

New Hampshire Council on Resources and Development

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FINAL MINUTES COUNCIL ON RESOURCES AND DEVELOPMENT MAY 13, 2008

MEMBERS PRESENT

Amy Ignatius, Chair, Director, NH Office of Energy and Planning
Thomas Burack, Commissioner, NH Department of Environmental Services
Susan Francher, for George Bald, Commissioner, NH Dept. of Resources and Economic Development
Elizabeth Muzzey, Director, NH Department of Cultural Resources, Division of Historical Resources
William Ray, for Dean Christon, Executive Director, NH Housing Finance Authority
Lorraine Merrill, Commissioner, NH Department of Agriculture
Linda Hodgdon, Commissioner, Department of Administrative Services

OTHERS PRESENT

Shanna Saunders, City of Laconia
Louis Barker, NHDOT Bureau of Rail and Transit
Craig Bulkley, NH State Liquor Commission
Jennifer Czysz, NH Office of Energy and Planning
Dari Sassan, NH Office of Energy and Planning

I. ROLL CALL AND INTRODUCTIONS

Chairman Ignatius called the meeting to order at 9:37 AM at the NH Office of Energy and Planning, 4 Chenell Drive, Concord, NH.

II. MINUTES

A. Approval of CORD Meeting Minutes of March 6, 2008.

Ms. Czysz requested to change “length of lease” to “lease term” in section IV-B, page 5, second sentence of the first paragraph under “March 6, 2008 Discussion”

ACTION: MOVED by Ms. Muzzey, seconded by Commissioner Burack, THAT the minutes of the Council meeting held on March 6, 2008 be approved as amended. The motion passed unanimously by a vote of 7 – 0. Due to the lack of a quorum, a ballot vote will be issued.

III. DISPOSAL OF STATE OWNED LAND SURPLUS LAND REVIEW (SLR)

A. LACONIA

SLR 08-002

Request to lease approximately 48 acres of land at Opechee Bay State Forest to Belknap County Conservation District for 25 years with an option for an additional 25 years.

DRED has received a request from Belknap County Conservation District for a long-term use agreement at Opechee Bay State Forest in Laconia. They desire to make improvements to the land, access road, parking, and other garden related improvements. Most of the grants that could fund these projects require a long-term commitment on the part of the landowner.

STAFF REPORT

30-day review period ended March 20, 2008. No new comments have been received since the March 6, 2008 meeting.

May 13, 2008 Discussion

Chairman Ignatius opened the discussion of the SLR, recounting that it had been tabled during the last meeting to allow for further discussion and resolution of agency concerns with the lease conditions. She emphasized that the long lease term, 25 years, heightens the importance of clarifying such details. DRED's Susan Francher, attending the meeting on behalf of Bill Carpenter, reported that Mr. Carpenter and Bob Spoerl have been in contact with the Fish and Game Department, the Department of Agriculture and Division of Historic Resources. Ms. Muzzey stated that language had been added to the MOA requiring Division of Historical Resources approval prior to commencement of any activities involving ground disturbance. Ms. Francher indicated that the US Department of Agriculture, the NH Department of Agriculture, and UNH Cooperative Extension would all be consulted prior to finalizing the MOA. Ms. Francher specified that she had received a request to keep some of the land out of cultivation so that it may attain higher levels of succession, stating that land between forest and agricultural fields would be designated for this purpose. Commissioner Hodgdon asked if rent would be charged. In response, Commissioner Burack pointed to section 3 of a draft MOA indicating that the property would be leased rent-free. Commissioner Burack expressed a desire to have language added to the MOA regarding the prevention of contaminated stormwater from reaching surface water through protection of the woodland buffer. Commissioner Merrill noted that the cultivation of hay should not introduce contaminants into the water.

Ms. Francher stated that upon finalization, a copy of the MOA would be submitted to CORD.

ACTION: MOVED by Commissioner Burack seconded by Commissioner Merrill to APPROVE SLR 08-002, as submitted and to include refinements made to the MOA to address concerns raised by the Division of Historical Resources, the Fish and Game Department, and the Department of Agriculture. The motion passed unanimously by a vote of 7 – 0. Due to a lack of quorum, a ballot vote will be issued.

B. LACONIA

SLR 08-005

Request to lease 2,520 SF of land to Lakeport Landing Marina alongside the Concord to Lincoln Railroad corridor in Laconia.

