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Town of Grantham Grantham Conservation Commission

MEETING MINUTES

April 18, 2011

Chairman Richard L. Hocker called the Conservation Commission to order on Monday, April 18, 2011, at 7:00 p.m. The meeting was held in the Jerry Whitney Memorial Room at Grantham Town Hall located at 300 Route 10 South in Grantham, NH.

Present: Chairman Richard (Dick) Hocker; Merle Schotanus; Andy Eastman; Jeremy Turner; Lindsey Dixon; and Kristina Burgard (*Alternate*).

Absent: Joe Watts (*Alternate*)

Members of the public: Warren Kimball, Selectman

ADMINISTRATIVE

Approval of Minutes For 21 March 2011 Meeting

Chair Hocker asked the Commission members if there were any additions/corrections/modification to be made to the draft minutes for the March 21, 2011 meeting. Burgard indicated that there are few editorial changes and requested the following revisions:

- Page 1, New Business, ¶ 3, line 4, change “no on” to -- no one --;
- Page 2, Other Business, ¶ 2, line 5, change “they State” to -- the State --;
- Page 4, ¶ 2, delete second sentence as it is redundant, and
¶ 5, line 4, change “followup” to -- follow-up --;
- Page 5, line 2, after “can” insert -- go --, and
3rd full ¶, line 8, change “afternoon” to -- afternoon --, and “May” to -- April --;
- Page 6, line 6, after “idea” insert -- in --,
3rd full ¶, line 1, change “for” to -- four --, and
last ¶, line 7, after “matter” insert -- and --;
- Page 7, ¶ 1, line 2, change “preposal” to -- pre---,
line 3, delete “we would”,
line 6, after “connection” insert -- with this --, and
¶ 3, line 7, after “two dates” insert -- to --; and
- Page 8, 3rd full ¶, line 3, after “but” insert -- Hocker --, and
line 5, after “mentioned” delete “that” and after “options” insert -- that --.

Motion by Schotanus to approve and accept the March 21, 2011 Minutes as amended; second by Eastman. There being no further discussion, the motion was put to a vote.

Unanimously Approved & Accepted

NEW BUSINESS

None

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OTHER BUSINESS

Forestry Services Agreement – Meadowsend Timberlands Ltd. – Jeremy Turner

Chair Hocker stated that the Forest Services Agreement was discussed at the last Selectmen's meeting, and it is his understanding that both he and Town Administrator Newton agree that the issues that needed to be clarified were addressed. Hocker recognized Selectmen Kimball, who indicated the issues seemed to be addressed. Hocker asked Kimball if he knew when the Selectmen might be signing the Agreement, to which Kimball responded that if the document is in the office, it should be signed any time now.

Planning for Conservation –

Continue Planning for Wetlands Inventory project – Next steps

Chair Hocker turned the floor over to Schotanus. Schotanus asked Dixon for an update regarding the number of Wetlands Inventory Volunteers that have responded regarding training dates. Dixon stated that she has heard from twelve (12) of the thirty-two (32) Volunteers. She noted that a few Volunteers have to be called as she only has phone numbers from them. A discussion continued regarding volunteer registration and logistics for the training. It was agreed that Dixon would send out a reminder email to volunteers with an RSVP date by April 27th or 28th, and after that date, Dixon will send a list of people from whom she has not heard to the Commission members for reminder phone calls.

Schotanus opened discussion on the second Landowner access letter, and questioned the status of finalizing the draft. Burgard indicated the initial draft went out to the Commission right after the March meeting, and Watts was charged with compiling all comments and creating the final version. To her knowledge, a final version is not available yet. Schotanus will follow-up with Watts regarding finalizing the letter, which will then be sent to Burgard for mail merge formatting.

Schotanus suggested that a query be sent to Dr. Van de Poll requesting his estimation of when he'll have a list of wetlands that require on-site visits based on mapping work, which will provide the list of landowners to whom we'll send the access letter. Dixon stated that she'd like to know from Dr. Van de Poll what equipment he needs to conduct the training sessions. Chair Hocker volunteered to send an inquiry to Dr. Van de Poll on both subjects.

Schotanus asked Burgard and Eastman for an update on Public Outreach. Burgard reported that various ListServ pieces have gone out, the Vernal Pool public walk is advertised online, around town, and on both SPNHF and UNH Cooperative Extension calendars, but Poster 3 has been delayed due to press of other business. Grantham's Community Calendar now reflects all the upcoming training dates, the April 23rd and May 7th public walks, and the Conservation Options Workshop, and the Commission's website also has information about all these events.

