

HOLLIS CONSERVATION COMMISSION

Minutes of Public Meeting

January 15, 2020

Approved February 5, 2020

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6 Regular Members: Tom Dufresne, LeeAnn Wolff, Thomas Davies, Mark Post;
7 Alternate Members: Laura Bianco, Paul Edmunds, Cheryl Quaine, Karen Bridgeo, Joe Connelly.
8 BOS Ex-Officio: Peter Band
9 Staff: Connie Cain
10 Attendees: Joseph Garruba, Thomas Carr, Sherry Wyskiel, Chad Mueller, John O'Neil, Dave Sullivan, Tom
11 Cook, Aaron Penkacik, other unidentified members of the public.
12

13 Meeting was called to order at 7:00 pm. T. Dufresne stated that the items being brought forward tonight were for
14 informational purposes only, and public comment would not be allowed. He stated that both the Planning Board and the
15 Zoning Board of Administration would be the proper Boards to address any comments to at their upcoming meetings on
16 January 21, 2020 and January 23, 2020.
17

18 **APPEAL OF ADMINISTRATIVE DECISION - Joseph Garruba**

19 J. Garruba introduced himself as Town resident and founder of the "Hollis Watch," a citizens group. He filed an Appeal of
20 Administrative Decision for the Bella Meadows Workforce Housing project that has been approved by the Planning Board
21 (PB); this appeal will be heard by the Zoning Board of Administration (ZBA) on Thursday, January 23, 2020. He wished
22 to present information on his appeal to the HCC directly, as part of his appeal is how the PB interpreted specific portions
23 of the Subdivision Ordinance and how that pertains to the HCC. He asked that members consider endorsing his appeal,
24 specifically in regards to the southernmost pond on the property.
25

26 Bella Meadows, a workforce housing development of 32 units, was approved by the PB on December 17, 2019. This
27 development is located on the former Pitch and Putt 9-hole golf course built by Joseph & Patricia Archambault on Old
28 Runnells Bridge Rd, MBLU 010-033-001. Of the items J. Garruba is appealing, he felt that the following items were most
29 germane to the HCC (from J. Garruba's Appeal):
30

- 31 1.) Approval of Plan to fill wetlands. The plan calls for filling in the southerly most pond, which is man-made and was a
32 water hazard for the former golf course. The reason to include this in his appeal is that the HCC did not approve of
33 the plan to fill the pond. J. Garruba felt that the ordinance should be followed, and the HCC should have been allowed
34 to review and approve/disprove the fill before the plan approval was granted.
- 35 2.) Dredge & Fill permit. J. Garruba felt the PB incorrectly interpreted the ordinance when conditional approval was
36 granted. He referenced an article from the NH Municipal Association, dated June 2019, entitled "What is the Role of
37 Municipal Conservation Commissions in Wetlands Permitting," (copy attached to physical minutes) which discusses
38 the unique authority given to Conservation Commissions to investigate dredge and fill permits. No such permit was
39 filed with the Town Clerk's office by the applicant/developer, which would have given the HCC 14 days to respond.
40 Additionally, the dredge and fill permit would have required that a Stormwater Plan be created and implemented;
41 this was not done.
- 42 3.) Wildlife Habitat Inventory and Assessment (WHIA). The PB did not conduct this study properly. Per Town Ordinance,
43 the HCC may request this study be done, and if the PB agrees, the HCC may choose the wildlife biologist to conduct
44 the study. The HCC did request that the study be done, but the developer submitted a memo instead which the PB
45 accepted. J. Garruba felt that the HCC should have been consulted and a WHIA been done and submitted to the HCC
46 in accordance with the ordinance.
- 47 4.) Open Space. The PB may request that the HCC be consulted in regards to Open Space set aside for subdivisions. Under
48 Section IV.6 of the Subdivision Ordinance, it states that the HCC may be consulted on this item, and that 1 acre of
49 every 16 house lots be set aside as a park or playground. While consultation is not required, he felt that the HCC
50 should have been consulted and played a role in the subdivision approval.
- 51 5.) Review of projects in the Wetland Conservation Overlay (WCO) Zone. This section, XI, C, 6d requires that the HCC be
52 presented with this projects that may cause a disturbance in the buffer zone for intervention, opinion,
53 recommendations and/or approval. He listed a number of projects which the HCC must review. This was not
54 requested from the HCC.

