

DRAFT
North Hampton Conservation Commission
Meeting Minutes
October 10, 2017

Administrative

The meeting was called to order at 7:03 p.m. The agenda was posted in compliance with RSA 91-A requirements.

Roll Call

Attendance included Lisa Wilson (Chair), Kathy Grant (Vice Chair), Lauri Etela, Shep Kroner, Mike Lynch, Philip Thayer and Andrew Vorkink. Members of the public included Joseph Coronati of Jones and Beach Engineering, Inc., and Allyson Ryder.

Approval of the Minutes

After some discussion, a motion was made and seconded to approve the minutes.

New Business

Letter of Request for Consideration for Nomination to serve on the Conservation Commission and discussion with candidate: Allyson Ryder of 120 Mill Road North Hampton, NH introduced herself to the Commission for consideration as an Alternate Member on the Conservation Commission. After some discussion, ***a motion was made by Andrew Vorkink, duly seconded by Philip Thayer to nominate Allyson Ryder as an Alternate Member on the Conservation Commission for consideration by the Select Board.*** The motion carried with a unanimous vote.

Standard Dredge and Fill Wetlands Permit Application: Joseph Coronati, Jones and Beach Engineering, Inc., prepared and presented the application on behalf of the property, owners Chris and Michelle Rondeau of 120 Mill Road North Hampton, NH for 579 square feet of disturbance within a wetland. The first impact is an after-the-fact permit for approximately 80 linear feet of impact of a new wall located within wetlands. The second impact is at the entrance of the property. The applicant wishes to use the forestry drive as their permanent paved driveway and has submitted a wetlands permit as shown on the plan. After some discussion, ***a motion was made by Shep Kroner, duly seconded by Philip Thayer, to authorize the Chair to send a letter to DES to verify that all DES requirements have been met for a Dredge and Fill Wetlands Permit Application to include possible correction of Item 1.1 on the Army Corps of Engineers Programmatic General Permit (PBP) to note that Little River is an impaired river, and to ensure that the approvals are received from the NH Heritage Bureau and the NH Fish and Game Department.***

Conservation Easement Current Conditions Report from the Society for the Protection of New Hampshire Forests for the Boise Wildlife Preserve: The Conservation Commission received a report about the current condition of the Boise Property. The

report was submitted to the Select Board by Lauren Kras, the Conservation Easement Steward. The Report included documentation that included detailed photographs, maps, and descriptions of the property. After some discussion, ***a motion was made by Andrew Vorkink, duly seconded by Philip Thayer, for the Commission to notify the Select Board that it has reviewed the report, has found no reason to conclude that it is not accurate and therefore recommends that the Select Board sign the report. The Commission also asked the Forest Society to notify the Conservation Commission of any future inspections to give Commissioners the opportunity to attend site walks and to inquire whether the easement permits a trail on the property.*** The motion carried with a unanimous vote.

Old Business

Conservation Easement Sub Committee Update: Andrew Vorkink reported that with the assistance of Kathy Grant and Chris Ganotis, the Commission has now completed an updated Conservation Easement Database of all of the properties in Town. The Conservation Easement Database has been loaded onto the website as of September 29. Also on the website are two maps prepared by the Rockingham Planning Commission and NH GRANIT: The North Hampton Conservation, Wetlands and Parcels Map –September 2017, and the North Hampton Conservation, Wetlands and Parcels Map – Aerial September 2017. These maps show all of the wetlands and conservation properties overlaid onto the tax map for all properties in town.

Final Management Plan for Forest Hills Update: The Management Plan was submitted to Deborah Goard of the SELT. The Land Trust has 60 days to respond. In addition, Tracy Degnan, from the Rockingham County Conservation District was asked to help eradicate two small patches of the invasive Japanese Barberry and noted that a DES Wetlands Permit is required for the removal of the invasive plant. Other invasive plants have been located within the power line and the Chair suggested notifying the Power Company to request assistance with possible removal along the power line corridor where the company has cleared vegetation. The Chair will reach out to Tracy to determine next steps.

