

North Hampton Conservation Commission
Meeting Minutes
December 9, 2014

Administrative

Roll Call

The meeting was called to order at 7:10pm. Present were Chris Ganotis (Chair), Lee Brooks (Vice Chair), Kathy Grant, Russell Jeppesen, Peter Robie, Philip Thayer, Lisa Wilson and Alternate Sally Bruce-Stoklosa. Members of the public included Bradley Anderson, Micah Denna, Kathleen Kilgore, Wally Kilgore, Casey O'Kane, Sean O'Kane, Richard Luff and Jim Wheldon.

Consideration of Minutes

After review of the October 14, 2014 minutes, *a motion was made by Lee Brooks, duly seconded by Peter Robie, to accept the minutes as written with one minor correction.* The motion carried with a unanimous vote, with Philip Thayer abstaining.

The Chair then read for the public record, a statement of the conditions of easements with respect to conservation issues and the roles, responsibilities and duties of the Conservation Commission. The statement is appended to these minutes.

FB Environmental Invoice

The Chair presented a final invoice for \$1,286.15, to be paid for sampling and testing baseline data for the Winnicut River. *A motion was made by Kathy Grant, duly seconded by Philip Thayer, to pay the invoice for \$1,286.15.* The motion carried.

NH Association Conservation Commission Annual Dues 2015 Invoice

The Chair presented an invoice to continue membership for 2015 for the Conservation Commission. *A motion was made by Lisa Wilson, duly seconded by Lee Brooks, to pay the invoice for \$303.00.* The motion carried with a unanimous vote.

New Business

Expedited Permit Application for septic system

Mr. Micah Denna of Septic Designs of NH requested authorization to install a holding tank at one of the fish houses located at Map 1, Block 144 off of Rte. 1A, between the house and Rte 1A where the most minimal impact would be. After some discussion, *a motion was made by Lisa Wilson, duly seconded by Peter Robie, to approve and authorize The Chair to sign off on behalf of the Commission, an expedited permit application for a 2,500 gallon tank with an alarm by Septic Designs of NH.* The motion carried with a unanimous vote.

Expedited Permit Application for Sagamore Golf Driving Range

Richard Luff requested an expedited permit application approval to clean out some drainage ditches in the back of the Sagamore Golf Driving Range, which will not disturb wetlands. After some discussion, *a motion was made by Lisa Wilson, duly seconded by Philip Thayer, to authorize the Chair to sign off on behalf of the Commission, the*

expedited permit application for Sagamore Driving Range. The motion carried with a unanimous vote.

Planning Board Sub-division Plan Withdrawal Application

The applicant at 225 Post Road withdrew the application to the Planning Board to construct a driveway off of Post Road and decided to use the existing right-of- access to the property. The Director of Safety/Police Chief had recommended against the proposed driveway.

Trail Use Notification Form – Corbett Conservation land

A Trail Use Notification form to DES was needed to allow construction of two bridges over streams for an Eagle Scout hiking trail project. An administrative matter was resolved to advise DES that the three parcels which, were placed into Conservation were later changed into a single parcel, Tax 15, Lot 17. The application form was approved on December 8. Trails were cleared and re-routing of the red and yellow trails and made into a single red trail. Phil Thayer reported that his son, Ben Thayer completed his Eagle Scout project.

Lamprey Homestead Easement

Mr. Casey O’Kane of Atlantic Ave. expressed his concerns with changes in the Conservation property subject to the Lamprey Homestead Easement Agreement executed in 1993. He questioned whether building on the property was a barn and whether it should have been moved onto the Conservation property. He also raised questions regarding a 9 foot height of the foundation of the structure. He inquired as to whether the easement has been violated with the building being moved, raised and the addition of evergreen trees, which he asserted were blocking the view. He added that the town needs to protect and enforce the terms of the easement and indicated that he had difficulty with finding town records regarding this property.

The Chair convened with the Rules of Procedure to the Commission for an understanding of how to proceed with this project and the terms of the easement. He clarified that only the Conservation Commission, and not other Town Boards, town administration personnel or the any third parties had the responsibility for deciding whether the easement has been violated. The discussion by the Commission focused on two main questions: 1) Whether placing the barn on the Conservation parcel violated the Conservation easement that was granted to the town and 2) whether there is significant impairment of the conservation values of the property. There were no objections to the Rules and Procedures by the Commission.

The Chair then opened the deliberations of this matter.

After continuing discussion, ***a motion was made by Philip Thayer, duly seconded by Lisa Wilson, to table a decision of whether the easement has been violated until after the Commission has a better understanding of the intended agricultural use of the barn and other terms of the easement by scheduling a site walk with the owner before the***

next Commission meeting. The motion carried with a unanimous vote. The Commission requested that the Chair make arrangements with the owner for the site walk.

