

Fremont Conservation Commission
05-18-09 Minutes



Fremont Conservation Commission
Minutes of May 18, 2009
Approved June 1, 2009

Present: Chairman John (Jack) Karcz, Members Janice O'Brien, Tina Sturdivant, and Pat deBeer and Recording Secretary Meredith Bolduc.

Also present: Dennis Howland

Chrm. Karcz opened the meeting at 7:30 pm.

MINUTES

Mbr. O'Brien made the motion to accept the minutes of the May 4, 2009 meeting as written.

The motion was seconded by Mbr. Sturdivant with unanimous favorable vote.

GLEN OAKES FOREST & WILDLIFE MANAGEMENT PLAN

Mr. Moreno has been rescheduled for June 17, 2009, at his request, to give him more time to complete the Forest & Wildlife Management Plan.

TUCK WOODS

Map 6 Lot 064

The Conservation Easement for the Tuck Woods Phase I was discussed relative to erecting a sign at the Commerce Drive entrance. Chrm. Karcz noted that it was previously agreed that the Conservation Commission is not in a position to legally interpret the document and felt it needed to be reviewed by a lawyer, although as lay people they thought it was not allowed. The majority of the Members agreed that it is up to the Tuck Woods Association to demonstrate how they could be accommodated legally and this is not an expense to be born by the Town.

Mbr. deBeer said she wants to make sure that Tuck Woods is being treated fairly. She said she feels the Glen Oakes and the Tuck Woods Conservation Easements are similar and Glen Oakes was allowed a sign. Mbr. O'Brien offered that although the Tuck Woods and Glen Oakes Easements appear to have some similar verbiage regarding structure or improvements being a use limitation, the Glen Oakes Easement contains exceptions for structures and the Tuck Woods Easement does not contain any such exceptions. Section 2 C simply states that "there shall be no structure or improvement of any kind" and

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does not include a list of acceptable exceptions and Section E restricts the display of outdoor advertising structures.

This prompted a conversation relative to the description of “structure”. Mbr. O’Brien offered that the verbiage that is in the legal document is the legal. Mbr. deBeer said that the Easement does not define “structure” which makes it open for interpretation. Mbr. O’Brien offered that the Black’s Law Dictionary defines a structure as “Any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner. That which is built or constructed; an edifice or building of any kind.” Mr. Howland felt that if it is not defined in the Easement document then the legal dictionary’s description is used. Mbr. deBeer said that the Town allowed the first sign so they should be responsible for clarifying the language of the easement. Mbr. O’Brien said she does not think the Town should incur any fees because the people of Tuck Woods Association want a sign. The Town is happy with the Easement language and if the Tuck Woods Association is not it should be up to them to bear all expense incurred for any review. Mbr. Sturdivant said that it was the error on the builder’s part for having the language such that it does not allow the structures. Mbr. Sturdivant stated that she is not comfortable with amending this Conservation Easement because doing so may serve to set a precedent for anyone who has an Easement. Mbr. O’Brien said that the Conservation Commission accepted the Easement as it was written by the builder. Chrm. Karcz said that the Town did not draw up the easement document and should not be held responsible for the language in it.

Mr. Howland said that the people of the Homeowners Association have authorized the cost of the sign, but not for legal opinion of the easement and he added that it is possible when faced with spending more than the cost of the sign there would be a lot more people opposed to the spending.

Mbr. O’Brien made the motion that if the homeowners association of the Tuck Woods get a legal opinion relative to the language of the Easement, at no cost to the Town, they could present it to the Conservation Commission for consideration.

After some discussion Mbr. Sturdivant seconded the motion with all voting yes except for Mbr. deBeer who abstained.

TRAILS

Mr. Howland said that he has been back to the trail that he visited with the some of the Members during the April 25, 2009 site visit and reported that that it is close to being useable, but needs to be marked. Mr. Howland said that he plans to do more cleaning and look at what else might be needed. He feels that what has been done is workable. Mr. Howland asked how the Members would like to see the trail marked (tape, blazed, signs). He presented some wooden routed signs he made and said that he will have a sample of a metal arrow signs by next week. There was a conversation relative to:

- 1) Types of signs. Chrm. Karcz said his thought is to continue with the Brown Voss signs for the trail names and go with metal arrow signs for the directional signs, but that he also liked the wooden routed signs. Mr. Howland said that consistency is important.
- 2) Blazing for detailed marking in between the main signs.
- 3) The pros and cons of attaching signs to trees vs on a post.

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The Members agreed that there be name signs at the beginning of each trail and the intersections; the trails in between be blazed with florescent green, a few arrows on posts (or with anchors) to show the turns of the trails. Mbr. O'Brien reminded Mr. Howland to submit an invoice for any expenditure he may incur.

At 8:45 the Members thanked Mr. Howland and he left the meeting.