55 J. Garruba felt that there will be additional impact to this part of Town with the recently approved 3-lot subdivision
56 approximately a quarter-mile to the west; a site plan for a gas station as part of this plan has been submitted.
57

58 T. Dufresne, in response to J. Garruba, stated that the Dredge & Fill permit has not been filed with the Town Clerk; one
59 had been requested. He further noted that the WHIA had been discussed with the PB Chair and Town Planner. Due to the
60 location of the subdivision on two State Routes, it was not felt to be of as much concern as would be a subdivision plan in

61 a less populated section of Town. The HCC will be discussing this further. The PB does not always request consultation
62 with the HCC for Open Space. As this is a Workforce Housing Plan, State Laws supersede Town ordinance, and the HCC
63 was not asked to consult on this project as it was determined that there was not an environmental impact. J. Garruba felt
64 that the determination to require the WHIA or Open Space should not be left to the PB or staff, and that the PB cannot
65 make the determination without the Report. The memo submitted by the developer was not enough, as reports of
66 endangered species have been made in the area.

67
68 T. Davies felt that the HCC owes a debt of gratitude to J. Garruba for bringing these items to light, and reminding the HCC
69 that they must enforce their rights on these matters. Regardless of HCC support, the HCC cannot stop the development. J.
70 Garruba agreed, and stated that he's not against development, but wants to ensure that Town ordinances are followed. L.
71 Wolff noted that two years ago, Blandings Turtles were found in the immediate area, and that photographs were taken
72 and sent to the State.

73
74 J. Garruba concluded his presentation at 7:25 pm.

75
76 *HCC Discussion of Presentation*

77 T. Dufresne asked members how they would like to proceed; would they like to vote in support or against support of J.
78 Garruba's appeal to the ZBA?

79 T. Davies stated that there had not been much opportunity given by the PB for the HCC to weigh in on these items. The
80 HCC should not automatically agree with the PB.

81 L. Wolff – she felt that not abiding with the Town ordinances sets precedent.

82 P. Edmunds – agreed with L. Wolff, but noted that the ordinances stated “may” and not “shall.” Open Space plans were
83 first enacted in the late 1970's early 1980's. Previously, under those plans, developers were limited to 4 building rights
84 per year. (STAFF NOTE: In 2017, these limits on building rights were deemed illegal by the State, and were vacated. CC)

85 C. Quaine – noted that no specific open space had been set aside, but the Workforce Housing regulations do not specifically
86 address open space.

87 P. Band – felt that appeal should be decided on present laws and regulations. He would advise against speaking on specific
88 items.

89 M. Post – felt that man-made ponds were subject to different rules and ordinances than natural.

90
91 T. Dufresne asked members if they wished to vote on supporting J. Garruba's appeal to the ZBA, all members in favor of
92 holding such vote.

93
94 *T. Dufresne motioned that the HCC support the Appeal of Administrative Decision made by Joseph Garruba to the*
95 *Hollis ZBA; seconded by P. Edmunds. All members in favor, none opposed or abstained. The motion to support was*
96 *approved by a vote of 9-0-0.*

97
98 T. Dufresne will communicate this vote to ZBA Chair Brian Major.

99
100 **OLSON SUBDIVISION – Thomas Carr, Meridian Land Services Inc.**

101 T. Carr, representing Meridian Land Services, was before the HCC to provide information on a proposed 5-lot subdivision
102 at the request of the PB. The property is located at the southeast intersection of Worcester and North Pepperell Roads,
103 owned by Hans & Kathleen Olson, MBLU 002-044. T. Carr gave a brief description of the property, which contains 17.71
104 acres, approximately half agricultural and half forested, with about a quarter of the property currently leased to a local
105 farmer. The proposed subdivision plan is for 5 house lots with individual wells and septic systems. The pond on the
106 easterly boundary is a man-made pond for agricultural irrigation. The grading and drainage plans for the subdivision are
107 still in the process of being created, with the plan anticipated to go to Design Review at the next PB meeting on January
108 21, 2020.

