

DEERFIELD CONSERVATION COMMISSION

1967 - FIFTY YEARS AND COUNTING - 2017

Meeting Minutes – June 8, 2020

Roll Call Attendance: Haley Andreozzi, Erick Berglund, Serita Frey, Wes Golomb
Members Absent: Brian Adams
Visitors & Guests: Erroll Rhodes, Resident (via phone link)

Pursuant to Governor Sununu's *Emergency Order #12*, the Deerfield Conservation Commission met electronically and did not provide a physical location for the public to attend. In order to provide access to the public, a conference phone line and meeting ID number were established and posted in the official Meeting Notice.

PHONE NUMBER: 312-626-6799 Meeting ID: 634 101 4902

Chair Serita Frey opened the regular meeting, at 7:05 pm.

Marston Family Town Forest: 128 Acre Parcel

A warrant article in 2021 will ask to designate the property a Town Forest under RSA 31:111, and to convey easements to Bear-Paw and LCHIP, which in turn will authorize the BOS to sign the easement deeds. Passage of the warrant article and conveyance of the easements will complete the requirements for the Conservation Fund to be reimbursed for \$50,000 previously paid into the project. **Receipt of the State grant funds through the LCHIP program is contingent on the conveyance of the two easements which will co-exist alongside the original 1991 Pendleton LCIP easement currently encumbering the property.** Serita Frey will request documentation of the LCHIP grant deadline extension and copies of the FINAL easement deeds from Katrina Amaral.

Approval of Minutes: Serita Frey moved: *To approve the minutes of the May 11th meeting.* The motion was seconded by Erick Berglund, with Serita Frey, Wes Golomb, Erick Berglund and Haley Andreozzi voting in favor of the motion.

Finance: Erick Berglund reported an *unofficial* balance in the conservation fund at the end of April of **\$220,212.29** which reflects interest in the amount of **\$41.63** and **DCC's 50% portion of Land Use Change Tax for 1st Quarter 2020 of \$25,500.** The balance does not reflect payment of the **\$387.09 Upton and Hatfield legal invoice** which was incorrectly paid from the DCC operating budget in order for the Accounting Department to expedite payment. Mr. Berglund has expressed his discomfort in paying these invoices without the appropriate DCC approvals and funds will be transferred from the conservation fund to reimburse the operating budget. No bank information was available for the month of May.

Regulated Wetlands & Shorelands – Permits/Applications:

13 Gulf Rd - Map 204 Lot 35: At its April meeting, members discussed an email from an individual informing the DCC that **the owner of the property was in the process of filling in 3500 sq. ft. of wet area.** Erick Berglund visited the site and took photos of the disturbed areas. A **Shoreland Permit, DES File #2019-03485 dated 11/21/2019, was posted** at the site and indicated that the proposed project was for the purpose of constructing a driveway and parking area. A subsequent email indicated that **a complaint had been filed with DES**, and that from research of the Deerfield zoning ordinances, suggested the project would be considered a major site improvement subject to Deerfield Planning Board review.

Given the amount of impervious surface being added, the small size of the lot (.12 acres), and its proximity to Pleasant Lake, members decided that DCC should contact the Deerfield Building Inspector to ask if any Town permits have been issued or if there has been a site visit. Serita Frey reported that during her quarterly meeting with the BOS on June 8th, BOS members appeared to be aware of the situation and urged the DCC to proceed quickly to investigate and minimize any negative impacts. **DCC is awaiting a reply from the Building Inspector and in the interim, Erick Berglund will follow up with Fred McGarry.**

145 South Rd - Map 420 Lot 57: DCC has been alerted to a possible wetland disturbance and ongoing alteration of terrain. It appeared that soil was being moved and that a berm had been created at the back of the lot. A backhoe was also observed on the site. A great deal of work had gone on during the past year with the addition of a paddock and arena. A small stream and a wetland exist on the lot, with the soil disturbance being conducted in close proximity to, if not in, the wetland. No wetland or alteration of terrain permit could not be found on the DES website. The property of an abutter is reported to be getting wetter since the work began.

