



# TOWN OF HUDSON

## Conservation Commission

Jim Batts, Chairman

Nancy Brucker, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-816-1291



**DATE: 21 October 2013**

**MEETING MINUTES:** Below is a listing of minutes for the Hudson Conservation Commission. Minutes are not a verbatim record of each meeting, but rather represent a summary of the discussion and actions taken at the meeting. All Conservation Commission meetings are televised live and repeated during the following week on HCTV, cable television channel 22. Official copies of the minutes are available to read and copy at the Town Engineer's Office during regular business hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.).

Should you have any questions concerning these minutes or wish to see the original recording, please contact the Town Engineer's Office at 603-886-6008.

A regular meeting of the Hudson Conservation Commission (HCC) was held in the Community Development Conference Room of Town Hall.

**Members of the Commission present:** J. Batts, R. Brownrigg, K. Dickinson, P. Dubay, R. Jurewicz, P. Nappo

**Members of the Commission excused:** None

**Members of the Commission absent:** None

**Member of Town Staff present:** P. Colburn

**Board of Selectman Representative present:** N. Brucker

**Seating of Alternates:** None

Called to Order at 7:05 p.m.

### **I. PUBLIC INPUT RELATED TO NON-AGENDA ITEMS**

None

### **II. OLD BUSINESS**

None

### III. NEW BUSINESS

None

### IV. OTHER BUSINESS

#### A. Stewardship of Conserved Lands

##### **Discussion of Robinson Pond Aquatic Plant Control**

Mr. Battis discussed an email which he had forwarded to all members from Amy Smagula, Invasive Species Program Coordinator for the NH DES, regarding a survey she had done of Ottarnic Pond. The Conservation Commission had developed a plan for invasive plant control with herbicide treatments at Robinson Pond in 2013 and 2014, followed by treatments at Ottarnic Pond in 2015 and 2016. Ms. Smagula noted that Ottarnic Pond has deteriorated significantly over the past year in terms of milfoil and fanwort. She would like us to consider adding a treatment at Ottarnic Pond in 2014. Without seeking a decision from the Commission, Mr. Battis wanted people to understand the financial status of the Commission and think about how the Commission should proceed. He noted that, given the existing budget and estimates of the cost for treatment and DASH operations at Ottarnic and Robinson Pond and assuming 40% state funding, the Ottarnic Pond treatment would require an additional withdrawal of approximately \$12,000 from the Conservation Fund in 2014. Mr. Dickinson noted that last year we used about \$10,000 from the Conservation Fund for Robinson Pond treatments with the intent it would be a one-time event. He asked when we last had a treatment at Ottarnic Pond. Mr. Battis responded that he was not certain of the exact year but he thought it was either 2009 or 20011, at the same time we treated Robinson Pond. Mr. Dickinson stated that he thought that if we could get another year of experience on side effects and efficiency with Clipper at Robinson Pond maybe that would be the way to go. There may be alternative sources of funding such as a warrant article. He also suggested that perhaps some sort of tax could be created that could be directed at the pond areas rather than the whole town. Mr. Battis noted that some lakes in the state have lake improvement association but he had no knowledge of how they are organized. Mr. Dickinson agreed that that was one option and he suggested that perhaps the affected homeowners need to show more interest in developing a strategy for funding these efforts. Mr. Battis noted that Clipper targeted fanwort that dominated at Robinson Pond. At Ottarnic Pond, milfoil and fanwort are about even and thus a different treatment is required, using Clipper and 2, 4-D.

##### **Discussion of Trail Work**

Mr. Dickinson stated that due to rain, the Trail Work Day at the Town Forest, scheduled for 6 October, was cancelled. Mr. Battis noted that Mrs. Sandra Rumbaugh, who has been coordinating much of the Musquash Trail efforts over the past few years, has stated that her work with the Appalachian Mountain Club will preclude her further efforts at Musquash. Mr. Battis stated that he appreciated her efforts at Musquash and her time on the Conservation Commission. Mrs. Dubay agreed. She noted that Mr. Undercofler has continued his efforts at Musquash and has set out a number of trail marker posts. The actual signs will be built this winter and set out next year. She also reported that the Eagle Scout project rebuilding the Musquash kiosk is also underway. She also asked if Mrs. Rumbaugh should be asked to come in to report on the status so we can continue her work. Mr. Battis noted that Mr. Undercofler and Mr. Alio should have a pretty good handle on the trail work.

