

1. Convene the meeting.

Chairman Campbell convened the Board at 7:01PM in the Nowak Room. Present: William Campbell, Lionel Ingram, Paul Binette, Robert Eastman, Joseph Pace and Town Manager George Olson.

2. Minutes of Selectmen's meeting of July 12, 2004.

Mr. Pace moved to waive the reading and to accept the minutes as submitted; second by Mr. Eastman. VOTE: Unanimous.

3. Board action on recommendation from Conservation Commission re purchase of land and conservation easements using open space bond funds

Chairman Campbell noted this is a continuation of the discussion of the June 7th meeting. At that meeting, the Board decided not to discuss the Baglin and Callahan properties until the full Board was present. At that meeting and since then, there have been questions regarding the Revised Statutes Annotated and the authority granted the Board to acquire an interest in the properties.

Mr. Eastman referenced a *Town & City* (publication of the Local Government Center) article entitled "Funding the Acquisition of Conservation Land". He notes LGC believes, based on the wording of the bond article adopted by Exeter at the 2003 Town Meeting, that voters agreed to raise \$3 million for the acquisition of conservation easements or open space however the article did not specify a particular parcel or parcels of land to be purchased; it simply raises money that can be used when the occasion arises to acquire such parcels. He went on to note the LGC states the general rule is that 'purchase of a specific parcel of land or interest in land (including conservation easement) must be approved by town meeting (RSA 31:3). There are, however, two exceptions to the rule, one of which grants authority to conservation commissions (RSA 36-A:4) once established by the Town and upon approval by the Board of Selectmen of the land in question, and, under RSA 36-A:5 to use money that accumulates in the Conservation Fund.

Mr. Eastman went on to note that at the January 13, 2003 public hearing, Alan Bailey asked what controls would be in place regarding expenditures. Mr. Clement (in response at that hearing) noted the Open Space Committee would work out the acquisition details, return to the Board when a public hearing would be held and the Board would make a final decision. He had also noted the Bond would not be controlled by the Commission.

Mr. Eastman stated, however, the Town has been misled by a previous memo from LGC that states the selectmen" do not have authority under this warrant article to act alone. However, acting with the conservation commission under the authority granted in RSA 36-A:4 satisfies the requirements of the article passed at town meeting and the requirements of RSA 36-A:4 as well as RSA 31:3, which grants towns the authority to acquire real estate.

At a May, 2004 Conservation Commission meeting, Mr. Eastman noted Mr. Campbell emphasized the desirability of having public access into town-owned properties and easements. Mr. Eastman recommended not voting on these proposals, as only the property owners can enjoy the rights of privacy.

Chairman Campbell stated he was satisfied with the RSA review and comments from LGC to proceed with the acquisition discussion.

Donald Clement, Chairman of the Conservation Commission, introduced the Open Space Committee (Don Briselden, Joanna Pellerin, Tom Chamberlin, John Haslam, Neil Jones, Gwen English and Peter Dow. They have been meeting on a very regular basis following their appointment in April. The Committee worked with the Conservation Commission and appeared before them at their last public hearing (May 11, 2004). The proposed acquisition of properties had much debate but the Commission voted unanimously to support and bring to the Board of Selectmen for approval. He noted the criteria meets the chapter on land preservation in the Master Plan.

On June 7th, the Board approved acquiring the Connor Land. He noted some of the reasons to set aside these properties: protect natural resources, protect land for development, protect wildlife, preserve land for residents to view and enjoy. He stated in order to protect some of these natural resources, prohibition of public access – at this time – may be necessary. If the Board rejects the land purchase that prohibits public access, we lose these precious areas. He noted if the land is then developed, the public is still excluded from the property and the protection of the land is lost. Open Space is presented for the children of future generations.

Mr. Pace thanked Mr. Olson and Mr. Eastman for their Statutory research. He noted that public access is important. However, acquisition of these easements gives the Town first refusal outright when the resident is ready to sell to other than family members. If the Town values open space, it will eventually become Town land for public access, though that access may not be immediate. Mr. Eastman stated the residents could keep their portion and sell the rest to the Town. He does not want to spend taxpayers dollars and they not have access to the property.

Alan Bailey, 7 Green Street, asked if the requirements for public hearings have been met? Mr. Campbell noted that legal opinion suggests they have been. The Commission had a public hearing.. Did the public know of the hearing? Yes, legal ads were placed per requirements, noting parcels to be discussed. Mr. Bailey asked if abutters were notified. No.

Mr. Ingram stated there have currently been three selectmen's meetings discussing the topic (May 24, June 7th and this evening).

