

**PEMBROKE CONSERVATION COMMISSION MEETING**  
**Approved Minutes of MAY 7, 2007**

**1. Attendance**

Present: Lea Anne Atwell, Carol Bertsimas, Kevin Gagne, Ammy Heiser, Stetson Heiser, Laura Scott (Planning Director), Todd Terrien (Planning Board Representative), and Brian Tufts (BOS Representative)

Not present: Ayn Whytemare

**2. Call to Order:** The meeting was called to order by Kevin Gagne at 7:03 pm.

**3. Public Hearings**

Approximately 25 members of the public were in attendance for the public hearings on two draft policies the CC is considering.

**a. Public Use Policy for Town-Managed Conservation Lands**

Laura Scott explained to the public that the CC is proposing a policy to manage town-owned land under the purview of the CC and town-managed conservation lands. This policy would not cover those parcels that already have restrictions in the original easements or deed restrictions, a total of seven properties. The CC needs a policy for the other ten town-owned parcels that currently have no restrictions. The CC is trying to adopt a policy that would guide us in deciding uses on these properties. The policy would require a public hearing any time that the CC made decisions on uses for a specific property. This proposed policy is based on numerous other CC policies from other towns and has been reviewed by the Town's legal counsel. State law gives the CC the authority to restrict uses on conservation lands under their purview.

Kevin officially opened the public hearing at 7:08 pm and asked for comments / questions from the public.

*Vyn Greco, 210 Pembroke St.* Mr. Greco asked if the conservation land would be signed. Laura Scott explained that all conservation lands have been posted at all corner lines for each properties. The CC will be posting additional, smaller medallion-like signs along the property lines when we do our monitoring this year. Mr. Greco asked if different parcels would have different uses. Members of the CC explained that yes, they potentially would have different uses. Mr. Greco specifically asked about hunting and fishing. The CC explained that hunting, fishing, trapping may be allowed on parcels that the CC deems appropriate, given safety issues. Brian clarified that the CC would hold a public hearing for each parcel before decisions are made regarding uses.

*Roland Lemoine, 822 D Chicoring Meadows.* Mr. Lemoine wanted to know that if restrictions were put in, would a permit be required? The language on Page 2, second paragraph is unclear. Mr. Lemoine asked about people in wheelchairs. Kevin explained that it was not the intent of the CC to restrict persons with disabilities from accessing conservation lands. The intent of the policy would be to guide the CC in making decisions regarding the uses of specific policies. Those uses would be specified in writing after a public hearing. It is not the intent of the policy to institute permits or require written approval anytime anyone wanted to use the conservation land for something other than allowed uses as indicated paragraph 1 on page 2.

*John Bates, 3 Pheasant Run.* Mr. Bates explained that the state of NH has a long history of openness. Current state laws already restrict hunting (shotgun, bow / arrow, safe distances, etc.). Mr. Bates indicated he believes that hunting, fishing, trapping, nature study, motorized vehicles should be added to allowed uses (items 4, 6, & 8 should be moved up to allowed uses). His feeling was that the policy placed too many restrictions on uses of conservation lands. He also indicated that horseback riding is listed under allowed uses, but that horses cause quite a bit of damage. Kevin indicated that the intent is for the CC to have separate meetings for each parcel to decide specific uses for that parcel. Kevin spoke with someone at NH Fish and Game today, who explained that the Town does have the right to post Town-owned land against hunting. Mr. Bates indicated that he had also spoken with someone at NH Fish and Game, Mr. Flynn. He explained that hunting is one of safest recreation activities in US.

*Tom Petit.* Mr. Petit voiced concern over the language on page 2, paragraph 2. As written, the language suggests that you would need a permit to hunt on conservation land: “the following uses and activities require written approval by the Conservation Commission.” The CC indicated that this portion should be re-written, as that was not our intent. Mr. Petit also expressed concern that the CC was restricting uses on land and making decisions that should be left to larger governing bodies, such as the BOS. Laura Scott indicated that under state law, the CC has authority under state law to restrict uses. Mr. Petit read the state RSA governing conservation commissions, which states that the CC “may recommend” restrictions. He indicated that the CC could not restrict shotgun hunting, those decisions reside with the NH Fish & Game. He again voiced his opinion that the CC does not have the right to make decisions regarding public use on conservation lands and that any policy regarding such restrictions should be initiated and acted upon by the BOS at Town Meeting.

*Laura Whittemore.* The Wittemore CC land was donated by her father, with the intent that he wanted people to continue to be able to hunt and fish on the property. She questioned the restriction of the use of motorized vehicles, which includes wheelchairs. Someone in a wheelchair should not be required to have a committee hearing and get written approval to access conservation land. She has been affiliated with the boy scouts and the need to have a hearing for nature study seems “weird.” Nature study should be under allowed uses in her opinion.