His understanding of the work that was left unfinished was the GIS mapping effort presently in the hands of the NRPC. He would contact them concerning that effort. Mr. Dickinson noted that there is some trash in the main parking area and that the boat ramp area has some drainage issues. He stated that the solution was not just a quick regrading of the area but requires something more substantial so it will not wash out into the pond. He also noted that based on his observation, some of the erosion was due to improper use of ATVs.

#### **Discussion of LCIP Stewardship Inspection for Musquash Conservation Land**

Mr. Battis noted he was contacted by Land Conservation Investment Program Stewardship Specialist, Mr. Stephan Walker, about the annual inspection walk which the town needs to conduct this year. After some discussion it was determined that Mr. Battis would conduct an inspection of the front half of the property on 26 October, and Mr. Dickinson and Mr. Jurewicz would inspect the northern most part on 3 November.

#### **Discussion of Town Forest**

Mr. Dickinson noted that a query had been made about control of the gate at the Town Forest. He suggested that clearing the area in front of the gate might be of use and possibly placing boulders in the road. He has observed ATVs being taken into the Town Forest on trailers and used to go in circles in the field. Although the observed use was not harsh, repeated activity is in another category. Mr. Battis noted that the query came from the police dispatcher. The Conservation Commission has neither the manpower nor the authority to control improper activity. He recalled that the Commission wanted the gate open because we were criticized that the gate made it look like it was not public property. Mr. Dickinson suggested that a kiosk might emphasize that it is town owned property.

#### **Discussion of ATV Use on Conservation Lands**

Mr. Battis stated that during his conversation with Mr. Walker, he confirmed that there was no restriction in the LCIP grant or on the land deed that restrict ATV use. Mr. Walker suggested that the Town generate a management plan which divides the conservation land into areas allowing ATV use, such as along the power lines, and restricting ATV use, such as the hiking trails. Mrs. Brucker stated that not posting the land might bring up liability issues for the Town. Mr. Battis noted that the State rules require anyone using an ATV on property that is not their own must have written permission of the land owner. To his knowledge, no one has ever requested that permission for Conservation land. Mr. Brownrigg stated that Berlin has a huge ATV program that also requires permits or licenses and maybe a fee. He thought this was something that the town might be able to use as a model. Mr. Battis noted that Hudson does not have the space to shield abutters from the noise and this would be an issue. Mr. Jurewicz noted, as an ATV owner, hiking and ATV trails are clearly different as are snowmobile trails. ATVs on hiking trails are not a good thing. Mrs. Brucker asked if the Commission wanted her to make inquiry to the lawyers about the process. Mr. Battis stated that he was always sensitive to the fact that, while the Commissioners are the stewards, the Town owns the land and the authority in the Town is the Board of Selectmen. The Commission should probably make a recommendation to the Board of Selectmen and allow them to take it forward.

#### **Further Discussion of Town Forest**

Mr. Jurewicz returned to the question of the gate at the Town Forest and asked if the gate

should be open or closed. Mr. Battis noted that the gate did not restrict access to the property as there was a clear trail that went around the gate. Mr. Dickinson noted that on the Hudson side of the Pelham Town Forest the fire gate is closed but there is a kiosk astride a trail so that it blocks vehicles but not pedestrians. Some clearing and clean up of the parking area in the Town Forest and a kiosk might help the situation.

