

WOLFEBORO CONSERVATION COMMISSION
November 11, 2013
MINUTES

Members Present: Dan Coons, Chairman, Gail Antonucci, Dave Wheeler, Ed Roundy, Lenore Clark, Art Slocum, Members, Gary Mason, Alternate.

Members Absent: Randy Tetreault, Vice-Chairman, Sarah Silk, Alternate.

Staff Present: Lee Ann Keathley, Secretary.

Chairman Coons opened the meeting at 6:36 PM at the Wolfeboro Town Hall Meeting Room.

Consideration of Minutes
October 14, 2013

It was moved by Lenore Clark and seconded by Dave Wheeler to approve the October 14, 2013 Wolfeboro Conservation Commission minutes as submitted. All members voted in favor. The motion passed.

Dredge & Fill Minutes
October 14, 2013

It was moved by Ed Roundy and seconded by Lenore Clark to approve the October 14, 2013 Wolfeboro Conservation Commission Dredge & Fill minutes as submitted. All members voted in favor. The motion passed.

Discussion Items

- **Front Bay Park**
No report regarding the canoe ramp.

Guests: John Struble, Kathy Barnard, Mike Hodder

John Struble stated he is concerned about the path that was constructed along his property line and oriented the Commission as to the location of his residence. He stated he has lived there for 22 years, spent thousands of dollars improving his property, established a grove in the back of his property and has never been exposed in a way that he is now. He stated he was provided misinformation by Dan Coons; noting this past summer Mr. Coons informed him the invasive species would be removed on the Town's parcel. He stated a walking path was constructed instead. He stated he received no notification and questioned Mr. Coons as to whether it was the Commission's intent to construct the path and Mr. Coons replied no. He stated following the Town's improvements to the Elm Street pathway he noticed stone dust at the entrance of the Front Bay Park path. He stated the Pathways Committee and the Conservation Commission has created an unobstructed public access to his property and he is appalled by such. He stated there is no vegetative buffer this time of year and questioned whether he now has to live with his shades drawn. He stated nine years ago he constructed a \$45,000 cabin which houses thousands of dollars of his partner's equipment and expressed concern for teens trespassing onto his property. He

again stated there is complete public access to his property, there are no trash receptacles and questioned the Commission's plan to maintain the area. He expressed concern for potential fire hazard from smokers walking the path. He stated he is very upset, disturbed, feels invaded and that his property is now exposed to threats, intrusion and trespassing and the pathway impacts his ability to use his property and feel safe. He stated he is so upset that it is interfering with his work because he feels completely exposed. He stated there are two areas along the path where there is no setback (path was constructed against the stone wall). He stated he was not notified in any formal way, not part of any discussion and asked why he wasn't notified. He asked who is responsible and under what legal authority did they act upon.

Kathy Barnard stated the Pathways Committee discussed accessing Front Bay Park to Elm Street approximately one year ago while discussing improvements to the intersection of Bay Street and Elm Street. She stated Dave Ford and the Pathways Committee conducted a site visit and agreed to the improvements. She stated she contacted Dan Coons and Ethan Hipple regarding accessing the park from Route 109A and in November 2012 she, Vaune Dugan and Dan Coons conducted a site visit to determine the location of the path. She stated it was noted the driest area for the path was along the property line of the Struble residence and spoke to Ethan Hipple regarding the cutting of the pathway. She stated Dave Ford placed stone dust at the entrance to improve access to the walkway.

John Struble asked why he was not contacted and stated that if he had been consulted that it may have been possible to meet an agreement. He stated there has never been public access to his property and the pathway is an intrusion. He stated that if the beavers populate the area again the area will flood (beavers have not been there for 16 years). He stated he wants to know why he was not consulted or informed, the legal basis for making the decision and why no setback is required. He stated what has been done is not right or legal.

Kathy Barnard stated she contacted both Parks and Recreation and the Conservation Commission. She noted the Pathways Committee is a Board of Selectmen appointed committee; noting the charge of the committee is to connect different areas of town.

Lenore Clark stated the pathway came about as a result goals of the Master Plan.

John Struble asked who is accountable.

Kathy Barnard stated the Committee is a BOS appointed committee.

Dan Coons stated there is no setback requirement for the construction of the pathway.

John Struble stated he had to adhere to a setback when he constructed his shed.

Dan Coons stated such relates to a building setback.

John Struble stated he wants the path eliminated, he wants it gone, and is past the point of compromise. He stated he is insulted by the action and would have worked with the Commission if he had been included in the beginning.

Lenore Clark asked if the Commission built any trails while he was a member of the Commission.

John Struble replied no.

Rob Houseman stated the Front Bay parcel was acquired through LCHIP funds with the intent for the property to be a park for use by the public; noting an earlier plan included a boardwalk through the beaver pond. He stated Mr. Struble has always made his intention clear regarding the protection of his property. He stated in recent history, the property has evolved to be a public place and the vision of Front Bay Park created the opportunity for the public to be engaged in use of their public land. He recognized that change is hard however, the project as a whole is an asset to the community despite its impact to Mr. Struble's property. He stated Mr. Struble benefits from a large piece of conservation land abutting his property. He stated the Town has owned the property since 1989 and only until recently has the property been used. He stated the Commission and Pathways Committee did not act in an inappropriate or illegal manner. He stated that although cutting along the property line may have offended Mr. Struble, it was legal and offered an opportunity for improvements along the property line such as plantings or a fence.