109
110 At this time, there are no easements shown on the plan, but T. Carr stated that the owners will provide a drainage
111 easement to the Town. Sediment basins are also planned, and a Fire Cistern easement has also been requested by the Fire
112 Department to alleviate the lack of Town resources in the area. The Fire Cistern is not a requirement but the easement
113 will be provided by the owner.

114
115 T. Carr stated that there are 3 primary buffer impact areas on Worcester Road:

- 116 1.) A treatment swale to address drainage issues. This will be grassed;
 - 117 2.) Footing drainage for house(s), to allow for the preservation of Rural Character;
 - 118 3.) Wetland buffer area, not within the 100 foot buffer requirement, but they are attempting to stay away from the buffer
119 area altogether and address any issues with a micro-swale.
- 120

121 On North Pepperell Road, the buffer impacts total 4575 square feet total, and will be:

- 122 1.) 3600 square foot buffer impact;
123 2.) 800 square foot swale;
124 3.) 175 square foot footing drainage.

125 T. Carr explained that they are trying to balance the wetland buffer impact and still provide water quality improvements
126 to the house lots and area.

127

128 T. Dufresne asked if the buffer impact on proposed Lot 3 could be eliminated; T. Carr stated possibly, but it would depend
129 on the size and style of house built. K. Bridgeo asked why the buffer impact is necessary on Lot 3; T. Carr responded that
130 it was a water quality issue, but will not increase water run-off on the lot. C. Quaine asked about the water contour, where
131 is the water coming from presently? T. Carr stated that it's from Worcester Road, water flows over North Pepperell Road
132 onto Worcester Road, and on to the property. The goal is to prevent any water flow onto Worcester Road.

133

134 T. Davies did not necessarily agree that additional fertilizer and pesticide use would provide better water quality, but
135 asked if the pond is considered a vernal pool; T. Carr stated no, it's a low area used for agricultural irrigation, has been
136 used as such for a long time, and described the present soil conditions. He stated that the present water flow, although
137 there may be ponding now after the unseasonable warm temperatures over the past week, goes over bare soil with little
138 vegetation in the off agricultural production months.

139

140 A brief discussion on Alteration of Terrain (AOT) and State requirements. There will not be over 100,000 square feet of
141 disturbance, and there is no buffer requirement for manmade ponds. These items have been discussed with the Town
142 Planner, and as a Wetland Scientist, T. Carr prefers to protect water quality. There is no evidence of the property being
143 wildlife habitat, no scat or other evidence found. The HCC has requested that a WHIA be performed, and that it be
144 determined if the pond is vernal or not. T. Carr stated that the growing season begins when temperatures are consistently
145 over 42° Fahrenheit, and that there is no uptake of water during the winter.

146

147 K. Bridgeo asked if a wetlands delineation has been done; yes, in October 2019. T. Davies asked how much of the property
148 will be deforested; T. Carr stated that there will be some, houses are to be set back on the lots. The full drainage plan is
149 anticipated to be presented to the PB at the next meeting. P. Edmunds stated that abutters are concerned that extensive
150 water movement will occur, T. Carr stated no, that State regulations prohibit increasing water runoff to other properties.
151 Most of land is considered barren, as the use has been primarily agricultural and of those areas not currently in
152 production, the fields are full of weeds, and is sparsely vegetated. K. Bridgeo asked about the southerly most lot, which
153 appears to be contoured and hummocked, is this highly forested? T. Carr felt that there was less than 2 acres. Containment
154 and treatment will be determined by engineered plans. L. Bianco asked if the septic systems were to be raised. T. Carr
155 stated that due to the high water table of 28 – 36 inches below ground, there will be some grade changes to the property,
156 and the systems will be raised due to this. He felt that most septic systems in Town are considered raised, and that most
157 people would not know this as fill is typically brought in onto most house lots. T. Davies asked how much fill would be
158 brought in; T. Carr did not have a precise number but felt it would be typical for most house lots.

159

160 T. Dufresne noted that this had been discussed at the last meeting, and that a letter had been sent by the HCC to the PB
161 on December 19, 2019, addressing the HCC concerns. T. Dufresne felt that the HCC will stand by the letter sent, and have
162 requested review of both engineering plans and drainage studies. K. Bridgeo asked if the HCC could request that a 4-
163 season wildlife study be conducted; yes, can be requested.

