



Londonderry Conservation Commission
Tuesday, January 24, 2006
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Present: Deb Lievens, Gene Harrington, Mike Speltz, Mike Considine (non-voting; to be sworn in) and Ken Henault

Call to order

Page Road culvert D+F- Mike Leach of Vollmer Associates presented a Dredge and Fill application for the Town's replacement of a culvert spanning lots 17-32A and 17-35 on Page Road. The Town's Department of Public Works initiated this project based on their concern for the stability of the older, previously repaired culvert, combined with the narrowness of the road there, the lack of guard rails and the increasing amount of traffic. The upstream end is currently a box culvert while the downstream side was mended some 20 years ago with 30 inch RCP pipe. New twin 36 inch RCP pipes would be installed, increasing flow for this outlet to Brickett Meadow. Guard rails would be added for safety while rip rap would stabilize the embankment. In addition, that section of road would be widened beyond the width of the rest of Page road to meet current Town standards. M. Leach presumed this would be done in anticipation of future growth.

Wetland infringements would total 3,130 sf; 2,280 sf of permanent impact for the rip rap and headwall and 850 sf of temporary impact during construction. Buffer impacts were also discussed since wetlands border either end of the culvert. Downstream disturbance would total roughly 1,450 sf while 2,325 sf would be impacted on the upstream side. M. Leach noted that some of the buffer impact was due to the bypass piping that would occur temporarily to maintain water flow during construction.

D. Lievens noted that the LCC had purchased an easement on 17-32A in October of 2005. G. Harrington asked if the construction would extend beyond the Town right of way. M. Leach confirmed it would go onto private property, posing a question about whether the terms of the conservation easement on 17-32A would allow for such a disturbance. M. Speltz asked M. Leach to investigate the easement deed to clarify the issue. He added that while the owners of 17-32A may have given permission for the work on their property, they may not have even been aware of the potential conflict. Since the Town is the easement holder on 17-32A, M. Speltz suggested that a 'friendly condemnation' could occur, whereby the Town could specifically condemn whatever portion would be affected per the plan in the name of public safety. Because the LCC routinely seeks out mitigation for impacts, he also recommended that the Town's set a good example by pointing to some sort of mitigation in this case, even if it would be for condemning part of their own easement. It was decided that the increased flow, the guardrail and the 2:1 slopes involved were offsetting factors in this instance.

Aside from the easement issue and buffer encroachments, the LCC did not have any other concerns with the plan. M. Leach will investigate the easement deed and contact D. Lievens.

Legislative issues- G. Harrington summarized several proposed bills and legislative topics he felt were of interest to the LCC.

The first issue emphasizes the importance of Londonderry's wetlands ordinance being part of their zoning ordinance. The Town of Tamworth also has a wetlands ordinance but has no zoning. Owners of a racetrack there tried to have the wetlands ordinance overturned and were unsuccessful but have now appealed the court's ruling based on the argument that the State's laws regarding wetlands supersede those of the Town. Because Londonderry's wetlands ordinance are part of their zoning ordinance, they are not vulnerable to being supplanted by the State. There may be, however, implications for other towns who do not have zoning ordinances.

House Bill 1339, regarding Planning and Zoning, proposes that a tie vote of a local land use board (e.g. conservation commission) constitutes an approval of a motion. While the LCC does not experience many tie votes, there are still concerns because of their association to the Town's Planning and Zoning Boards.



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HB 1366 would seek to prohibit local land use boards from requiring public access to designated open space as a condition of subdivision approval.

HB 1655 would require DOT to construct a rail system to compliment the widening of I-93.

The Right to Know law may be revised as it applies to electronic communications.

HB 1259 would necessitate the Department of Environmental Services to classify non titled wetlands as either contributing or noncontributing. Those considered noncontributing would be deemed to have little or no value and would not be regulated by the State or its agencies.

Senate Bill 140 would allow DES to accept payment in lieu of compensation mitigation for wetlands impacts.

Elliot Healthcare Systems D+F- While technically a Minimum Impact D+F, this was filed with the Town Clerk as a standard D+F. The work would take place in the New Hampshire Department of Transportation right of way on Mammoth Road in the vicinity of CVS and the proposed Elliot site. The intent is to widen the road for turn lanes. Three sites of wetland impact would total 595 sf.

After reviewing the plan, **G. Harrington made a motion to authorize the Chair to send a letter to the Wetlands Bureau stating the LCC has no objection to the D+F. M. Speltz seconded. The motion was approved, 4-0-0.**

M. Speltz followed up on the issue of who would hold the viewshed easement that the LCC had requested on the lot between Elliot's site and Route 102. While the LCC had no particular need to hold the easement, it was decided that their experience with and established system for them would make the LCC the logical choice.

