

HUDSON CONSERVATION COMMISSION

JUNE 11, 2007

MEETING MINUTES – Draft

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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 and shown on public television channel 22. Official copies of the minutes are available to read and copy at the Community Development 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 Community Development Office at 603-886-6005.

A regular meeting of the Hudson Conservation Commission (HCC) was held on Monday, June 11, 2007 at 7:02 P.M. in the Community Development Room of Town Hall. Chairman Rumbaugh presided.

Members of the Commission present: Bob Haefner-Vice Chairman, Jim Battis, Ken Dickinson (8:34 P.M.), Michelle Champion (8:18 P.M.), Tim Quinn, Linda Kipnes, and Sue Ellen Quinlan-Alternate (7:20 P.M.)

Members of the Commission absent: Phil Cassista (Alternate) and Ray Orner (Alternate)

Members of the Staff Present: Tom Sommers (Town Engineer)

Member of Board of Selectmen Present: Ken Massey (Liaison)

Also in Attendance: Jean Serino (118 Robinson Road), Peter Walker (Director of Environmental Services VHB Inc, Bedford, NH), Pete Steckler (VHB Inc, Bedford, NH), (Richard Maynard (Maynard & Paquette Engineer Associates), Michael & Lisa McElhinney (52 Kimball Hill Road), Leo Garneau (NE Consulting Forestry Tree Services), Jay Leonard (Friel Golf Company)

ADDITIONS OR DELETIONS TO THE AGENDA

Move Item 4A, Prime Wetlands Study to Item 1.

PUBLIC INPUT RELATED TO NON-AGENDA ITEMS

Jean Serino, 118 Robinson Road, commented on previous efforts to pass a tree ordinance in town and provided members hand-outs on local and out-of-state tree ordinances. Public input closed 7:07 P.M.

- 1. PRIME WETLANDS STUDY** – Mr. Quinn gave an update on the RFP process. The Town sent out 15 Request for Proposals for a prime wetlands study. Two responses received. A selection committee was formed to review the responses and included HCC members T. Quinn (leader), J. Battis, K. Dickinson, L. Kipnes, Town Engineer T. Sommers, and Community Development Director S. Sullivan. The committee reviewed the responses and unanimously agreed VHB to be the superior proposal. Mr. Quinn requested a representative from VHB attend the meeting to answer questions. Mr. Peter Walker, Director of Environmental Services VHB attended the meeting.

Mr. Quinn asked who would be the single point contact during the length of the contract. Mr. Walker agreed to be the contact. Mr. Quinn asked if the project deadline can still be met even though are starting later than anticipated. Mr. Walker commented that he reviewed the timeline and the delivery date would not be affected and the study will be done this year.

Mr. Sommers asked if VHB was proposing to provide an overlay to the Town's Arcview GIS system. Mr. Walker replied that VHB will deliver a GIS layer compatible to the Town's system.

Mr. Quinn indicated that there will be three meetings, the first of which will be to determine whether the HCC selected the best 25 wetlands in town.

Ms. Rumbaugh asked how the HCC will be invoiced and who will write the contract. Mr. Sommers said payments are paid by tasks completed. Mr. Walker agreed to write the contract.

Mr. Quinn indicated the contract price to be \$38,750.

Mr. Battis echoed Mr. Quinn's earlier concern about a single point of contact and that we were not shifting managers. Mr. Walker agreed to be the contact person during the length of the contract. At this point, Mr. Walker introduced another member of the team, Mr. Pete Steckler. Mr. Quinn agreed to be the contact for the HCC.

MOTION by T. Quinn to authorize the expenditure of conservation funds pursuant to RSA 36-A:5 for a prime wetlands study, in the amount of \$38,750 to VHB Inc., consistent with the preparation of the contract by VHB Inc. and subject to the town attorney's review and approval. **SECONDED** by J. Battis. **MOTION CARRIES (5-0).**

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2. OLD BUSINESS

- A. Case 134,135,143,144-3,5,20,2,3 Tim Sundstrom (applicant), Peter Heller (owner), John Berrigan (owner) would like to sell land to the Town of Hudson to create a conservation corridor along Robinson Pond on properties located at 16, 20, 46, 58 Robinson Rd and 25 Robinson Pond Dr.

MOTION by T. Quinn to deferred this case until next month as we are going to discuss a potential land acquisition in non-public session.

SECONDED by B. Haefner. **MOTION CARRIES** (4-0).

