\$600 dollars, for which she said there are funds in the budget.

She then asked for volunteers to help coordinate the event. M. Considine said he would make the final arrangements regarding the horses, organize the refreshments and ask Eastern Mountain Sports if they will attend as they have in the past. P. Nickerson offered to help as well. If the Boy Scouts will be needed to assist again this year, it was believed that George Herrmann would be able to coordinate that.



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Hall Road junkyard- Ed Dudek, owner of Murray's Auto Recycling at 53 Hall Road, presented the LCC with a conceptual plan on November 28th to clean up the site and add a new structure designed to prevent further contamination caused by the dismantling of automobiles. While the LCC was very supportive of the project's potential to stop toxic runoff from reaching the surrounding wetlands, they had also discussed the possibility of moving the junkyard to another site to remove the threat entirely. (see November 28, 2006 minutes). The LCC had decided to see if the Town owned any land in a suitable zone that would meet the space requirements for the business. The Town Manager gave his findings to D. Lievens who relayed them to the LCC.

Rather than funding the majority of the cleanup as it was discussed at the previous meeting, the Town Manager determined that the Department of Environmental Services is actually only overseeing the "remediation of the specific petroleum spillage at the site" and "monitoring the land use approval process". E. Dudek clarified that DES is paying to have the contaminated soil removed while he pays for the rest of the cleanup.

It also does not appear that the Town owns any property that would suit the junkyard in terms of size and zoning. The Town Attorney has not yet replied as to whether Open Space funds could be used for such an endeavor, even if it is to conserve a newly cleaned lot. D. Lievens felt that even if a suitable privately owned piece could be found, the cost would probably be prohibitive. M. Speltz noted as he did before that E. Dudek could also locate an appropriate lot and purchase it with the funds the Town would pay to buy his Hall Road location. He added, however, that the appraisal of the land would be negatively impacted by the fact that any change to the current lot will nullify its grandfathered status. Therefore, the sale of his lot to the Town would probably not cover the cost of any 'new' lot. Since the November 28th meeting, E. Dudek has also considered that the cost of moving his business alone would be expensive, not to mention the effect of moving a well established operation to a completely different location.

E. Dudek is scheduled to appear before the Zoning Board of Adjustment on December 20, 2006 to request a variance from the Conservation Overlay District ordinance and allow a small part of his operation to impact the 100 foot buffer of the Little Cohas wetland which surrounds much of his lot. Considering that the failure to obtain the variance would result in the operation remaining outdoors causing further impact to the wetland, the LCC agreed to write a letter to the ZBA supporting E. Dudek's request. M. Speltz cautioned that the LCC needs to clarify that they have never supported any uses within a buffer since the COD was adopted (beyond permitted conditional uses). Despite the fact that support of this plan will set a precedent, it needs to be viewed as an exception based strictly on the specifics of this situation. The public should not construe from this action taken by the LCC that they would support any similar request without careful consideration and significant justification.

G. Harrington made a motion to authorize the Chair to issue a letter to the Zoning Board of Adjustment, stating that due to the reduced risk to the environment in the future, the LCC supports E. Dudek's request for a variance to build a structure, part of which will infringe on the Little Cohas wetland, but that they would also like to clarify that: 1) this situation has arisen out of a nonconforming use which is preexisting (i.e. grandfathered) and 2) while the variance would allow a significant improvement for the environment, the LCC would still ideally prefer to see the junkyard relocated (which would include the possibility of the Town purchasing the Hall Road property at fair market value) in order to add greater protection of the Little Cohas wetland. P. Nickerson seconded. The motion was approved, 7-0-0.

Moose Hill easement- M. Considine has submitted his portion of the annual monitoring report required for this easement to D. Lievens. G. Harrington will be completing his report soon.

