

1 HOLLIS CONSERVATION COMMISSION

2 Minutes of Public Meeting

3 February 5, 2020

4 Approved February 19, 2020

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- 6 Regular Members: Tom Dufresne, LeeAnn Wolff, Thomas Davies, Mark Post, Jonathan Bruneau;
- 7 Alternate Members: Laura Bianco, Paul Edmunds, Karen Bridgeo, Joe Connelly.
- 8 BOS Ex-Officio: Peter Band
- 9 Staff: Connie Cain
- 10 Attendees: Chris Guida, Fieldstone Land Consultants PLLC; Joseph Garruba.

11
12 The meeting was called to order at 7:00 pm.

13
14 **BELLA MEADOWS, DREDGE & FILL APPLICATION – Chris Guida, Fieldstone Land Consultants, PLLC**

15 T. Dufresne explained that with changes to the State Laws & Regulations regarding wetlands, there is a 14-day review
16 period for any person or local agency to file comments to the NH Department of Environmental Services (DES) in regards
17 to a wetlands plan filed with their agency. The period starts the day the application is filed with the Town Clerk, which
18 was done on Friday, January 31, 2020. Mr. Guida was able to attend the meeting to explain the proposed plan.

19
20 C. Guida introduced himself, and stated that he is a Certified Wetlands Scientist by profession, and works for Fieldstone
21 Land Consulting in Milford NH. The Dredge & Fill application is for Bella Meadows, a workforce housing development,
22 located on Runnells Bridge Road on the old “Pitch & Putt” property, MBLU 010-033-001. He described the general
23 proposal of the subdivision plan and explained that the Dredge & Fill application is for filling in of the most southerly
24 pond on the property. The pond had been one of two man-made ponds created by the former owners as irrigation ponds
25 and water hazards for the former Pitch & Putt in the 1990’s.

26
27 State law had provided for a repurposing of manmade ponds, and these have been exempt from permitting, under certain
28 circumstances. Recent legal interpretations of the law have changed so that repurposing is no longer allowed, and
29 requires that an application to be filed for the property. Additionally, a stormwater plan for the property is required to
30 address water treatment and any potential water runoff to meet State regulations. About 3300 square feet is the
31 estimated area of the pond.

32
33 T. Davies asked if the depth of the pond was known; C. Guida replied that it is not, but is estimated to be approximately
34 10 foot deep in the center. The pond sides are steeply sloped, and the pond holds water year-round. C. Guida explained
35 that DES requires a dredge and fill permit if the area of fill is over 3000 square feet, which this area is. As it is manmade,
36 it’s not considered wetlands and therefore, no buffer.

37
38 T. Dufresne informed members that due to the limited time to review and comment on the application, he had walked the
39 property on Tuesday, February 4, 2020, and agreed that the sides of the ponds are steep. He had walked the property just
40 prior to the Pitch & Putt construction, and did not remember there being standing water at that time. He felt that the
41 ponds were both for irrigation and manmade. T. Dufresne further noted that there is new leadership at DES, and they are
42 now requiring a Dredge & Fill permit. He recommended that the developer consider grading or fencing the pond area for
43 safety reasons; C. Guida will inform the developer of the recommendation.

44
45 J. Bruneau asked about RSA 483, as mentioned in the cover letter for the application; C. Guida stated that while the RSA
46 language had not changed, the DES interpretation has; and the application is now required. There is a stormwater plan
47 to be built in the area to treat the water before it goes into the ground water. K. Bridgeo asked about the 4 to 6 foot
48 depression on the southwest side of the property, near the southerly pond location. C. Guida stated that the stormwater
49 treatment area will be located in this area, and explained that the post-development run-off must be equal or less than
50 that pre-development per DES requirements. J. Bruneau felt it would be similar to what was required from Brookdale
51 Farm for their recent site development behind the Broad Street warehouses. A brief discussion ensued over similar
52 stormwater treatment plans in the area and their appearance.

