

New Hampshire Council on Resources and Development

Office of Energy and Planning
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FINAL MINUTES COUNCIL ON RESOURCES AND DEVELOPMENT JULY 20, 2007

MEMBERS PRESENT

Amy Ignatius, Chairman, Director of the NH Office of Energy and Planning
William Carpenter, for George Bald, Commissioner of the NH Dept. of Resources and Economic
Development
Timothy Drew, for Thomas Burack, Commissioner of the NH Dept. of Environmental Services
Dean Christon, Executive Director of the NH Housing Finance Authority
Linda Wilson, for Van McLeod, Commissioner of the NH Dept. of Cultural Resources
Richard Uncles, for Stephen Taylor, Commissioner of the NH Dept. of Agriculture, Markets and Food
David Barrett, for John Barthelmes, Commissioner of the NH Dept. of Safety

OTHERS PRESENT

Councilor Raymond S. Burton, Governor's Executive Council
Jennifer Czysz, NH Office of Energy and Planning
Michele Zydel, NH Office of Energy and Planning
Louis A. Barker, NH Dept. of Transportation, Bureau of Rail and Transit
Darlene Forst, NH Dept. of Environmental Services
Jonathan Pennock, University of New Hampshire
Derek Durbin, NH Lakes Association
Viviana Durbin, NH Lakes Association
Dick Smith, Public Water Access Advisory Board
Tom Quarles, Public Water Access Advisory Board

I. ROLL CALL AND INTRODUCTIONS

Chairman Ignatius called the meeting to order at 9:38 AM at the Department of Safety, Marine Patrol Building, 31 Dock Road, Gilford, NH.

Chairman Ignatius introduced Councilor Burton and invited him to give a brief overview of Executive Council's role in State operations. Each member of CORD then introduced him/herself to Councilor Burton and gave a brief overview of their role in CORD. Councilor Burton expressed his appreciation to the members for their effort in keeping the Long Range Capital Planning and Utilization Committee informed of State-owned surplus land requests.

II. MINUTES

A. Approval of CORD Meeting Minutes of May 3, 2007.

ACTION: MOVED by Mr. Carpenter, seconded by Mr. Christon, THAT the minutes of the Council meeting held on May 3, 2007 be approved. The motion passed unanimously by a vote of 5-0. Due to the lack of a quorum, ballot votes will be issued.

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

A. LACONIA

SLR 07-005

Request to grant a sanitary protection easement of approximately 4 acres for 3 water wells in exchange for a forestry access right-of-way and 11 acres of land.

The Department of Resources and Economic Development (DRED) requests to grant a sanitary protection easement around three wells to HT New Hampshire I, LTD. The wells serve private residences in a new development known as Windemere Ridge. The easement area consists of two areas, one providing a 200-foot protective radius around two community wells and the other a 150 foot radius around a community well. All three wells are located on the property boundary with half the required protective area falling within Paugus Bay State Forest. HT New Hampshire I, Ltd. has offered DRED a right-of-way creating new access for use by DRED in their forestry maintenance operations, as well as an 11-acre parcel of land adjacent to the forest, in exchange for the easement. This request was originally reviewed and approved by CORD as SLR 05-003; however, due to substantial changes from the original request, DRED has resubmitted the application for further review.

STAFF REPORT

30-day review period ended June 26, 2007

Administrative Services: No comment.

Agriculture, Markets, and Food: No objection.

Bureau of Emergency Management: No comment.

Division of Historical Resources: Concur with protective measures to avoid stone walls.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: Supports the request.

Fish and Game: No objection.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: Poses no implications for State Parks.

Safety Services: No objection.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: Not applicable.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: No objection as long as there are no additional restrictions or physical constraints that would require this section of state forest land to be managed differently from the rest of the subject property. See letter on file.

City of Laconia: No comment.

July 20, 2007 Discussion:

Mr. Carpenter provided additional background information on this request. He stated that DRED approved two wells approximately two years ago and that the third well is necessary to support recent growth the community is experiencing. He stated that following a number of failed attempts to drill water on private land, water could only be found on the State boundary. The third well request includes an offer whereas private land will be gifted and annexed to the State, allowing for forest harvesting and land maintenance by the NH Division of Forests and Lands.

Chairman Ignatius asked if this project poses a threat to endangered and threatened species. Mr. Carpenter responded that the sites in question are a long way from protected shore areas and he does not believe the project will have a negative impact on wildlife.

ACTION: MOVED by Mr. Uncles, seconded by Mr. Christon, to APPROVE the project. The motion passed unanimously, 5-0. Due to the lack of a quorum, a ballot vote will be issued.

B. LEBANON

SLR 07-007

Request to sell approximately 16,500 square feet of land in Lebanon to Howard Laware, Railroad Avenue, Lebanon, NH.