The Department of Transportation (DOT), Bureau of Rail & Transit, proposes to lease a 12' by 210' area of railroad property to Lakeport Landing Marina for parking and short-term boat-trailer storage next to the railroad corridor in Laconia. The lease would rectify a long-standing encroachment of State-owned railroad property by the marina. In the past, boat trailer parking has impinged on the railroad property and interfered with the movement of trains. The lease will be held contingent upon the marina's installation of a barrier to prevent the unsafe encroachment of boat trailers into the area needed for railroad operations. Access would be from the marina property; no new railroad crossing would be permitted. The lease would include a termination clause should use of the area become necessary for future railroad operations.

STAFF REPORT

30-day review period ended April 15, 2008. The following comments were received prior to this meeting.

Education: No objection.

Environmental Services: DES expresses no environmental concerns provided officials at Lakeport Landing Marina adhere to the *Best Management Practices for New Hampshire Marinas*. DES adds that the owner of Lakeport Landing Marina may benefit from reviewing fact sheets posted at the DES website.

Health and Human Services: No objection.

Lakes Management Advisory Committee: No objection.

State Conservation Committee: SCC requested answers to the following questions:

- Is gasoline stored on the boats and, if so, where it would it go if there were an accident or a leak.
- Does boat or other equipment maintenance occur at this location?
- What is the public benefit of granting this lease to provide waterfront access on public lands?
- Is adequate compensation offered?

City of Laconia: Because of public concerns raised in 1999 when Lakeport Landing Marina showed interest in leasing the same land, the City requests that the property owner receive the proper approvals prior to the transfer. Shanna Saunders, Laconia Planning Department Director, has indicated that the proposed area is "highly visible from the Village of Lakeport and from busy Route 3/Union Ave." She adds that "(r)equirements regarding screening will most likely result from the site plan review process."

May 13, 2008 Discussion

Mr. Barker introduced the SLR, describing it as a means of rectifying a long-standing encroachment onto state land by Lakeport Landing Marina. He referenced an incident in which the considerable costs were incurred following a collision between a train and a boat. SLR 08-005, said Barker, would reduce such risks.

Referring to a stipulation in the lease that required the marina to erect a barrier, Commissioner Hodgdon asked if failure to erect said barrier would nullify the lease. Mr. Barker replied that it would, adding that in such a case, his office would approach the Attorney General's Office to proceed with eviction. Ms. Muzzey requested that the State work with the lessee to ensure that the constructed barrier be attractive, consistent with nearby historical features, and not detract from the aesthetic quality of the surroundings. Chairman Ignatius inquired about the length and cost of the lease. Mr. Barker responded that it would carry a five-year term, followed by a five-year renewal and that, pending CORD approval, he would approach the Bureau of Right-of-Way to secure an appraisal. Thus, added Barker, the lease would be based upon market value of the land.

Mr. Barker indicated that while the State would ideally like to maintain a 15-foot right-of-way for rails, in some cases, such as those involving previously established boundaries, it will settle for 12 feet. Commissioner Burack stressed that, going forward, the importance of the State's rails will increase. He therefore felt it was important for the State to secure the full 15-foot right-of-way wherever possible. Mr. Barker added that, under this particular lease, the State would reserve the right to immediately vacate the lease if it were to deem the land necessary for railroad use or improvement.

Ms. Saunders expressed Laconia's strong support of the railroad. She said that the city also leases land along the railroad to Lakeport Landing Marina and characterized the marina as having a tendency to encroach beyond the boundaries of the land they lease from the City. She indicated that the City has had long-standing issues with the marina regarding such lease-compliance.

Ms. Saunders pointed to an EPA Smart Growth Study in Laconia, which focused on expanding opportunities in areas including tourism, housing, and walkability. She indicated that the study identified considerable potential within the area containing the potential lease site. She stated that the EPA study had generated considerable interest and "buy-in" on the part of City officials and that the proposed lease works against the City's purposes on this front.

Ms. Muzzey asked about the possibility of DOT constructing the barrier. Mr. Barker replied that DOT does not have the resources to put up barriers in all places where they would ideally be built. Commissioner Burack asked if the City could fund the building of the fence. Ms. Saunders answered that while general fund money could not be allocated for such a project, the City could work on securing funding. Mr. Barker stated that a "no" vote on the SLR would generate political ramifications.

