

**Atkinson Conservation Commission Minutes
Monday, January 7, 2019
Atkinson Town Hall**

Approved Feb 4, 2019

Members Present:

Paul Wainwright, Chair
Denise Legault, Vice Chair
Pete McVay, Secretary
Dan Kimball
Dennis Krause
Jeff Nenart, Alternate (voting)

Others Present:

Jim Gove, Gove Environmental
Michael Green, Green & Company
Sue Killam, Chair, Atkinson Planning Board
Dean Killam

1) Call to order, attendance

Chair Wainwright called the meeting to order at 7:31 PM, Monday, January 7, 2019. Chair Wainwright reviewed the attendance list and declared that a quorum was present.

2) Review and approval of minutes: December 3, 2018

Chair Wainwright requested a motion to approve the minutes of the December 3, 2018 public meeting of the Atkinson Conservation Commission, as amended.

Member McVay made a motion to approve the minutes of the December 3, 2018 public session of the Atkinson Conservation Commission, as amended. Member Kimball seconded the motion. Five members of the Atkinson Conservation Commission present at the December 3, 2018 meeting voted in favor with Chair Wainwright abstaining since he was not there. Vote: 5/0/1.

3) Treasurer's report and 2019 budget:

Chair Wainwright sent a final Treasurer's report for FY 2018. A copy is attached to these minutes. All but \$27.08 was spent. The only invoice submitted so far in 2019 is an invoice from Brent Ebner for junction markers for the trail between Atkinson, Hampstead and Plaistow, which was around \$100. The junction markers are for the parts of the trail in Atkinson.

4) Page Farm update: Prime Wetland boundary & buffer encroachment:

Chair Wainwright gave the Conservation Commission a background on prime wetlands in Atkinson and the Page Farm prime wetland delineation issue in order to clear up apparent confusion at the December Conservation Commission meeting.

He explained that in 2002-2003, the Conservation Commission conducted a prime wetlands study which analyzed more than 20 of the Town's larger wetlands, and recommended that 8 of

them be approved as Prime Wetlands by the Town. Because of their size and ecological value, as detailed in the study, it would afford them additional protection from environmental harm. The western part of Sawmill Swamp, which is adjacent to the Page Farm project, was one of the eight. In 2008, seven of the eight recommended Prime Wetlands were approved at Town meeting, and the western part of Sawmill Swamp adjacent to the Page Farm development was one of them. The eighth recommended prime wetland was approved at Town Meeting in 2013.

Up to this point, no major developments have been proposed adjacent to any of the town's Prime Wetlands. The additional seven units proposed by Green and Company would be the first in the Town of Atkinson to be constructed adjacent to a Prime Wetland.

Starting in 2015, Tuck Realty began work on proposing a development plan for Page Farm, and after submitting several plans, the current plan to construct a 60-unit cluster development was finally approved by the Planning Board. Green & Company purchased the land and approved 60-unit plan a little more than a year ago. Since none of those original 60 units was close to the Prime Wetland, careful delineation of the Prime Wetland boundary did not receive as much attention as perhaps it should have.

In late 2017, Green & Company purchased the 60-unit plan, and in mid-2018 they came to the Planning Board with an application for an additional seven units, which is presently under discussion. These additional units are proposed to be developed close to the Prime Wetland.

The purpose of this current discussion is an attempt to properly delineate, verify and document the prime wetland boundary and to include this boundary and its associated setbacks on the plan for the additional seven units.

The role of the Conservation Commission on this matter is advisory to the Planning Board, and to the developer. Chair Wainwright stated that he feels it is our collective responsibility to understand the regulations pertaining to prime wetlands, and to do our best, on behalf of the current and future residents of the town, to fulfill the intent of the regulations. Since this is the first time a major development has been proposed close to a Prime Wetland, Chair Wainwright feels it is the responsibility of the Commission to do a thorough job to help the Planning Board and developer to understand and follow the regulations.