### **Town Forest Trail Day, 10 a.m., 27 October**

#### **B. Circumferential Highway Impact**

Mr. Battis noted that there was confusion over the date for the Speare Rd.-Kimball Hill Rd. corridor site walk. He also noted that several members of the Board of Selectmen and the State Reps met with the State Department of Transportation concerning the Circumferential Roadway. The project engineers for the DOT noted the issues that the EPA had with the original Circumferential Highway plan which resulted in the cancellation of the highway. These issues were wetlands in the southern corridor. They noted that those remain issues that would need to be considered in any future roadway design. Speaking only for him, he stated that those who had done the original site walk of the southern corridor between the Sagamore Bridge and Bush Hill saw the wetlands and also noted some slope issue in this segment that would need to be dealt with in any design. Mr. Dickinson proposed that the Commission redo that segment of the site walks. Mr. Battis recommended that members try to attend this site walk as this would cover the area with most issues. Mr. Colburn stated that the roadway was discussed at the Board of Selectmen's meeting on 17 October. The BOS has added a notice on the Town website asking citizens to support the design and build of the Circumferential Highway. He stated that they are talking about a four lane setup with speeds possibly up to 65 mph. Mr. Brownrigg read the article as indicating it would only go to NH 111 and would only be a two lane road. Mr. Colburn stated that he was listening on-line and might have misunderstood.

### **Site walk for Circumferential Right of Way Wetlands between Bush Hill Road and Sagamore Bridge (Lowell Road) set for Saturday, 16 November at 10:00 a.m.**

Mrs. Brucker asked, as Mr. Battis described the Commission as an advisory authority, if the Conservation Commission could block a site plan? Mr. Battis stated that they could not. They could recommend denying a request for Wetlands Special Exception but the authority resides with the ZBA would make the final determination. He also noted that the ZBA, in a very high percentage of cases, follows our recommendations. Mrs. Dubay recommended that we start to put our information together and get it out to the public so they can see what might be impacted. Mr. Dickinson suggested that his initial database, taken from the National Wetlands inventory does not list many of the wetlands in the corridor. He suggested this might be a base to build on. He also noted that the conceptual design provided by VHB only used aerial photography to identify wetlands and had no field work. Mr. Dickinson and Mr. Battis stated that they would attempt to assemble information to facilitate the Commission's response.

#### **C. Storm Water Management**

Mr. Battis noted that requirements of the EPA Storm Water Management Program were discussed at a recent BOS meeting. He turned the discussion over to Mr. Colburn.

Mr. Colburn noted that the Town has a storm water system that discharges to various locations in town and is classified as an MS4 (Municipal Separate Sewer System). MS4s are regulated by the EPA under a permit issued to the State of New Hampshire in 2003. In February of this year, the EPA issued a new draft permit for comment. It is more stringent and requires maintenance and upkeep, education, and outreach. The 2013 elaborates and enhances the 2003 permit with far-reaching consequences. The comment period ended in August and the EPA is reviewing the comments. Manchester has estimated that it would cost them \$760M to meet the permit requirements. Besides the cost, people are concerned that the requirements are unsupported at the state and federal level. Mr. Colburn stated that at his annual review he gave the BOS a similar review of what was coming. At his recent budget review he asked for an additional \$50K outside of his budget as a contingency in case the permit becomes active in Fiscal 2015. When the permit becomes active there is a very rigid window within which you must act to remain compliant. This amount is based on what we estimate to be required in that first year. The BOS discussed having the Conservation Commission become active in the educational aspects and more recently in the financial aspects. At the EPA level, Mr. Colburn said, their position is that this is not something that can be put in a municipal budget but will require a separate taxing structure, similar to the lake associations mentioned earlier, a storm water utility. This issue has everyone running scared. Also of note is the fact that the permit is only for five years and most municipalities feel it should be longer. Mr. Battis asked for clarification from Mr. Colburn as to what the Board of Selectmen were suggesting. Mr. Colburn stated that they suggested that the Conservation Commission could fund the education portion. More recently, they suggested that the Commission could fund the \$50K contingency for permit compliance. Mrs. Dubay asked the duration of the permit prior to 2003. Mr. Colburn replied that the permit process started in 2003 and there was no prior permit. The 2003 permit was five years also, but the 2008 draft permit raised such ire that the EPA never released a final 2008 permit. Mrs. Dubay asked if we require any review of the system users. Mr. Colburn stated only during initial site plan review. Mr. Colburn noted that he was not aware of any permits in Hudson outside of the MS4 system. Mrs. Brucker stated that she passed out some Squam Lake watershed reports as examples of educational outreach, especially for use around Ottarnic and Robinson Pond. Mr. Dickinson asked what the \$50K would be used for. Mr. Colburn stated that there were 1192 storm water outfalls. This permit will require us to sample each outfall in dry and wet weather and to test each sample.