3. NEW BUSINESS

- A. 5 Cutler Road, Case Tax Map 109 Lot 19, as shown on job number 11911 dated 2/28/2007 page 1 of 2. Richard Maynard, Maynard & Paquette Engineering Associates, LLC – 23 East Pearl Street, Nashua, NH (applicant), David and Pauline Robinson (homeowners), request a Wetlands Special Exception for intrusion into the wetland and buffer. 130 feet of driveway proposed to cross a delineated wetland on-site.

Mr. Maynard reviewed the highlights of the plan including the site walk of the property, description of the driveway, stone dam at the edge of the wetland and the lack of alternatives to minimize the wetland impacts. The driveway is 127 linear feet x 14 feet wide (10 – pavement, 4 shoulders)

The wetland disturbance is 3,040 sq feet and buffer disturbance is 4,020 sq feet for a total of 7,060 sq feet,

Site walk observations: Ms. Kipnes commented that the wetland was very wet and described it as a pond and the crossing appears to be across the biggest part of the water. Mr. Haefner agrees with Mr. Maynard that the turn where the dam is located would make it impossible for a vehicle to turn safely. Additionally, Mr. Haefner agrees with Ms. Kipnes that the area is a pond with falling water. He is unsure if the area is wet all year and to build a driveway will take a lot of fill in the wetland. He prefers a conspan bridge rather than fill.

Ms. Rumbaugh asked for planning board considerations for constructing the driveway. Ms. Quinlan said that there were several issues including: driveway in the setback, proximity of driveway to driveway on lot 109-18, site distances and width issues.

Ms. Rumbaugh asked why the driveway couldn't go around the pond. Mr. Haefner replied that it would be too short a turn, especially for an emergency vehicle.

Ms. Rumbaugh asked the town engineer if there were any reasonable alternatives to the location of the proposed driveway. Mr. Sommers replied that he did not see any other alternatives and echoed Mr. Haefner's earlier sentiment for a conspan bridge for continuous wetlands to allow for the migration of wildlife. Mr. Maynard commented that wetlands continue in to the back of the property.

Mr. Maynard stated that a 130-150 feet conspan bridge would be too expensive for a single family home. However, he could place a couple of 24 inch pipes, of which 12 inches would be open, the other 12 inches buried, that would serve as a passage way for amphibians and smaller animal life.

Ms. Rumbaugh asked about storm water management issues with the construction of the building and the wetlands. Mr. Maynard replied that he would follow standard procedures of using a silt fence on both sides of the land.

Ms. Rumbaugh, citing the town's ordinance 334-38, Special Provisions asked Mr. Maynard if the homeowner would be agreeable to compensatory mitigation on the property. Mr. Maynard replied that his client could agree on a conservation easement on the undisturbed portions of the wetlands.

Mr. Battis wanted to know if the design of the driveway which would allow for a reasonable turn is due to the way the two lots are subdivided and wondered if the boundary line between lot 18 and lot 19 can be adjusted so that the turn would be less severe. Mr. Maynard replied that the driveway would still have the issue of proximity to the stone dam and encroachment on to the next person's property.

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Old Business – 5 Cutler Road Continued:

Mr. Battis asked how much the fill would be reduced if the driveway was moved closer to the property line. Mr. Maynard replied that it would reduce the wetland disturbance by 400 sq feet.

Mr. Quinn wanted to know the function of the dam. Mr. Maynard was not sure.

Ms. Kipnes was concerned with the depth of the pond. Mr. Maynard commented that prior to the site walk; there was a strong rain which contributed to the high levels.

Ms. Rumbaugh asked about the zoning for the level. Mr. Maynard replied it was G1.

Mr. Quinn commented that given the size of the wetlands on the property, this intrusion is not that significant and given that is G1 zoning, he would prefer to see a residential use of the property rather than some of the other things that might be allowed.

MOTION by T. Quinn to grant a favorable Wetlands Special Exception to the project known as Case 109/19 located at 5 Cutler Road as shown on driveway plan and profile project # 11911 with no revisions dated 2/28/2007 with the following stipulations:

- a. Use of construction equipment will be allowed to be used in the wetland buffer with subsequent restoration. All restoration of the area disturbed shall comply with the latest edition of the following NH Best Practices as applicable: Best Management Practices to Control Non-Point Source Pollution: A Guide for citizens and Town Officials (NH Dept of Environmental Services, 1994).
- b. Add 2, 24 inch culverts buried halfway to provide for flow and passageway of animals.
- c. No salt used on driveway in winter time.
- d. Reason for the recommendation is due to the purported use of the site for a single family residence and consistent with the plan, the driveway will only support such use.
- e. In line with town ordinance 334-38, compensatory mitigation will be in the form of a conservation easement equal to or greater than the wetland disturbance of 7,060 sq feet and subject to the town attorney's approval.
- f. Buffer and Wetland Conservation plaques to be installed at 100 feet intervals

SECONDED by J. Battis **AS AMENDED. MOTION CARRIED** (3-2).