Chair Wainwright explained that after watching the video of the December Conservation Commission meeting, he felt there was some confusion of the definition of prime wetland boundaries. There was a lot of discussion of the "50-foot rule." He explained that there are three numbers that need to be remembered. Two of them are setback numbers and one is a width number. Chair Wainwright explained that there is a State regulation for a 100 foot no cut buffer around the prime wetland. If the developer would like to cut trees in this area, a dredge and fill would be required from the State. There is a 150-foot structural buffer setback which is an Atkinson Zoning regulation. [Editor's note: a subsequent reading of section 410.10 of the Town's Zoning Ordinances indicates that this 150-foot zoning setback is also a no-cut natural buffer.] There is a 50-foot rule in the wetlands legislation which is a shoreline protection buffer, and does not refer to this development. The 50-foot rule which concerns this proposed

development refers to wetlands that are 50 feet or less in width. At that point, it is no longer considered a part of the Prime Wetland. Ms. Killam, Planning Board Chair, agreed. A stream would not be considered a Prime Wetland even if it is connected to a Prime Wetland.

Chair Wainwright informed the audience that he, Jim Gove and Vice Chair Legault met prior to the November 21, 2018 Planning Board meeting and came to an agreement as to what needs to be done to properly delineate the Prime Wetland on the plan. Chair Wainwright asked that the developer flag the prime wetlands and include these boundaries on the plan. Since a progress report about this was not covered at the December Planning Board meeting, Chair Wainwright requested that Mr. Gove and Mr. Green give an update at this Conservation Commission meeting tonight.

Chair Wainwright and Vice Chair Legault have also met with Eben Lewis of the NH Department of Environmental Services, and have reviewed this plan with him.

Chair Wainwright invited Jim Gove to speak. Mr. Gove explained that he did the original wetland work and continues to work with Green and Company. When the Prime Wetland legislation was being enacted, there was a real concern as to how prime wetlands were to be delineated. Many times, they were identified by aerial photography. There was much discussion about how to delineate the actual boundaries. After much discussion with the NH Association of Natural Resource Scientists and the legislature, a definition was written. First, a prime wetland has to be at least 2 acres in size. It cannot be a water body only. If there is a large prime wetland with a number of tributaries and they narrow down to less than 50 feet, then it is not considered to be part of the prime wetland. The other point is, the actual edge of the prime wetland becomes the flagged wetland boundary.

Mr. Gove handed out some maps and other handouts. Mr. Gove pointed out the subdivision and how the boundary was delineated. An aerial photo was added to show the prime wetland boundary. Mr. Gove started on the proposed subdivision. There are places that are not exactly on the wetland line. This is because the vegetation is too thick and he did not hang a flag. The red line shows where Mr. Gove walked the wetland boundary. There was a question of whether one section is part of the prime wetland. Chair Wainwright stated that it was designated a vernal pool on one of the earlier plans. Mr. Gove stated that is not part of the prime wetland because it narrows down to less than 50 feet at two locations.

Mr. Gove went on to report that he met with Eben Lewis from NH DES, who informed him that he was more concerned about another wetland and whether it was connected to the prime wetland. When Mr. Gove went to survey the boundary, he could only find 3 flags in the entire area. He put five holes in the area to see if the soils qualified it as a wetland. When Mr. Lewis was doing a compliance check, he did not see the flags. In fact, the area Mr. Lewis is concerned about is actually 3-5 feet higher than the prime wetland and the soils are hybrid soil and do not meet the criteria for prime wetland. He informed Mr. Lewis that the blue flags where he did the transects are there. If the Conservation Commission decides to do a site walk, they will see the blue flags.

Mr. Nenart agreed that Mr. Gove answered the questions that the Conservation Commission had. It is an isolated wetland and the area under concern is not a prime wetland.

Chair Wainwright asked Mr. Green what can be shown on the plan for the proposed development. Chair Wainwright is concerned that the prime wetland be clearly delineated on the plans and asked if something could be shown on the Atkinson side of the boundary so it can be documented where it enters the property. Mr. Gove explained that it is a GPS line, and could be shown.