Mr. Brownrigg departed 8:55 p.m.

If the Town goes to a storm water utility I will need counsel to develop the structure. Mr. Dickinson noted that there would need to be significant professional services support to accomplish these goals. Mr. Battis stated that, in the past, the Conservation Commission had done things that had contributed to the Town's permit response. However, these efforts were not direct financial contributions. As a personal opinion, he stated that he views the Conservation Fund as essentially a capital reserve fund for use for one time purchases or expenses and not for ongoing operational expenses. At this time there is no specific request for funds so we do not know what we would really be paying for. Mr. Dickinson also stated a general agreement with this position. Mr. Battis stated that the capital reserve fund concept should be kept in mind by the Town Engineer and the Board of Selectmen if, in the future,

they should ask us to expend funds from the Conservation Fund. He also noted he was only one of nominally seven members. Mr. Nappo asked why, if lawn fertilizers are real concerns, why doesn't the BOS consider bans on such products. Mr. Jurewicz stated that this might not be a choice allowed by the EPA to which Mr. Colburn agreed and stated that, although phosphorus levels came up in the discussion, there are other similar issues that will be impacted by the grant. Mr. Colburn recommended that the members look at both the EPA and NHDES websites to see the many associated issues. Mrs. Dubay asked what portion of the \$50k request is a one-time deal to evaluate what steps need to be taken? Mr. Battis stated that he did not think Mr. Colburn could actually answer the question as the permit has not been finalized. Mr. Colburn concurred with that statement but that he did not want to catch the Commission by surprise when he might come forward with a request. Mrs. Brucker wanted to clarify that the Commission did not want to fund operating expenses. It was her response that the appropriate role of the Conservation Commission was educational. Mr. Battis stated that even education does not come free. If we take on the educational role we would need to go to the NRPC or some professional group to obtain educational information.

#### **V. Financial Status**

Mr. Battis noted that he was unavailable to support the BOS budget review, but that Mr. Colburn reported that it had gone through without significant comment. Our Budget Committee review is 21 November. The Commission earned \$6.85 in interest in August on the Conservation Fund of \$806,628.42.

#### **VI. Correspondence**

- Final Report from the NH Fish and Game on the Blandings Turtle Survey and no Blandings turtles were found
- NH DES Enforcement Letter to Mr. Jeffery Powers, 15 Parker Drive
- NH DES Alteration of Terrain Permit for JayMor Enterprise, 10 West Road
- New England Forestry Invitation to Open House at Tree Farm
- Town Forest gate query from Police Dispatcher
- NH DES email on Ottarnic Pond survey discussed earlier

#### **VII. Minutes**

##### **Motion to approve the 9 September 2013 minutes as amended.**

Motion by: P Dubay

Second by: K Dickinson

Vote: For   5   Opposed   0   Abstain   0  

#### **VIII. Commissioner's Comments**

- R. Jurewicz: Regarding the Town Forest a sign or kiosk might make it more inviting for appropriate use.
- P. Dubay: I will see if there is any interest in developing the signage among the Scouts. I did attend a meeting NHAARS regarding Storm Water pollution prevention and they might be a good resource.

- K. Dickinson: It would be useful to see the NRPC Musquash map. (Mr. Battis stated he will contact the NRPC for the map). We should be creating a budget for the Trail Grant funds. He would think improvement of the Musquash parking area/boat ramp might be a valid use and would help with the Town's Storm Water management plan.
- N. Brucker: Would the Forestry Program at Alvirne might be able to help. She also noted that the Benson Park is finding volunteers are harder to interest in work.
- J. Battis stated that it was his understanding that there were liability issues with the students going off the school property. He also noted that for trail work it is always the same four or five people who help out. It is hard to sustain the volunteer base. He also noted that membership and alternates on the Commission was available.

**Motion to adjourn.**

Motion by: R. Jurewicz

Seconded by: K. Dickinson

Vote: For   5   Opposed   0   Abstain   0  

Meeting Adjourned at 9:48 pm.

---

James Battis, Chairman