L. Kipnes and B. Haefner in the minority.

Comments on the vote: Mr. Haefner is concerned that there is more water in pond than earlier suggested. Ms. Kipnes commented that there is too much fill in the wetland. Mr. Battis voted favorably because of the fill relative to the total wetlands on the property and the lack of a reasonable alternative to cross the wetlands.

3. **NEW BUSINESS**

Case 177/9, Gary Flaherty (applicant), Michael and Lisa McElhinney (owners), 52 Kimball Hill Road, Hudson, NH request a Wetlands Special Exception for a structure in the wetland buffer.

Mr. Haefner, Mr. Battis, and Ms. Rumbaugh completed a site walk of the property. Comments from the site walk: Mr. Haefner observed that looking at the plan, the swale is on the plan and the town approved a garage and foundation of which the foundation is clearly in the buffer. He is reluctant to change the approval. However, Mr. Haefner would like to see the temporary swale protected and also for the homeowners to remove machines, trailers and building supplies from the buffer.

Mr. Sommers walked the property with a wetlands expert (Normadeau Associates). The stream is a seasonal swale as a result of run-off from Kimball Hill Road. The water comes down the road through the culvert put in by NH DOT and he could not find the source of water on the other side of the road. Additionally, the swale shown on the map is not all wetlands.

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New Business Case 177/9 Continued:

Ms. Rumbaugh asked for clarification on Section 334-35C of the town ordinance which identifies exceptions including reasonable use of the land and no reasonable alternative.

Mr. Battis replied that the property already has a house, which is a reasonable use, and therefore by granting a WSE it would become an additional use of the property. His interpretation of the reasonable alternative is that if the foundation had been put on the other side of the property, the foundation would not have been in the wetlands.

Ms. Rumbaugh asked for clarification on the economic use. Mr. Battis replied that the proposed use is not based on economic consideration. An example would be of a 54 lot development, which crosses a wetland to build 2 additional homes; therefore, one could assume that to be economic justification for crossing the wetlands. In this case, the homeowners already have a substantial use of the property.

Mr. McElhinney commented that the other side of the property has a septic system and leach field and the back of the property is clearly recognizable wetlands.

Ms. Rumbaugh noticed that the remediation plan calls for daily inspections and wanted to know who would be responsible. Mr. Sommers agreed to monitor restoration efforts.

Ms. Quinlan asked when the restoration work will be completed. Ms. Rumbaugh said the remediation plan quotes 30 days after completion of the garage.

Mr. Battis questioned the use of the phrase “re-erecting an existing structure” in the application. Additionally he noted that a foundation permit was inspected and granted by the town in 2006 and was concerned that people in town are taking advantage of the flaws in the permit process.

Ms. Quinlan noted that the deck in the back of the house is in the wetlands. Mrs. Sommers commented that the deck has been there for quite a while.

MOTION by B. Haefner to grant a wetlands special exception to the project known as Case 177-9, located at 52 Kimball Hill Road, as shown on Certified Foundation Plan Number 11877 dated December 26, 2006 with the following stipulations:

- a. All restoration of the area disturbed shall comply with the latest edition of the following NH Best Practices as applicable: Best Management Practices to Control Non-Point Source Pollution: A Guide for citizens and Town Officials (NH Dept. of Environmental Services, 1994).
- b. Grasses and shrubs to be planted behind the garage to slow down and stop run-off into the wetlands.
- c. Remove all building supplies, machines, and trailers from the buffer and wetland areas.
- d. Abide by the terms of the remediation plan as presented by Gary Flaherty, Certified Soil Scientist, MPEA, LLC dated May 14, 2007. The Town Engineer to inspect all restoration work.
- e. All work to be done by hand in the Wetland Conservation District.

SECONDED by J. Battis. **MOTION CARRIES** (3-1-2). S. Rumbaugh in the minority

Comments on the vote: Ms. Rumbaugh did not vote in favor of the applicant because a structure in the buffer is not a permitted use. Mr. Haefner and Mr. Battis commented that the building permit was granted and in good faith the homeowners poured a foundation. Additionally, Mr. Haefner commented that the swale, which is seasonal one, was shown on the plan.

4. VIOLATIONS

- A. 13 Williams Drive
Mr. Garneau, NE Consulting Forestry Tree Services indicated that a site walk was completed by the HCC in April. Grass seed was planted on the upper portions of the setback and grass is growing.

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Violation at 13 Williams Drive Continued:

Mr. Sommers commented that he has an appointment to view the violation on the property tomorrow (6/12/2007). He has read the project narrative and has no problem with the plan.

