

# DRAFT – SUBJECT TO CHANGE

## GREENLAND CONSERVATION COMMISSION PUBLIC MEETING MINUTES

**Monday, December 05, 2011**

**Members Present:** Chair Rick Mauer, Bill Bilodeau, Jean Eno, Joe Fredericks, Chip Hussey, Nancy Zuba

Chair Mauer opened the meeting of the Greenland Conservation Commission at 7:00 p.m., and a roll call was taken. He announced that a quorum was present and the meeting was being recorded.

### **1. Approval Minutes**

**A motion was started to approve the minutes; no second. MOTION NOT MADE.**

Mrs. Eno commented that she would like to review the minutes from all meetings before they are released. Mr. Hussey stated that he believed minutes must be made available to the public within three (3) days of the meeting date. He added that minutes would be available at the Town Hall immediately.

**Motion 1: Mr. Fredericks moved that minutes of the meetings be sent to Board members first, giving them 48 hours to respond with any corrections before they are released to the public (including the Town Hall); seconded by Mrs. Eno. All in favor. MOTION CARRIED.**

### **2. LUCT Funding**

Mr. Hussey informed the Board that it was his understanding that the Board of Selectmen are not going to submit an ordinance for any LUCT money to be put toward conservation property. There seems to be a willingness to put a percentage toward a top amount. The low side may be 25% - 30%, the high side 75% of what the Town would set aside in one (1) year. Example: if \$100 became available to the town upon the release of property from the current use tax, the Commission would receive \$30 to \$75 of those LUCT monies. This would probably have to be done by petition for a warrant article. The Budget Committee appears to be receptive to this because we're asking for a portion. Chair Mauer asked if there was a number; Mr. Hussey responded that they wouldn't know until land came out of land use. When asked about last year's figure, Mr. Hussey responded that due to Falls Way coming out of land use the number would be inflated. The average figure would be approximately \$100,000, which would go to the General Fund. The proposal is to ask for 25% of the total up to a maximum of \$50,000. Normally, the Selectmen submit a warrant article to set aside a specific amount, but that was not done last year. Their feeling is the money would be better used to offset taxes.

Chair Mauer deferred to Mrs. Eno and the fact that Greenland is one of the few towns that does not receive 100% of LUCT money. She told the Board that some towns get 100%, most get anywhere from 25% to 75%. Mrs. Eno stated that as much as she appreciated the Land Use Change Tax, and money going toward the Conservation Commission, she felt they should not "muddy the waters" with this issue until there is a change on the Planning Board and the Selectmen are more receptive.

Chair Mauer related what occurred at the Planning Board meeting of December 01, where Draft

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#6 of the Wetland Ordinance was discussed. He felt that things were degraded down to land use issues and owners rights. He continued that the Planning Board felt it was “taking all these opportunities” and they gave numerous examples on what was being taken. Mr. Hussey reminded Chair Mauer of the agenda item at hand.

Mr. Fredericks stated that he would support 25% up to a maximum of \$50,000. Mr. Hussey will contact the Selectmen although he isn't sure about their willingness. Mr. Mauer stated that “recommended by” is needed, otherwise it will not pass. Mr. Hussey agreed, adding that this is not going to be on a paper ballot, but will be voted on at the Town Meeting.

**Motion 2: Mr. Hussey moved that the Conservation Commission approach the Board of Selectmen for a warrant article utilizing 25% up to a maximum of \$50,000 of the LUCT; seconded by Mr. Bilodeau. All in favor. MOTION CARRIED.**

### 3. Trout Unlimited

Great Bay Trout Unlimited (GBTU) is moving forward with their Thompson Brook project. They are looking to start Phase II, which is to put in a culvert to correct the problem with Winnicut Road's culvert. Phase I, already funded, was for design and engineering. We now know that it will be a “bottomless” culvert. Phase II, what they are seeking funding for now, is the actual construction of the culvert and wood enhancement aspect. Mrs. Eno added that the WRWC, the group she directs, is working in collaboration with that project. Phase I was the culvert, which will be a bottomless culvert. Phase II, which is new grant monies, will be for a wood addition—either naturally fallen wood or trees will be felled strategically so they won't interfere with downstream property. This is all part of the restoration of the brook. Felled trees should not be confused with beaver dams, but a strategy to collect sediment as it flows. Where that sediment collects, new banks develop; the stream bottom becomes more gravelly, which is what trout need.

GBTU is requesting a letter of support from the Conservation Commission in reference to the TU NOAA Grant. In January, the Commission sent a letter supporting their grant application for Phase I.