Chair Wainwright read correspondence from Eben Lewis, who recommended that Gove Environmental Services delineate the wetlands of these two areas and have their wetland delineation flags be picked up in a survey to ensure that they do not meet the criteria to be included as a prime wetland. Chair Wainwright stated that he does not believe a survey is necessary. Ms. Killam stated that if the engineer puts the line on the plan, it should be noted that it is not a surveyed line. Mr. Green remarked that the boundaries can change in 50 or 100 years and members agreed. The developer [Mr. Green] agreed that a line could be put on the plan.

Chair Wainwright stated that he saw the 150-foot Town no-cut setback on the plan but he did not see the 100 foot State no-cut line on the plan. Mr. Green informed Chair Wainwright that he did not see it because he is using the 150-foot line as the "no cut" line. Mr. Green stated that he would have the engineer put the 100 foot no cut buffer on the plan as well.

Mr. Green requested to discuss the 100-foot cluster buffer. There is a condominium buffer of 100 feet and a single-family cluster buffer of 50 feet. Based on the wording in the regulation, it was assuming that the 100-foot condominium cluster buffer is for structures that are townhouses or triplexes. These structures are condominiums but each structure is free standing. Mr. Green stated that, in his opinion, since the buffer would not be protecting a neighborhood, a public street, or a view, he is requesting relief on the cluster buffer to 50 feet. Chair Killam asked when the developer would be going to the ZBA. Chair Wainwright would like to think more about it. Chair Killam explained that the relief would be to put some of the grading behind the proposed home into the 100-foot cluster buffer. Mr. Green stated that, to his understanding, the purpose of the buffer is to protect neighboring land uses. Ms. Killam stated that the purpose of the buffer is to put more space between adjoining land uses and the developer is assuming that there will be no neighborhood behind the proposed development because it is conservation land. Chair Wainwright stated that the buffer is beneficial for people who are walking in the woods or for hunters. Mr. Green pointed out that there is a steep grade drop so the development would not be visible. He does not believe it is a conservation issue, it is not a buffer from wetlands, it is a buffer between land uses.

Chair Wainwright explained that the Conservation Commission is the designated Town body responsible for protecting conservation land, and for people who like to walk in the woods, bird watch, and hunt, they would not like to see a condominium development. The Conservation Commission discussed whether the proposed development could be seen. There is a stone wall denoting the property line, and the current plan seems to show that the area of excavation goes up to within a few feet of the stone wall.

Chair Wainwright stepped out of the meeting to appear before the Board of Selectmen and Vice Chair Legault continued the meeting.

Member Nenart clarified that it appears from the plan that the developer would be cutting and grading right to the property line. Mr. Green informed the Commission that there would be cutting for grading and the original plan was approved for no cutting after development. There are no structures or septic systems in the buffer. Mr. Green explained that nothing has been done in the proposed area and showed the Commission that cutting is being done on the approved area. He also explained that the erosion plan on that site is part of the original plan. He added that the developer is planning on relocating the access to the Conservation land off the road to the seven lots.

Parking was discussed, but the developer is unable to put anything in the perimeter buffer. The access road was put on the plan and relief was granted by the ZBA. At that time, the developer had not applied for relief for grading behind the three proposed structures. Chair Killam explained that the developer would need to appear before the ZBA for relief for grading and the next opportunity would be at the February meeting. The Conservation Commission continued to discuss sight lines with the developer. Mr. Green reiterated that he believes that the cluster buffer is to protect neighborhoods. Member McVay explained that the issue is to protect forest primeval and if any paths would be going along the grade.

Mr. Gove walked up the path that was on the conservation land and cut down to the prime wetland and cut across the stone wall. The stone wall is fairly far from the path. Growth there is not that thick and not as thick as growth close to the prime wetlands. Mr. Gove states that the field road that the plan follows separates; one goes up and the other one goes in another direction.

Jim Gove, Michael Green, and Sue and Dean Killam left the meeting.