The NH Rivers Council: Winnicut River Watershed Restoration and Management Plan Update: Kathy Grant reported that the plan came out in August. Michelle Tremblay, of the NH Rivers Council, outlined a series of steps and goals to improve the quality of water over a period of time.

Mowing Update: David O’Hearn submitted an estimate of \$750 to mow and clear brush at the Community Garden conservation parcel. It was decided to ask Walter Nordstrom, who has mowed in the past to mow the Community Garden for \$85.00 per hour. Phil Thayer will oversee any future clean-up at the Community Garden and the Dustin Booker Farm off Buckskin Lane.

Correspondence

NHDES: Letter dated October 4, 2017 for 4 Dancer's Image Lane: In a letter dated October 4, 2017, the DES is requiring that the Perkins complete all the Standard Dredge and Fill requirements for a major impact project and specified the items that needed to be addressed, which include clarification of how the piles will be installed into the salt marsh and whether machinery will be used. The DES also requires a revised float design to ensure the float does not rest on the flat during low tide.

Acknowledgment of Chris Ganotis: A thank you note was received from Chris Ganotis, former Chair of Conservation Commission, for receiving from the Commission a commemorative clock and books in appreciation for his service on the Commission. The Commission thanked Chris for serving 17 years on the Commission and for serving as Chair for 14 years. The Commission wishes Chris all the best and thanks him for his service to the town.

Aquarion Water Company of New Hampshire, Proposed Mill Road Water Treatment Plan: On Monday, September 25, members of the Conservation Commission attended a site walk held by the Planning Board at the North Hampton Water Treatment facility. Lauri Etela, Mike Lynch and Lisa Wilson attended the site walk, which included members of the Planning Board, Water Company officials and the public. After some discussion, ***a motion was made by Lisa Wilson, duly seconded by Lauri Etela, to draft a letter to the Planning Board to recommend that a swale be added to the plan to protect abutting properties.*** The motion carried with a 6 in favor, 1 opposed.

The State of New Hampshire Judicial Branch Superior Court, Notice of Decision:
Select Board, Town of North Hampton v Ann Larkey; Case Number 218 2017 CV 00321.

In summary, the Superior Court ruled that both Warrant Articles 33 and 35 are unenforceable under RSA: 36-A because they are not consistent with RSA-36 A, which is the statute governing Conservation Commissions.

Warrant Article 33 asked the voters to approve specific oversight measures that are not provided for in the governing RSA's. The article also asked to enact other procedures that the RSA's currently provide for under the current RSA: 91-A, Right to Know Law. Warrant Article 35 asked the voters for an elected Conservation Commission rather than an appointed one.

The Court Confirmed that under RSA 36-A, members of the Commission are to be appointed by the Select Board and that acts of the Conservation Commission are subject **only** to review by the Town's Select Board or other similar local governing body.

The Decision notes that to rule otherwise would plainly subvert the intent of the legislature. The Court ruled that the Defendants are permanently enjoined from seeking to enforce the provisions of Warrant Articles 33 and 35. Absent an injunction, voters may continue to chip away at the statutory authority granted to the Plaintiff and the Commission by placing additional warrant articles, which seek to implement Warrant

Articles 33 and 35, in successive elections.

The Court noted that the power to change RSA Chapter 36-A exists solely with the legislature.

The Court granted the Plaintiffs' Motion for a Summary Judgement and Permanently Enjoined the Defendants from seeking to enforce the provisions of Warrant Articles 33 and 35.

Other Business

The Chair received a letter from a resident in town who requested information on how to remove phragmites. Lisa directed the resident to the UNH Cooperative Extension program and suggested that the resident contact the owner of the property and the DES for permission and any necessary permits.

There being no further business to discuss, ***a motion was made by Lisa Wilson, duly seconded by Lauri Etela, to adjourn the meeting.*** The meeting was adjourned at 8:51 p.m.

Respectfully submitted,
Beverly Moore

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