

DRAFT MINUTES
Tamworth Conservation Commission
March 20, 2007, 7:00 pm
Cook Memorial Library

Draft minutes to be reviewed and approved at a subsequent meeting.

Present: Scott Aspinall, Bill Batchelder, Ned Beecher, Bryan Berlind, David Haskell, John Mersfelder, Charlie Townsend

Meeting called to order at 7:07. The Chair appointed Bryan as a voting alternate and David as a voting alternate until Claes's arrival.

1. Approval of minutes of February 12, 2007. Corrections: 2nd page, six lines up - delete extra "foot buffer," under wetlands matters re Halpin: replace "about 90 feet" with "94 feet," and page 2, fifth line from bottom: should be "this interpretation reflects the intent of the drafters of the ordinance." Dave moved, Bryan second, all approved minutes as amended.

Approval of minutes of February 19, 2007. Ned moved, Batch second, and all approved the minutes as presented.

2. Old Business & Administrative

- **Great Hill Tower roof repair** - The Berriers have provided a letter, formalizing the plan for the work at \$2,400, to be done in the spring. Scott will contact state and the Selectmen and Dave Bowles to arrange for access and for closing of the Tower during work and ensuring that, during work, rutting of the road and unwanted access do not occur.
- **Payment to Town Attorney:** \$43.75. Moved by Dave, second by Bryan, all approved.
- **Membership on Commission:** Ned moved and Bryan seconded and all approved: To recommend to the Selectmen the following appointments to the Commission for 2007:
 - John as an alternate.
 - Jim Alt as an alternate.
 - Claes Thelemarck as an alternate.
 - Bryan Berlind as full member.
 - David Haskell as full member.
 - Donna Vielleux as full member.

Tom Cleveland will remain as Planning Board representative. Scott was elected to the Planning Board. The Local Government Center confirmed that he may serve on both the TCC and the Planning Board. The TCC recommended that Scott see how this works out and he will let us know if he thinks it would be good for him to step down to alternate on the Commission.

- **Town website:** as a part of making sure that the public (i.e. developers) are informed, we will help ensure that at least a list of all ordinances (and maybe PDFs of each) is posted on the Town website. John will get the list to Cassandra for the website; Ned will make PDFs to have posted as well. Claes will draft a sign for Town Office to run by Commission and the Selectmen (refer to DES permits directions on DES website).

3. Land Protection

- Next meeting of CLRC will be assigning points to the natural history items and values identified.
- Potential easement - John explained this potential; public details not available at this time.

4. Wetlands Matters

- **McConarty driveway:** Today, Paul King requested information on the Prime Wetlands designations in Town, noting that DES has notified the McConartys that their proposed driveway is in prime wetlands, as designated on the 1982 prime wetland maps. DES and the McConartys will have to address this issue. How DES will deal with this is not known. Discussion followed; TCC needs take no action on this; but it was noted that adding a copy of the prime wetlands map to the TCC handbook would be a good idea, since, in this case, we forgot to check this possibility when we evaluated this project.
- **Cloutier pond project** - still in progress with discussions between DES and the applicant.
- **So. Tamworth Fire Station** – The fire department recently purchased a little property from the Thompsons for expansion of dry flat area at the So. Tamworth Fire Station; Barry Keith was brought in and determined that the area to be filled is wetland; the Fire Department decided to not do the project and will do something else with the fill that they had brought to the site for that purpose.

Riverbend RV Campground request for a waiver to the 25-foot buffer under section F. 2. of the Tamworth Wetlands Ordinance. Jim Vilbig and consultant Jim Rines of White Mountain Survey were present for the applicant.

The TCC discussed, with applicant input, the draft meeting minutes of the Wetlands and Subsurface Committee of March 16th; Mr. Rines had provided some corrections, noting that campsites 12, 62, and 72 will still intrude into the 25-foot buffer area. Donna Veilleux, absent TCC member, submitted a letter to the Commission expressing concerns about the process of the application and the Committee review of March 16th.

Issues raised in Donna's letter and by Commission members tonight:

- John expressed concern, as did Donna, about the lack of a site visit. There is uncertainty about whether or not permission was available for a Town site visit. The Commission agreed that a site visit may be advisable.
- Why has there been no Town delineation of the wetlands? There was considerable discussion about whether or not the Planning Board and Commission should hire a consultant and/or have an alternate delineation done. This matter was not resolved.
- The Commission's intent to achieve consistency with waiver-granting processes of the past, i.e. with regard to septic system setback waivers. John noted that the current way we have approached waivers includes the idea that waivers for septic systems are only granted if there is no way to move the septic system on the property in order to fully comply with the Ordinance's setback requirements. In this case, John noted, the developer made it clear at the March 16th meeting that development of the part of the

property to the west is possible - and, therefore, that area could reasonably be used to attain the desired number of campsites now, without resorting to impacting any of the 25-foot buffer areas. (This issue takes into account Donna's third point of concern.) The applicant has tried to address this issue of impinging on the 25-foot buffer by applying a 30-foot buffer to all other wetlands on the property.

