



Londonderry Conservation Commission

Tuesday, July 13, 2021

Minutes

Present: Marge Badois, Chair; Gene Harrington, Vice Chair; Bob Maxwell, member; Deb Lievens, member; Mike Byerly, member; Susan Malouin, member; and Mike Speltz, alternate member

Absent: Jocelyn Demas, alternate member and George Herrmann, alternate member

Also present: Amy Kizak, GIS Manager/Comprehensive Planner; Michael Malaguti, Town Solicitor; John Trottier, Director of Public Works and Engineering; and Beth Morrison, Recording Secretary

Marge Badois called the meeting to order at 7:30 pm. She appointed M Speltz to vote for M Noone.

Wetland Permit – Capitol Hill Dr. Headwall Replacement – Map7, Lots 124-15, 124-29 & 124-33 – John Trottier – John Trottier, Director of the Department of Public Works and Engineering (DPW), addressed the Commission. J Trottier informed the Commission that he is presenting them a wetland permit filed for the town by Stantec to replace two headwalls associated with a 66-inch corrugated metal pipe on Capitol Hill Drive. He explained that they are proposing to remove the headwall, guardrail associated with it, reconstruct the headwall with wing walls, overlay a portion of road and finally put some class C rip rap between the edge of pavement and the shoulder of the top of the headwall. He reviewed the photographs with the Commission(Exhibit 1) which is attached hereto. M Badois asked if the culvert was considered perched. J Trottier replied it was not. M Speltz asked if there was a rock obstructing the flow. J Trottier replied that they must have put some asphalt apron in there at some point. M Speltz mentioned that it looks like a waterfall in some pictures. He asked the diameter. J Trottier replied that it was a 66-inch corrugated pipe. M Speltz asked if there was a substantial financial consequence to fix a perched culvert. J Trottier replied that was correct, and as the culvert is still in good shape, they are just proposing to fix the headwall. M Speltz asked him to describe the asphalt apron. J Trottier replied it looks to be about 10 feet. He noted that they are proposing 1500 SF of temporary impact associated with repairing the headwall. M Byerly asked what the concern was regarding a perched culvert. M Speltz answered that a perched culvert would inhibit aquatic life from travelling upstream. He said that the asphalt apron probably helps, but was not sure. J Trottier mentioned that they did not get any hits on the New Hampshire Natural Heritage database. M Byerly asked if there was a way to add rocks or boulders to raise the water level. J Trottier replied that there is a temporary impact now and he would have to take a look to see if there was any need to fill it up. M Speltz commented that it would be ideal to replace it with an open bottom culvert. He asked if the culvert program with the New Hampshire Department of Environment Services (NHDES) would help them out with this with a grant. He asked if the culvert was in imminent danger. J Trottier replied that he believed the culvert was not imminent danger. M Speltz stated that he recommends a consideration of an open box culvert when the situation presents itself. J Trottier remarked that this would happen when the culvert needs to be replaced. D Lievens said that she recommends looking into these grants a year ahead of time and would be happy to work with J Trottier if something comes up. M Speltz said that the NHDES website has great resources. J



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Trottier commented that Londonderry is fortunate as there is not much flooding in town, which makes it less competitive than other towns. Deb Paul commented that sometimes you can get reimbursed from the grant, even if it does not cover the whole cost of the project. D Lievens pointed out that she is on the Wetlands Council and in her experience the monies have never been given retroactively for a project. B Maxwell asked if they modify the culvert, can the aquatic life get past it to the Rosalee dam. J Trottier replied that there is no fish passage on the Rosalee dam. M Speltz asked what goes under Route 102. J Trottier responded that he believes it was a 48-inch pipe. M Speltz made a motion to recommend approval of the plan as presented, however, we strongly recommend that consideration be given to replace the culvert with an open-bottom box culvert at some point either now or in the future. M Byerly seconded the motion. The motion passed, 7-0-0.

Unfinished Business

Moose Hill update – Mack's Lease: M Malaguti told the Commission that they have a document in front of them this evening that is similar to the previous draft lease, but has some changes. He pointed out the difference between the two documents is in regards to one-year renewable terms with automatic extension. He explained that some things have transpired between Mr. Chrestensen and the town, which were the reason for the changes. He commented that there may be a difference of interpretation between the town and Mr. Chrestensen as far as public access to the properties, which are burdened by conservation easements. He went on stating that the conservation easements deeds that are in place for most of the Mack's apples properties have language that is general and leaves things open to interpretation. He commented that topics such as dogs, pedestrian access and parking are the biggest issues in discussions with Mr. Chrestensen. He remarked that the parties involved have staked out their positions, and he is advising the Commission and the town, to take things step wise with Mr. Chrestensen. He stated that the document they have before them this evening reflects this. He pointed out that it shortens the term of the lease ending on Thanksgiving Day 2021, which allows the town and Mr. Chrestensen to figure each other out and make sure that this a good working relationship for the town going forward. He mentioned that the town wants to avoid interruptions in the maintenance cycles that take place in the orchards. He noted that Mr. Chrestensen has been maintaining this parcel under Mr. Mack's ownership right up to the date the town acquired the property. He stated that he recommends holding to the current language regarding pedestrian access that applies to the other parcels on Mack's properties with conservation easements. He said that this would remove the conflict to get a lease in place in a reasonable time. He asked the Commission to enter an approval on the lease before them this evening. D Lievens asked if the Thanksgiving date would be the time when the lease would be renewed if they choose to. M Malaguti replied that was correct and noted that he spoke to Mr. Chrestensen's attorney about this to begin the discussion of renewing the lease much earlier than late fall. He remarked that the town considered other options for a lessee, but determined it made the best sense to offer the lease to Mr. Chrestensen at this point. M Badois mentioned that the problem is the liability of Mr. Chrestensen working on town land without a lease in place. M Malaguti said that was correct and what brought this issue to the forefront was that Mr. Chrestensen was either unaware or misunderstood that the transfer of land had taken place. M Speltz added that Mr. Chrestensen has