5) Warrant Article to decrease Land Use Change Tax funding of the Conservation Fund to 50%:

Chair Wainwright returned and informed the Commission that the Selectmen had a meeting regarding Warrants and there was a suggestion to drop the Land Use Change Tax Funding of the Conservation Fund to 50%. He does not believe that it will make much of a difference for FY19 because there are no large projects on current-use land that he is aware of. The issue for the voters is the role of the Conservation Commission to protect environmentally significant land in town. Chair Wainwright stated that he proposed changes to the Selectmen on the wording of the article in order to clarify the issue with the voters. A copy of what he proposed to the Selectmen is attached to these minutes.

First, he read the Article proposed at last week's Selectmen's meeting. He is concerned about people new to Town who are not aware of the Conservation Fund or the purpose of the General Fund. Chair Wainwright made some edits to the proposed article (see the highlighted portions of the attached proposed wording). The Selectmen did not disagree, but the DRA needs to approve the wording. The Selectmen did not agree to the proposed changes because not all five members were present.

The Conservation Commission discussed how the Article came before the Board of Selectmen. Chair Wainwright stated that Ms. Snicer was unable to say who originally presented the Article but the Board of Selectmen initiated it at the suggestion of a citizen.

Member McVay stated that the revised Warrant Article should state that the proposed ordinance would make it more difficult for the Town to buy land. Also, once the Article is passed it would be difficult to change it. Members of the Conservation Commission were concerned that there could be more decreases in the percent the Conservation Commission receives from the Land Use Change Tax. Vice Chair Legault would like to know where the Town of Atkinson is compared to other towns. Chair Wainwright said he would get historical figures on revenue generated by the Land Use Change Tax. Member McVay informed the Commission that there is a ranking of towns in New Hampshire and the amount of land is designated for recreation and public use. He will try to find the information.

6) Multi-town Conservation News – Brent Ebner – not present

7) GPS trail mapping progress report – Peter Bradshaw & Pete McVay

Member McVay explained that the GPS recordings for the trail maps are done. There is one problem: the software he was using is no longer available. The Conservation Commission would want the actual maps and would want to lay the GPS coordinates on top of them. He needs to find new software.

Chair Wainwright informed the members of the Conservation Commission present that if Member McVay could get the digital files into a Photoshop readable format, he can overlay them onto tax maps. He would prefer TIF, then JPG, and finally PDF. He stated that this is a priority and requested that Member McVay work on maps.

8) Web Content: Proposed Updates – Pete McVay

No report.

9) Conservation Easement Boundary Markers

Chair Wainwright sent Commission members a copy of his proposed easement boundary markers along with the agenda, and the Conservation Commission approved the design by consensus. A copy of the proposed design is attached to these minutes. Member McVay asked what easements the Conservation Commission is responsible for and if it would be responsible for easements on non-conservation land. Chair Wainwright explained that the easements he has in mind include the new easement the Town just received from George and Lyn Kutzelman, and the easement the town received a number of years ago from the Mullett family that runs from the Kutzelman land up to Willowvale Rd. There are easements on land that the Town does not own, but the Conservation Commission is not responsible for them.

Chair Wainwright polled the Conservation Commission for permission to purchase the easement markers; he estimates they will cost about \$200. The members of the Commission present agreed by consensus.

10) Brief Reports & Other Business:

a. Chadwick Town Forest proposed timber cut

Chair Wainwright will schedule a walk with Charlie Moreno, consulting forester, to evaluate whether a selective timber cut would be beneficial to this Town Forest. Several members expressed an interest in joining the walk. It will probably be mid-week.

b. Proposed timber cut on Woodlock recreation land for new athletic field

For now, the Selectmen have voted not to put forth the proposed field as a warrant article. As currently proposed, the new athletic field would be next to a fairly large wetland, and whatever plan is developed would need storm water management.

c. Ebner Driveway and Chambers-Fila TF Parking

The parking for the Chambers-Fila Town Forest (part of Brent and Mary Ebner's deeded right-of-way driveway) is now complete, and Member Kimball and Chair Wainwright viewed it, put up some signs, and will put the information on the Commission's Facebook page.