John Struble stated constructing the path was clearly an afterthought.

Rob Houseman stated the construction of the pathway was observed as an opportunity that arose from the creation and existence of Front Bay Park.

John Struble stated opportunity for his input was denied and that he received contradictory information prior to the establishment of the pathway. He asked if the intent was to construct the pathway or manage invasive species.

Rob Houseman replied both.

John Struble asked who would police the area, pick up the trash and place no smoking signs along the pathway.

Rob Houseman stated typically abutters and users of the property would police the area. He noted that prior to the Town's acquisition of the parcel, the property was intended for a condominium development.

John Struble stated he is aware of the latter.

He stated the Committees meant no harm in their actions.

John Struble stated he is now exposed to potential damages from the construction of the path.

Rob Houseman stated he does not feel risk is present.

Mike Hodder stated two parts of the Front Bay Park project were omitted at the time of the original design; dog station and access to Elm Street. He stated the intent of the path was to create a safe pedestrian pathway to access the park from Downtown. He stated he uses and monitors the park and has never found litter, beer cans, etc. or destruction to the trees or gazebo and expects the same condition to be found along the path.

John Struble stated the first good rain storm or fire hydrant flushing will wash the stone dust into the marsh and asked if there is a practical solution to the problem or does he have to live with his shades drawn.

Dave Wheeler asked Mr. Struble what would he have considered a mutual agreement if he had been included in the discussion earlier.

John Struble replied I don't know however, there could have been an alternative approach.

Dave Wheeler asked what the alternative approach would have been.

John Struble replied I don't know.

Mike Hodder stated he notified all the abutters as a courtesy for the Front Bay Park project; noting there was no legal obligation to do so.

Rob Houseman noted there are eight abutters to the Front Bay Conservation Area parcel. He reviewed the history of the creation of the Cotton Valley Rail Trail and Sewall Woods and noted none of the abutters were notified at the time of the improvements to such.

Ed Roundy stated the establishment of a pathway from Front Bay Park to Route 109A is valuable to the Town and noted the path is located on Town owned land.

Relative to the location of the pathway, Lenore Clark recalled the existence of wetlands were an issue.

Dan Coons stated he delineated the wetland boundaries for future planning and pathways.

Ed Roundy recommended signage at the entrance of the path on Route 109A and a buffer between the path and Mr. Struble's property. He recommended Mr. Struble be included in the discussion of such.

Rob Houseman questioned the opportunity to use the common property line as a planting demonstration to include the elimination/management of invasive species and installation of a buffer.

Dave Wheeler asked if fencing would be appropriate.

John Struble questioned the practicality of such due to the location of the stone wall and feels no trespassing signs would not be in the character of the land. He stated he has no privacy in his backyard and it may be more realistic to construct a fence to the rear of and on his property.

Dan Coons stated he has observed "please respect the privacy of neighbors" signs at trailheads.

Rob Houseman offered to facilitate resolution with Dan Coons and Mr. Struble with plantings in spring 2014. He stated he would submit a conceptual plan of alternative solutions to the Commission.

Kathy Barnard stated it is important for the Commission members to look at the path on site prior to an agreement.

Rob Houseman questioned the volume of use of the Elm Street pathway.

John Struble stated such is a 3 season pathway and not heavily used.

Ed Roundy stated an alternative entrance to the path should be considered (access path further up Elm Street).

Art Slocum verified Mr. Struble had knowledge at the time of his purchase that the property abutted conservation land/public land with the intent to improve the area.

John Struble stated knowing 8.5 acres of conservation land abutted the property was a principle factor in his purchase of the property. He stated he is not suggesting the Town does not have the right to make use of their property. He stated the issue is safety of his property and the path was constructed without his notification and consultation.

Art Slocum stated Mr. Struble is making an assumption there are safety issues as a result of the pathway.

Ed Roundy asked if a path can go through wetlands without a permit.

Dan Coons replied yes, a foot path.

The Commission discussed an alternative location to the entrance of the pathway on Elm Street and agreed that Rob Houseman, Dan Coons and John Struble would further discuss the matter and resolve the issue.

Dave Wheeler stated in the future the Commission should notify abutters to work being done on Town conservation land.

➤ **Invasive Species Management & Trail Building**

Dan Coons stated he attended the NHACC annual meeting where he learned that two organizations participate in trail building for State parks and Conservation Commissions; Student Conservation Association (SCA) and Appalachian Mountain Club. He stated a crew from SCA can be hired to build trails and/or assist with the management of invasive species. He stated the crew would camp onsite for the duration of the project. He recommended requesting an estimate for services at Bill Rae Conservation Area from the SCA; clearing, grading and a walking path.