Ammy explained that the intent of restricting nature study, observation, etc. was that the CC is worried about protecting endangered species.

John Bates indicated that picking of endangered species is already restricted by state laws, and this policy seems to be about over regulation and control. From an economic standpoint, hunting and fishing bring \$579 million into the NH state economy and support 12,000 jobs. He indicated that people are very sensitive to the issue of hunting. He also stated that he didn't think the CC put a lot of thought into this document. He suggested tabling the discussion and the vote. He also asked if this policy were even necessary.

*Bruce Kudrick, 217 Dearborn Road.* As Mr. Kudrick reads the policy, if he wanted to go hunting on the Whittemore property, he would need to get a permit from the CC. He indicated that the policy reads as if you would have to go in front of CC to get approval for each use.

The CC suggested that paragraph 2 should be reworded, as that was not our intent. Mr. Bates expressed his opinion that when a law is written in a certain way, it is interpreted that way, even if that was not its intent.

Mr. Petit asked that if after a public hearing, if the CC doesn't agree with someone's proposal, what happens? The CC does have the authority to vote it down. Laura Scott indicated that if someone has a grievance, it can be appealed to the BOS. Mr. Petit again voiced his opinion that whatever recommendations regarding uses are passed should be done so at the BOS level and that no other Town commissions have this kind of authority.

Laura Scott explained that the Town granted authority to CC by a vote at Town Meeting, article 4, in 1990. The CC has the authority to manage conservation land. The CC can accept gifts, but ultimately, the BOS has to sign deeds, as the CC can't accept land. The CC does have the authority to manage land.

Mr. Petit suggested that if a parcel didn't have any restrictions, we should assume that the grantor didn't want any restrictions. Laura Scott explained that the parcels in question were obtained in lieu of back taxes, in lieu of LUCT taxes, etc.; they were not granted to the town.

Mr. Lemoine said that our rights are being taken away piece by piece, and that we "won't be able to walk on the grass without taking off our shoes." He is very concerned about this policy.

Kevin closed the public hearing at 7:42 pm.

Discussion took place about the fact that it is not the intention to have public hearings if someone wants to use the conservation land for those uses specified in paragraph 2, page 2. It is also not the intent of the CC to require permits for these activities. The policy would be in place to assist the CC in making decisions regarding uses on properties, which would be decided on a parcel-by-parcel basis. The intent of the public meeting is to get feedback from members of the community about the policy. Clearly, as the policy is written, it is confusing and the language can be interpreted in ways that the CC did not intend. Clearly, the citizens of Pembroke are concerned, and the CC is a steward to the land that belongs to Pembroke residents. The CC agreed to table the vote and reword page 2 to clarify the intentions. The CC wanted to discuss this issue again at our next meeting before its brought to the public.

Todd made a motion to do additional work on the policy and hold another public hearing on June 11, 2007. Stetson seconded. All in favor.

### **b. Conservation Fund Guidelines**

Laura Scott explained to the public in attendance that any time land changes use, the owner must pay a LUCT penalty, 100% of which goes into the Conservation Fund. This policy would provide transparency on how this money is spent and was developed based on other communities' policies. The policy has been reviewed by legal counsel.

Kevin opened the public hearing at 7:46 pm. No comments from the public. The public hearing was closed at 7:48.

Stetson made a motion to adopt the guidelines as written. Carol seconded. All in favor.

**ACTION ITEM:** Laura Scott will check the RSA numbers to make sure proper RSA is cited for public hearing RSA.

### **2. April 23, 2007 Minutes Review and Approval**

Ammy made a motion to accept the minutes as written. Stetson seconded. All in favor. Todd abstained, because he was not at the meeting.

### **3. Conservation Land**

a. **Scripture Easement** - Comment from Legal Counsel on ability to amend conservation easement per 4/9/07 CC meeting discussion was included in our packets. The Tylers were present at the meeting. Basically, the interpretation from legal counsel is that the CC does not have any authority to amend the easement, and that any changes to the easement must be done at Town Meeting.

Mr. Tyler asked if we were confident in the Town's legal counsel and their interpretation. He has read the easement, and he doesn't think that they have done anything not allowed by the easement.

Discussion took place about how the CC shouldn't be in the business of monitoring what people do to their homes. This issue should be cleared up, to avoid any potential problems in the future. It would be easier to work things out now than to wait. As the easement is written, the owners must come before the CC before they do anything to their house, and they will continue do have to do so unless the easement is changed.

Bringing this to Town Meeting would involve submitting a petition to the BOS. We would have to get up at the meeting and explain what the issue is. If it were approved, then we would proceed with a new survey and amending the easement. We would discuss logistics in terms of who pays, etc. ahead of time. The process would start in December.