53
54 T. Dufresne explained that C. Guida’s attendance was as a courtesy to the HCC, and neither signature nor approval is
55 required. The HCC is welcome to submit concerns or questions to DES should they choose to, which can be for or against,
56 or a combination of both. DES will consider any communications if sent within the 14-day review period with more
57 bearing than those sent after the 14-day period.

58
59 T. Dufresne asked J. Garruba if he had any comments on the plan. J. Garruba repeated T. Dufresne’s explanation in regards
60 to the comment period of 14-days, and felt that this is a window of opportunity for the HCC to submit any comments.

61 J. Garruba pointed out that C. Guida had referenced confusion and/or conflict between State and Local review of the plan.
62 J. Garruba felt that this meant that the Hollis ordinances require that the HCC must review as well as the Planning Board
63 (PB) at the local level; the HCC should have been given the opportunity to review and file comments with the PB prior to
64 both agencies approving the plan. J. Garruba continued, stating that while there is a local ordinance exempting manmade
65 ponds and buffers, the State septic setback requirements of 75 feet must also be met. He is unaware if this plan has
66 undergone local review, and it appears to have been changed to forgo an Alteration of Terrain permit filing. He felt that
67 this Dredge & Fill application changes the approved plan, and due to this, the Dredge & Fill plan must be also be reviewed
68 and approved by the PB after consultation with the HCC.

69
70 J. Garruba stated that as he had not seen the plan prior to the meeting, he has not yet had time to review to ensure it meets
71 local and State requirements; the septic setback requires that it be 75 feet from any pond, he does not think this plan
72 meets that requirement. T. Davies asked what impact will be had if the Dredge & Fill is conducted prior to housing
73 construction and the placement of septic systems, J. Garruba stated that DES has a minimum impact wetlands permit, and
74 one of the conditions for approval is that it be proven that there is no other method that can be implemented without
75 filling in the pond; if there is a practical alternative plan that would cause less impact to the property, it should be used.
76 Rule interpretation changes were put into place by DES on December 15, 2019, and with these changes the 75-foot septic
77 system setback is required. J. Bruneau felt that it was a moot point and is not applicable to this development; State
78 regulations address adverse effects and other items, not the setbacks or septic setbacks. J. Garruba disagreed, he stated
79 that they do address the matter. J. Bruneau stated that this is one of the first items reviewed by any engineer, what are
80 the setbacks on the property, and they ensure these become part of the plan. T. Dufresne interjected, and stated that the
81 PB and staff are the ones that review these plans. This is beyond the scope of the HCC, members are not professional
82 engineers, and the PB and PB staff are the professionals for the Town. If the PB and staff have reviewed the plan and
83 approved, then he has no issue with it. This plan will be reviewed by PB staff as it came in after the original approval. J.
84 Garruba pointed out that the approval of this plan is no longer at the local level, it is at the State level. The HCC can provide
85 comments/input to the State, and if submitted in the 14 day comment period, the State will take the input into
86 consideration.

87
88 J. Garruba referenced State regulation WT 3073, which is required to be met for permit approval that "...no fill shall be
89 allowed to achieve the septic setbacks..." J. Garruba interpreted the regulation that it was in place to prevent material
90 from being moved around the site. J. Bruneau asked C. Guida if the septic system beds meet the 75 foot setback, C. Guida
91 stated that they are. J. Garruba stated that he could not attest to that as he has not measured the plan. J. Bruneau felt that
92 as C. Guida or a colleague stamped the plan, it must meet regulations by State Law. When an engineer or other professional
93 places their stamp on a plan, it means they are verifying it means State requirements, and they could lose their license if
94 the plan is found not to meet those requirements. J. Garruba stated that plan possibly meets the requirements, but does
95 not address that, in his opinion, there is a practical alternative which would have less adverse impact to the area and the
96 environment. If the road was moved, why would the pond have to be filled? C. Guida stated this was due to the stormwater
97 plan; J. Bruneau clarified and felt that it was the connection to ground water; the pond is open source ground water, and
98 the run-off from this area would be the issue. J. Bruneau felt that to have the runoff go around the pond would be difficult,
99 and asked C. Guida if that was a fair statement. C. Guida stated yes, but he did think it appropriate to enter into a discussion
100 into the engineering aspects of the plan as that is not his area of expertise. J. Garruba felt that there were other options
101 which were not explored that could prevent filling in the pond, but those options would require the number of units to
102 be reduced. As far as the State regulations were concerned, he felt that those regulations were not being met. He felt the
103 HCC should be weighing on these items that he brought up as potential concerns.

