

North Hampton Conservation Commission
Special Meeting
Tuesday, September 29, 2015
North Hampton Town Hall
As approved

1. Administrative

The meeting was called to order at 6:34 PM. The Agenda was posted pursuant to RSA and Town Policy requirements.

Roll Call

Attendance included Chris Ganotis (Chair), Lisa Wilson (Vice Chair), Kathy Grant, Russell Jeppesen and Andy Vorkink. Phil Thayer arrived at 6:50 p.m. Having a quorum, the meeting was opened for business.

2. New Business

Lamprey Farm 54 Atlantic Ave., Map 1 Lot 65

To discuss and determine whether excavation to manage drainage currently reported to be affecting farmland may be in violation of the Conservation Easement

The Chair opened the meeting to announce that the Commission would direct the meeting to establish procedural matters before dealing with the future process of deliberating on the alleged Lamprey Farm easement violation in a complaint.

Chris Ganotis discussed with the Commission the need to implement procedures to properly address alleged Conservation Easement violations to improve the line of communication and to ensure that the Conservation Commission is notified in a timely manner of any possible violations of conservation easements. Such procedures will help the Commission better address any potential violations now and in the future.

In addition, to attempt to eliminate communication about alleged violations via email, the Commission wishes to establish a more formal approach to addressing such complaints in conforming with the views of the Office of Attorney General in his recent report.

After discussion, *a motion was made by Andy Vorkink, and duly seconded by Phil Thayer to adopt a "Conservation Easement Violation Complaint Form.* It will require written descriptions of the alleged violation, the easement provision for which the alleged violation applies and supporting documentation stating the facts of the complaint. A copy of the Complaint form is appended to these minutes. In response to the question from the public, the form is scheduled to be available in the next few days.

A second motion was made by Andy Vorkink and duly seconded by Philip Thayer to send a letter to the owner of Lamprey Farm, 54 Atlantic Avenue, to formally notify the owner of the alleged complaint and to request that the owner provide all information pertaining to activity on the land. The motion further authorizes the chair and another member of the Conservation Commission designated by the Chair to meet with the owner to better understand the nature of recent activity on the site and to discuss any alleged violations. The chair will

then schedule a Special Meeting of the Conservation Commission to discuss and address the findings .

In the event the Commission decides that a violation has occurred, the Commission would then formally notify the owner under the easement and as required by the easement terms give the owner 30 days to remedy such violation. If the violation had not been remedied, the Commission would have the right under the easement to take legal action under the easement.

Members of the Commission then discussed common misconceptions regarding conservation easements and subsequent conservation easement ownership. Conservation easements are tailored to the specifications of both the grantor and grantee and give both the grantor-owner and the grantee-easement holder rights and responsibilities as set out in the easement.

It is important to clarify that common conservation easement terms and language are often dictated by the Internal Revenue Code and state laws, such as the New Hampshire RSA 79A, pertaining to agriculture. For example, open space is a term defined by RSA 79A as preserving land, preventing development but permitting agriculture and forestry. Open space and scenic views of the public from highways (another required term) does not necessarily mean the land is devoid of planted vegetation or trees or required to be left in its natural state. Open space and scenic view easements which specifically permit agriculture allow the owner to conduct farming so long as the activities are consistent with the terms of the easement including its overall purpose. As an example of such terms is whether the property subject to an easement is open or closed to public access depending on the terms of the easement specified by the grantor in the easement.

Pursuant to recommendations by the Office of the Attorney General to improve lines of communication regarding alleged conservation easement violations, the Commission has implemented the following steps:

1. Created a Conservation Easement Violation Complaint Form
2. Created a Conservation Easement Database
3. Blue tagged files for properties that hold conservation easements to better alert the building inspector and other members of the public of the need to note the specific terms of conservation easements prior to any activity on such land and to inform the Conservation Commission of any proposed plans on land encumbered by a conservation easement.
4. Worked with the Town Administrator to issue a directive to Town department heads to inform them of the blue tagged properties and the need to inform the Conservation Commission of any communications or permits requests sent to the Town involving such properties.

Further discussion ensued about taking proactive steps to ensure that the terms of conservation easements are not violated in the future. The Commission also discussed that the Commission for example, may contact the police department to investigate a “tip” from a resident who reported an event such as illegal hunting or use of an ATV on conservation land that prohibits such activity.

Janet Gorman, of 41 Atlantic Avenue, asked the chair whether complaints and other information pertaining to alleged violations would be available to the public. The chair's response was that complaints via the communication procedures to be implemented will be available to the public.

A motion was made to adjourn the meeting by Kathy Grant, duly seconded by Phil Thayer.
There being no further business to discuss, the meeting adjourned at 7:20 P.M.

Respectfully submitted,
Chris Ganotis, on behalf of the Conservation Commission

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