- Will the variation in the buffer width proposed for all other wetland areas (from 25 to 30 feet) have any significant effect on the level of protection of those wetlands? The Commission agreed that the increased level of protection would be minimal; more significant is any increase that can be attained when the buffer is only a few feet in width to begin with.

Mr. Rines of White Mountain Survey then presented a new set of plans developed in response to the Wetlands Committee meeting on March 16th. Extensive discussion followed. There were concerns about the various campsites still being non-conforming and that some could perhaps be eliminated or reduced in number (e.g. 74 & 75 could become just one site that would meet the full setback requirement). There was greater concern about the extent to which the perimeter road still is proposed to impinge for considerable distances into the 25-foot buffer area (staying 10 feet from the wetlands in some areas, but only a few feet in some areas). Others expressed conviction that any intrusion into the 25-foot buffer should not be allowed, as the property has additional area that could be developed if, as the landowner states, a minimum number of sites is required for their project to be viable. Also: there was discussion of the option of trading a portion of conservation easement protection on the portion of the property to the west in exchange for the waived impacts to the buffer areas as proposed, but Mr. Vilbig was not interested in this idea at this time and some Commissioners expressed concern about negotiating this kind of deal and setting an unworkable precedent. The Commission generally agreed with the specific stipulations included in various written notes on the new plans (e.g. regarding signs along roads and encouraging maximizing buffers along the perimeter road during construction). The Commission mentioned that the Planning Board's should ensure arrangements are made for site inspections during construction and when construction is completed to ensure that the final on-the-ground layout and buffers are consistent with what is on the plans.

Mr. Rines expressed concern about the process of the Commission here tonight and the process of the Wetland Committee meeting of March 16th and the TCC's lack of agreement with the decision of that Committee. Ned noted that it is not unusual for a full Board or Commission to rethink the decision of a sub-committee and come to different conclusions and that the long discussions of the Wetlands Committee and at this meeting have been instructive and helpful.

Vote: Scott moved that the Commission recommend to the Planning Board that the 25-foot buffer be maintained throughout the entire project area; Ned seconded. Discussion: Bryan noted that Section J of the Ordinance, which is where the waiver option is discussed, requires that a waiver be granted only if the intents and purposed in Section are met. The Commission reviewed the purposes and intents in Section A and referenced the letter of March 16, 2007 from Jim Rines to the Commission in discussing this motion. The motion failed, 4 – 2, with one abstention.

Vote: Ned moved that the TCC provide to the Planning Board the information from this meeting, with no recommendation other than that the Board, with the Commission, conduct a site visit when conditions allow (after snow melt). Batch seconded. This motion carried, 4-1, with 2 abstentions.

Vote: Bryan moved and John seconded the following motion: Because of the seasonal use proposed, and because of the extension of the wetland buffers that the landowner promises for other parts of the property (and will make formal in a deed restriction or conservation easement), the Commission finds that the proposed development meets the intents and purposes of Section A, as has been argued by the applicant (e.g. in the letter from Jim Rines to the Commission dated March 16, 2007). This motion failed, 5 – 2.

It was agreed that the draft minutes from this meeting would be provided to the Planning Board in advance of their scheduled meeting of March 21, 2007.

Club Motorsports, Inc. (CMI) application for a Special Use Permit for access ways to property off Route 25 in southeast Tamworth. Jim Hoenscheid and Sam Martin were present for the applicant.

John introduced the minutes of January 23 of the Wetlands and Subsurface Committee (WSC), which included three recommendations to the Planning Board regarding this permit application. These minutes had been approved by the Committee at its March 16 meeting. John also reviewed and read the letter he had sent to the Planning Board, with the draft minutes of the January 23 meeting of the WSC.

Vote: Batch made a motion that Ned seconded, as follows: To have the Commission forward to the Planning Board the minutes of the January 23, 2007 meeting of the Wetlands and Subsurface Committee, along with John's letter of January 24th, thus providing the Commission's input to the Planning Board regarding this application.

Discussion followed: Jim Hoenscheid noted that, in the Commission's discussion of reducing the impacts to wetlands of some of the proposed access roads, the Commission recommended crossing a stream (waterbody) higher on the property and the impacts incurred at that crossing was not included in the Commission's revised total area of wetland impacts. This concern was noted. Mr. Hoenscheid also stated that CMI has taken note of the WSC recommendations for minimizing impacts. He noted that the courts have denied a stay on this application, requested by the Town. David Goodson, Chair of the Planning Board, noted that a second request for a stay had gone from the Town to the court yesterday. In the meantime, the Selectmen gave a 90-day extension to the process of considering this current application.

The motion carried, 6 – 0.

5. Adjournment: Ned moved, Bryan seconded, all approved at 11:10 p.m.

Draft minutes respectfully submitted by Ned Beecher, March 21, 2007.