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Durham Conservation Commission Meeting
July 10, 2014
7:00 PM

Members Present: Diana Carroll, Otho Wells, Ann Welsh, Dick Wollmar, Richard Lyons, Kathy Bubar

Members Not Present: Peter Smith, John Parry, Coleen Fuerst

Others Present: Ryan Young, Brian Hotz, Jan McClure, Dea Brickner Wood, Nancy Webb, Jan McClure, mike Sievert,

1) Call Meeting to Order. Recognize members present.

Chair Welsh called the July 10, 2014 meeting of the Durham Conservation Commission to order at 7:01 pm.

2) Agenda Approval

Chair Welsh MOVED to amend the agenda by adding a short presentation/discussion and possible vote on Madbury Commons to the Presentations section; this was SECONDED by Kathy Bubar and APPROVED unanimously.

Kathy Bubar MOVED to approved the amended agenda; this was SECONDED by Diana Carroll and APPROVED unanimously.

3) Public Comments (If Needed)

There were no public comments made at this meeting.

3) Presentations

Hills Easement project – Jan McClure, TNC

Jan McClure introduced Dea Brickner Wood from Great Bay Partnership and Brian Hotz and Ryan Young from the New Hampshire Forest. She said that there is a partnership between the Nature Conservancy and the Society for Protection of New Hampshire Forest. Ms. McClure said they have come to the Commission to provide information regarding the property and advise them as to the next step in the process. Ms. McClure distributed a map showing the Hills

1 property, which is located on Route Four. She explained that the owner, David Hills, is
2 sequentially protecting his property and that the piece they are discussing this evening is the last
3 phase of the protection effort. Ms. McClure noted that this property is 39 acres and of that 21
4 acres are active farm land with prime agricultural soils. She said that 14 of the acres are forest
5 land and there is over 2000 feet of frontage on the Oyster River. Ms. McClure noted that the
6 property is located in an area that has a good deal of protected land, so it would be adding to a
7 network of contiguous protected land. She explained that the property abuts the Wagon Hill
8 Farm property and the rest of the Hills farm property which has a conservation easement held by
9 the Forest Society. Ms. McClure said there is also aquatic value to the property and since they are
10 working hard to protect the Great Bay and the water quality of Great Bay this is a good
11 opportunity. She said the wildlife action plan shows mostly tier one property, which is the
12 highest ranked habitat in the State and it includes 23 natural communities or rare species
13 identified as being in the vicinity of this property. Ms. McClure explained that the property also
14 has a working farm and would complete the protection of the Emery Farm. She explained that
15 farm land is more valuable and less available in the area and that protecting this property will
16 add to the culture, history and vibrancy of the farm community and will also help the farm
17 maintain its economic viability. Ms. McClure said the Emery Farm is a historic farm run by the
18 10th generation of the family and is a great community resource. She said the owners would like
19 to expand the farm stand. She said protecting this property would protect the view shed and
20 important agricultural soils and has been a priority for the Great Bay Resource Partnership for a
21 number of years. Ms. McClure said they have worked with Mr. Hills on the protection of the
22 other parts of his farm.

23
24 Otho Wells noted that the map indicates there is one corner of the property not included in the
25 protection.

26
27 Ms. McClure said that Mr. Hills is leaving that portion of the property out of the easement in case
28 he or someone in his family would like to build a house there. She noted that the piece of
29 property is a little over three acres.