Peter Dow began by discussing the Hanson property. This is agricultural and they have electrified fences to control their cows and horses. The 31.3 acres excludes house, barn and some out buildings. The topic of public access along the river's edge was discussed, but the Hanson's concern is there are still animals in that area. Before they sell the property to anyone except a family member, the agreement calls for an officer to the Town, in writing, for the first option to purchase the land. An addendum was signed for them to reserve the right to post and keep their fences up but they are committed to the written 30-day notice of first option.

Mr. Binette expressed concern that residents do not have access on the property and, with lots of fishermen in the area, this restricts the riverbanks. Mr. Dow noted access to the River is available from Linden Street bridge, upstream by the Shaw's lots and along the 3 acres abutting the Hanson's. Mr. Binette noted residents would have to walk along the river a great distance, rather than being able to drive onto the property and walk through the woods to the river. He also noted that during discussions with potential Conservation Commission members' interviews, they were asked why they

wished to serve. They noted their love of trails, riding bikes, walks through woods, etc. Mr. Binette noted we are now land locking the river.

Mr. Ingram noted there is a difference between public "use" and "access. He's concerned that if we don't take action, an important part of a scenic road will have yet another development going in. There is a variety of purposes and goals in obtaining land for open space and we can't meet all of them. The \$400,000 is a lot of money but it gets a later use of the land. Mr. Eastman stated it is not a case of if we do not purchase the land we will lose it. Maintain the money in the Bond fund and buy the land when it is offered. This way we have the opportunity to spend from the Bond wisely.

Mr. Pace moved to approve expending \$409,525 from the Conservation Bond to fund the purchase of the Hanson land easements and related expenses; second by Mr. Ingram. VOTE: 4-1. [Mr. Binette noted he voted affirmatively to agreed with the voters in 2003 on the \$3 million, but he feels they had no clue on what would be purchased or not. He does feel we are not getting the full opportunity of having the land but not being able to use the land. Mr. Campbell stated we may not use the land physically but we can enjoy it with the scenic views, use of the River. This also keeps the property on the tax rolls, as the land is already in current use and there is no additional tax breaks because of this action.

Mr. Dow reiterated that the current use land is based on State figures and not the Town's Assessor's figures. There is some discretion between 'prime' vs. 'crops' vs. 'hayfields', but the appraisal does not allow them to seek a reduction in the appraisal.

Baglin property: There is no change in the figures as first proposed at the May 24th meeting, and then again on June 7th, at \$175,000, well below the appraised value. They do, however, reserve the right to post and they have agreed to the 'first option to purchase' to the Town. Mr. Dow noted the easement is in perpetuity, even if the land is sold to another buyer should the Town not pick the first option.

Mr. Eastman felt this item should have been brought to either he or Mr. Binette as they had voted "no" when there was not a full board. He felt, under parliamentary procedures, the only two to bring up the subject are those who voted no. Chairman Campbell did not agree as he considered the issue a tie vote. He read the June 7th vote: "*Mr. Pace moved to authorize withdrawal of \$181,282 for the easement rights to the Baglin property, with \$175,000 for the property and \$6,282 as acquisition transaction costs; second by Mr. Ingram. VOTE: 2-2. Motion failed.*" Mr. Eastman stated that after that vote, he suggested the Commission hold off on requests till there is a full board. Mr. Pace suggested the simplest way to be fair is to ask Mr. Binette if he wishes to bring the motion before the full board. Mr. Binette stated he did not.

Mr. Pace moved to approve the expenditure of \$181,281 from the Conservation Bond to fund the purchase of the Baglin easement and associated costs and to be sure the total stays under that amount; second by Mr. Ingram. VOTE: 3-2. (Note: this is \$1.00 less than the motion of 6/7)

Callahan property: This is also the same amount as originally proposed on May 24th (refer to minutes as necessary). This abuts the Harrington property which, in turn, abuts the Raynes' property. Mr. Dow noted that this continuation of the rural properties along Newfields Road also protects the Squamscott River from development along its shores.

Don Briselden, reviewed the document "Exeter, A Special Place" and noted the criteria stated by them for open space was what the Committee used as their Charter. Those one is "offering the potential for public use", not all lands can offer immediate access but there is future potential.

Mr. Pace moved to approve expenditure of \$643,450 from the Conservation Bond to fund the purchase of the Callahan easement and related expenses; second by Mr. Ingram. VOTE: 4-1.

Chairman Campbell thanked the Committee for their hard work – though their work is not done. There remains some \$1.6 million should the opportunity arise.