Ms. Saunders reiterated the City's dedication to the EPA Smart growth study and would support the removal of the marina from the site. Ms. Francher asked if DOT would likely be able to keep the marina off the property. Mr. Barker responded that DOT would not likely succeed in such an effort, adding that the agencies enforcement powers in such situations are extremely limited. Ms. Saunders indicated that the City would gladly serve as DOT's eyes on the ground and that the Laconia police would follow through with enforcement.

Mr. Ray asked if it would be possible to stipulate that the lease be subject to all necessary city approvals before becoming valid. Mr. Barker responded that the lease could certainly contain conditions requested by the City. Chairman Ignatius stated that CORD had two choices, one, it could take action on the SLR, or two, it could table the SLR. Ms. Muzzey emphasized the importance of heeding the City's concerns. Commissioner Burack advised further discussion between the City and NHDOT Bureau of Rail and Transit; Ms. Saunders concurred. Mr. Barker stated that he would prefer action be taken at the current meeting.

Chairman Ignatius reviewed CORD's responsibilities in the SLR process, stating that the Council's authority is to make an advisory determination on each SLR that comes before it. She indicated that CORD approval automatically sends an SLR to the State Long Range Capital Planning and Utilization Committee (LRCP), but that CORD's denial does not prohibit an SLR from being reviewed by LRCP. Ms. Czysz added that CORD's review of SLRs should seek to answer two questions, first, does another state agency need the property, and second, is the proposal compliant with the State's Smart Growth Principles embodied in RSA 9-B? Mr. Barker followed by characterizing CORD's role as that of an advisory and research entity serving LRCP.

Commissioner Burack reemphasized the likelihood that rails would receive increased use and attention in the near future and that resolving the enforcement issues that had been raised would therefore prove important. Mr. Barker offered to compile trespass RSA's and other relevant policies regarding railway corridor management. Chairman Ignatius added that it also might be helpful to have a representative from the Attorney General's office attend the next meeting.

Commissioner Ignatius expressed an interest in supporting, not inhibiting, the City's Smart Growth plans, adding that a more detailed map would be helpful in determining the impacts that approval of the SLR would have on the City. Ms. Muzzey felt that it would be beneficial to learn more about the City's Smart Growth plans. Chairman Ignatius recommended holding the July 10th CORD meeting in Laconia. Mr. Barker stated that he would not be available but that a representative from his bureau would be able to attend in his place.

ACTION: MOVED by Ms. Muzzey seconded by Commissioner Burack to TABLE SLR 08-005, for further review. The motion passed unanimously by a vote of 7 – 0. Due to a lack of quorum, a ballot vote will be issued.

IV. OLD BUSINESS

A. HB 710 Study Commission.

Ms. Czysz provided a brief update on progress of the HB 710 Commission, stating that the full commission met on March 25, and April 29, 2008. The commission has divided the work up amongst three subcommittees:

- Public Access and Water Quality
- Surplus Lands Pricing

- Existing and Future Leasing Policy

Ms. Czysz reported that she is representing CORD on the policy subcommittee, which had met only once. She indicated that the committee would meet again on May 14th. She listed the committee's most significant conclusions to date as follows:

- Existing leases should be allowed to continue
- Need to establish a policy recommendation for future leases
- Future leases should consider whether the adjacent lands to the requested lease area are developed or undeveloped and treat each differently
- Need to improve public noticing of meetings
- Need a uniform definition of surplus to be utilized by all state agencies
- Need a review the current statutory of policies which are embodied within several chapters of the RSAs

Commissioner Merrill inquired whether consideration had been made relative to utilizing surplus lands for agricultural uses or accessing water for irrigation systems. Commission Burack advised that the renewal of existing leases should be contingent upon the lessee adhering to a specified set of criteria (to be established).

B. Legislative Update.

Ms. Czysz reported on HB 1349, sponsored by Representative Richard Snow, which will allow current CORD members to appoint a designee with the authority to vote. The bill will also remove the representative from the "Division of Emergency Services, Communications, and Management" from CORD membership, thus eliminating dual representation from the Department of Safety. She commented that the bill has passed both the House and Senate and that once Governor signs it, OEP staff will contact all member agencies requesting a formal appointment of a designee. Ms. Czysz emphasized that commissioners are still encouraged to attend, but that allowing the appointment of designees to CORD will ensure that the individuals who regularly attend each meeting have voting power. Ms. Czysz stated that this change could eliminate the need to circulate ballots following each meeting. Also, Ms. Czysz pointed out that reinitiating contact with some of the less active CORD member agencies would encourage those agencies to select a designee that has the time to regularly attend and become an active participant.