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Members discussed options for addressing the problem including DCC and/or the abutter filing a complaint with DES, and contacting the Building Department to determine if there is a permit for the excavation on file. Wes Golomb will contact the abutter and ask for permission to observe the area from the adjacent lot prior to DCC filing a complaint.

Easements and Land Protection:

Reservation Rd Tax Deeded Parcels: An auction of the properties is anticipated for August; however, DCC is not currently in a financial position to cover the potential value of the properties. **Bear-Paw presented the project to their Land Committee**, and although it is not feasible for them to be directly involved, they did pass the word on to some interested individuals. **DCC will keep Bear-Paw informed as additional details of the auction become available.**

Bear-Paw (Mathes) North Rd: An easement originally conveyed to Bear-Paw on the Mathes North Rd property, with an executory interest to the Town, was followed with a transfer of the fee ownership of the property to Bear-Paw. Recognizing that an owner of a property cannot hold an easement on itself, an email from **Bear-Paw asked if DCC preferred Bear-Paw transferring the easement deed to a different land trust rather than transferring the property deed to the Town.** A property map will be circulated to members and the matter will be addressed at the July regular meeting.

Town Forests and Conservation Areas – Permitted Use Matrix (See references on page 4):

In addition to numerous privately-owned conserved parcels, there are currently **996 acres of town-owned parcels in Deerfield that are permanently protected by conservation easements.** Members were asked to **review the matrix of allowed and prohibited uses that appears in DCC's annual report to the Town for its Town Forests and Town-owned conservation areas, and to determine whether horseback riding should be an allowed use.** It was suggested that decisions to allow or prohibit a particular use would depend on the physical attributes of the parcel and need to be made on a case by case basis.

Visitor Errol Rhodes joined the discussion and asked what determined an allowed use on a property. It was explained that the *Use Limitations* and *Reserved Rights* sections of individual easement deeds governed the usage, **with some activities being expressly allowed or prohibited.** For activities not specifically mentioned in the deed, an interpretation could be made if an activity is consistent with the *Management Plan* and the *Conservation Purposes* spelled out in the easement deed, and deemed an appropriate use for the property. It is believed that in such case the Town can allow the activity, but is not required to do so. **In situations where State grant funds were used for an acquisition, public recreational use is mandatory** (i.e. LCHIP - with respect to the Freese Town Forest, hunting must be allowed except within 300 feet of a residence).

Most CE deed templates allow for non-intensive recreational use. Erick Berglund noted that volunteer Linda Lee had previously researched some conserved parcels and evaluated them for suitable activities. Lindsay-Flanders was given as an example of a parcel unsuitable for hunting, especially in view of concerns expressed about target practice taking place on private land abutting the trails posing a danger to hikers. DCC could look to the Trails Committee for guidance where trails are concerned. **Correspondence and individual deeds for the donated parcels, now permanently protected by the Town Forest CE of 2014, were researched to determine the intentions of the former owners at the time the land was conveyed to the Town.** The Town Forest donor intent research will be reviewed.

Although there are no trails on the Clifford property, **Mr. Rhodes expressed concerns about property owner liability, commenting that given the condition of trails on a property, it could pose a significant burden on an owner who might be obliged to perform considerable tree trimming and trail clearing to allow for the increased height and width of a horse and rider to pass safely.** It was noted that the decisions being made relative to the matrix only pertained to Town-owned conservation areas, not privately conserved property, and that **Mr. Rhodes could make decisions about allowed uses on his properties based on the terms outlined in his individual conservation easement deeds** (Farm & Ranchland/Bear-Paw/Town of Deerfield on the Clifford easements and USDA on the Hersey property).

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Although Horseback riding is considered a *non-intensive recreational activity*, it is unknown whether there has been any interest shown, or if it was the intent of any donors that it specifically be allowed. Wes Golomb will ask former member and equestrian Dave Linden to join the July meeting to give input.