164

165 P. Band stated that it would be prudent to communicate to the PB, and all answers in regards to these items should be
166 addressed in detail. T. Carr stated, that with all due respect, that a 4-season WHIA study on a 5-lot subdivision is
167 ridiculous.

168

169 T. Carr concluded his presentation at 8:05 pm.

170

171 **PROPOSED PETITION WARRANT ARTICLE**

172

173 T. Dufresne read the proposed Petition Warrant Article (PWA) which requests that the Town adopt a bylaw to prohibit
174 discharging of any firearm other than in the course of lawful hunting be prohibited. He noted that neither the Town
175 Administrator nor the Selectboard have received the official Petition to include this as a Warrant Article for the 2020
176 Town Meeting. Both the Trails Committee and the Forest Committee have voted not to take a position on the matter. T.
177 Dufresne is bringing this matter forward to the HCC to determine whether or not they wish to vote on the matter, and if
178 yes, to support or not support.

179 T. Davies felt that other Boards/Committees not taking a position on the matter is to let Town residents make the decision.

180

181 While he is a strong supporter of the 2nd Amendment, other locations may be more suitable for this kind of activity instead
182 of HCC land. Outside of water and wildlife protection, recreational use is the focus of HCC land. Discharging weapons on
183 land used by the general public is not the best use, and he is in support of the PWA.
184

185 J. Connelly felt that as the Townspeople approved the land purchases, the HCC does not have the right to make this
186 decision. The HCC does not know precisely why Townspeople may have voted for a land purchase; he felt that the
187 Townspeople should vote on the matter, and that the HCC should not take a stand.
188

189 L. Bianco passed on further comment. P. Edmunds stated that he would be opposed to allowing these activities, as stated
190 in the PWA.
191

192 T. Dufresne strongly agreed with J. Connelly's comments. The HCC is supposed to be caretakers of the land for all
193 residents. He did not feel that target shooting in undesignated areas was in line with public safety.
194

195 L. Wolff echoed T. Davies statement as a strong supporter of the 2nd Amendment, but she is opposed to allowing such
196 activities on HCC land. Can the HCC investigate the matter further on the basis of the HCC Charter, and is it legally up to
197 the HCC to make this decision? She would like to find out what other communities are doing before taking a stand.
198

199 S. Wyskiel interjected that she had contacted other communities and that most do not allow. (Members of the public
200 protested that public comment was not to be allowed.)
201

202 M. Post asked that in the absence of specific law allowing the use, wouldn't it be prohibited? P. Band stated that in absence
203 of Town restrictions, it is allowed on Town property. M. Post felt that from a public safety perspective, the Town will need
204 to conduct its due diligence to protect and enforce this use to ensure public safety. M. Post stated if the Town decided to
205 allow, it should be in an appropriate area dedicated to that purpose.
206

207 K. Bridgeo felt that it is part of the recreational use of Town property, but a solution should be found that provides use by
208 all Town residents safely. She can see both sides of the argument, but rules and enforcement of the activity needs to be
209 determined first.
210

211 P. Band noted that the Town and State have regulations on how firearms can be used, with penalties and enforcement
212 issues addressed. Town Meeting would be the perfect place to decide whether or not the use can continue, and he felt
213 that the issue would be better served by letting the Townspeople decide.
214

215 C. Quaine did not think that Townspeople decided to purchase HCC property to allow shooting as described in the PWA,
216 and felt that the matter would be better decided by the Townspeople. She felt there are arguments on both sides for use.
217

218 P. Edmunds asked S. Wyskiel why the Trails Committee felt that it would be prudent to take no stance on the matter. It
219 was felt that as it had not been previously addressed in property purchases, it was better left to the Townspeople. She
220 added that NH Fish & Game do not allow target shooting on their lands. (Public members protested the last comment as
221 opinion.)
222

223 J. Garruba stated that with the contention on the matter, why not let it go to Town Meeting and let the people decide?
224 (Again, protests from public members against public comment, and from HCC members.)
225

226 L. Wolff asked if should be the HCC have an opinion on the matter? Members felt yes. P. Band stated that the Selectboard
227 felt it was a very emotional and polarizing issue, and briefly discussed why the Selectboard had not issued an opinion.
228 The Board ultimately felt that the matter needs to be decided by the Townspeople, and that the issue should be decided
229 on facts, not opinion.
230