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invested considerable time and treasure into the property for a gray area period of time and is a matter of common fairness to ask him not to turn his back on the situation. M Malaguti stated that there was no legal requirement to recognize Mr. Chrestensen's investment that he made into this property, but a good neighbor reason to. M Speltz asked if the section on the prohibition of allowing structures on the property would support the farm stand. M Malaguti replied that the answer is no the way the lease is written, but the conservation easement may allow something like this. He said that it is his understanding that the Code Enforcement Officer does not consider the shelter that is in place on Pillsbury a structure. M Speltz said that these things tend to have a life of their own and might want to put this in now. M Malaguti told the Commission that Mr. Chrestensen has agreed to sign the draft lease. B Maxwell stated that he was okay with the draft language. S Malouin asked about section 3.3, where it states: "In the event one or more apple trees succumb to damage or disease, Lessor may, but shall not be obligated to, replace such trees at Lessor's expense." M Malaguti replied that this was negotiated heavily, and the language reflects that the ownership of the apple trees remains with the town and Mr. Chrestensen receives the crop. He said that this was Mr. Chrestensen's request and he is okay with it, as Mr. Chrestensen has to maintain the trees to the town's standards. S Malouin asked if Mr. Chrestensen could replace the diseased trees by himself or if this falls under someone else. M Malaguti replied that S Malouin raises a good point and he thought that it might be implied that if Mr. Chrestensen had a desire to do this he could. S Malouin commented that she is okay with the lease through November with Mr. Chrestensen at this point. D Lievens made a motion to approve the lease agreement (Exhibit 2) as presented. G Harrington seconded the motion. The motion passed, 7-0-0.

New Business

Dracut Open Space Committee: M Badois informed the Commission that she received a letter from the Dracut Open Space Committee stating they want the Commission to come to their next meeting on July 22, 2021, to talk about the Musquash. She said that she does not mind going, but she needs some help with the story of how the Musquash came to be, etc. M Speltz asked what they are looking for again. M Badois said that they are looking for information on how the Commission acquired the land, how the trails went in, etc. M Badois asked if members could send her notes, so she can compile them.

Old Home Days: M Badois said that she has not registered the Commission for this yet and does not have a theme yet. D Paul mentioned that she thinks if Trailways, The Green Team, Beautify Londonderry and the Commission were all grouped together it would be great. M Speltz asked if there was room to combine forces and not have three booths, but maybe a tent. D Lievens said she thinks that old home days would want each one to have a booth. D Paul stated that the Commission should do turtles again as the theme. D Lievens agreed.

Trail Maintenance: M Badois commented that Officer Aprile mentioned that another tree fell down. She wondered if all the wet ground is possibly making it worse out there. She asked if the Commission should do a walk about. M Byerly commented that there are a couple of individuals that frequent the trails and take care of it themselves.



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114 **Expense approval:** M Badois told the Commission that individuals that vandalized Kendall Pond have
115 not paid the expense yet as far as she knows. M Malaguti noted that he does not believe they paid
116 according to the last email exchange with Officer Aprile. M Badois stated that the Commission needs to
117 pay the person who did the work and then follow up on getting reimbursed. D Lievens made a motion to
118 pay Rick Robichaud for the Kendall Pond restoration, not to exceed \$250 from the line item budget and
119 get reimbursed. M Speltz seconded the motion. The motion passed, 7-0-0.

120 **Meetings:** A Kizak informed the Commission that at the Planning Board meeting tomorrow they will be
121 having a preliminary discussion on ground water ordinance. M Badois mentioned that they are also
122 discussing new subdivision/site plan regulations regarding connecting to municipal water.

123 **Resignation:** M Badois informed the Commission that M Noone submitted his letter of resignation.

124 **Other Business**

125 **Minutes:** The Commissioners went over the public minutes of June 22, 2021. B Maxwell made a motion
126 to approve the minutes as amended. G Harrington seconded the motion. The motion passed, 6-0-1,
127 with M Byerly abstaining.

128 **Adjournment:** M Byerly made a motion to adjourn the meeting at 8:23 p.m. G Harrington seconded
129 the motion. The motion passed, 7-0-0.

130 Respectfully Submitted,
131 Beth Morrison
132 Recording Secretary