30
31 Ms. McClure said they spoke with the Natural Resources Conservation Service about this
32 property and they see it as an excellent contribution to agricultural land easement and they are
33 excited due to the soils, location and that it abuts other protected land. She said the NRCS will
34 pay for one half of the appraised value of the easement and the other half needs to be funded.
35 Ms. McClure reported that David Hills has agreed to donate half of that, which amounts to one
36 quarter of the value of the easement so the remainder and transaction costs need to be funded by
37 other sources. Ms. McClure distributed the proposed budget for the easement and noted that
38 the Forest Society will likely hold the easement as they also hold the easement on the north side
39 of the road. She said that the Nature Conservancy is involved because they have been the land
40 agent for the Great Bay Resource Partnership. Ms. McClure said they have applied for an LCHIP
41 grant, which they will know the results of on November 18th. She said the NRCS program needs
42 to have a commitment from the entity that the match funds are in hand or committed, so we are
43 trying to put that match together so we can apply for NRCS funds for the agricultural land
44 easement. Ms. McClure said they would like to request \$250,000 from the Durham Conservation
45 Commission towards this project. She explained that if they are successful in getting that
46 commitment the LCHIHP commitment will go forward to NRCS. Ms. McClure explained that the
47 process can take a year to 18 months and that the project would not close before fall of next year

1 (2015). She said the next step would be to work on the easement with Mr. Hills. Ms. McClure
2 said it would be a standard Agricultural Land Easement to protect farm land and buffers along
3 the Oyster River and Smith Creek and would also require public access. She said they hope to
4 work out the easement and purchase and sales agreement with Mr. Hills this fall.

5
6 Dick Wollmar noted that some of the property is used for grazing.

7
8 Ms. McClure said that highland cattle graze on the property and that there are also some
9 vegetable plots. She said that the forest land is managed in accordance with forest management
10 plan.

11
12 Diana Carroll said that there is a strong feeling in the Durham community that conservation land
13 should be open to the public, however, because there are animals and vegetables, public access
14 may not work or may need to be relegated to certain areas.

15
16 Ms. McClure said it is likely that access will only be available to certain areas because they do not
17 want to interfere with the agricultural use of the property.

18
19 Chair Welsh asked if LCHIP funding requires public access even if it is farm property.

20
21 Ms. McClure said that LCHIP funding does require some minimum public access and signage even
22 for farm property.

23
24 Ms. Carroll asked if the owners have thought about required setbacks and how a house could be
25 situated on the property that is not being put in an easement.

26
27 Ms. McClure said she believes he has thought of this but will check with him on this issue.

28
29 Chair Welsh suggested scheduling a site walk for the property.

30
31 Mr. Wells asked if some clearing of the forest lands would be possible after the easement is in
32 place if it is needed for use as agricultural land.

33
34 Ms. McClure said that would be possible.

35
36 The members scheduled a site walk for Wednesday August 14 at 4 pm.

37
38 Ms. McClure will check with the owner of the property and confirm this date and time with the
39 Chair.

40
41
42 **b) Short presentation/discussion and possible vote on Madbury Commons – Mike Sievert,**
43 **Barrett Bilotta**

44
45 Barrett Bilotta explained that four minor changes to the conditional use permit for the Madbury
46 Commons project have been made.

47

1 Mike Sievert displayed plans of Madbury Commons which were dated February 10, 2014 and
2 were used for the Conditional Use application. He then displayed a second set of plans dated
3 June 11, 2014. Mr. Sievert noted that these plans were submitted to meet the conditions of
4 approval. He explained that the southern building which is within the 75 foot buffer was
5 originally planned to have runoff directed into a stone trench with an under drain which would
6 be collected and discharged. Mr. Sievert said the new plan added a window well (3 feet wide),
7 and added a drain in the bottom which would have a stone bottom and added an emergency
8 access for emergency egress at two points.

9
10 Mr. Barrett said the emergency egress was required by the Fire Department. He said that there
11 will be four residential apartments on the back of building B that are partially underground and
12 were not on the February plan because we were not sure of the grades of the back of the site. He
13 said there will only be one window well within the 75 foot wetland buffer.

14
15 Ann Welsh asked how the water flows.

16
17 Mr. Sievert said the water flows the same; the grade in the back is the same elevation with a
18 slight slope (15%) to the corner. He said there is no drip strip to drip into the windows and they
19 will put a gutter system in instead which will discharge into the piping system. He said they
20 changed from 6 inch pipe to an 8 inch pipe.

21
22 Chair Welsh asked if there would be a drain.