d. Dock repairs still needed – no parts yet

The canoe and kayak launch dock is still not out of the lake, and Chair Wainwright assumes it cannot be removed until the ice melts. Once it is out, the Road Agent can decide what parts are needed and Chair Wainwright will order them.

e. Bookshelf in the Library

Chair Wainwright met with the Town Librarian and she informed him that she will set aside some shelf space. He will set a time to meet with the Town Librarian and bring reference material to put in the library. There is one document that should be reference only, the last copy of the wetlands study. There are digital files. Member McVay suggested that something can be posted in the library with a QR code.

f. Barry Conservation Camp applicants

Scout liaison Mark Hertrich was not present, so there was no report about whether there was a Scout interested in a scholarship to Barry Conservation Camp. Since the deadline for reserving a place is February 1, Chair Wainwright said he will contact Scout Master Jeff Flieder himself. In the future, the Conservation Commission needs a member who will be a more reliable liaison with the Scouts.

g. Atkinson Conservation Facebook group

The Atkinson Conservation Facebook group has about 120 members, many of whom seem actively engaged with reading – and sometimes commenting on – Wainwright’s occasional posts. He posted a proposed New Year’s Day walk of the Sawmill South trail on the Facebook group but no one showed up so he walked by himself. There are some spots on this trail that need to be cleared of downed trees, but it is still quite passable.

h. Merrill Drive trail clearing

Chair Wainwright received an inquiry regarding the Merrill Drive trail entrance to the Chadwick Town Forest through the Facebook group. The entrance to the Town Forest at that point is all clogged up with bittersweet. Chair Wainwright and Jeff Nenart met there with neighbors Pete Smith and Craig Durkee, who brought a chain saw and made a first pass at clearing the bittersweet from the trail entrance. More needs to be done, including better signage and blazing.

i. MS4 Illicit Discharge Detection and Prevention zoning amendment

This is a proposed zoning amendment on this year’s ballot. Its purpose is to keep pollution out of groundwater. The Town has been forced by State and Federal rules to have the ordinance. It will add a layer of bureaucracy to the Town which will cost us money.

Member McVay requested to review the proposed zoning amendment. Chair Wainwright explained that the proposed amendment is aimed at Towns with sewer systems and separate storm drain systems. MS4 stands for Municipal Separate Storm Sewer System. The Town has no choice, and if it is not passed as a zoning amendment, the Selectmen will be forced to add it to the other (non-zoning) town ordinances.

j. Historical Society walk to the Noyes Rock Shelter

Finally, Mary Beth Torosian of the Historical Society is organizing a walk to the Noyes Rock Shelter for Historical Society members, and has invited the Conservation Commission. It is Sunday, January 27th at 1:00 PM. He informed Ms. Torosian about the work that Mr. Ebner is doing with the parking for the trails on that land.

11)Page Farm buffer clearing and excavation, continued from earlier

Chair Wainwright returned to a discussion regarding the proposed variance request by Green & Company to clear-cut and excavate in the cluster buffer. Member Nenart remarked that the developer does not need to grade to the property line. Chair Wainwright stated that he will attend the ZBA hearing regarding the proposed variance, which is likely to take place in February. He would like to discuss the issue in more detail at the February Commission meeting and come up with a recommendation for the ZBA. Several members expressed an interest in a site visit, and Chair Wainwright said he would arrange one.

12) Next Meetings

The next two regular Conservation Commission meetings will be Mondays February 4 and March 4, 2019. The Deliberative Session is Saturday, February 2, 2019, at 10 AM. The NH Association of Conservation Commissions annual conference will be the first Saturday of November, November 2, 2019, and Chair Wainwright encouraged everyone to hold the date for this important educational opportunity.

13) Adjournment

Chair Wainwright requested a motion to adjourn.