104
105 L. Wolff asked J. Garruba to restate what his fundamental concern is with the plan that he is asking the HCC to resolve; J.
106 Garruba felt that State wetlands permits regulations are not be followed with this permit. State regulations require if
107 there is a practical alternative to filling in the pond, that the alternative method be explored and implemented. J. Connelly
108 felt that there was no such thing as a "practical alternative;" J. Garruba stated that was how the law was written. L. Wolff
109 asked why he was so interested in this particular plan; J. Garruba responded that he felt the letter of the law was not met,
110 the plan presented did meet the regulations, and he wanted to make sure the regulations and laws are followed. L. Wolff
111 clarified by asking him if this was his only motivation, to ensure that the laws are being followed; J. Garruba answered
112 yes. He further stated that if his alterative plan was implemented, the only thing that would be affected would be the plan
113 would be redesigned and number of units would probably be reduced by a unit or two.

114
115 P. Band felt that given that plan engineering was outside of the HCC's bailiwick, the PB would be the correct Town agency
116 to review and make recommendations as warranted; T. Dufresne agreed. J. Garruba stated that it was out of the PB's
117 hands now, it is now up to the DES to approve or not. L. Bianco also felt that J. Garruba's motivation was in setting
118 precedent for future developments of this nature.

119 T. Dufresne asked if members would like to send DES written communication in regards to this plan. T. Dufresne felt it
120 was not necessary to send a letter to DES, but needed other members input.

121 J. Bruneau felt that the PB's approval, along with J. Garruba's letter to DES, as submitted to the HCC earlier today, is now
122 in front of them, and they should be the agency to approve or not. If there is something that the HCC should weigh in on,
123 they should. He felt that C. Guida's application cover letter provides a clear explanation of the plan's intended use. He felt
124 that to change the plan to accommodate one less unit was not in the best interest of everyone involved.

125 J. Connelly agreed with J. Bruneau's statement, and felt that it was not an impractical solution. You have to balance housing
126 needs with conservation needs, and that the practical solution is different to everyone.

127 T. Davies felt that J. Garruba's letter and report to DES makes sense, and he was appreciative of the work and research
128 that J. Garruba has done on behalf of the Town. It does set precedent if the HCC ignores rules and regulations, and while
129 he is not aware that the plan in question violates any regulation, in some circumstances further investigation is warranted.

130 L. Wolff agreed with T. Davies, with the exception that the State and Town has ordinances, and there is a difference in
131 having the Town ordinances met and the Town enforcing those ordinances. She did not personally see a point in writing
132 a letter to DES just to say that the HCC intends to make sure the letter of this law is being followed in this case.

133 L. Bianco asked if it would be more palatable if the pond was natural instead of manmade; members answered that if it
134 were natural, there are different laws that govern naturally existing ponds and those laws would need to be followed.

135 M. Post felt that the HCC is following the letter of the local laws. J. Garruba stated that the HCC had not approved or
136 disproved the plan, and J. Garruba felt HCC approval should have been requested by the PB. M. Post stated as it relates to
137 the filling of the pond and practical alternatives, he felt this was the purview of DES to approve or disprove alternatives.
138 He is sensitive to the fact that the HCC members are not engineers, and in following the letter of the law, the HCC has not
139 established any precedents. Is the HCC required to approve or disprove?