There is still some confusion as to who currently holds the easement to this property. The Town Attorney's research has shown:



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1. Andy Mack sold the conservation easement to the Town
2. A. Mack donated the land for the Moose Hill Kindergarten to the Town of Londonderry
3. The Town, in turn, gave the land to the School District
4. The Town gave the conservation easement back to A. Mack

Questions still remain as to whether an individual (in this case, A. Mack or Moose Hill Orchards, Inc.) could legally hold the easement or allow the Town to violate it. It was also thought that perhaps the School was unable to accept the easement according to State statute. While these issues require further research for both legal and historical facts, the LCC feels that if they should at least have some executory interest in the easement from a preservation standpoint. M. Speltz offered to follow up with the Town Attorney regarding these issues.

Pillsbury Road sidewalk- The LCC has been pursuing the removal of a proposed drainage structure associated with this project from the buffer of the flax field wetland (see minutes of the July 11th, September 12th, September 26th and October 10th). Mike Cross of Moose Hill Orchards has told D. Lievens that some of the apple trees which cause the drainage structure to infringe on the buffer should be cut down since they are no longer productive. Andy Mack told D. Lievens that he is in favor of the sidewalk project and would not have an issue with the Town placing a drainage structure in his easement (see above topic). D. Lievens then spoke with the Town Engineer who said that if the trees are removed, the project engineer could be instructed to move the swale out of the buffer.

Higgins easement- D. Higgins would like to meet with the LCC regarding issues of mowing within the COD buffer on his property and whether the value of his property will decline if he is prohibited from maintaining a yard on his lot. The buffer would only come into play if D. Higgins decides to subdivide the property and there was some question as to whether the pond on his property is even large enough to warrant having a buffer under the ordinance. D. Lievens noted that it certainly was not the intent of the easement to restrict his use of the property if the buffer was activated. M. Speltz suggested that he and D. Lievens meet with D. Higgins first to better understand the issues and then have him attend a meeting.

Plummer easement- At the last meeting, D. Lievens had updated the LCC about a property owner whose fish pond was possibly encroaching on the Plummer easement. It was thought that the fish pond had been removed and replaced with an inground pool. After another visit to the site, it was found that the inground pool actually belonged to the owner next door. D. Lievens met with the son-in-law of this owner who stated that he is very interested in resolving the issue.

In both cases, boundary line issues need to be resolved. M. Speltz offered to review the subdivision plan.

Community Open House- M. Oswald stated that local Re/Max real estate office is sponsoring an open house for non-profit groups on January 28, 2007, from 1pm to 3pm at the Londonderry High School. D. Lievens noted it would be a good opportunity to inform the public about the benefits of the Open Space Plan and about conservation in general. M. Speltz and M. Considine are both considering attending.

November 28, 2006 minutes- **G. Harrington made a motion to approve the minutes of the November 14, 2006 public session as written. M. Speltz seconded. The motion was approved 7-0-0.**

G. Harrington made a motion to approve the minutes of the November 14, 2006 nonpublic session as written. P. Nickerson seconded. The motion was approved 7-0-0.



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1. Scobie Pond substation expansion, 13-111 and 13-110
No comments

2. Gillette residential subdivision, 1-63
No comments; issues addressed at CUP presentation.

Saving Special Places conference 2007- M. Speltz provided an update regarding this April 14, 2007 conference to be held at the Londonderry Middle School (see October 10th and 24th minutes). Since the conference will be an ideal opportunity for the LCC to share their various successes with land conservation, M. Speltz has been trying to plan which sites would be best to bring attendees to during the “field trip” portion of the event.

He suggested bringing people to the Musquash to demonstrate how the Open Space process begins with the identification of specific natural resources and their location. A trip to the Ingersoll property would provide an example of what can be achieved when individual groups work together to conserve open space.

Because of the limited amount of time allotted for that portion of the conference, it was also thought that perhaps a trip to Moose Hill in place of Ingersoll would not only save time but exhibit the benefits of development rights and the preservation by the Town of the Apple Way. It might also be possible to offer two different field trips, one being longer than the other, or to utilize the half hour breaks given between presentations to use as travel time. The issue will be visited again at a later date.

D. Lievens, M. Speltz, M. Considine, P. Nickerson and K. Henault will all contribute their time to help host these field trips.

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

Respectfully submitted,

Jaye Trottier
Secretary