Stewardship/Easement Monitoring:

Lindsay-Flanders: Erick Berglund was notified by a resident walking the trails at Lindsay-Flanders that there was evidence of 4-wheeling going on. Members recall dealing with this issue in the past and will investigate the violation. Wes Golomb will ask Dave Linden, who lives in the vicinity of the easement, if he can shed some light on the situation.

Brown's Mill Corey Wildlife Open Space Subdivision: Serita Frey can speak with Kate Hartnett, who may be able to take a look at the area. A memo and related documents were submitted to the Planning Board in May to notify them that the \$2,500 bond had not been posted and the required reclamation of the conservation area had not been completed. It is not known if the Planning Board has currently been meeting.

Turtle Crossing Signs Are UP!! Through the efforts of resident Chris Carr, and with the assistance of the Highway Department, Turtle Crossing signs have been erected in four locations on Nottingham Rd. An announcement on Facebook and an informative article penned by Mr. Carr can be found on the FORUM. September 1st is the date recommended by Fish and Game for the seasonal termination of the notification and would require the physical removal of the road signs. Serita Frey will contact Mr. Carr and ask if he is still willing to take down the metal signs until an alternative method can be arranged. Erick Berglund suggested placing weatherproof bags over the signs. DCC hopes to have the signs hinged in the future.

Scenic Roads Violation: Erick Berglund reported that the Highway Department recently made significant modifications to a section of Harvey Rd. without first going through the proper channels to conduct work on a scenic road. A boulder on the roadside, which previously had the effect of calming traffic, was removed, resulting in cars now traveling less cautiously and at an increased speed. Proposals to work on Deerfield's scenic roads must first be presented to the BOS who then sends the proposal to the Planning Board, after which notifications are placed and a hearing is scheduled for public comment. Notably, the scenic road signs currently located throughout Town were paid for by Eversource as mitigation for having cut trees on a scenic road without permission.

The meeting adjourned at 8:45 pm.

The next regular meeting is scheduled for Monday, June 8, 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

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Permitted and Prohibited Uses
On all Deerfield Town Forests and Town-Owned Conservation Lands

Permitted *	Not Permitted
Walking	Snowmobiling
Hiking	ATV Use
Cross country skiing	Dirt biking
Snowshoeing	Mud trucking
Wildlife observation	Mountain biking
Orienteering	Firewood collection
Trail running	Camping
Dog walking – leash and scoop	Fires
Photography	Large group competitive games

* Hunting and free rock climbing are permitted in certain of these lands and forests.

* Please respect – Carry in; Carry out

Note: Alcohol is not permitted in our Town Forests and Conservation Areas

For Reference – From the *Reserved Rights* of the Deerfield/Bear-Paw 2014 Conservation Easement Deed

C. Education and recreational activities: **The Grantor reserves the right to use the Property for non-commercial, low-impact, outdoor educational and recreational purposes**, including the right to clear, construct and maintain trails for walking, nature observation, cross-country skiing, and other **non-intensive outdoor educational or recreational activities**. Such activities shall be consistent with the Management Plan and supervised by a licensed professional forester, a certified wildlife biologist, or other qualified person approved in advance and in writing by the Grantee.

D. Trails: **Trails may be cleared, constructed, and maintained, provided these trails are consistent with the Purposes of this Easement**, conform to best practices recommended by the Appalachian Mountain Club or similar trail-maintaining organization (for reference, see *The Complete Guide to Trail Building and Maintenance*, C. Demrow, D. Salisbury, Appalachian Mountain Club, or similar successor publication), and are **constructed and maintained consistent with requirements of the Management Plan**. Trail making and management activities shall be carried out in accordance with all applicable local, state and federal laws and regulations, and in accordance with current, generally accepted best management practices for the sites, soils and terrain of the Property. Trail design and construction shall be supervised by a licensed professional forester, a certified wildlife biologist, or other qualified person approved in advance and in writing by the Grantee.

The easement deed in its entirety can be found on the Town website at:

<https://www.townofdeerfieldnh.com/sites/deerfieldnh/files/uploads/deerfieldforestseasement.pdf>