The give-away seedlings from the State Nursery were ordered and will be picked up late April/early May. The final selection was 25 Juneberry, 25 Crabapple, and 25 Alternate-Leaf Dogwood seedlings. Burgard indicated that it is unclear at the moment on what date(s) the public giveaway will be held. The plan was to coordinate with the Garden Club plant sale,

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which we thought was May 14th, but this isn't confirmed yet as there appears to be some uncertainty about that date. Burgard indicated that in lieu of the original plan, she'd propose we hold a give away the same day as the Town Forest walk. Dixon suggested that we make seedlings available to Volunteers at the training sessions, and all present agreed this was a good idea.

Schotanus reported that Chuck Hersey sent an urgent email indicating that only a few people were currently registered for the Conservation Options Workshop on April 27th, and they class may be cancelled if more people do not register. Burgard asked if Commission members should register given that the Commission is co-sponsoring the event. Schotanus indicated that Commission members do need to register as individuals.

Schotanus requested that an email go out to the Commission's volunteers informing them of the workshop, and Burgard agreed to send out such an email. In addition, Chair Hocker will also take a flyer and make an announcement at the upcoming meeting of Eastman's Woodlands and Wildlife committee.

Grant Effort – NH ARMS Program Pre-Proposal Activities

Chair Hocker asked Burgard for a report regarding the ARMS Grant effort. Burgard reported that the property that is the focus of this pre-proposal for an ARMS Grant is Lot 224-010, which is the Springfield town line property, because it is prime wetlands, has many values and functions, and is of very high importance for conservation in terms of resources, particularly water and wildlife. She has been working with Upper Valley Land Trust personnel to look at the deeds, functions and values, and mapping.

Eastman inquired whether access is a concern for this property. Burgard responded that the property is of such critical importance to protect because of its resources that recreation access is really not a major issue. That said, there is a right-of-way across properties to the south down to the former Air Park/Airpark Drive. In addition, the entire Bog Brook complex is extremely critical to Grantham in terms of resource protection, and many of the properties in the old Air Park are of very high importance to conserve should they become available.

Eastman inquired about the risk of development for the property. He feels this may not be a property that is particularly ripe for development, so perhaps it would be an option for Eastman to protect. Schotanus feels that there are potentially a number of issues with that, including Eastman's willingness to acquire it and protect it with a third party conservation easement. Burgard noted that what we are currently discussing is submitting a pre-proposal for grant money to fund acquisition of the property and simultaneously placing a third party CE on the property. It is critical to protect the resources of this property for the Town as a whole, rather than a subset of the Town, and even assuming Eastman is willing to get involved, their legal obligations are to only a subset of the Town. Burgard noted if the Commission isn't successful in getting ARMS funds for this project, then it would need to consider other means for funding.

Burgard indicated that for the ARMS Grant Pre-Proposal submission, her current thinking is to go forward with a budget requesting the current purchase price and the costs associated with granting a conservation easement to the Upper Valley Land Trust. Based on the aerial evaluations, the property has quite a few different types of wetlands as well as the riparian buffer

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of a section of Bog Brook, and has many of the functions and values that were lost on the projects that created the current pool of ARMS funds.

The Commission discussed the advisability of the third party easement, and all agreed it was the best outcome. Schotanus inquired whether UVLT is willing to take a conservation easement on this property, and Burgard replied that they are very excited about doing so and are working with Burgard to prepare the pre-proposal submission.

Schotanus asked about the property owner's position in all this. Chair Hocker indicated that he recently spoke with the realtor for the property to apprise her of the status of things, and noted that the owner is closely following this project and wants a conservation outcome, and while the properties remain on the market, they are listed as sale pending. Schotanus indicated we should keep the property well informed of all future developments, and Hocker indicated he would do so.

Chair Hocker instructed Burgard to proceed with the grant pre-proposal with the goal of making a submission by the April 30, 2011 deadline if at all possible. Burgard indicated she would prepare a draft of the pre-proposal and circulate it for review early next week.

Schotanus and Hocker discussed initiating an appraisal on all three properties owned by Karen Hastings, and it was agreed Hocker would contact her regarding the same.