140 K. Bridgeo quoted the Town Zoning ordinance, from Paragraph 3c, Section 11: "The town recognizes that the state and
141 federal governments have regulations, including a permitting process, governing the alteration of wetlands and surface
142 waters. However, the Town of Hollis has jurisdiction over the one hundred (100) foot buffer zone and all Dredge and Fill
143 Applications must first be reviewed by PB Staff and approved by the PB and the Conservation Commission for compliance
144 with this ordinance." K. Bridgeo felt that if the ordinance dictates how the HCC should address any application or plan
145 meeting such requirements, then it should be followed. However, the rules are different for manmade ponds, and she
146 feels that HCC intervention is not justified in this case. J. Garruba felt that this section of the ordinance speaks to the Hollis
147 Zoning Ordinance in its entirety. (STAFF NOTE: This Section governs the Wetland Conservation Overlay Zone (WCO) only.
148 The Overlay Zone information begins on Page 48 of the Hollis Zoning Ordinance, and the wetlands covered under this zone
149 are detailed in the Ordinance. This area of development is not one of those listed as "Prime Wetland." CC)

150 T. Dufresne stated that the Town of Hollis has an excellent PB and Staff, and many developers will not consider Hollis due
151 to the PB's reputation as being strictly in compliance with State and Local laws. The HCC is not qualified to determine if
152 septic or stormwater plans meet the requirements. The engineer is the person who stamped the plan, and his job is on
153 the line if it does meet those requirements.

154 P. Edmunds moved to vote on the subject.

155

156 *T. Davies motioned to approve the plan as presented, contingent on any approval of the Hollis PB and the NHDES*
157 *review and findings. The plan, as is, is acceptable to the HCC; seconded by T. Dufresne. All in favor, none opposed or*
158 *abstained, and the motion carried by a vote of 9-0-0.*

159

160 C. Guida concluded his presentation and departed the meeting at 7:38 pm.

161

162 **NON-PUBLIC MINUTES RELEASE TO PUBLIC**

163 On December 18, 2019, the HCC held a non-public session to discuss a potential purchase of property. Funding and other
164 financial issues were discussed, but the HCC should have come out of non-public session before discussing any other
165 aspects of the property. As the HCC determined that they would not be interested in purchasing the property, T. Dufresne
166 asked members if they would be willing to vote to unseal and release the minutes to the public. A brief discussion was
167 held over the legal issues that can be discussed in non-public session. Staff was asked to not only state the RSA in the
168 agenda, but to add the RSA definition under which the non-public session is held.

169

170 *T. Dufresne motioned to unseal the non-public minutes of December 18, 2019, and to release them to the public;*
171 *seconded by T. Davies. All members in favor, none opposed or abstained and the minutes were unsealed and released*
172 *to the public by a vote of 9-0-0.*

173

174 **BOARD & COMMITTEE UPDATES**

175

176 *Joint Agricultural & Conservation Stefanowicz Farm Subcommittee – Mark Post*

177 The Stefanowicz Farm Request for Proposals and Draft Lease documents were approved by the Selectboard, and have
178 been posted to the Town's website. The deadline for bids is June 5, 2020 at 2:00 pm.

179 T. Dufresne informed members that the PB had tentatively approved the subdivision of the Stefanowicz Farm for the
180 existing house and acreage, pending approval at Town meeting. An appraisal of the house lot is pending, and T. Dufresne
181 has also inspected the house with a demolition expert. If the lot is not approved at Town Meeting, it will be demolished.
182

183 *T. Dufresne motioned to approve the expenditure of funds in the amount of \$500 for the cost of appraisal services by*
184 *DND Appraisal Services; seconded by P. Edmunds. All members in favor, none opposed or abstained, and payment*
185 *was approved by a vote of 9-0-0.*
186