Ms. Champion asked if there is any involvement with NH DES. Mr. Garneau replied that the state defers to the town on small projects on something that doesn't have an impact on a major perennial stream.

MOTION by J. Battis to approve the project narrative, Beaugard property at 13 Williams Drive dated 4/4/2007, by Leo A. Garneau, Wetlands Scientist and Kevin P. Garneau Wetlands Scientist with oversight and monitoring by the Town Engineer with the following stipulations:

- a. No cost for this mitigation to be incurred by the Town of Hudson.
- b. Conservation plaques to be placed at 100 feet intervals to delineate the buffer.
- c. HCC conduct a post restoration site walk of the property.

SECONDED by B. Haefner. **MOTION CARRIES (7-0)**

Comment on the vote: Mr. Haefner learned that loggers do not need a license in NH. Additionally, he has noticed logging in the wetlands on two other properties on Ponderosa Drive and informed Code Enforcement. The CE Officer indicated that he was unable to investigate the matter because he needs permission from the homeowners to enter the property. Selectmen Massey to check into this with Community Development.

B. 8 Pine Road

Mr. Sommers commented that he is working with the school to restore the area and will periodically inspect the property.

5. OTHER BUSINESS

- A. Wetlands Workshop Feedback – Mr. Dickinson suggested the HCC invite Sandy Crystall, from NH DES to do a presentation on prime wetlands in the fall.
- B. Tree Ordinance – Mr. Quinn and Mr. Cassista will continue to work on this issue.
- C. Conservation Walks – Ms. Champion and Mr. Haefner announced the date for the next walk which will be June 16, 2006 at 9:00 A.M., meet at the concrete barriers on Bush Hill Road. They are still looking for a camera operator to record the hike. Details of July's hike were not available.

6. CORRESPONDENCE

From: NH DES

RE: Notification of Routine Roadway & Railway Maintenance Activities

RE: Hawkview Ridge, Wetlands Bureau File # 2005-01674

No Action Taken

From: Friel Golf Company

RE: RiverPlace Application, Attention J. Cashell

S. Quinlan and Selectmen Massey left the room

Action: J. Battis to write a letter to NH DES on the proposed dredge and fill

From: B. Boucher (email)

RE: Speare Road Wetland Area

From: Normandeau Associates

RE: Invoice dated 5/16/07 for 52 Kimball Hill Road Investigation

From: NH Local Government Center

RE: Knowing the Territory 2007 Edition

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7 NON-PUBLIC SESSION

MOTION by B. Haefner to move Item 9 to Item 7

SECONDED by M. Champion. **MOTION CARRIES (7-0)**

MOTION by L. Kipnes to enter into non-public session under RSA 91-A: 3II(d): Acquisition of Real Property

SECONDED by J. Battis. **MOTION CARRIES (7-0).**

Entered in non-public session at 9:25 P.M.

MOTION by M. Champion to come out of non-public session pursuant to RSA 91-A: 3II(d): Acquisition of Real Property and to seal the minutes of the non-public session.

SECONDED by T. Quinn. **MOTION CARRIES (7-0).**

Entered public session at 10:06 P.M.

8. APPROVAL OF MINUTES

A. **MOTION** by J. Battis to defer approval of the 5/14/2007 minutes and the 5/30/2007 workshop minutes until July.

SECONDED by M. Champion. **MOTION CARRIED (6-1).** T. Quinn in the minority

9. BOARD AND COMMITTEE REPORTS

A. Board of Selectmen (K. Massey) – No Report

B. Planning Board & NRPC (S. Quinlan) – No Report

C. Open Space Sub-Committee (M. Champion) – No Report

10. COMMISSIONER'S COMMENTS

K. Dickinson suggested T. Quinn be the single point of contact between the HCC and VHB.

L. Kipnes reported on her activities on CTAP asked for volunteers to be on an energy committee in response to the warrant article.

M. Champion reported on several activities including: working the hazardous waste clean-up with Linda in Nashua, the Guertin property conservation walk, and the clean-up at the town forest. Additionally, she agreed to write a letter to the BOS on ATV use at the Musquash Conservation area.

Bob Haefner commented that the conservation signs are done and that K. Burns will install them. Additionally, Bob and his wife bought a tree and are planting it in the Poor Farm

11. ADJOURNMENT

There being no further business before the Commission, Chairman Rumbaugh declared the meeting on June 11, 2007 adjourned at approximately 10:40 P.M.

Submitted,
Sandra Rumbaugh

Next Meeting: July 9, 2007, 7:00 P.M. Town Hall.