

DEERFIELD CONSERVATION COMMISSION

1967 - FIFTY YEARS AND COUNTING - 2017

Meeting Minutes – **March 9, 2020**

Members Present: Brian Adams, Haley Andreozzi, Erick Berglund, Serita Frey
Members Absent: Wes Golomb
Visitors & Guests: Katrina Amaral, A.J. Bruno

Work Session

Chair Serita Frey opened the work session, that preceded the regular meeting, at 6:35 pm.

Members reviewed the draft deed to Bear-Paw (version *Deerfield Pendleton Easement 20200303*), and the corresponding *Warranty Deed of Conservation Restrictions and Right of Enforcement to LCHIP* that will overlay the existing LCIP easement on the **128-acre Pendleton parcel.**

Erick Berglund noted the difficulty of working with **numerous versions of documents, edited independently by multiple individuals, and without the benefit of direct collaboration with Bear-Paw and LCHIP**. Although the documents lacked coherent naming conventions, a review of previous, edited versions of the deed revealed the origins of the most recent language. **Some of the edits were a result of a simplification of an unnecessarily wordy template and removal of redundant statements.** The discussion resulted in the following:

Reinstate agriculture in the sections on purposes, use limitations and reserved rights: It is understood that **the 1991 Mary Pendleton easement was granted to the Town of Deerfield, including its successors and assigns, in perpetuity**. Given that agriculture was referenced throughout the original Pendleton easement, **members objected to edits removing Agriculture from the new document**. An acknowledgement in the new deed that *the Easement Area is subject to certain pre-existing conservation restrictions contained in a Conservation Easement conveyed by Mary Pendleton to the Town of Deerfield* reinforces the inclusion of agriculture in the new document.

(Katrina Amaral later noted that if in the future the property were to move into large scale agricultural production, Bear-Paw would require a management plan as it did for the 38-acre Beye easement. At this time adding back the Pendleton references to agriculture is sufficient.)

Retain the clauses governing breach of easement: Members **questioned whether the clauses governing breach of easement were overly restrictive**. A comparison found the language to be the same as that contained in Deerfield's Town Forest easement deed to Bear-Paw. Haley Andreozzi noted that although a breach in the near term is not likely, the document is intended to survive the current grantors and grantees and the clause, as written, would serve to protect the easement through changes in administration, or if either the easement or the property were re-conveyed in the future.

(During the regular meeting Katrina Amaral confirmed that it would take a substantial violation for an easement holder to feel it was necessary to defend an easement in court. Members agreed to leave the language in tact).

Regular Meeting

Katrina Amaral from Bear-Paw arrived and **Serita Frey convened the regular meeting at 6:55 pm**. Ms. Amaral proceeded to clarify some of the points members discussed in the work session (see above comments and below).

Remove the clause on arbitration: An edit removing the *arbitration* clause was suggested by Bear-Paw attorneys in a **move toward updating the deed template to conform to current Best Practices**. Ms. Amaral clarified that the current draft deed is based on the Deerfield Town Forest template recently used for the Boisvert easement. Bear-Paw agreed that the Town Forest template is a more readable version and would likely be the template adopted by Bear-Paw in the future. Members agreed to the removal of the clause.

Clarification of the layers of enforcement: Members were **unclear about how the multiple deeds link together**; which of the three documents control, does one take priority over the other and how do the documents relate to one another. It was suggested that a sentence could be added to the acknowledgement statement on page one, defining the

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hierarchy of the documents. These questions were initially raised by Attorney Raymond after his review of an earlier version of the deed.

It is Ms. Amaral's understanding that the new LCHIP easement (*grant of conservation restrictions*) will overlay and serve to update the LCIP easement (1991 Pendleton easement to the Town) which is still in place, but has evolved. She further explained that **LCHIP has an oversight role while Bear-Paw, the easement holder, monitors and enforces the easement.**

Ms. Amaral will follow up with Paula Bellemore of LCHIP and Bear-Paw's attorneys to clarify the layers of enforcement. DCC can submit the explanation to Attorney Raymond with the final document after DCC's vote at the April meeting.

Extinguishment: This clause is **currently incomplete and is not understood.** Katrina Amaral will request clarification of the formula used to calculate the percentages applied in the event of *extinguishment* detailed on page thirteen of the deed.

Closing: DCC anticipates that an attorney from Upton and Hatfield will act as the closing agent for the Town. Ms. Amaral will contact LCHIP with the information when submitting the fund disbursement request for the \$50,000 grant which could take up to eight weeks. Ms. Amaral also confirmed that **the grant was awarded to Bear-Paw and is a reimbursement to the Town for costs associated with the project.**

Timeline:

Ms. Amaral will resolve questions regarding 1) layers of enforcement, 2) extinguishment clause calculation

Ms. Amaral will generate the final version of the deeds

Members will review the revised document ahead of the April DCC meeting

Members will vote in April on the final draft

Both Bear-Paw and Town attorneys will review one final time

Ms. Amaral will submit the fund disbursement request for the grant to LCHIP

Wetland Zoning Ordinance: An article explaining the proposed wetland zoning amendment was submitted for publication in the Forum and on Facebook.