23
24 Mr. Sievert said it would discharge to the outlet protection area which has been slightly enlarged.
25 He said that the rip rap was increased to ensure no erosion would occur. Mr. Sievert said the
26 transformer (8 foot square concrete pad) originally planned to be located just outside of the
27 shoreland setback has been relocated to outside the 75 setback. He said they have added
28 screening and landscaping and a porous paver patio. Mr. Sievert said this was done because the
29 area was expanded for potential outdoor seating where transformer was formerly located. He
30 said it will also provide emergency egress.

31
32 Otho Wells asked if there will only be foot traffic on the porous pavers.

33
34 Mr. Sievert said there would be only foot traffic on the porous pavers.

35
36 Mr. Barrett said the net result is that 340 square feet of building improvements are removed
37 from the wetland setback.

38
39 Mr. Sievert said that originally the transformer was to be located north of Building A, close to the
40 utility area. He said they had to add a transformer to the plan and then move the two
41 transformers to the northern section of the land within the 75 foot setback.

42
43 Mr. Barrett said they are working to move the transformers so they are not visible from Madbury
44 Road.

45
46 Ms. Carroll asked how far within the 75 foot set back the two transformers are located.

47

1 Mr. Sievert said they will be a little further into the 75 foot set back.
2
3 Mr. Sievert said that they will screen the transformer with a fence and landscaping.
4
5 Chair Welsh asked if the transformer would be located on a concrete pad.
6
7 Mr. Sievert said there would be an 8 x8 precast concrete pad. He added that they may be able to
8 relocate the transformer to the original position and if so would need the Conservation
9 Commission's approval. Mr. Sievert explained that there is a stone base under the pads with an
10 impermeable liner which is recommended by PSNH.
11
12 Mr. Wells asked how thick the pads are.
13
14 Mr. Sievert said they are eight inches and would be a couple of inches above the ground. He said
15 the gravel pad is variable based on the size of the transformer.
16
17 Mr. Wells asked about the progress of the project.
18
19 Mr. Barrett said that both buildings have been demolished and they will begin pouring the
20 foundation the beginning of next week for Building A. He said they will have a ground breaking
21 ceremony sometime in August.
22
23 Chair Welsh asked the members for their feelings on the changes.
24
25 The consensus of the members was that they did not have a concern with the changes presented
26 to them.
27
28 Mr. Sievert asked Chair Welsh to send a note to the Planning Board for their July 23rd meeting
29 stating that the Commission had no issues with the changes. He said he would provide the chair
30 a copy of the new plans.
31
32 Hills Project:
33
34 Chair Welsh said the amount of money being requested for the Hills Project is \$256,000. She said
35 the Commission potentially have two more properties coming before us for funding requests.
36 Chair Welsh said one of the requests is for property on the Lamprey and the other property is
37 contiguous to the property on the Lamprey and the Oyster River Forest (misty meadows). She
38 said the Commission will be asked to help with these two projects. Chair Welsh said not as much
39 funding will be needed. She explained that the balance of the Conservation Fund is \$280,000.
40 Chair Welsh said the Commission has committed \$9000 for projects and will have an additional
41 \$15,000 coming into the fund; so there is approximately \$280,000 uncommitted in the fund. She
42 suggested that the funding be divided among the three properties. Chair Welsh said the other
43 two properties may need \$40 or \$50,000. She said she thinks all the properties are worth
44 preserving just from the water quality standpoint.
45
46 Diana Carroll said that the Misty Meadows property is also farm land and is very important
47 regarding water quality issues.