4. Exeter Sportsmen's Club.

Chairman Campbell stated that at the May 24th meeting of the Board, the Club brought forward plans for redevelopment of their site adjacent to the proposed new water treatment plant. It was decided the discussion could not go forward in the absence of receipt of the "Risk Analysis" from NH Dept. of Environmental Services (DES) and professional input from CDM. Since then, the Risk Analysis has been received and the Board, subsequently, decided to seal off a 1.2-acre portion of the old trap shooting range due to lead detection.

Joseph Kenick, representing the Club, addressed the Board on the issue. Since the 1997 Town Meeting, when 1526 residents voted to support the Club staying on Town land (vs. 486 no votes), areas have been proposed and studied on where the Club might go. The result is the Club proposing to stay on the present site.

Mr. Kenick reviewed the Liptak (NH DES) letter of June 10th, the Larson (NH Dept of Health & Human Services, Office of Community & Public Health) memo of May 18th, in depth, for the Board. He noted the Town does not really have a "DES Risk Analysis" but just a letter from Mr. Liptak, and any orders were written from the scope work completed by reviewing CDM's lead shot report. They did not appear to visit and view the site on their own. They also limited their comments to the 1.2 acre site and not that of the berm.

In response to the lead shot report, Mr. Kenick stated testing since 1986 shows no leaching from that area. As it turns out, the lead pellets have gotten a "hard outer skin", rather than leaching as reported. He suggests a second opinion on the issue. The only opinion to date is that of CDM (Camp, Dresser & McGee –our engineers on the water treatment plant project).

Chairman Campbell stated the Town is doing what NH DES told us to do, to operate without the 1.2 acres. Mr. Kenick feels that area can be stabilized with a 6" cover of sand to prevent any exposure. This could save money and be presented as the Town's proposal to handle the area, rather than it being treated as a hazardous waste site without proper findings. He noted the Town and Club can co-exist with this proposal and both participate in the remediation.

Mr. Eastman agreed with this point, noting the issue has been going on too long. He stated the Public Works Director and Town officials appear to be against the Club and want them out of the area. He feels it is the Town's responsibility to work with the Club. They have been in Town since 1978 and they keep moving to other areas in Town because their area was needed (i.e. moved for Country Club use, etc.). The Town owes the Club to find a location or solution to operate in the area they now have, safely. Chairman Campbell stated the Board's have been working with the Club and had held off any decision. However, the rules are in place and the Town should abide by them. He noted, however,

this was the first time he had heard mention of any sand covering the area for safety and would be willing to look into this.

Mr. Pace hates to characterize the Town as not doing its best effort for the Club to survive. Two years ago it was thought a parcel was found but that turned out not to be. We are prepared to move on our new water plant but the Club using the same site was re-opened. He would be happy to continue with another look but realistically did not wish to continue with the "Pied Piper Theory". At some point a decision must be made and it may be to not continue with the Club at that site.

Mr. Kenick noted time is not the enemy. Should they need to move from the current site, they will probably cease to exist. There is no other safe shooting in Exeter and they would go out of business. He stated he would not characterize this as "bad faith interests", knowing the Town has tried all along to seek a new space.

Mr. Ingram asked what the Club would do if the 1.2 acres were closed, noting \$230,000 was the estimate for clearing that acreage only – not the whole site.. We need options from the State on how the berm could be utilized. Mr. Olson reported there is time and effort needed in the remediation of the site and where the tanks are to be located. Any movement in the 1.2 acres would be cause for concern. Chairman Campbell noted the \$130,000 was felt by CDM to be a good price. Mr. Ingram stated if the berm is left in place, even more money could be saved. He feels Concord owes us more information.

Mr. Kenick asked if the Board wanted him to generate a synopsis of the project but he feels the Town should get a consultant to handle the state meetings. Chairman Campbell stated the Board will pursue Mr. Ingram's suggestions for the time being.

5. Amendment to Town Manager's Job Description.

Mr. Pace, Chairman of the Town Manager Search Committee, noted that during the process of review, the Committee felt more up-to-date requirements were required. Two amendments are proposed:

- Add reference, at end of paragraph in "General Summary", to residency within the Town of Exeter will be required;
- Change under "Preparation, Knowledge, skills & Abilities" to first paragraph: "...completion of B.A in the related field (Master's preferred) and 7-10 years of related experience..."

Mr. Ingram suggested a grammatical change to the first paragraph under "General" (4th line). "The Town Manager performs the duties of the position independently and (,) on his/her own initiative, determin(es) situations warranting the Board of Selectmen's attention and presents(s) recommendations(.) for corrective actions.