C. Smart Growth Report Implementation Plan.

Mr. Sassan reported on a discussion with OEP Senior Planner, Joanne Cassulo regarding the potential projects CORD discussed on January 3rd toward meeting Priority 2 of the Report on Growth Management Recommendations – "Develop planning tools for local and regional use." He accounted that Ms. Cassulo recommended piggybacking on the Statewide Citizens Planner Collaborative (SWCPC), a training program currently under development by OEP and UNH Cooperative Extension with partners including DES, the Department of Agriculture, DOT, and NHHFA. Mr. Sassan distributed a copy of the SWCPC curriculum and asked the following questions:

- Do CORD members agree that SWCPC addresses the goal of supplying municipalities and regional planning commissions with appropriate examples of Smart Growth successes and model regulatory language for achieving them?

- SWCPC is in its early stages; it will be over a year before the web-based modules are online. Is this in line with CORD's timetable?
- Should CORD put its support behind this program, and if so, what form shall that support take?
- Does CORD want to open a dialogue with SWCPC?

Commissioner Burack was pleased that such a curriculum existed and recommended further review to ensure that all aspects of RSA 9-B were represented. Ms. Czysz responded that the curriculum did indeed encompass all Smart Growth principles. Commissioner Burack emphasized the importance of such training, recognizing that in New Hampshire, the vast majority of land use decisions are made at the local level. Commissioner Merrill recommended the addition of the following components:

- Permanent land protection easements
- Regional or multi-jurisdictional cooperation- focusing on different boundaries
- Developments of regional impact review

When the Council was asked what form of support CORD should take, Commissioner Burack made two suggestions:

- CORD agency commissioners could sign letters of support for distribution to select boards and other target audiences
- Make eligibility for State grants and technical assistance, offered to municipalities, contingent upon municipal officials participation in SWCPC.

Mr. Sassan asked if CORD members wished to invite Ms. Cassulo to the September meeting for more information on the SWCPC. CORD members responded affirmatively. Mr. Sassan next discussed Priority 3 – “Agency Smart growth training.” He reported that in brief discussions with Ms. Cassulo and Ms. Czysz, OEP suggested circulating a survey among state agencies to root out the best ways to administer such training and identify agency needs. It was recommended by the Council that distribution of the survey be channeled through agency commissioners with a letter explaining its relevance and citing the Report on Growth Management. Mr. Sassan said that he would begin work on the survey. Ms. Czysz felt that a draft of the survey would likely be complete before the July 10th meeting.

V. NEW BUSINESS

A. CORD Public Noticing.

Ms. Czysz stated that it has recently been suggested that CORD, LRCP, and others in the SLR process should be making greater efforts to publicly notice meetings and SLR reviews. She indicated that CORD currently posts meetings online and on a bulletin board in its front lobby and that meeting agendas are emailed to CORD members and designees 2 weeks before the meeting and efforts are made to ensure they are also emailed to a municipal contact person for each of the SLRs on the agenda. Lastly she reported that SLRs are distributed directly to the municipality where they are located, in addition to CORD members and others who have requested to review requests. Ms Czysz then asked:

- Is this enough?

- Is there more CORD should be doing?

Commissioner Hodgdon recommended placing CORD meetings on the senate and house calendars and in the elevator at the legislative office building. It was also suggested that posting CORD meetings in the LGC newsletter and online event listings would help reach a broader audience. Mr. Bulkley mentioned the existence of NHLoGIN, an email group for dissemination of information of interest to municipalities. He recommended contacting the Municipal Association for more information. Mr. Ray suggested that some sort of on-site posting at all SLR sites might reach some of the individuals who would be most directly affected by the disposals.

VI. CORD 2008 PROPOSED MEETING SCHEDULE

July 10, 2008

September 4, 2008

November 6, 2008

All meetings will be held at the Office of Energy and Planning, 4 Chenell Drive, 2nd Floor, Concord, NH, unless otherwise noted. Meetings begin at 9:30 AM.

Please note OEP's new address.

VII. ADJOURNMENT

The meeting adjourned at 11:36 AM.

Respectfully Submitted,

Amy Ignatius
Chair

AI/das