**ACTION ITEM:** Laura Scott will outline the different steps that need to happen in terms of how to approach the BOS with the warrant article proposal.

Ammy made a motion to revisit this issue and to petition for a warrant article for the next town meeting. Todd seconded. All in favor.

**b. Ames Brook Easement – final review prior to submitting to Planning Board**

The Town's legal counsel provided comments, and the legal counsel for the applicant has already agreed to those changes. Todd recused himself from the discussion because he will be reviewing this easement at the PB meeting tomorrow night. Page 4 lists permitted uses if the CC allows at a regularly scheduled meeting. Discussion took place about whether this language is unclear, given that the draft policy was unclear. A suggestion was made to remove item vii – motorized vehicles for persons with disabilities and to move items vi (nature study) and iv (hunting, fishing, and trapping) be moved up to the list of allowed uses. Laura Scott will talk to the applicant to see if he agrees. He may not agree to the hunting provision.

Kevin made a motion to accept the easement and suggest to the applicant that he amend the restrictions, as specified on page 4 (strike 7 and move 4 and 6 to allowed usages). Ammy seconded. All in favor. Todd rejoined the meeting.

**c. Discussion of Potential Conservation Easement, Map 939 Lot 14 (Buck Street); Ammy & Stetson Heiser**

Ammy & Stetson recused themselves. They wanted to talk to the CC informally about a parcel they own on Buck Street to see if the CC is interested in a potential easement. The 20-acre parcel is approximately 1/3 wetlands and 2/3 hayfields. They are thinking of splitting three lots off the front of the property, then putting the rest in conservation, with the provision that the fields can be used for gathering hay. The parcel is almost entirely within the aquifer protection district.

The CC will do a site walk at 9 am on Saturday May 19, 2007. Meet at the property, which is on Buck St near 6<sup>th</sup> Range Road. The walk is open to the public.

**d. Schuett Property**

Bob Rainville was present to discuss his violation for the Schuett property. Mr. Rainville was not on the agenda. He has a shed that is clearly located on the conservation land. He asked if the CC had heard about this issue and if we knew about the letter denying his request to trade land instead of move his shed.

The CC indicated that we had discussed his violation at our last meeting. Members of the CC explained that we have had similar violations on other properties, and that it would set a bad precedent to allow him to keep his shed. Also, the CC does not have the authority to change the property lines of the conservation land, that is something that must be done at Town Meeting.

Mr. Rainville thinks that Laura Scott told his wife that it may be okay for them to keep their shed it its current location if they would give the CC land as a "bribe." He was upset at how the matter was handled and wanted to know if he was on the agenda for last week's meeting. Laura Scott indicated that it was on the agenda, and that the Town is not required to notify you if you are on the agenda. Agendas are posted at several places around Town and on the Town website.

Mr. Rainville wanted to know what the setbacks are from the Conservation land. Laura Scott indicated that she had given all of that information to his wife. Laura Scott said she didn't know off the top of her head, but that she would be happy to look it up and call him tomorrow with the information, as every zone has a different set-back requirement.

Ammy explained the purpose of easement monitoring. The CC has found other people who have mowed, cut down trees, and placed clippings on other conservation lands. The job of the CC is not to give away or take land, and it is not the responsibility of the CC to let other people do that. The issue was not up for discussion, because it is not our place to exchange land. We would need to write a warrant article and approach the BOS to exchange land, and the CC has other pressing issues at this time.

Mr. Rainville indicated that he wanted to hear it from us, not from a letter.

#### **4. Membership**

##### **a. Election of Chair, Vice-Chair, and Secretary for May 2007-April 2008 term**

Carol nominates Ammy to be Chair. Todd seconded. All in favor.

Ammy made motion for Carol to be Vice-Chair. Kevin seconded. All in favor.

Ammy made a motion for Lea Anne to be Secretary. Kevin seconded. All in favor.

- b. New Member List for Binder** – don't have list; will wait until items from a are decided
- c. Outreach to potential new members update** – no discussion took place.

#### **5. Miscellaneous Items**

##### **a. GPS Unit**

Laura Scott provided information on a GPS unit. CC members indicated that having the topo maps would be good. Laura Scott indicated that the prices may have changed. Carol stepped out at 8:50 pm. Kevin made a motion to purchase the GPS unit for a cost of up to \$450. Lea Anne seconded. All (except Carol) in favor.

- b. Quarterly conservation amounts included in packets.**
- c. Alternates were appointed; not sworn in yet**
- d. White Sands Site Visit meeting reminder (5/9/07 @ 6:30pm).** Meet at Town Hall at 6:15 pm to carpool.

#### **6. Adjournment**

The meeting was adjourned at 8:56 pm.

Respectfully submitted by Lea Anne Atwell, CC Secretary