

DRAFT
North Hampton Conservation Commission
Meeting Minutes
October 8, 2019

Administrative:

The meeting was called to order at 7:03 pm.

Roll Call:

Members Present: Lisa Wilson (Chair), Andrew Vorkink, Frank Arcidiacono, Lauri Etela, and Audrey Prior.
Members of the Public: Kristopher P. Wilkes, CWS, CPESC; Project Manager, Energy & Environmental Services

Approval of October 8, 2019 Draft Minutes: After some discussion, *a motion was made by, Lauri Etela duly seconded by Audrey Prior to approve the minutes as corrected.* The motion carried.

New Business:

A. NH DES After-the-Fact Wetlands Permit Application: Public Service Company of NH (PSNH) d/b/a Eversource Energy replaced five single wood electric utility poles as part of an emergency response to an unplanned outage along the 3106 Sub Transmission Line in North Hampton, New Hampshire in the summer of 2019. Due to the emergency nature of the activity, PSNH completed the replacement work without NHDES authorization in accordance with RSA 482 A. On August 2, 2019, NHDES notified PSNH that an after the fact Wetlands Permit Application had to be filed with NHDES by October 1, 2019 to retain impacts (NHDES File 2019 02381). Approximately, 18,273 square feet of temporary impact to wetlands and a perennial stream was required to access and replace the utility poles.

Mr. Wilkes presented the application and responded to the Commissioners concerns. *After some discussion a motion was made by Andy Vorkink, duly seconded by Audrey Prior, to authorize the Chair to draft a letter to the NH DES to note that the Commission reviewed the after-the-fact wetlands permit application and recommends that the DES inspect the site to determine whether any restoration is needed to include re-seeding and regrading in accordance with NHDES guidelines and best management practices. In addition, the Commission suggests that the DES and/or Eversource energy might re-inspect the site in 2020 and 2021 for the spread of invasive species and to take whatever steps are necessary to prevent any potential growth from spreading.*

B. Case #19:10 - Applicant: Henry Brandt, 182 Post Road, LLC, 182 Post Road, North Hampton, NH 03862. The Applicant requests a Design Review for a future site plan review application proposing farmers' market, horse boarding, and public-private event uses. Property Location: 160-186 Post Road, North Hampton, NH 03862; M/L: 018; Zoning District: R-1, High Density District.

Mr. Brandt discussed his proposal with the Commission and answered questions. Mr. Brandt and the Commissioners discussed the differences between a Farm Roadside Stand, Farm Market, and Farmers' Market. The Commission discussed the proposed plans to provide parking for events and the proposed plan for approximately 75 perpendicular parking spaces to include handicap spaces. Mr. Brandt noted that he has been planting many trees and plans to plant additional trees in the vicinity of the parking spaces. Mr. Brandt noted that the vehicles would be parked on the grass, not on porous

pavers as presented on the plan. Mr. Brandt also pointed out that the designated parking areas, although on conservation land, are areas that are not located on the productive agricultural land and that an underground sprinkler system has been installed in the vicinity. The Chair suggested that to mitigate parking problems for large events such as weddings, the Brandts might consider requiring off-site parking. Andy Vorkink suggested that when Mr. Brandt meets with the Planning Board it would be a good idea to come with a letter from the SELT saying that they approve of the activities proposed in the design review application. ***After some discussion, a motion was made by Andy Vorkink, duly seconded by Lauri Etela, to authorize the Chair to draft a letter to the Southeast Land Trust of New Hampshire (SELT) and to share the correspondence with the Planning Board and Select Board requesting that the SELT state in writing that it approves the proposed actions under the design review as consistent with the conservation easement.***

C. Robie Conservation Easement, North Hampton, NH 03862: Discuss steps to correct recording error for conservation parcels for two fields located south of Exeter Road: Tax Map 9, Lot 3; 13.33 Acres (Subject to long-term lease to hay and mow fields by Robie family) and Tax Map 9 Lot 53; 27 Acres within the Winnicut River headwaters. Andy Vorkink pointed out that conservation easements intended in 2007 to be added to the two lots acquired from Ms. Robie but due to last minute changes in the parties such easements were not prepared or filed on Lot 9-3 or Lot 9-53. When TPL dropped out as a party at the last moment in September 2007 and when the federal funds did not materialize for the acquisition of these lots, the documents that were actually signed, such as the warranty deed and the lease, were left with provisions which assumed federal funds would be forthcoming when in fact that situation had already changed.