187 *Treasurers Report – Thom Davies*

188 As of the meeting date, the HCC account balance was \$701,351.89; accounting for the \$10,000 held in reserve, this leaves
189 a balance of \$691,351.89 available as cash.
190

191 There were no updates from the Selectboard or the PB at meeting time.
192

193 **NEW/CONTINUING BUSINESS & ANNOUNCEMENTS**

194
195 *2019 Town Report*

196 Members expressed their many thanks to J. Bruneau for his work on the HCC's 2019 Town Report, and a round of applause
197 for a job well done could be heard throughout the Community Room.
198

199 *Roadside Clean-Up*

200 Tentative date has been set as April 18, 2020. T. Davies suggested the Transfer Station as the gathering location for this
201 year, and will speak to Joan Cudworth, Lead Attendant, for her permission. Some "theme" ideas were floated among the
202 members, to be discussed more fully at a later meeting.
203

204 *HCC Parking Lot Plowing*

205 J. Bruneau had been tasked with speaking to plow operators about plowing the small parking lots near HCC land; he has
206 a possible operator in mind. P. Band suggested to speaking to Lori Radke, Town Administrator, and Todd Croteau, DPW
207 Director, for requirements for sub-contractors.
208

209 *Upcoming Conferences and Workshop*

210 The "Saving Special Places" conference will be held on April 4, 2020 at Prospect Mountain High School in Alton, NH.
211 Further details will be available in mid-February at <https://savingspecialplaces.org/>
212

213 The 2020 LCHIP Grant Round has been announced, with the first mandatory meeting to be held on February 28, 2020. If
214 any members is interested in pursuing this funding source, please let T. Dufresne know. There is not usually a lot of funds
215 available for preserving natural resources, and the grant process is onerous.
216

217 J. Garruba asked if members were aware that with the DES changes to law, the creation of "Prime Wetlands" designations
218 was part of these changes. Special protections are available to lands under this designation, and the designation can be
219 assigned by the HCC. T. Dufresne remembered this being addressed in the late 1990's, and will have to research for the
220 reasoning behind the HCC not wanting to assign this designation to Town lands.
221

222 **MEMBERSHIP**

223 With David Connor's recent resignation, this leaves a regular member opening available, and T. Dufresne has asked P.
224 Edmunds to fill this vacancy. With his past experience in serving the Town on other Committees, T. Dufresne felt that it
225 would be appropriate to have P. Edmunds step up to regular membership. P. Edmunds has agreed to this, and T. Dufresne
226 has appointed him as such.
227

228 J. Garruba left the meeting at 8:05 pm.
229

230 **NON-PUBLIC SESSION**

231 *T. Davies motioned to enter into Non-Public session to discuss potential land acquisition under RSA 91-A:3, II (d);*
232 *seconded by L. Wolff. T. Dufresne polled the members, all those present voted to enter into Non-Public session by a*
233 *vote of 9-0-0. The HCC entered into Non-Public Session at 8:05 pm.*
234

235 **RETURN TO PUBLIC SESSION**

236 *T. Dufresne motioned to conclude the Non-Public session and to keep the minutes sealed until voted by the HCC to*
237 *release, seconded by J. Bruneau. T. Dufresne polled the members, all members voted to conclude the Non-Public*
238 *session and keep the minutes sealed by a vote of 9-0-0. The HCC concluded Non-Public Session at 8:50 pm.*

239 **MINUTES**

240 *T. Dufresne made the motion to accept the minutes of the January 15, 2020 meeting as written; seconded by L. Wolff.*
241 *All members voted in favor, none opposed or abstained, and the minutes were approved by a vote of 9-0-0.*

242
243 **ADJOURNMENT**

244 *T. Dufresne motioned to adjourn the meeting, seconded by L. Wolff. All members in favor, none opposed, and the*
245 *motion carried by a vote of 9-0-0. The meeting adjourned at 8:59 pm.*

246
247 Respectfully submitted,
248 Connie Cain
249 Staff