Open Space Index and Protection Plan for Grantham

Chair Hocker turned the floor over to Schotanus to discuss the open space index. Schotanus stated that forming an open spaces committee and creating an open space index is something that arises from the work plan in the CCLI. The work plan for 2010-2011 including three elements: an education program, which the Commission has started in conjunction with wetlands inventory; a wetlands inventory, which is underway; and getting a Conservation Commission member appointed as an *ex officio* member of the Planning Board, which isn't completed but is being worked on. Looking forward at a work plan for 2011-2012, all three of these items are still active, but Schotanus believes the Commission should seriously consider adding a fourth item, that being to begin to establish an open space protection plan.

Schotanus noted that RSA 36-A:2 specifies that a conservation commission is charged with keeping an index of resources, including marshlands, swamps, and other wetlands, and an index of open space, including open space owned by the State in our town. Schotanus feels it is time to take a systematic look at the open space in Town, prioritize it for what is the most important to be protected, and then keep updating this periodically so the Commission always has an open space inventory that's active and can be used as guidance for how to wisely spend monies that the Commission has to protect open space. Schotanus noted that the town of Swanzey adopted an open space protection plan in 2004 that can be used as a model, and adapted as appropriate, to create a plan for Grantham.

Schotanus proposes the Commission start a one-year program beginning in June or July of this year, coordinating with this the results of the Wetlands Inventory, and that this be done through a Conservation Commission Open Space Sub-Committee consisting of the Commission's Planning Sub-Committee and 3 or 4 members of the public. He would suggest that the public members come from different areas of Town, e.g., 1 from Eastman, 1 from Olde Farms, and 1 from the

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Village, and ask that we consider asking the Selectmen to appoint the sub-committee. Although the Commission has the authority to form the sub-committee, Schotanus thinks it would be valuable to publicly have the authority and power of the Selectmen behind this sub-Committee of the Conservation Commission.

Schotanus proposed that the Commission's Planning Sub-Committee take a look at this, and then present a proposal to the Commission at the May meeting. Chair Hocker agreed. Burgard noted that since two of the three members of the Planning Sub-Committee are no longer on the Commission, the first order of business would be to appoint two new members to this sub-committee, and indicated she volunteers to be one of the two. After some discussion, Hocker appointed Burgard and Watts to the Planning Sub-Committee, and confirmed that Schotanus will remain the Chair of the sub-committee. Schotanus stated that the Planning Sub-Committee would come to the Commission's May meeting with a recommendation for the Open Space Sub-Committee and open space index and protection plan.

Land Acquisition- Status and Agreement Discussion

Chair Hocker stated that in addition to what has already been discussed at this meeting, there is one development from the last Selectmen's meeting. Specifically, in connection with the draft for a potential option agreement on the Hastings properties, the Selectmen indicated that they would like the option to be for a 12-month period rather than 9-month, so that the option period would run through Town meeting next year if such is needed. In addition, the Selectmen decided that the target date for a Special Meeting would be May 25, 2011. The Special Meeting is being called to address two or three different matters, all of which arise from the new ball field construction. First and most important, is getting the Selectmen appointed as agents to expend on the Athletic Fields Capital Reserve Fund so that work can proceed on the new ball field. Also, they intend to present a warrant appointing the Selectmen as agents to expend on the Land Preservation Capital Reserve Fund, and also, adoption of RSA 41:14-a. Burgard noted that procedurally, the adoption of RSA 41:14-a must be presented and voted on before appointing the Selectmen as agents to expend.

Shoreland Protection Litigation Fund For Grantham

Chair Hocker stated that it would be beneficial to understand the history behind the idea of establishing Shoreland Protection litigation fund. Essentially, the Selectmen currently retain the authority to determine what is or is not a violation of Grantham's zoning ordinances with respect to the Shoreland Protection Act. This raises the potential for disagreement with regard to interpretation of the ordinances in the area where the Town ordinances are stricter than the State requirements, which in turn raised the issue that this may be an area where litigation may arise in the future. There is no current procedure or authority for the Commission's involvement in this, other than being asked to provide informal advice to the Selectmen or Planning Board.

Burgard noted that to lessen the potential for litigation, it would be advisable to establish clear procedures for people to submit permit applications to the Town, particularly those involving projects that fall into the more restrictive Town ordinances. This avoids confusion and frustration on the part of the applicant, and will likely decrease both violations and time lost due to uncertainty of how to proceed. Burgard would recommend first establishing clearer notice and procedures for permits falling under the Town ordinance in order to reduce the probability of litigation, and then, the Town could also establish a litigation fund.