Proposed Planning Board Amendments to Wetlands Ordinances

The Chair reviewed with the Commission, the proposed amendments in the Ordinances to address matters concerning protection of wetlands. A Public Hearing is scheduled for Dec. 16, 2014 to seek public comment regarding the approval of proposed amendments as warrant articles for the 2015 March Town Meeting warrant. The Chair then reviewed with Commission members, all seven amendments, which are proposed to better protect the wetlands and wetlands buffers. After some discussion, *a motion was made by Philip Thayer, duly seconded by Lisa Wilson, that by Resolution, the Conservation Commission supports the efforts of the Planning Board in its proposed amendments to the zoning ordinances to further protect wetlands and wetlands buffers.* The motion carried with a unanimous vote.

Old Business

Boy Scout Eagle project updates

Philip Thayer has a Scout in his Troop, Eagle Candidate Ryan Rainsford, who is requesting Commission approval to do his Eagle Scout project to plant a row of trees along the I-95 fence boundary, on the Marston Farm Conservation land on which the Community Garden is located. He will be asked to make a proposal to the Commission at its next meeting.

Matt Dufour successfully completed his hiking trail project on the Old Farm Conservation parcel and he received his Eagle Scout Award.

Trail Use Communication - Old Farm Trails on web site

Lisa Wilson has no new information to post for the web site at this time. Phil Thayer will obtain and submit a DES Trail Notification application in the spring for a bridge and plans to place blue trail markers on trails by the end of this month.

Signs for Conservation Parcels: Old Farm sign status

Lisa Wilson reported that the shipment of two signs arrived today for two parcels and ready to install after the Commission agrees on the specific locations of the signs. An additional \$93 was spent for a second post. The total cost was \$1,513.50. She requested a new motion for the full amount of the signs to be paid and disregard any previous motions since the purchase order and invoice have not yet been submitted to the town. *A motion was made by Lisa Wilson, duly seconded by Philip Thayer, to withdraw \$1,513.50 from the Capital Reserve #8 Fund to pay for the 2 bronze signs and 2 posts.* The motion carried with a unanimous vote. Lisa will speak with John Hubbard for installing the signs.

Other Correspondence

April Meeting Minutes

Lee Brooks mentioned that the April 2014 meeting minutes are not on the Town's website. The Chair will look into this.

Winnicut River Watershed Commission

The Chair met with the Chairwoman of the Winnicut River Watershed Coalition regarding involvement with the NH Rivers Council and DES for initiating a Winnicut River Watershed Management plan. A meeting will be held the week of January 20, 2015 to discuss this matter.

Rails to Trail Meeting in December

A meeting will be held on December 11, 2014 at 3:00pm in the Town office with Paul Cutera officiating.

Application for Lot Line Adjustment

The Southeast Land Trust has been working with the Rand family, who owns a wood lot off South Road, for a lot line adjustment. The property survey indicated a structure encroachment on the land. The land on which the encroachment was located was sold and the adjustment was needed for this change. Mrs. Rand intends to place the land in conservation, under SE Land Trust stewardship, in memory of her husband and son.

There being no further business to discuss, *a motion was made by Lee Brooks, duly seconded by Peter Robie, to adjourn the meeting.* The meeting adjourned at 9:25pm. Respectfully submitted,

Beverly Moore

“These minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 2,11. They will not be finalized until approved by majority vote by the Conservation Commission.”

MEETING MINUTES APPENDIX

Lamprey Farm Conservation Easement issues

Facts of Conservation Easements and Commissions

The North Hampton Conservation Commission is a duly appointed 7-member group of citizen volunteers who are totally committed to protect the Town's natural resources such as rivers, streams, ponds, wetlands, wetland buffers and marshes and to preserve the rural character of the Town. The Commission is dedicated to serving the public interest.

Our Rights and Obligations are governed pursuant to RSA 91A and RSA 36A. We do not have the authority to make commitments on behalf of the Town, but may make recommendations or provide testimony to Town Boards regarding the protection and preservation of Town Natural Resources.

We currently have a policy which prohibits taking land out of Conservation. We have never challenged the inherent and legally binding rights of citizen land owners who have conservation easements pursuant to the Easement Agreement. An easement is defined as " a right or privilege that a person may have in another's person's land. A "**Reserved Right**" allows the owner of the land to designate specific rights which he/she chooses for their own and as included in the easement agreement.

Tonight's meeting

We take the decision of a Violation of a Conservation Easement very seriously and that decision is vested with the Conservation Commission alone and not by any Town Board, administrator, administrative staff member or any other third party.

The role of the Chair of the Commission is to administer the meetings. The Chair has no further authority to make unilateral decisions on behalf of the Commission nor to engage in discussions or deliberations by phone or e-mail of Commission business matters, in the absence of a quorum of Commission members, pursuant to RSA 91A. The Chair has only one vote and actionable decisions are made by a vote by quorum of Commission members in a posted public meeting. Decisions are made by members based on the facts at hand at the time and on what is deemed to be in the public interest.

Historical

Building Permit already issued by the building inspector. The Conservation Commission has no authority to intervene in the decision of the Building Inspector.

The thirty day appeal period for the building permit had lapsed with no challenge

Easement language clearly stated that a barn could be allowed on the property.