**Motion 3: Mr. Hussey moved that a letter be written in support of Great Bay Trout Unlimited; seconded by Mrs. Zuba. All in favor. MOTION CARRIED.**

Mrs. Eno will write the letter and forward to Chair Mauer for his signature. He will make sure the letter is emailed on Town stationery by Wednesday, December 07.

### 4. Other Business

- A. Mr. Hussey reminded the Board that they are now a six (6) member board, and there must be four (4) members present to have a quorum.
- B. Mr. Hussey requested that the Board no longer conduct Conservation business through email, or those emails must be turned in and become part of the written record. To clarify, do not reply “to all” unless you are sending a finished project for review.
- C. Mr. Hussey informed the Board that if a topic was not discussed at a meeting, it cannot be stated “the Conservation Commission said”. As further clarified by Mrs. Eno, you cannot imply you are speaking on behalf of the whole committee if it wasn't spoken at

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the committee.

- D. The membership renewal for the New Hampshire Association of Natural Resource Scientists is due.

**Motion 4: Mr. Hussey moved not to exceed the amount of \$300 for New Hampshire Conservation Commission dues; seconded by Mr. Bilodeau. All in favor. MOTION CARRIED.**

- E. Renewal for the Conservation Law Foundation has not been received. Mr. Hussey will contact them.

**Motion 5: Mr. Hussey moved to pay the bill for the Conservation Law Foundation when it's received; seconded by Mr. Bilodeau. All in favor. MOTION CARRIED.**

- F. Gove Environmental Services, Inc.: A copy of their 2011 Off-Site Monitoring Report, DES File #2003-00620, was in the Conservation Commission mail slot in the Town Hall. This is a report of the Off-Site Compensatory Mitigation Area Great Bog. It appears to be a summary of what GES has done for the Great Bog. This is available for review. Mr. Fredericks asked if this was requested. Mr. Hussey and Mrs. Eno explained that it was part of the mall project mitigation for the wetlands on Rt. 33 across from Target. They actually filled some wetlands and this is the mitigation they had to do off-site.

- G. Mr. Bilodeau asked if anyone had seen the article on the Pease Development Authority and their wetlands. They supersede the Town of Newington and the State of New Hampshire on wetland ordinances. Mr. Hussey continued that the State Legislature granted the PDA control over their wetlands at the State level.

- H. Chair Mauer reviewed the Planning Board work session on Thursday, December 01 with the Commission. He mentioned that Dylan Smith, RPC Circuit Rider, made the statement that 25 meters sucks up 75% of the nitrogen, and that's only flat land; it has nothing to do with slopes. The Planning Board was very uninterested to move the boundaries any further than 50'. They don't like 75'; they feel 75' is taking. Mrs. Eno stated there are RSA's that cover members recusing themselves when there is clearly a conflict of interest, and has contacted Carol Andrews, NHACC, for assistance. Chair Mauer added it should be on record that there were three (3) Planning Board members who felt it would personally affect them. He mentioned to the Planning Board that it would affect him as well but there would be relief through the Zoning Board. He stated that the members of the Planning Board said that wasn't true because the Zoning Board can change and may not grant you relief.

Please note: Mrs. Eno stated she wanted to go off the record and the recording was stopped.

Back on record, Chair Mauer requested that the Commission discuss their strategy for the Planning Board while trying to correct the ordinance issues. He deferred to Mrs. Eno. Mrs. Eno addressed the issues mentioned in Chair Mauer's email regarding buffers. Chair Mauer informed the Board that Mr. Smith was asked to present to the Planning Board a buffer graph from the surrounding towns. Chair Mauer previously asked Mrs. Eno if she had info they could use that would look appropriate with enough towns to compare. Mrs. Eno feels that, in time for the public hearing, it would behoove the Commission to review the five (5)

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different ways a local government can approach defining buffers. It has an excellent graph that shows what Mr. Smith has said the Planning Board has considered doing in terms of different wetlands. Presently, they can't do it because they have denied the Conservation Commission from ever pulling off a truly local wetlands inventory. They keep relying on the National Wetland Inventory which already is years old for this town. The National Wetland Inventory is not reliable for smaller systems. It's a snapshot taken at a particular time of year, we only see certain sizes, we don't see vernal pools, small systems or even systems under forest canopy cover. There is no way to come out with what they talked about doing to avoid a one size fits all ordinance. Mrs. Eno showed a quick snapshot of what's in the document and suggested that all Commissioners read the information she emailed so they would have a good, solid grasp and be that much further ahead. What Mr. Smith has worked on is really still a general one size fits all. They want to personalize the buffers. Although we need to do that, you can't do that using what we have for information.

Mrs. Eno feels that a prime wetlands designation must be done. This is a type of survey that puts you in the field with match monies so all those vernal pools Mr. Berg talks about can be identified. Then we strategize and create an effective ordinance. In the meantime, in terms of what we have here, this is better than what we had. However, it costs nothing and protects us to be stronger with our protection than it does to be weaker.

