

**TOWN OF WOLFEBORO
CONSERVATION COMMISSION**

March 11, 2019

MINUTES

Members Present: Dan Coons, Chairman, Lenore Clark, Vice-Chairman, Art Slocum, Ed Roundy, Brian Gifford, Jeff Marchand, Members, Warren Muir, Sarah Silk, Nancy Byrd, Alternates.

Members Absent: Dave Senecal, Selectmen's Representative, Robert Pierpont, Alternate.

Staff Present: Lee Ann Hendrickson, Administrative Secretary.

Chairman Coons opened the meeting at 6:38 PM at the Wolfeboro Town Hall Annex Conference Room.

I. Consideration of Minutes

February 11, 2019 Minutes

It was moved by Lenore Clark and seconded by Jeff Marchand to approve the February 11, 2019 Wolfeboro Conservation Commission minutes as submitted. Dan Coons, Art Slocum, Brian Gifford, Ed Roundy voted in favor. Lenore Clark, Jeff Marchand abstained. The motion passed.

Dredge & Fill Minutes

February 11, 2019

It was moved by Art Slocum and seconded by Brian Gifford to approve the February 11, 2019 Wolfeboro Conservation Commission Dredge & Fill minutes as submitted. Dan Coons, Art Slocum, Brian Gifford, Ed Roundy voted in favor. Lenore Clark, Jeff Marchand abstained. The motion passed.

II. Discussion Items

a. Society for the Protection of NH Forests Annual Membership

It was moved by and seconded by to approve payment of \$55.00 to the Society for the Protection of NH Forests for the Commission's annual membership. All members voted in favor. The motion passed.

b. Norway Plains Associates, Inc. Invoice; Whiteface Conservation Easement

Dan Coons stated the Commission received an invoice from Norway Plains Associates, Inc. in the amount of \$1,547.76 for surveying costs associated with the Whiteface Conservation Easement. He stated the Land Bank of Wolfeboro-Tuftonboro has paid half; noting the Commission is responsible for the remaining balance of \$773.88.

It was moved by Lenore Clark and seconded by Ed Roundy to approve payment in the amount of \$773.88 to Norway Plains Associates, Inc. All members voted in favor. The motion passed.

c. Trask Mountain; Trail Building

Dan Coons stated the Commission received a quote from Sinuosity for trail design at Trask Mountain. He stated he requested an additional quote from Student Conservation Association (SCA) however, was informed that the SCA would only be interested in constructing the trail and not in the design of such.

Jeff Marchand asked if it's a paper design based on contours.

Dan Coons replied yes.

Jeff Marchand questioned the need to redesign if there are issues found on the ground. He asked if Sinuosity would design and construct the trail.

Dan Coons stated Sinuosity would design the trail and construction of the trail would be put out to bid.

The Commission questioned the procurement policy.

Staff stated no bids are required under \$1,000, between \$1,000 and \$10,000 three prices are required however no formal bid and over \$10,000 requires a formal bid.

d. Cyanobacteria Task Force

Warren Muir stated there will be three warrant articles relative to cyanobacteria issues and reviewed said warrant articles. He stated the Committee approved the Mission Statement which divides work into three subcommittees; assessment, mitigation and prevention and communication. He noted the Committee meets the first Monday of each month at 1 pm.

e. Willey Brook

Trail Construction

Dan Coons stated Wolfeboro Single Track would be submitting a cost estimate for trail construction and he would seek two additional estimates for trail design and construction.

Parking Area

Dan Coons stated he has not received an estimate for the construction of a parking area from Rich Baldwin.

Jeff Marchand stated he would retrieve two other estimates.

f. Bridger Conservation Easement

Dan Coons stated Attorney Jim Cowles has recommended a slight change in the language of the conservation easement.

Sarah Silk asked why the Commission contracted with an attorney with a possible conflict of interest. She stated the Commission previously contracted with Rick Sager. She stated she is not comfortable getting an attorney out of an office with a conflict.

Dan Coons stated Attorney Cowles is the husband of the chair of the Moose Mountains Regional Greenways and has interest in conservation. He stated the Commission agreed to hire a local attorney.

Art Slocum questioned the conflict.

Jeff Marchand stated he was absent at the meeting that the Commission agreed to contract with Attorney Cowles; noting the conflict is that he is represented by Attorney George Walker from the same firm. He stated Attorney Walker has represented him for 25 years and discussed the issue when he found out the Commission agreed to contract with Attorney Cowles. He stated he signed a waiver for the conflict. He stated he used boiler plate language when developing the conservation easement. He explained that the public is being invited onto private property by both he and the Commission; noting his attorney stated the he (the landowner) should not be the sole person to be held harmless. He stated the following was added to the section; “for whom the landowner is responsible”; noting he has no objection to the language.

Jeff Marchand recused himself and left the room at 7:14 pm.

Chairman Coons appointed Sarah Silk, Alternate, to sit in for Jeff Marchand, Member.

Referencing an email from Jim Cowles, dated 3/5/19, Dan Coons stated he has no issues with the hold harmless section.

The revision to the conservation easement to the Hold Harmless section (page 14) is as follows; “The Landowner agrees to release, hold harmless, defend and indemnify the Easement Holder from any and all liabilities including, but not limited to, injuries, losses, damages, judgments, costs, expenses and fees which the Easement Holder may suffer or incur as a result of, arising out of, or connected with: (i) the activities of the Landowner or any other person on the property **for whom the Landowner is responsible**, other than those caused by the negligent acts or acts of misconduct by the Easement Holder; or (ii) violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation or requirement by any person, other than the Easement Holder, in any way affecting, involving, or relating to the Property.”

It was moved by Lenore Clark and seconded by Brian Gifford to accept the Conservation Easement Deed from the Jeffrey D. Marchand Revocable Family Trust with the addition of “for whom the landowner is responsible” to the Hold Harmless section, as noted in Attorney Jim Cowles’ email dated March 6, 2019. All members voted in favor. The motion passed.

It was moved by Art Slocum and Sarah Silk to move the Jeffrey D. Marchand Revocable Family Trust Conservation Easement Deed to public hearing on April 8, 2019. All members voted in favor. The motion passed.

Jeff Marchand re-entered the meeting at 7:21 pm.

III. Other Business

Russ Staples

Dan Coons stated Russ Staples, a Tamworth resident, is making a presentation on a book he wrote about his Everest expedition in the 1960’s. He stated Mr. Staples needs a local sponsor in order to use the Great Hall or Abenaki for the presentation and asked if the Commission would be willing to sponsor him.

The Commission agreed to sponsor Russ Staples.

Nancy Byrd Appointment

Staff informed the Commission the BOS appointed Nancy Byrd as an Alternate to the Commission.

Member Reappointments

Ed Roundy and Jeff Marchand requested reappointment to the Commission (their terms expire March 2019).

IV. Informational Items

The Commission received the following informational item; Community Food Resiliency & Aquatic Habitat Workshop and NHDES correspondence.

V. Non-Public Session

N/A

It was moved by Art Slocum and seconded by Lenore Clark to adjourn the March 11, 2019 Conservation Commission meeting. All members voted in favor. The motion passed.

There being no further business before the Commission, the meeting adjourned at 7:27 PM.

Respectfully Submitted,

Lee Ann Hendrickson

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