Art Slocum questioned the estimated distance of trail at the Bill Rae Conservation Area.

Dan Coons replied approximately 2,000' (North Line Road to the pond).

Art Slocum verified a site visit by the SCA would occur.

Lenore Clark verified the project would be scheduled for spring 2014.

➤ **White Face Mountain**

Dan Coons stated Moose Mountain Regional Greenways (MMRG) is in the process of becoming a land trust and therefore, holding the conservation easement on the property is currently beyond their resources. He stated Lakes Region Conservation Trust (LRCT) is not ready to move forward with the project until after the first of the year. He stated the total fees for the acquisition of the property is \$80,000 (including survey and legal fees). He stated he spoke to Don McBride who informed him the Land Bank is able to provide \$25,000 towards the purchase and asked the Commission if they would support the expenditure of \$55,000 from the Conservation Commission Land Fund to complete the transaction. He stated to expedite the acquisition of the property, he recommended a conservation deed restriction (to satisfy the conditions of subdivision approval by the Planning Board) to provide time to fundraise by MMRG and LRCT for additional fees related to the conservation easement. He stated additional language such as "property to be managed by the Conservation Commission" could be included in the deed.

Ed Roundy asked if LRCT would expect a maintenance fee.

Dan Coons replied yes and noted fundraising would pay for the easement expenses and possibly reimbursement of a portion of the acquisition fee.

Ed Roundy asked if the easement could be taken without that expense.

Dan Coons replied no.

Art Slocum stated the immediate goal is to purchase the property and following such, there would be a joint fundraising effort to place a conservation easement on the property. He stated he believes the fee is between \$20,000 & \$25,000; noting the purchase price does not include that fee.

Ed Roundy stated he does not feel that a conservation easement that costs \$25,000 is valuable to the properties.

Art Slocum stated the easement holder is obligated to monitor and mark the property and address any issues that may arise. He stated the Town will own the properties.

Gary Mason verified the Commission previously agreed to purchase the property.

It was moved by Lenore Clark and seconded by Ed Roundy to approve the expenditure of \$55,000 for the acquisition of Whiteface Mountain; noting the Land Bank of Wolfeboro-Tuftonboro is contributing \$25,000 towards the acquisition. Funds from the Land Conservation Fund shall be used for payment. Dan Coons, Ed Roundy, Dave Wheeler, Lenore Clark, Gail Antonucci voted in favor. Art Slocum abstained. The motion passed.

Ed Roundy stated the acquisition would provide for access to the Morse property which is currently landlocked.

Dave Wheeler verified the boundaries have been marked.

Dan Coons stated he is scheduled to meet with the BOS on 11/20/13 regarding the matter.

➤ **Cotton Valley Road Parcel, TM #153-5**

Dan Coons stated the Commission received an invoice from the Land Bank relative to the acquisition of the Cotton Valley Road parcel, TM #153-5, in the amount of \$7,741.05. He stated the figure represents 50% of costs associated with the acquisition which include the purchase price, settlement charges, legal fees and removal and disposal of the structure that had been on the site.

It was moved by Ed Roundy and seconded by Lenore Clark to approve the expenditure of \$7,741.05 for the acquisition of Tax Map 153-5; noting such represents the payment of 50% of the total costs for the acquisition. Funds from the Land Conservation Fund shall be used for payment. All members voted in favor. The motion passed.

➤ **Forestry of Conservation Land**

Dan Coons stated Erik Groves is recommending timbering the Armory lot, Bill Rae Conservation Area & Beach Pond Road lots (noting the latter requires documentation by the State of the basal area cut). He stated he would contact Barry Muccio and request building a landing off the driveway to access the Armory lot.

Ed Roundy verified the logger would access the Bill Rae Conservation Area from North Line Road.

Dan Coons stated the Commission should consider leveling off the logging landing area for a parking area to the site. He recommended meeting with Erik Groves on site prior to work being done at the property.

The Commission had no objection to timbering the Armory and Beach Pond lots.

➤ **Land Conservation Planning**

The Commission agreed to appoint a subcommittee for such; members will include Randy Tetreault, Gail Antonucci, Ed Roundy and Dan Coons.

Old Business

➤ **Goodwins Basin**

Dave Wheeler stated the wood he had hoped to donate has sat too long and is no longer good.

➤ **LCHIP Monitoring Reports; McBride property & Front Bay Park**

Dan Coons stated he, Ed Roundy and Don McBride will walk the McBride property and complete the monitoring report associated with that property.

Other Business

The Commission reviewed the NHDES Letter of Deficiency, dated 10/29/13, regarding Robert Smith, TM #3-1 and 9-2. NHDES has requested Mr. Smith to retain a certified wetlands scientist and submit temporary stabilization and restoration plans.

It was moved by Dave Wheeler and seconded by Gail Antonucci to adjourn the November 11, 2013 Wolfeboro Conservation Commission meeting. All members voted in favor. The motion passed.

There being no further business before the Commission, the meeting adjourned at 8:40 PM.

Respectfully Submitted,
Lee Ann Keathley