1
2 Chair Welsh said she does not think the Commission can commit all the funds that each group is
3 asking for.
4
5 Otho Wells suggested deferring the Hills discussion until after the site walk.
6
7 Kathy Bubar said the Hills project is a great project with a huge price tag.
8
9 MS. Carroll said the last few conservation easements have been paid for through the
10 conservation fund. She pointed out that the residents of Durham voted in the past (10-12 years
11 ago) to use two million dollars for land acquisition for conservation easements. Ms. Carroll said
12 it is possible to use these funds for the conservation easements.
13
14 Dick Wollmar asked if the funds are bonded.
15
16 MS. Carroll said it was not bonded and does not exist other than by a vote. She said that
17 approximately \$800,000 of that two million has never been used. Ms. Carroll said the
18 conservation easements that have been brought to the town have been very worthwhile projects
19 and have received a lot of backing. She said it may be worthwhile in a project like this to ask the
20 residents of Durham to pay \$50,000 or \$70,000 and the conservation fund provide the
21 remainder.
22
23 Chair Welsh said that until there are no longer funds in the conservation fund (or they have been
24 committed) the chances of the town expending funds for an easement are slight. She said the
25 Hills project will be a popular project and that they will be able to find the funds to make up any
26 difference.
27
28 Mr. Wollmar said that the commitment is needed so they can apply for the grant.
29
30 Chair Welsh said that hopefully by the next meeting things will have moved somewhat on the
31 other projects and there will be a better idea of how much money they will need and that will tell
32 us what we have available for the Hills easement.
33
34 Mr. Wollmar asked if the other projects would be partnership arrangements.
35
36 Chair Welsh said they would be and Durham would be funding the minority amount of both
37 projects for the Southeast Land Trust projects.
38
39 **5) Minutes: Review/Approve June 2014 minutes**
40 *Otho Wells MOVED to approved the minutes as amended; this was SECONDED by Ann Welsh and*
41 *APPROVED unanimously.**
42 **Diana Carroll and Kathy Bubar abstained as they were not present at the meeting.*
43 **6) Old Business**
44
45 a) Master Plan

1
2 Chair Welsh said that the TPL study should be added to the addendum of the Master Plan
3 because it provides back up for a lot of the items suggested in the chapter.
4

5 Otho Wells said he is working on the introduction to the chapter.
6

7 b) Oyster River Kiosk
8

9 Otho Wells reminded the members that last year the Commission decided to have a kiosk at the
10 Oyster River Forest which would be paid for by the Conservation Commission and constructed
11 by Public Works. Mr. Wells displayed what will be in the kiosk which in part is a map from the
12 Trust for Public Land which provides a perspective of the property, shows other easements
13 adjacent to the forest (Amber Acres, New England cottontail habitat, Spruce Hole Bogg, the gate
14 locations). Also included in the kiosk is verbiage about the history of the forest, the partners that
15 made the conserving of the property possible and the benefits of the forest. He said the
16 information can be revised as things develop – such as new trails.
17

18 The members said the information was well done and thanked Mr. Wells for his work on this
19 project.
20

21 Chair Welsh reported that the kiosks at Wiswall Dam and by the Oyster River had been
22 vandalized and that Public Works will repair them.
23

24 c) Water Pipeline project
25

26 Otho Wells displayed a map showing the boundary of Oyster River Forest, Town owned land and
27 the pipeline that travels through the middle of the area to the gravel pit. He said that 1500 feet
28 have been installed. Mr. Wells said the pipe is six feet deep with a twelve inch line that is
29 covered. He said they will be adding electrical conduit to run wires for the pumps and that this
30 will be 30 feet through the middle of the forest. Mr. Wells suggested making a trail out of the
31 disturbed area. He said the area will be hydro-seeded so it should look natural after construction
32 is completed.
33

34 Chair Welsh said that someone suggested that the area may make a good spot for a handicap
35 accessible trail, since it has been disturbed and is flat. She noted the trail could go from the
36 Emeritus property to the Spruce Hole Bog historic marker.
37

38 The members agreed this would be a good idea.
39

40 **7) New Business**
41

42 a) DCC Correspondence Received
43

44 Chair Welsh reported that the Southeast Land Trust sent a letter to the State regarding property
45 owned by Seacoast Repertory Theater on Route 108 with regard to the Route 108 expansion
46 project taking land. She said they feel that they have not been properly notified by the State.
47

1 Chair Welsh reported that she attended the Stewardship Networking meeting a couple of months
2 ago and announced that there will be a HUB Hangout held on Monday July 14th in Newmarket.
3 She said this will be a get together to discuss what different groups are doing. Chair Welsh said
4 the next formal meeting will be held in September.
5