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Selectmen Kimball indicated he felt establishing and publishing procedures would be a good idea to avoid confusion. Schotanus agreed and noted that the locus of responsibility for this is the Planning Board as they have the statutory authority here, and the Conservation Commission can serve in an advisory capacity, serving as the eyes and ears with the landowners. Schotanus noted that this is one of the reasons why it is important to have a Conservation Commission member appointed as a non-voting, or *ex officio*, member of the Planning Board. The Selectmen have the authority to make such an appointment, and doing so would start the procedure that we need to help resolve this problem.

Chair Hocker will follow-up with Town Administrator Newton on this subject and next steps regarding establishing clearer procedures in this area.

Saving Special Places Results

Chair Hocker indicated that after the conference, Watts expressed some concerns regarding how the Commission should be proceeding with regarding to access to the Flewelling property. Burgard, who was in the same sessions with Watts, noted that the issue that is essentially, what the current owner is requesting will require a conservation easement amendment, which is a bit of process that would have to involve all interested parties including the Flewelling estate or heirs. At the same time, the current violations of the landowner still need to be addressed. Turner asked whether this related to establishment of a new trail across from the Smith lot, as it was his understanding from Town Administrator Newton that this would be handled by not legally changing the right of way of the easement, but we'd put in this alternate trail. Burgard responded that it is her understanding that it is not the intention or desires of the current landowner that are controlling here, rather it is the terms of the conservation easement and the intent of the original grantors, and their intent was the access to the property was through the two right of ways originally granted. Thus, it is her understanding that as the easement holders, the Commission must uphold the terms of the easement and cannot informally agree to a different access route. Instead, this must be done formally through an easement amendment, which can be done fairly smoothly if all parties can agree to the amendment. Schotanus concurred with this assessment.

Burgard noted that the main sticking point here appears to be getting formal agreement to a proposed resolution from the current property owner. Hocker stated that while a number of proposals have been made, the requested response from the landowner does not occur. Burgard said that what appears to be needed is to get the landowner to come negotiate in good faith a proposal for adding the new right-of-way, and with formal agreement on this, begin the process to amend the easement to add the new right-of-way. Schotanus stated it is time to ask the Selectmen to use their authority to write a letter to the owner outlining the proposal, and requesting a response by a specified date.

Selectmen Kimball indicated that the Commission should provide an outline to the Selectmen of the proposed alternative and how such would be implemented so that they can consider it and have something concrete to discuss with the landowner. Burgard indicated it was her understanding that the proposal has been presented to the landowner on at least two previous occasions. Hocker stated that was correct. Hocker indicated he will walk the property before the

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next meeting to get an idea of where the access issue currently stands, and asked Burgard to draft a letter to the Selectmen regarding the situation and proposed resolution.

Additional Business

Chair Hocker stated that concluded the items on the agenda and asked for any additional business. Schotanus indicated he had two items to report. First, Tara Romano will be in Town soon, and a volunteer will take that opportunity to discuss conservation options with her during her visit. Schotanus noted the second item is a communication he received from Maynard Goldman suggesting that the ECA and the Commission collaborate more on preservation of open space. A discussion ensued regarding access issues through Eastman and working together for conservation ends. It was agreed that the lines of communication should be kept open, and have an open dialog about how the two organizations can work together in a way that serves all Town residents. Hocker indicated he will follow-up with ECA regarding this issue, as well as the stump dump issue relating to Frog Pond.

Burgard asked Turner about logistics for the May 7th Town Forest Public Walk, and specifically directions and parking. Turner indicated that originally the plan was for the Town Forest, but this is hard to access, so he suggested we change to the Smith Lot, which has ephemeral streams, seeps, etc. The Smith Lot is on the main part of Miller Pond Road, and much easier to access and people can park on the side of the road. It was agreed to change the walk to the Smith Lot, and tell people to drive to the Smith Lot sign and park on the side of the road.

HAND OUTS

None

ADJOURNMENT

Chair Hocker asked if there were any further business. There being none, Burgard moved to adjourn, and Schotanus seconded the motion.

The Commission voted unanimously to adjourn at 8:30 p.m.

NEXT MEETING

The next meeting will be at 7:00 p.m. on May 21, 2011, in the Jerry Whitney Memorial Conference Room.

Respectfully Submitted,

Kristina Burgard

Kristina Burgard

Grantham Conservation Commission, Alternate