To correct the error, Mr. Vorkink suggested that the Commission adopt protective covenants similar those which have been approved by the Select Board as in other cases for town-owned properties which were intended to be conserved but lacked full conservation protections. The form of the restrictive covenants would be the same as what the Conservation Commission and the Select Board have used in recent years when acquiring land using Town funds or protecting land already acquired but not yet subject to conservation provisions.

Andy also suggested revisiting provisions in the Robie lease for Map 9, Lot 3 which after 12 years are not realistic or needed in situations where federal requirements do not apply. **The long-term lease permits the Robie family to hay and mow the fields in Map 9, lot 3.** As for the lease agreement itself, the umbrella liability clause appears to be too burdensome/expensive annually to have the \$1 million dollar insurance coverage per occurrence rather than an overall ceiling of one million dollars. Andy suggested modifying the lease agreement by the Commission waiving the umbrella liability clause that requires a \$1 million dollar liability insurance per occurrence to resemble more typical coverage limits of \$1 million overall liability coverage, especially noting that after 12 years into the lease agreement no issues have arisen. Seeking a waiver is likely much simpler than amending the Robie lease because the federal form of the lease limiting the type of amendments.

In addition, the tax assessor, Michael Pelletier, sent to Andy a list of recently acquired town-owned/tax acquired properties for the Commission to compare with its database of conservation parcels. That comparison allowed the Commission to identify several town-owned parcels that might be good

candidates for conservation. A similar exercise was done by the Commission in 2016 to identify parcels, such as wetlands, which were good candidates for conservation but lacked conservation covenants. It was also noted that there remains a number of parcels that are owned by the Conservation Commission but lack conservation easements.

Mr. Vorkink suggested that since the Commission needs to seek the approval of the Select Board in order to add the protective covenants to lots 9-3 and 9-53, it makes sense to recommend to the Select Board to place the protective covenants on other suggested conservation parcels at the same time. Some lots are located within the headwaters of the Winnicut Watershed, others abut existing conservation land, and some are owned by the conservation commission.

In addition to adding the protective covenants to the conservation parcels located on **Map, Lots 9 and 53**, the Commission recommends that the Select Board consider conserving the following parcels with protective covenants:

1. **Map 14, Lot 168; 13 acres** – Between Walnut Avenue & Exeter Road. **Tax acquired in 2019.** This property is surrounded by conservation lots and is within the headwaters of the Winnicut River.
2. **Map 21, Lot 44; 6 acres** – North Road Rear next to Tax Map 17, Lot 71. **Tax acquired in 2019.** This is upland forested acreage with some wetlands half way between the 83 acres Town owned conservation Luff/Forest Hills property (Map 21-45 and 22-3) and Town enforced 50 acres conservation Fitzgerald lot (Map 17-73). Potentially part of a future land bridge from Rail Trail path to Town's northwest conserved land.
3. **Map 15, Lot 12; 5.5 acres** – Between Walnut Avenue and Exeter Road. **This lot is owned by the Conservation Commission**, but there is no record of protective covenants. This wetlands lot is surrounded by conservation land and is located within the headwaters of the Winnicut River.
4. **Map 9, Lot 52; 3 acres** – Below Exeter Road and South Road Rear. Wetlands within the headwaters of the Winnicut River located next to the Robie Conservation Land located on Map 9, Lot 53.
5. **Map 17, Lot 74; 3 acres**; North Road wetlands near Rail Trail and adjacent to conserved 50 acres Fitzgerald parcel Map 17, Lot 73. **This lot is owned by the Conservation Commission**
6. **Map 17, Lot 100; 1 acre** – North Road lot that abuts Rand conservation land owned by SELT, wetlands with 422 feet of road frontage on North Road. **Tax acquired in 2017.**

A motion was made by Lauri Etela and duly seconded by Audrey Prior to proceed with the following actions:

1. ***Proceed to the Select Board to hold a Public Hearing and approval to place protective covenants on the Robie conservation land: Map 9, Lots 3 and 53. The Commission recommends adopting protective covenants similar to covenants placed on other town-owned conservation land and tax acquired properties.***

- 2. If the Select Board approves placing protective covenants on the Robie lots, Map 9, Lots 3 and 53, inform the Select Board that the Commission will waive the per occurrence requirement in the Robie lease agreement for Map 9, Lot 3 of the umbrella liability clause, retaining the requirement of a \$1 million dollar liability insurance.**
- 3. Proceed to the Select Board to hold a Public Hearing and approval to consider placing protective covenants on the wetlands properties, town-owned conservation lands, and tax acquired properties that have been identified above.** The motion carried.

