

Atkinson Conservation Commission Minutes
Saturday, January 6, 2024, 10:00 AM
Kimball Library Conference Room

Approved January 31, 2024

Members Present:

Paul Wainwright, Chair
Bill Steele, Vice Chair
John Fournier, Secretary
Suzie Newman
Monique Chrétien
Charlie Pitts, Alternate

Others Present:

1. Call to Order, and Attendance:

Chair Paul Wainwright called the meeting to order at around 10:00 AM on Saturday, January 6, 2024, and declared that the meeting had been properly posted more than 24 hours prior. He also declared that a quorum was present, and designated Alternate Charlie Pitts as voting.

Member Fournier made a motion to go into non-public session under NH RSA 91-A:3 II (I) for the consideration of legal advice provided by legal counsel. Member Steele seconded. The vote: 6/0/0, the motion carried.

2. Discussion about a DES letter re: D&F Application at 7 Brittany Lane

Chair Wainwright reminded the Commission that we have Intervened in the DES Dredge and Fill application for 7 Brittany Lane, and that we had a presentation about this application by the landowner's consultant, Tin Ferwerda, at our meeting on December 27, 2023. We have until Monday, January 15, 2024 to respond with comments and recommendations.

Chair Wainwright stated his opinion that we should respond, stating our concerns about two aspects of this application: the environmental impact, and the fact that the property has a deed restriction against further alterations of the wetlands.

Commission members first discussed the data about the site, and concluded that the area for the proposed pond was currently a wetland, not a pond. The Commission viewed past Plans for the site, including the original Subdivision Plan, a Plan submitted with a previous D&F application, and a plan submitted with a previous lot line adjustment application. The Commission also viewed

photographs included in the current D&F application, and one taken by Chair Wainwright in July of 2020 when he visited the site at the invitation of the landowner. None of these documents or photos gave any indication that a pond previously existed at the site of the proposed pond.

The Commission also discussed the environmental impact of transforming a wetland into a pond, and other environmental impacts of this particular project.

Chair Wainwright then reviewed the minutes of the April 13, 1998 meeting of the Conservation Commission, at which this Subdivision was discussed. The minutes indicate that the Commission recommended that the Subdivision Plan restrict further alterations of wetlands in the development, due to extensive wetlands throughout the entire Subdivision parcel. The Commission then reviewed Plan D-26805, which contains a note restricting further alteration of wetlands, and the landowner's deed, which states that it is subject to all easements and restrictions of record.

Chair Wainwright then reviewed advice from Town Attorney Sumner Kalman, who recommended that this deed restriction be brought to the attention of DES. There was considerable discussion whether this was within the scope of the Commission's responsibilities, and there was not unanimous agreement that it was. Chair Wainwright pointed out that the Conservation Commission is the only part of municipal government that is empowered to intervene in DES Dredge and Fill permits, and thus, in his opinion, it would be proper to include this information in our reply to DES.

Member Chrétien made a motion for Chair Wainwright to send comments and recommendations to DES that include both the environmental and legal issues discussed at this meeting. Member Fournier seconded the motion. Chair Wainwright called for a roll call vote:

- **Member Chrétien – yes**
- **Member Newman – yes**
- **Member Fournier – yes**
- **Member Steele – no**
- **Alternate Pitts – yes**
- **Chair Wainwright – yes**

The motion carried.

Member Steele made a motion to exit non-public session. Member Chrétien seconded. The vote: 6/0/0, the motion carried.

There was no motion to seal the minutes.

The Commission members agreed by consensus to adjourn around 10:55 AM.