6 b) Report on the Health of Mill Pond, Beards Pond and Little Hale Pond
7

8 Chair Welsh said that Mill Pond, Beards Pond and Little Hale Pond have issues with nitrogen,
9 phosphorous and oxygen. She said it would be helpful to stop the sources causing the increased
10 nitrogen and phosphorous. Chair Welsh said this is caused mostly by fertilizer on lawns by
11 residents around the pond.
12

13 Otho Wells asked who received the above mentioned report.
14

15 Ms. Carroll said that the Town Council and the Planning Board received the report.
16

17 Mr. Wells asked what action has been taken by the other boards.
18

19 Ms. Carroll said that the Town Council looks to Public Works. The Town engineer has resigned
20 and the Town is looking to hire another one. She said the Town was responsible for a lot of
21 consulting to bring us these reports and the Town Council was looking to work with him, the
22 Conservation Commission and other interested residents to implement action items but nothing
23 has been brought forward at this time. She suggested discussing landscape fertilizers, more
24 education to encourage residents to have rain barrels and rain gardens and to help storm water
25 runoff. Ms. Carroll asked who would take leadership and who the players would be with regard
26 to this.
27

28 Mr. Wollmar asked if there is a buffer zone for the pond.
29

30 Chair Welsh noted that the Town has a regulation but it is not always adhered to.
31

32 Mr. Wells said that a survey about lawn fertilizer was commissioned; he asked what became of
33 the survey. He said that survey would tie in with the report.
34

35 Chair Welsh said she would look into that.
36

37 Mr. Wells said he does not think the Conservation Commission should commit to doing
38 something until the Town Council and the Planning Board comes to a decision as to the next step.
39

40 Ms. Carroll said there is a lot happening in other communities on this topic. She suggested the
41 members keep their eyes open for new information. She said there is a program to encourage
42 residents to use less or no fertilizer which had an education program set up, a slogan, signs
43 around town.
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45 c) NH's Return on Investment in Land Conservation (TPL)
46

47 This item was discussed earlier in the meeting.

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8) Ongoing Business/Tasks/Working Groups

a) Land Protection

The members discussed the need to have a separate group to deal with Land Protection or if it would be better to deal with it as a whole Commission.

Dick Wollmar suggested that this item be discussed when more members were present to provide their input.

b) Land Stewardship

Chair Welsh said that one of the jobs of land stewardship is to broker disagreements over land that is held in partnership among the town boards; such as the Wagon Hill property. She said that the Recreation Department would like a space for a park rather than a natural area and they would like to hold large public gatherings there which they feel would need a more solid infrastructure at Wagon Hill, such as rest rooms, running water, and a solid parking surface.

Chair Welsh said there are currently 32 parking spots located there but when big projects with the Middle School is held they say they would need an additional 50 parking spots. Chair Welsh said the Agricultural Committee has public gardens and a monarch butterfly project at the Wagon Hill property and the Conservation Commission sees the property in terms of sensitive areas along the river that need to be conserved. She said there are issues with the paths being located in delicate areas that cause erosion. Chair Welsh suggested moving the paths back a littler or building a structure over the wetlands (such as a boardwalk).

Richard Lyons asked how this connects with the management plans.

Chair Welsh said the Commission will be looking at that during the next meeting. She said that Wagon Hill has two plans.

Chair Welsh asked if any members had items with regard to Wagon Hill that they would like discussed at the next meeting.

Ms. Carrolls said she is concerned about a parking lot being built over the hill next to the community gardens. She said that may create runoff that would go to the community garden. She noted that the parking lot there would diminish the natural view over the hill.

Mr. Wollmar suggested using buses or carpooling for activities instead of adding parking spots. He said he would like to avoid building more parking spaces since it is such a beautiful place.

c) Permits

There were no requests for permits this month.

9) Board and Council Reports

a) Town Council

1
2 Diana Carroll noted that due to the calendar the Town Council has not met in July yet, but will be meeting
3 next week on Monday July 28th.