In preparation for the last Planning Board meeting, Mrs. Eno looked at the towns of Newington, Portsmouth, Rye, Hampton, North Hampton, Stratham, Exeter, Newmarket, Durham, Brentwood and Newfields. North Hampton is the only town with a 100' septic setback for both inland and tidal wetlands. Newington has a 100' buffer for all contiguous wetlands greater than 5,000 sq ft; their vernal pools have 50'. Portsmouth has 100' buffers on wetlands that are a half acre or greater. Rye has a 100' buffer around all perennial streams, vernal pools and ponds greater than an acre. Durham has 150' buffers. Mrs. Eno referenced graphs from the 2009 State of the Estuaries Report which suggests 100' buffers as a protective standard for all surface water bodies. Eleven (11) towns have a 25' no-disturbance buffer for inland wetlands, which includes Greenland. Nine towns have anywhere from 50' to 100' for no-disturbance. Of the 52 towns that impact Great Bay, Greenland has one of the three least effective ordinances for buffer protection in terms of septic setback; most towns have 75' to 100'. Much of the information available is from 2010, and there have been many changes in the last year.

Chair Mauer asked Mrs. Eno if she was planning to get that information over to Mr. Smith. Chair Mauer stated that the chart the Planning Board is requesting is for all buffers. Mrs. Eno responded that it doesn't exist. What can be found online has been compiled in an official manner by other Commissioners and is not necessarily current or even accurate.

Mr. Fredericks mentioned that vernal pools were reduced from 75' to 50', to which Mrs. Eno responded that there was nothing before and she felt that was a good start. She also felt that the ordinance, as it sits now, is good. Mr. Fredericks and Mrs. Eno both felt that the issue of tree farming was not addressed by Mr. Smith in the ordinance. Mr. Fredericks mentioned that there is great language in the State recommended draft wetlands ordinance that talks about unimpeded water flow. You must cross the wetlands in such a way that it doesn't impede flow. He feels that if the wetlands are crossed by a driveway or access road it does not impede water flow to the wetlands. Chair Mauer asked Mr. Frederick to write a note regarding that, which he has already done.

Mr. Fredericks stated that if an ordinance is going to be drafted to protect the wetlands, it

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should protect them. It should not be an ordinance that allows for activity that can potentially harm or destroy the wetlands.

Chair Mauer asked what the next action should be. Mrs. Eno responded that they should be present at the next public hearing. When asked if a new draft would be available, Mr. Hussey answered that the Planning Board is waiting for the review from the Town Engineer.

Please note: Chair Mauer requested to go off the record and the recording was stopped.

Back on the record, Mr. Fredericks would like the Conservation Commission involved whenever there is a substantial impact on the natural environment of the town. Chair Mauer recommended that the Planning Board go to the book, and Mr. Fredericks agreed that there is a wetlands model that should have been used. Mrs. Eno referred to RSA-674:21, II (attached). She also suggested the Conservation Commission should be represented on the Planning Board. Chair Mauer agreed, suggesting that the Conservation Commission should attend the planning board meetings and take turns making the rounds with the other Town committees. He feels that this way the other Boards may realize the Conservation Commission is legit and they should listen to its recommendations.

**Motion 6: Mr. Hussey moved to accept Mr. Smith's wetland ordinance (draft #6) as it is written now; seconded by Chair Mauer. All in favor. MOTION CARRIED.**

## MINUTES

**Motion 7: It was moved to accept the minutes of September and November meetings; seconded. All in favor. MOTION CARRIED.**

## ADJOURNMENT

There being no other business, the meeting was adjourned at 9:00 p.m.

## NEXT MEETING

The next meeting will be held Tuesday, January 03, 2012 at 7:00 p.m. in the Town Hall Conference Hall.

Attachments: Agenda; RSA 674:21, II

Respectfully Submitted By: Charlotte Hussey – Secretary

Approved by the Greenland Conservation Commission on \_\_\_\_\_

**674:21 Innovative Land Use Controls**

II. An innovative land use control adopted under RSA 674:16 may be required when supported by the master plan and shall contain within it the standards which shall guide the person or board which administers the ordinance. An innovative land use control ordinance may provide for administration, including the granting of conditional or special use permits, by the planning board, board of selectmen, zoning board of adjustment, or such other person or board as the ordinance may designate. If the administration of the innovative provisions of the ordinance is not vested in the planning board, any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator. In such a case, the planning board shall set forth its comments on the proposal in writing and the administrator shall, to the extent that the planning board's comments are not directly incorporated into its decision, set forth its findings and decisions on the planning board's comments.