



TOWN OF NEW LONDON, NEW HAMPSHIRE

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APPROVED Minutes of the October 16, 2013 Conservation Commission Meeting

MEMBERS PRESENT: Bob Brown (Chairman), Ruth White, Mike Gelcius, Rick Anderson, Laura Alexander, Dan Allen, Terry Dancy, Andy Deegan, John Clough

MEMBERS ABSENT: Emma Crane

OTHERS: Pierre Bedard, Peter Blakeman, Tom Thomas

Chair Brown opened the meeting at 9:02am.

Hiking Patch

Ms. White said someone who hiked all the trails, Peter Brodeur provided her with a CD of beautiful photos from each trail. She said although he was unable to come to the meeting that morning to receive his patch, Emma Crane would send it to him in the mail.

Permit Application

Herrick Cove Lane – Mueller Trust, Represented by Pierre Bedard

Mr. Bedard noted that Bruce Mueller was conveying the property to his son and daughter-in-law who plan to tear it down and build a new home. The septic is a “Clean Solution” set-up and will stay. The driveway will stay the same other than a few adjustments for the placement of a garage. The new dwelling will be larger than the cottage and the percentage of impermeable surface went a bit over 20% so they will make provisions for mitigation. Demolition will begin behind the building to avoid impact within the waterfront buffer. They will not remove any trees or bushes. Mr. Bedard said he has heard back from the State saying the application is administratively complete and is under technical review. When asked, Mr. Bedard showed where the footing drains were located on the property. The builder is from the Upper Valley and has done a lot of work for the Mueller’s in the past.

Tom Thomas Peter Blakeman, Blakeman Engineering

Mr. Blakeman explained that Tom Thomas owns an existing house on Lake Sunapee along Route 103a. It was built in 2005 without a garage, which they would now like to add. Mr. Blakeman showed where the wetlands were on the property, as well as a seasonal stream. The proposal is to bridge the stream and jurisdictional wetlands so as to not impact them. He explained that there will be a span built over the stream which connects the house and the garage. This requires no permit by DES. Because they are over the 20% of impervious surface, one of the cells will need some plantings to meet Town requirements.

Ms. Alexander recalled doing a site walk at this property when there was ice over the streams. This was when the driveway was being moved to keep it within the Thomas property.

Mr. Anderson thought a special permit would be required to cross the wetland. Mr. Blakeman said Ms. St. John said this wasn’t the case because they were going over it and not into it. He read from the Wetland Overlay District verbiage to illustrate his point. He said if they need to meet the planting criteria for any of the areas, they will provide a detailed plan with the building permit.

Murehead Application

Chair Brown said he didn’t think this had been discussed in previous meetings but Ms. St. John thought it had. It has gone on to the State without their review.

Minutes from September 25, 2013

IT WAS MOVED (Laura Alexander) AND SECONDED (Mike Gelcius) to approve the minutes of September 25, 2013 as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (Terry Dancy) AND SECONDED (Laura Alexander) to approve the minutes of October 7, 2013 as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Planning Board Report

Chair Brown said Emma Crane had left a note explaining the Planning Board had named the buildings at Colby-Sawyer College and there was a discussion of an expansion at the Flying Goose.

Conservation Commission Involvement

Chair Brown said it would be helpful to have more member involvement in the Commission especially at budget time. He thought it would be good for people to attend occasional Planning Board and Selectmen meetings to keep abreast of what is going on in the town. There were a lot of little things people could help out with.

Easements

Chair Brown said a letter was sent to the owners of the property adjacent to the abutting property to Phillips Preserve. Also, they have heard back from one person from the round of letters sent previously regarding the properties on the desired land list. The land owner was not interested in an easement.

Chair Brown referred to an email that had been sent by Mr. Garre with regards to a conflict of interest he perceived having to do with the easement on his neighbor's property. Chair Brown did not feel that what he said in the previous meeting about Mr. Deegan's involvement in the Conservation Commission showed a conflict of interest. Mr. Deegan said that he has recued himself of all discussion of this issue because of his involvement with Ausbon Sargent even though he has no gains, financial or otherwise, from this easement. He said that Ausbon Sargent provides a monitoring report to the Town each year because the property owners allow them to do this to be done.

Mr. Deegan provided an updated report to Chair Brown and offered to leave the room if the Commission wanted to discuss the matter further. He said he had visited the property that morning and saw several cows and some horses. In the trailer were several bales of hay. He took pictures of the hay in the trailer if Conservation Commission members wished to see them. It was assumed that the purpose of the hay was to feed the animals, which is what the property owner has said. Mr. Deegan said he would offer no other remarks on the issue.

Chair Brown was concerned with the conflict of interest claim. He felt that if push came to shove, they could all be blamed for having a conflict of interest as most are members of Ausbon-Sargent, have done trail monitoring, and have served on a committee or two. The problem is that there is a problem with an easement. He suggested making their finding and giving this to the Selectmen to deal with. Mr. Anderson didn't feel it was a matter of conflict of interest but rather the interpretation of the easement language. Mr. Dancy felt referring this back to the Selectmen was the way to go; they are not able to make any progress without their assistance at this point. Mr. Deegan said a recent ruling illustrated that the third party in an easement has no right to enforce.