Dowst-Cate Sign: Serita Frey will follow up with Scout Leader Jude Dallaire about the replacement for the sign at the Dowst-Cate Town Forest trail head. Construction of the sign is a community service project being taken on by the 11 Cub Scouts in Pack 138. The sign for the Freese Town Forest has been suggested as the template for the Dowst-Cate sign and members concluded that it should read *Dowst-Cate Town Forest - Gift of Gilbert H. Knowles 1983*. A photo of the old sign was sent to Mr. Dallaire in February.

Stewardship/Easement Monitoring: DCC clerk, Judy Marshall met with Planning Board Secretary Jane Boucher regarding the status of the **Brown's Mill Corey Wildlife Open Space Subdivision**. Copies of Planning Board minutes and additional attorney correspondence were shared, but no information was available to confirm that the \$2,500.00 bond was ever posted for the hydroseeding. The hydroseeding was to have been completed as part of the reclamation of the gravel pit and was a condition of approval. **Ms. Marshall will submit a memo with historical documentation to the Planning Board to update them on the status of the project and to determine what recourse the Town may have.**

Membership: A motion by **Serita Frey with a second by Haley Andreozzi:** *To request the re-appointment of current members Wes Golomb & Brian Adams for terms of office beginning May 1, 2020 and ending April 30, 2023* passed unanimously. Both Mr. Golomb and Mr. Adams have agreed to continue to serve.

Approval of Minutes: **Serita Frey moved to approve the minutes of the February 10th meeting.** The motion was seconded by Erick Berglund and passed unanimously.

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Finance: Erick Berglund reported that no current information was available. The *Unofficial* bank statement balance for January was \$194,590.90 which included a deposit \$9,190.00 representing DCC's 50% share of Land Use Change Tax for 4th Quarter 2019 and \$1,036.06 reflecting a transfer of DCC's 2019 budget surplus to the Conservation Fund.

BOS Quarterly Report: The DCC quarterly report to the BOS originally scheduled for March 16th will be rescheduled.

Easements and Land Protection: DCC recently requested information on the process for acquiring three tax-deeded parcels proposed for auction in the Spring of 2020. **Based on the advice of Town Counsel to the Town, DCC will have to participate in the planned auction and bid on the land along with any other interested party.** At DCC's request, Barbara Richter, Executive Director of the NH Association of Conservation Commissions, provided information regarding the process for commissions to acquire property acquired by tax collector's deed. An attempt will be made to gain clarity on Deerfield's specific policy for retaining tax-deeded properties.

Turtle Crossing Signs: Resident Chris Carr forwarded a quote of \$200 from the Department of Corrections for two signs, including mounting posts. **Members decided that since signs should be posted in opposing directions, each of the two locations would require two signs, which will require increasing the total number of signs to four.** Serita Frey will contact Mr. Carr about the change. Mr. Carr wrote that May 1st was the recommended date for posting. DCC is waiting for a response from NH Fish and Game for suggested placement, targeting locations where the signs would have the biggest impact. In the absence of a response, DCC may request input from Frank Mitchell.

Bear Brook Steering Committee: Brian Adams reported that the committee covered the chapters on Climate Change, Forest Protection, and Forest Management. The discussion included the history of the park, the use of pesticides and how climate change will have an impact on the park. The next meeting in May will cover recreation; especially hiking, equestrian use and mountain biking.

Deerfield Energy Committee: The committee will be sponsoring a "button up" workshop for residents on Tuesday, March 31st at 7 pm at the G. B. White building.

Regulated Wetlands & Shorelands – Permits/Applications:

Forestry Permit by Notification NHDES 2020-00229: Joseph Carpino – 157 South Rd. - Map 420 Lot 53

Announcements/Correspondence/Reminders:

NHDES Announcement:

A Comprehensive Approach to Alteration of Terrain permits as they relate to Threatened and Endangered Species

The New Hampshire Department of Environmental Services and the New Hampshire Fish and Game are working together on a comprehensive approach to Alteration of Terrain (AoT) permits, ensuring the comments received during the ongoing rulemaking process as related to threatened and endangered (T&E) species are comprehensively addressed.

John Harrington has received a plaque from Bear-Paw in recognition of the easement conveyed on the Boisvert Town Forest. Mr. Harrington would like to hang the plaque, along with the one previously received for the Town Forest easement, beside Wes Golomb's photos of Deerfield conservation land displayed in the corridor at the GBW.

DCC received an acknowledgement from Bear-Paw for its recent donation.

The meeting adjourned at 8:05 pm.

The next regular meeting is scheduled for Monday, April 13, 2020

(Please check the website for scheduling changes)

townofdeerfieldnh.com

These minutes were prepared and submitted by Judy Marshall. Revisions, if any, will be contained in the minutes of the next meeting and posted to the Town website, after approval by the Deerfield Conservation Commission