ERLAC

There was a small turnout for the May 16, 2009 Vernal Pool workshop. Mbr. deBeer suggested to send a thank-you card to Mr. & Mrs. Gene Cordes for the use of their property for the workshop.

Mbr. Sturdivant reported that ERLAC wants to get the Exeter River designated as a "wild and scenic" river.

BROWNFIELD PROJECT

Chrm. Karcz said that Theresa Walker has reported that according to Sue Hoey at NH NRCS it does not sound like the Hammond parcel will be selected to receive any stimulus funds through the Emergency Wetlands Protection Program. The parcel did not rank high enough on the state list and the amount of funds requested nationally exceeds the budgeted amount. Mrs. Walker advised that she will keep looking for other grant sources.

Chrm. Karcz said the Theresa Walker has requested his signature on a CTAP grant application requesting grant-writing funding assistance for the Hammond parcel Brownfields project. The Members collectively agreed that he sign the application.

NATURAL RESOURCE PUBLICATION

The Members discussed the Natural Resource Publication. Mbr. de Beer encouraged the Members to finish their topics for the publication so there will be ample time for page layout. She stated that NHPREP is prepared to do a 12 page publication. The Members have not committed to writing the topics that will be needed for this size document, and she is hoping that they will do so after completing the first round of drafts.

TRAINING REIMBURSEMENT

In a May 8, 2009 e-mail Mbr. deBeer requested reimbursement for in the amount of \$20.00 for a Habitat Priority Planner Training GIS class at UNH.

Mbr. O'Brien made the motion to authorize reimbursement payment of \$20.00 to Mbr. deBeer to be taken from the Training & Seminars line of the current budget.

Motion seconded by Mbr. Sturdivant with unanimous favorable vote.

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TREASURERS REPORT

The Commission received an account balance sheet from Town Treasurer Kimberly Dunbar for the date ending May 3, 2009. The Residual Account showed the subtraction of \$404.98 for the projector bulb and accrued interest was shown in all accounts.

CONSERVATION PLANNING MEETING

Mbr. deBeer attended the public discussion with the NH Legislative Groundwater Commission at the Rockingham Planning Commission meeting on May 13, 2009 at the Seabrook Public Library.

Mbr. de Beer reported the following from that meeting.

The Groundwater Legislative Commission is studying large ground water withdrawals and having a series of regional discussions throughout the state. They will be making recommendations to the legislature about legislative changes that are needed in November, 2009. The Commission is accepting comments at comments@nhgroundwater.org until June 30, 2009. Several background documents and the powerpoint presentation are available at the NH Groundwater Legislative Commission's website at <http://nhgroundwater.com>. The meeting began with a power point presentation by Brandon Kern of NH DES Groundwater Bureau regarding the similarities and differences regarding Statutory and Common Law regarding groundwater use by landowners. The presentation went on to discuss how large groundwater withdrawals are presently regulated. The meeting was opened to discussion regarding the role of municipalities in regulating large ground water withdrawals. Mbr. deBeer commented that the caliber of comments from members of local boards was very impressive. When a request is made for a permit for a large groundwater withdrawal, DES requires that a test well be drilled and a study of adverse impacts completed. A public hearing is required. When a permit is granted, all adverse impacts must be mitigated. Residents from towns where large groundwater withdrawals have occurred stated that no one is watching out for the interest of private well owners regarding adverse impacts. Mitigation with those withdrawing water for public water supplies involves hooking up those whose wells have been affected to the public water supply and then charging them for their water. After a certain period of time, the mitigation requirements expire and the affected landowner must settle any disagreements in court. Several of the attendees also were at the recent Source Water Protection Workshop, where one of the sessions described the fact that DES has only 25 monitoring wells throughout the state, only one of which is bedrock. It was discussed that there is a strong lack of data and scientific studies regarding the future of water resources in New Hampshire, and that the projected impact of large groundwater withdrawal is at best, unknown. The cumulative impacts of 50 home or greater subdivisions remains unknown. More studies are being planned and hopefully the monies to support them will be forthcoming. The NH Legislative Groundwater Commission is considering giving municipalities the power to veto large groundwater withdrawals. One of the issues being considered is how to resolve any differences that arise among multiple towns that share an aquifer. If one town wants the permit and one doesn't, who resolves the conflict and what is the process?

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OPEN SPACE PLAN

There was a conversation relative to the Open Space Plan meeting of May 13, 2009. It was noted that the purpose is to connect the important open spaces to create open space greenways throughout the Town. The next Open Space meeting is June 2, 2009.

INCOMING CORRESPONDENCE

There was no incoming correspondence.

Mbr. Sturdivant made the motion to adjourn at 9:35 pm.

Motion seconded by Mbr. O'Brien with unanimous favorable vote.

Meredith Bolduc

Land Use AA/Recording Secretary