Mr. Deegan left the meeting at this time. Chair Brown asked for a show of hands of who thought there was no violation of the easement. There was a unanimous show of hands. Emma Crane and Andy Deegan were not present for this vote.

Mr. Deegan returned to the meeting.

At this point in the meeting, Ms. Hallquist arrived. Chair Brown explained that they had just discussed the issue with Peter Garre claiming that there is a conflict of interest with regards to his easement complaint against his neighbor. He felt that having Mr. Deegan on the Conservation Commission, who is also an employee at Ausbon Sargent, was a conflict of interest. He asked Ms. Hallquist to weigh in on this claim and said he would like to report to the Selectmen that it was a unanimous decision on the part of the Conservation Commission that there is no violation of the easement. He offered that the only thing Mr. Deegan does is to provide a monitor report to the Conservation Commission each year. Chair Brown said that most people in the room were members of Ausbon Sargent, have served on committees, been trail/land monitors, etc. and saw no conflict of interest.

Ms. Hallquist said if the Conservation Commission has made their decision they are all set. Ms. White said this wasn't going to go away even if they made their decision. Mr. Dancy said it was felt the Conservation Commission had no authority in this case. He wondered if Town Counsel should weigh in. Ms. Hallquist thought the Commission had considered the issue, looked into it, and felt there was no infraction.

Ms. Hallquist said the Conservation Commission would have to come up with something in writing on their ruling. The Board of Selectmen would not disagree with the Commission, as they are the experts in this area. Those with further complaints could take the Town to court, if they wished, but a prior ruling shows no third party has the power to enforce an easement.

Ms. Hallquist said the Conservation Commission does have some independent authority of its own with regards to easements. She felt they had done everything right, procedurally.

It was discovered that the third party on the easement is the Town of New London through its Conservation Commission. This enforces the idea that it is the Conservation Commission that has the power to make the decision in this case, not the Town. Chair Brown offered to write a letter and copy the Selectmen on it. Ms. Hallquist offered to help with the letter.

Discussion of the Conservation Commission's Role in the Town

Ms. Hallquist said the Board of Selectmen expects the Conservation Commission to have posted meetings and to take minutes of those meetings. She didn't feel the selectmen had any projects or initiatives in mind for the Conservation Commission and felt the Selectmen were happy with their work.

Ms. Hallquist said it was common practice to give all or a percentage of the land-use change tax back to town's Conservation Commissions for their work. This would go into a fund they can use as needed, like for appraisals or surveys. Ms. Hallquist said only land purchase would require permission from the Town. This is a good way for the Town to set aside some money without raising taxes to do so.

Duties/Responsibilities of the Conservation Commission with Regards to Permit Applications

Chair Brown wondered what the minimum was that the Conservation Commission should be doing with reviewing permit applications. Ms. Hallquist said they don't have to do anything with them but if they don't sign off on them, property owners have to wait longer to get their permits from the State. She said Conservation Commissions usually like to review things going on but the State is under no obligation to deny a request just because a Conservation Commission doesn't agree with the plans. Some Commissions are not as active doing trail work as the New London Conservation Commission is. Some have subcommittees who work on plans and applications and advise the rest of the commission on what they think. They are not required to do anything with the applications but generally Conservation Commissions are interested and want to spend some time on them.

Chair Brown said this month they acted on some applications at a special meeting on Oct. 7th. There have been three more applications that have come in since then, and some of them are huge. There are plans, literature, and sometimes as many as 13 applications. He cannot print these all and some he cannot even open. He felt they needed to get the information organized. Chair Brown said he didn't want to be critical but would like the

applications put into two piles: one pile for “your information only” and one pile that requires a signature. If someone could review them ahead of time and determine which pile they should be in, that would be helpful. He also thought the engineer or architect who submitted the application should come to present their plans to the Conservation Commission.

Mr. Anderson said he is part of a working group that is looking at the ordinance and process. Ms. St. John has attended every meeting. One thing they have addressed in the group is process issues. Right now, Ms. St. John is the gate-keeper. If she is given the tools and the support of the Planning Board and the Conservation Commission to allow everyone to interpret things the same way, it makes things easier for everyone. They feel they should develop standards. Site visits were also something that needs to be addressed.

Ms. White felt it was frustrating to many people to get all of this information. In the past they only got things that had controversial issues. Ms. Hallquist said they can come up with guidelines on what they do/do not want to see and Ms. St. John will comply. She said if the number of applications is high, Ms. St. John likely won't have time to review all of them. The Conservation Commission may need to come up with a subcommittee to deal with them. Like the Selectmen who have to read everything that comes in, the Conservation Commission needs to know what is coming along.

Mr. Gelcius suggested coming up with a check-list for Ms. St. John to use to streamline the process. The more mundane applications that do not need Conservation Commission input could be passed on. The ones that had any red flags would be presented to the Commission.