A motion was made Lauri Etela and duly seconded by Audrey Prior to authorize Michele Peckham to prepare draft legal documents consistent with recent conservation provisions and to authorize an expenditure up to \$2000 for legal and recording fees to complete the above transactions. The motion carried.

Conservation Easement Subcommittee Update: Andy pointed out that more information is needed about the prior ownership of a town owned/tax acquired 10 acres parcel located on Map 9, Lot 51 located to the rear of South Road. He suggested contacting past conservation commissioners to determine whether they may have any information about the owners.

Trail maintenance Update: Phil Thayer will report back to the Commission in November.

Conservation Signage: Signage is needed for the path to Old Road Farm, the Little River Conservancy, and Booker Farm. Lisa recommend aluminum signs to be posted on 4 by 4 pressure treated posts along the boundary that abuts private property. The aluminum signs sell for approximately 20 dollars each and the posts at home depot sell for approximately 8 dollars each. The Conservation Commission has about \$120 left in budget for signs. Lisa recommended that the conservation commission authorize an expenditure up to \$500 for additional signs and posts. The company that produced the bronze finished signage and posts for the Old Road Farm and Corbett Farm signs in 2014 is still in business and will provide an estimate for two more similar signs for the Booker Farm and the Little River Conservancy. **A motion was made by Andrew Vorkink, duly seconded by Audrey Prior to authorize an expenditure up to \$500 for the purchase of conservation signs.**

The motion carried.

Philbrick Pond Salt Marsh Drainage Update: Frank Arcidiacono reported about the results of the sitewalk that took place on Friday, September 27, 2019 from 10:00 a.m. to 12:00 p.m. Attendees were Kevin Lucey (NHDES Coastal Program); Pete Steckler, Anna Ormiston (The Nature Conservancy); Larry Miller and Frank Arcidiacono (Town of North Hampton). Mr. Miller said that the Select Board was supportive of the proposed culvert modification project as well as the investigation to improve conditions within the Philbrick Pond Salt Marsh. Attendees discussed whether to include the eradication of existing phragmites as part of the project. *Project Goals* and the *Design Intent* of any restoration plan need to be fully thought through and documented prior to intervention. Members present accessed the salt marsh on lots 19, 19-1, and 20, which have easements held by the Conservation Commission. The next steps are for Kevin Lucey to coordinate a second field investigation with a technical team and follow up on October 28, 2019 after approval by the property owner. Frank passed out a four-page field

report and a tax map depicting the lots located within the Philbrick Pond Salt Marsh. Lisa Wilson also contacted the NRCS to begin the process to determine whether the project is eligible for federal funding.

4. Correspondence:

- A. Certified Letter Post Marked September 19, 2019 to Conservation Commission:** Notification of October 1, 2019 Public Hearing. Case #19:10 - Applicant: Henry Brandt, 182 Post Road, LLC, 182 Post Road, North Hampton, NH 03862. The public hearing was postponed to a later date to be determined.
- B. Email dated September 26, 2019 from Tracy Degnan, RCCD:** The Commission received an invoice for \$700, an expenditure approved during the 2.12.19 meeting of the Conservation Commission to control invasive plants at Forest Hills Farm.
- C. NHACC Notification of November 2, 2019 Annual Meeting in Pembroke, NH. Registration begins at 8:00 a.m.** Cost is \$60 for early bird registration prior October 19. ***A motion was made by Lisa Wilson, duly seconded by Lauri Etela to authorize payment for up to two commissioners to attend.*** The motion carried.
- D. Letter dated September 10, 2019 from NHDES:** The NHDES requires information from the Natural Heritage Bureau in order for the DES to begin the technical review for the Land Resources Management File # 2018-02284. 3 Ocean Boulevard, North Hampton: Tax Map 1, Lot 1-12.
- E. Email dated September 30, 2019 from Aaron Blouin, Concord, NH 03301:** Mr. Blouin wanted to know whether hunting is permitted on the Boies conservation land. The Forest Society confirmed that hunting is not prohibited on the property. The Chair sent an email to Mr. Blouin to inform him that hunting is allowed on the property.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,
Beverly Moore
Recording Secretary

“These minutes were prepared within five (5) business days as required by NH RSA 91-A:2, II. They will not be finalized until approved by the majority vote by the Commission.”