231 After discussion concluded, the following motion was heard:
232 *T. Davies motioned that the HCC vote on whether or not to have a position on the Petition Warrant Article; seconded*
233 *by P. Edmunds. Voting in favor of the motion were T. Davies, L. Wolff, P. Edmunds, C. Quaine, K. Bridgeo, M. Post, L.*
234 *Bianco, and T. Dufresne. Voting against the motion was J. Connelly. The motion passed 8-1-0.*
235

236 Based on the motion above, the following motion was heard:
237 *T. Davies motioned to support the Petition Warrant Article as written, with a new vote to be taken if the language*
238 *as presented this evening is revised; L. Wolff seconded.*
239 T. Dufresne opened the item for discussion among HCC members. P. Band cautioned members to consider not putting
240 out a decision as it may taint the decision at Town Meeting.

241 L. Bianco asked why this article did not have a recommendation by the Selectboard or Budget Committee. Staff clarified
242 that the PWA is by Petition, and as such, no recommendation would be taken by the Selectboard or Budget Committee.
243 PWA requirements briefly discussed. M. Post felt that the vote should be postponed, to allow members time to further
244 investigate. T. Davies felt it didn't matter what other communities allow, he felt that to allow target shooting in Hollis
245 would open the gates for the public to utilize HCC properties, not just Hollis residents.
246

247 Aaron Penkacik, public member, interjected and asked members if they were aware of Senate Bill (SB) 469. Public
248 members were reminded that a motion was in discussion and public comments were not allowed.
249

250 L. Wolff and L. Bianco felt that they had misunderstood that the Warrant Article was by resident petition, and L. Wolff
251 rescinded her second to the motion. T. Dufresne seconded the motion, and T. Davies moved the vote.
252

253 The vote on the motion to support the Petition Warrant Article was as follows:

254 *Voting in favor to support the Petition Warrant Article were T. Davies, L. Bianco, P. Edmunds, C. Quaine, and K.*
255 *Bridgeo.*

256 *None were opposed.*

257 *Voting to abstain were J. Connelly, M. Post, L. Wolff, and T. Dufresne.*

258 *With this vote, the HCC voted to support the Petition Warrant Article by a vote of 5-0-4, and the motion passed.*
259

260 A. Penkacik informed the HCC of the proposed SB 469.
261

262 **BOARD & COMMITTEE UPDATES**

263 *Selectboard – Peter Band*

264 Funding for the Recreational Field Study to go to Town Meeting for a vote to expend funds for the study. The cost of the
265 study for the recreational fields behind the DPW office is estimated at \$600,000.
266

267 There were no other updates at meeting time.
268

269 **NEW/CONTINUING BUSINESS & ANNOUNCEMENTS**

270 *Stefanowicz Farm House Lot – Tom Dufresne*

271 T. Dufresne will be presenting the Stefanowicz Farm House Lot subdivision to the Planning Board at the January 21, 2020
272 meeting. If any members can attend, please do so.
273

274 *Roadside Clean-Up*

275 Staff added note to allow for early planning of event. After discussion, tentative date set as April 18, 2020. This will be
276 further discussed at next meeting.
277

278 The "Saving Special Places" conference will be held on April 4, 2020 at Prospect Mountain High School in Alton, NH.
279 Further details will be available in mid-February at <https://savingspecialplaces.org/>
280

281 **MINUTES**

282 *T. Dufresne made the motion to accept the public minutes of the December 18, 2019 meeting as written; seconded*
283 *by T. Davies. All members voted in favor, none opposed or abstained, and the minutes were approved by a vote of 9-*
284 *0-0.*
285

286 *T. Dufresne made the motion to accept the non-public minutes of the December 18, 2019 meeting as revised and to*
287 *keep them sealed until voted to release; seconded by J. Connelly. All members voted in favor, none opposed or*
288 *abstained, and the minutes were approved by a vote of 9-0-0.*
289

290 **ADJOURNMENT**

291 *T. Dufresne motioned to adjourn the meeting, seconded by L. Bianco. All members in favor, none opposed, and the*
292 *motion carried by a vote of 9-0-0. The meeting adjourned at 9:05 pm.*
293

294 Respectfully submitted,
295

296 Connie Cain
297

298 Staff