Mr. Eastman moved to accept all changes as outlined by the Committee; second by Mr. Binette.
VOTE: Unanimous. The ad is going out to trade magazines, as well as internally with the Town and on the Town's web site.

6. Bandstand Plaques.

Mr. Olson reported we have 1000 of the Bandstand medallions at the Reception area of the Town Office. The price is \$20 each and will be on sale beginning July 27th. Proceeds will go toward the Swasey Parkway Pavilion. The actual cost for the medallions is \$8.65. Along with the medallion is a brief history of the Bandstand and description that they are made from the old copper roof.

7. Permits:

- Project Prom/Project Graduation at EHS requested use of the Town Hall on September 24th from 8AM-10PM and September 25th from 6AM to 6PM for their yard sale.
- The Exeter Chamber of Commerce Fall Festival requested permission to block off parking spaces by the Chamber office on Saturday, October 16 from 10AM to 2:30PM. They will be offering hayrides.

Mr. Ingram moved to approve both permits; second by Mr. Pace. VOTE: Unanimous.

8. Town Manager's Items:

- Robert Swasey contacted him to be sure to thank the Exeter Garden Club for their magnificent display at the Bandstand. Though the bunting belongs to the Chamber, the flowers will remain throughout the summer and fall and add more beauty to the downtown area.
- A huge thank you to all those who participated in, volunteered at and showed support for the Blood Drive on July 19th sponsored by the Town Office employees (see attached release).

9. Selectmen's Committee Reports:

Mr. Eastman: Thursday he attended an information meeting concerning the Exeter River with Mr. Olson and Mr. Ingram. This concerned the flooding issues in Exeter. Several ideas were provided and he feels the Town needs to establish a Committee to study these ideas and develop procedures. He suggested members consist of members from the Conservation Commission, Planning Board, Water/Sewer Advisory Committee, W/S Superintendent, several citizens. Mr. Ingram added two items of importance: review policies and procedures concerning the flow of the River and to recommend how the Board is to oversee the water issues of the Town. Mr. Campbell noted this could be discussed at the next meeting.

Mr. Binette: none

Mr. Pace: The Town Manager Search Committee has met and an ad is being prepared; The Arts Committee continues to meet and he will need to discuss budget figures with the Board.

Mr. Ingram: None.

Mr. Campbell: Conservation Commission on the 13th.

10. Public Comments:

Alan Bailey, 7 Green Street, noted he still disagrees with whether the public hearing requirements have been met regarding the easements. He asked how the Town deals with the bonding and sale of bonds. Mr. Olson believes the Town Treasurer handles but reviews before the Board.

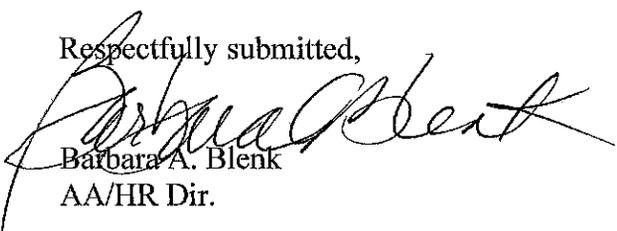
Mr. Bailey asked whether the Town has a record of the number of easements in Town and who manages them. Mr. Campbell noted the Conservation Commission manages more, with some outside groups handling that chore, noting "managing" means checking boundaries, present conditions and returning yearly to review any changes. Mr. Campbell believes the Commission has the records.

Mr. Bailey expressed concern that easements are being considered in order to affect another piece of a development – though clever, it does not appear to be ethical. Mr. Campbell stated that was not the goal. The purchase was to complete the "puzzle" of Town lands, allowing a continuous stretch without crossing private land. Mr. Eastman noted the matter arose during the discussion of the Connor property, with Shinberg intending to purchase the property for development, but we purchased it to continue the open space throughout that area.

Mr. Bailey questions hearing notices and what is required for hearing. In particular, he asked if the public hearing by the Conservation Commission was noticed correctly. Chairman Campbell noted there were legal notices within the 10-day period, and these noted the parcels involved. Mr. Bailey stated tonight's meeting could not be considered a public hearing as no comments were solicited from the audience. Mr. Pace stated if someone wished to speak they would be recognized if they raised their hand (the agenda notes the "public is invited to address agenda items".) Mr. Bailey suggested the Chair solicit comments in the future.

Mr. Ingram moved to resume in a non-public session to discuss personnel issues; second by Mr. Pace. Roll call vote: 5-0. Time: 9:21PM.

Respectfully submitted,


Barbara A. Blenk
AA/HR Dir.

attach.