4
5 b) Planning Board

6
7 Kathy Bubar noted that the Planning Board has been kept very busy with the new development in Town
8 and said that a few have focused on setbacks but there is nothing new to report.

9
10 c) ZBA

11
12 There was no report on the ZBA agenda at this meeting.

13
14 **10) Administrative**

15 a) Conservation Corner Article

16
17 Chair Welsh said she would submit an article on fertilizer use and asked Mr. Wollmar for assistance.

18
19 Mr. Wollmar said that he would provide Chair Welsh with a paragraph regarding helpful hints for
20 compost use on lawns.

21
22 **11) Other Business/Announcements/Reminders?**

23 a) The next regular meeting of the Durham Conservation Commission will be held on
24 August 14, 2014.

25
26 b) Peak Path issues

27
28 Chair Welsh said the Peak path became larger and straighter, trees came down, and an
29 impervious surface was used instead of a permeable surface. She said a lot of the issues were
30 due to fact that the path is located on UNH property. Chair Welsh said the Commission has some
31 authority due to the conditional use process but did not have final authority since it is UNH
32 property. She said UNH has either encouraged or been okay with the changes. Chair Welsh said
33 that the Planning Board, the Conservation Commission and the Town Council spent a lot of time
34 on the path and ended up not having the authority to do anything about it. She said to a certain
35 degree it was a waste of time. Chair Welsh suggested that if the Town cooperates with UNH on a
36 property the Commission should ask that UNH present what they would like, review it and
37 comment and know that it is not under our authority, instead of spending a lot of time on
38 something that ends up being different than what the Commission wanted. She said she would
39 like to send a letter to the Town Administrator from the Commission. Chair Welsh said she
40 would distribute a draft of a letter to the members for them to review.

41
42 Ms. Carroll asked if John Parry has seen this information and Chair Welsh said he had.

43
44 Otho Wells said that the Conservation Commission was involved with the wetland portion of the
45 path.

46
47 Char Welsh said that John Parry was asked to be involved because of his tree expertise and spent
48 a significant amount of time on the project.

1 Mr. Wollmar said that as a practical matter a porous pavement would have been nice; but is not
2 within the purview of the Conservation Commission.
3
4 Chair Welsh said that it may be possible to invoke the conditional use conditions in order to have
5 the porous pavement installed.
6
7 The members briefly reviewed the draft letter from Chair Welsh.
8
9 Mr. Lyons suggested that the third paragraph be softened a little.
10
11 Chair Welsh agreed.
12
13 Mr. Wells said the gist of the letter is on target. He said the Commission did not discuss much
14 about UNH. He said they were discussing the wetland issue.
15
16 Chair Welsh said the project went through as if it were a normal Durham property and the
17 Commission was not made aware that it was UNH property which meant that in the end the
18 Commission would not have final authority over the plan. She said the process was not efficient
19 and noted that the Planning Board and the Conservation Commission have enough to do without
20 spending so much time on a project that they will have no control over.
21
22 Mr. Wells asked if at this point the Conservation Commission has no involvement in the project.
23
24 Chair Welsh said that is correct. She said she is concerned about changing the process with
25 regard to reviewing projects on UNH property.
26
27 Mr. Wells suggested adding in the letter that this is not specifically about the Peak project.
28
29 Chair Welsh said she would rewrite the letter and distribute it to the members for their
30 comments.
31
32 Ms. Bubar said this is not a unique problem. She said there have been issues where people sense
33 that UNH is not being a good partner and she said that is important to mention. Ms. Bubar said
34 the boards consist of volunteers trying to do good things for the town and if they will have no
35 effect on a project with UNH they should be told that.
36
37 **12) Adjournment**
38
39 *Kathy Bubar MOVED to adjourn the July 10, 2014 meeting of the Durham Conservation Commission*
40 *at 8:57 pm; this was SECONDED by Otho Wells and APPROVED unanimously.*
41
42 Respectfully submitted by,
43
44
45 Sue Lucius, Secretary to the Durham Conservation Commission