Mr. Anderson went back to the site visit issue; he felt they were very useful. If there is no time for Ms. St. John to make these visits perhaps other towns could help share this resource as it is a common problem among towns to not have someone available to make site visits. Ms. Hallquist offered that someone being sent out to do site visits needs to have some expertise. Chair Brown agreed and said a recent site visit to Owl's Nest with Leo Maslin, local forester, was very helpful.

When asked, the Conservation Commission agreed that they would like the applications screened prior to them being presented to them at a meeting. Mr. Deegan thought a couple people could make a list of what kind of applications they would like to see and send it around to the rest of the group to weigh in. Ms. White felt it was getting complicated and she thought they should try and make it simpler. Ms. Hallquist appreciated this idea, but didn't feel it was a simple thing; these applications have to do with people and their property rights. She said that Ms. St. John needs guidance from the Commission; she can't make decisions for them on their behalf with regards to what they do/do not want to see.

It was determined that Rick Anderson, Dan Allen, Terry Dancy and Mike Gelcius would work together to committee to create guidelines for Ms. St. John.

Working Group Update – Rick Anderson

Mr. Anderson said the working group was prompted because of some interpretation issues of the ordinance over the past year. There was talk that the ordinances needed a major overhaul and so he put the group together to identify and potentially resolve the interpretation issues. Some people feel there are too many rules, some feel there aren't enough. Mr. Anderson said there is a benefit to everyone understanding the rules the same way. If this can't happen, the rules need to be re-written. Mr. Dancy commented that the Lake Sunapee Area Watershed Coalition got together for primarily the same reasons. Mr. Anderson acknowledged this and added that his group was even more focused on how New London's ordinances are interpreted.

The group's first stop would be the Conservation Commission to see which suggestions should be endorsed. They would then go to the Planning Board with these recommendations. The Planning Board can choose to go forward or not. If they choose to go forward, the Conservation Commission can be involved in the drafting of the ordinances for the Planning Board's submission to Town Meeting. If the Conservation Commission feels strongly about something, and the Planning Board does not, they can put something on the ballot by petition.

Mr. Anderson commented that the group felt site visits were important and perhaps a shared resource could be utilized between surrounding towns.

Mr. Anderson concluded that in reviewing the Town's ordinances, it was felt by everyone in the room but one that they were pretty good. There were opportunities for clarification in some instances, which they have begun to illustrate.

The report from the working group would be reviewed at the next regular meeting. After that, they would present their findings to the Planning Board.

Dedication of Phillips Preserve

Chair Brown said that the dedication would happen on October 23 at 10:00am at the trail head on Goose Hole Road. Afterwards there would be a walk to the summit for those who wish to take part. Chair Brown noted that the property has been certified as a tree farm and he would post the official sign prior to the dedication.

Chairman of the Conservation Commission

**IT WAS MOVED (Mike Gelcius) AND SECONDED (Rick Anderson) to nominate Bob Brown as Chairman of the New London Conservation Commission.
THE MOTION WAS APPROVED UNANIMOUSLY.**

Chair Brown said he would like to appoint a vice-chair, which he would like to have, should he continue as Chair. He noted that the RSA does not prohibit nominating a vice-chair and added that Ms. Alexander had agreed to serve in this capacity.

**IT WAS MOVED (Andy Deegan) AND SECONDED (Terry Dancy) to nominate Laura Alexander as Vice-Chair of the New London Conservation Commission.
THE MOTION WAS APPROVED UNANIMOUSLY.**

Mowing

Chair Brown thanked the Elkins Fish & Game club for the mowing they had done at Low Plain. He added that Mr. Lee had agreed to mow at Phillips if he was able. There had been some trouble with the mowing equipment and finding the time to get it done. If Mr. Lee is unable to mow this fall, Chair Brown suggested hiring someone to do the work. He opined there was a lot of work that had gone into creating this field and they don't want to lose it. It is about an acre in size.

Trail Adopter Updates

Chair Brown felt there were some trail maintenance needs that hadn't been adequately reported. He wondered how better communication could be achieved between the Conservation Commission and the adopters. He thought a questionnaire should be sent through the mail to the adopters to fill out. Ms. White suggested adding dates when the questionnaire was to be returned. If they are not specific on dates, they may not receive much feedback.

Other Business

Chair Brown said the last work day with the Department of Corrections was held on October 4 with Mr. Anderson, who organized some Knotweed removal. He said this program require assistance from Commission members, as the work days need to be organized. The help is available, but people need to figure out what they can work on and prepare for the work to be done. Chair Brown commented that last year they were told not to submit their requests for work days until after the New Year. He submitted his request on January 1st and the program was almost full at that point. If the Commission wished to schedule another year of work days, they would need to submit their requests sometime in December.

The meetings for the remainder of 2013 are scheduled for November 20 and December 18.

**IT WAS MOVED (John Clough) AND SECONDED (Andy Deegan) to adjourn the meeting.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 11:26pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London