Alternate Nenart made a motion to adjourn the January 7, 2019 meeting of the Atkinson Conservation Commission. Vice Chair Legault seconded the motion. All members of the Conservation Commission present voted in favor. Vote: 6/0/0.

The meeting adjourned at 8:57 PM.

Attachments:

- Final 2018 Treasurer's Report
- Proposed LUCT Warrant Article wording presented to the BOS on 1/7/19
- Conservation Easement proposed boundary marker design

Town of Atkinson Conservation Commission 2018 Budget Final Report and 2019 Projection

Description	TM-approved Budget	Encumbered from 2017	Available as of 1/1/2018	Overexpenditures Approved 11/26/2018	Available Budget as of 11/26/2018	YTD 11/1	Spent Since 11/1	Unspent in 2018	Spent in 2018	Proposed 2019
RECORDING CLERK	\$ 600.00		\$ 600.00	\$ 263.00	\$ 863.00	\$ 757.50	\$ 97.50	\$ 8.00	\$ 855.00	\$ 1,000.00
OTHER PROF SERVICES	\$ 2,500.00		\$ 2,500.00	\$ 350.00	\$ 2,850.00	\$ 2,150.00	\$ 700.00	\$ -	\$ 2,850.00	\$ 2,500.00
PRINTING AND BINDING	\$ 100.00		\$ 100.00	\$ (100.00)	\$ -	\$ -		\$ -	\$ -	\$ 1.00
DUES/SUBS/MEMBERSHIPS	\$ 400.00		\$ 400.00	\$ 388.00	\$ 788.00	\$ 363.00	\$ 425.00	\$ -	\$ 788.00	\$ 400.00
OFFICE SUPPLIES	\$ 100.00		\$ 100.00	\$ 18.00	\$ 118.00	\$ 118.00		\$ -	\$ 118.00	\$ 1.00
POSTAGE	\$ 1.00		\$ 1.00	\$ 6.00	\$ 7.00	\$ -	\$ 6.70	\$ 0.30	\$ 6.70	\$ 1.00
CARE OF GROUNDS	\$ 3,000.00	\$ 900.00	\$ 3,900.00	\$ (871.00)	\$ 3,029.00	\$ 2,070.16	\$ 951.09	\$ 7.75	\$ 3,021.25	\$ 3,000.00
NEW EQUIPMENT	\$ 500.00		\$ 500.00	\$ 490.00	\$ 990.00	\$ 489.98	\$ 489.95	\$ 10.07	\$ 979.93	\$ 300.00
MILEAGE	\$ 1.00		\$ 1.00	\$ (1.00)	\$ -			\$ -	\$ -	\$ 74.00
SPECIAL PROGRAMS	\$ 1,225.00		\$ 1,225.00	\$ (1,225.00)	\$ -		\$ -	\$ -	\$ -	\$ 1,000.00
EDUCATION & CONFERENCES	\$ 100.00		\$ 100.00	\$ 97.00	\$ 197.00	\$ 60.00	\$ 106.78	\$ 0.22	\$ 196.78	\$ 250.00
SIGNS	\$ 500.00		\$ 500.00	\$ 585.00	\$ 1,085.00	\$ 1,065.66	\$ 18.60	\$ 0.74	\$ 1,084.26	\$ 500.00
TOTALS	\$ 9,027.00	\$ 900.00	\$ 9,927.00	\$ -	\$ 9,927.00	\$ 7,074.30	\$ 2,825.62	\$ 27.08	\$ 9,899.92	\$ 9,027.00

Presented to the BOS on Monday, January 7, 2019. No vote was taken.

Proposed Wording (changes/additions highlighted):

Article #2019-_____ Land Use Change Tax

Shall the Town vote to **decrease** the Land Use Change Tax (LUCT) percentage under RSA 79-A:25 **going into** the Conservation Fund from **the current** 100% to 50%, the remaining 50% to go into the General Fund? **The Conservation Fund is used by the Town to conserve undeveloped land for future generations of Atkinson residents, and the General Fund is used by the Town to pay on-going annual expenses.**