December 13, 2005 minutes-

Public session: **G. Harrington made a motion to accept the minutes of the December 13, 2005 public session as presented. K. Henault seconded. The motion was approved, 4-0-0.**

Non public session: **G. Harrington made a motion to accept the minutes of the December 13, 2005 non public session as presented. M. Speltz seconded. The motion was approved, 4-0-0.**

January 10, 2006 minutes-

Public Hearing: **G. Harrington made a motion to accept the minutes of the January 10, 2006 public hearing as presented. K. Henault seconded. The motion was approved, 4-0-0.**

Public Session: **G. Harrington made a motion to accept the minutes of the January 10, 2006 public session as presented. K. Henault seconded. The motion was approved, 4-0-0.**

DRC's (5)-

1. Alcumet, Inc., 14-13

Comments: The Commission appreciates the efforts of the applicant to move the cul de sac out of the wetland. We note that no buffer is delineated. Therefore, we are led to believe the wetland is less than ½ an acre. We would like to know the exact size of the wetland to resolve the question as to whether or not there is a buffer impact and need for a CUP. Sheet one of the previous proposal does have a buffer but sheet two showing the new cul de sac does not. No snow storage.

2. Mohawk Dr. Retail Plaza, 6-37 & 6-38

Comments: Are there any wetlands on the Mohawk Drive side? There is need for a designed culvert to drain something. No wetlands scientist stamp. We appreciate efforts to retain the large oak tree. The Commission recommends that a construction safety fence surround the



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tree out of the drip zone of the tree. Any trenching or disturbance to the roots will be detrimental to the tree's health.

3. Londonderry Housing Authority, 6-6, 6-6-1 & 6-6-2
Comments: No cut buffer should be marked with proper signs.
4. Mark Investments LLA, 6-49, 6-51 & 6-52
Comments: No comment.
5. Gagnon Retail Plaza, 15-128 & 15-129
Comments: No snow storage marked. No landscape plant list.

LCC webpage- Carolyn O'Connor will be working with Jaye Trottier to ensure the LCC's agendas and minutes are on their webpage at www.londonderrynh.org. She will also be posting Musquash Field Day information there along with maps and photos of various sites once they are available.

Accounts- M. Speltz reported that at their January 23, 2006 meeting, the Town Council voted to approve the \$1 million bond for the warrant article at Town meeting.

D. Lievens entertained a motion to authorize payment of \$57.28 from the line item budget to the Chair for expenses incurred dating back to July 1, 2005. K. Henault so moved. G. Harrington seconded. The motion was approved, 3-0-1 (D. Lievens abstained).

With the approval of the above expense, D. Lievens stated that \$167.00 would remain in the line item budget. She then suggested that if a horse and wagon were able to attend Musquash Field Day (see 'Musquash' below), that the entire \$600.00 due should be taken from the Conservation Trust Fund as it pertains to management/educational purposes. **K. Henault made a motion to authorize the Chair to expend an amount not to exceed \$600.00 from the Conservation Trust Fund for the horse and wagon for Musquash Field Day. G. Harrington seconded. The motion was approved, 4-0-0.**

George property- At their January 23, 2006 meeting, the Town Council approved the purchase of the George property (see January 10, 2006 public hearing minutes).

Musquash Field Day- D. Lievens passed out flyers for LCC members to post at various locations. M. Considine reviewed all of his preparations and confirmed EMS would attend. K. Henault reported that all three Boy Scout troops in town will be on camping trips that weekend, so very few will be available to provide assistance. Paul Dionne will now be the guest speaker. Scott from MJS Farm is unsure whether he will be able to attend since he has viewed the site. If there is snow, he can bring his sleigh but without snow, he feels the terrain is too rocky for his wagon.

Monitoring- Karen Rubin will be able to attend an LCC meeting in March to review her monitoring reports. She will be finishing her final report on the Higgins property sometime after the start of the next fiscal year.

Intern- D. Lievens was in contact again with Chris Kane and let him know the LCC was still interested in services for baselines this spring. C. Kane was also still interested.

Officers- **M. Speltz made a motion to nominate D. Lievens for Chair of the LCC. K. Henault seconded. The motion was approved, 3-0-1.**



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K. Henault made a motion to nominate G. Harrington for Vice Chair of the LCC. M. Speltz seconded. The motion was approved, 3-0-1.

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

Roll call vote: Aye, Deb Lievens; Aye, K. Henault; Aye, Gene Harrington and Aye, Mike Speltz.

M. Speltz made a motion to go out of Non Public Session. G. Harrington seconded. The motion was approved, 4-0-0.

M. Speltz made a motion to seal the minutes of the Non Public Session indefinitely. G. Harrington seconded. The motion was approved, 4-0-0.

K. Henault made a motion to authorize the Chair to expend up to \$2,500 for half the cost of the appraisal for the parcel discussed in non public session. G. Harrington seconded. The motion was approved, 4-0-0.

Londonderry Access Center- D. Lievens announced that the LAC is offering 15 minutes of airtime to non-profit groups like the LCC for informational advertising. Time slots will be available for taping on February 16th from 5pm to 9pm.

Open Space Task Force- The first meeting of the 2006 Open Space Task Force will take place on Wednesday, January 25th. M. Speltz requested that the Open Space subdivision ordinance be placed on the LCC's February 14th agenda.

NHACC- G. Harrington informed the LCC that Marge Swope, current Executive Director of the New Hampshire Association of Conservation Commissions, is retiring. A committee is looking for her replacement, of which G. Harrington is a member.

G. Harrington made a motion to adjourn. M. Speltz seconded. The motion was approved, 4-0-0.

Respectfully submitted,

Jaye A. Trottier
Secretary