The Department of Transportation requests to sell approximately 16,500 square feet of land in Lebanon to Howard Laware on Railroad Avenue. Mr. Laware is the owner of the former barracks building in the railroad yard and has leased the land under and surrounding the building since his father purchased the building from the Boston and Maine Corporation. Mr. Laware and his family have asked to purchase the land under the building and a small driveway and yard area in order to make the longstanding lease arrangement permanent and to help facilitate future improvements and repairs to the building. DOT reports the parcel is a sufficient distance from the railroad main line track and sidings to maintain current and future railroad operations.

STAFF REPORT

30-day review period ends July 20, 2007

Administrative Services: No comment.

Agriculture, Markets, and Food: No objection.

Bureau of Emergency Management: No comment.

Division of Historical Resources: No comment.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: No objection. However, if the site is serviced by well and septic, the lot would be non-conforming with the 30,000 square foot minimum lot size requirement as specified in DES's Subsurface Systems Bureau administrative rules. If the lot is serviced by municipal water and sewer, the concern is moot. Supporting information was not available to determine if there is any residual railroad contamination on the lot. See letter on file.

Fish and Game: No objection.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: No objection.

Safety Services: No objection.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: Recommends approval.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: No objections, but due to the current activity in the area (business development, possible recreational opportunities, historical preservation, hazardous waste clean up) questions whether it is prudent for the State to maintain its options until these issues have been settled or more fully scoped. See letter on file.

City of Lebanon: Requests the application be tabled until the September CORD meeting as the City has been working with the State on the Westboro property (clean up and revitalization), may take ownership of roughly 8 acres in this area, and has an interest in this property as part of its revitalization plan. The City would like additional time to investigate feasibility and local interest and be able to speak at the next CORD meeting. See email on file.

July 20, 2007 Discussion:

Louis Barker of the Department of Transportation provided the Council with the history behind the acquisition of the building by the Laware family. The Laware family worked for the railroad for many generations and were willed the building, not the surrounding land, when the railroad reduced operations. The building was converted to a home 50 or 60 years ago and in order for the family to access it they need to cross State-owned land. Selling this land will help the Laware family and eliminate property management responsibilities for the State.

Mr. Drew asked if the house is connected to municipal waste water service. Mr. Barker responded that it is connected to the City of Lebanon's system.

Mr. Christon asked if CORD received comments from the City of Lebanon. Ms. Czysz responded that the City did contact her and stated they may have an interest in this property and requested that CORD table the request.

Chairman Ignatius asked if the City has contacted the Laware family. Ms. Czysz said they have not and that is another reason why they want more time.

Ms. Wilson stated that the West Lebanon railroad yard and rail corridor were reviewed by the NH Division of Historical Resources at the last Cultural Resources meeting where a request was made for a protective deed restriction on the structure so that there would be no interference with future State interests. She also noted that the railroad yard is eligible for the National Registry.

Mr. Barker said that the State leases property to a gravel and cement operation located in close proximity to the Laware residence. He further noted that this is the Laware family's second request to purchase the land – the first being in the late '90's when they were denied.

Mr. Christon asked if this sale would result in compensation to the State. Mr. Barker responded that it would and that a property appraisal will be requested.

Chairman Ignatius recommended tabling this request due to the number of unresolved issues, allowing the City of Lebanon more time to determine their interest, and hopefully providing all parties involved an opportunity for open discussion. This could also provide CORD with more detailed information on which to base a decision.

ACTION: MOVED by Chairman Ignatius, seconded by Mr. Carpenter, to TABLE the request and asked that all affected entities work with each other to allow CORD to reach a decision. The motion passed unanimously, 7-0. Due to the lack of a quorum, a ballot vote will be issued.

C. NEW CASTLE

SLR 07-008

Request to grant a 25-year lease with an option for a 25-year extension for the Mines Building and surrounding area, totaling 7,500 square feet, at Fort Constitution.

The Department of Resources and Economic Development (DRED) has received a request from the UNH Marine Program for a 25-year lease for the Fort Point Mines Building and surrounding area at the Fort Constitution Historic Site. DRED has had an ongoing agreement with the UNH Marine Program for use of the building and space adjacent to it. Since UNH intends to build an addition to the facility and make further improvements, both parties concur that a longer term agreement is needed. The proposed building plans were submitted to CORD with the surplus land request.

STAFF REPORT

30-day review period ends August 10, 2007

Administrative Services: No comment.

Agriculture, Markets, and Food: No interest.

Bureau of Emergency Management: No comment.

Division of Historical Resources: No comment.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: No objection.

Fish and Game: No objection.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: No comment.

Safety Services: No comment.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: Not applicable.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: No comment.

Town of New Castle: No comment.

July 20, 2007 Discussion:

Mr. Jonathan Pennock, UNH Director of the Marine Program, opened with a presentation of the proposed renovations. He stated that this site was formerly Coast Guard Search and Rescue property. The following are proposed renovations:

- Replace the existing 500' pier with a 325' pier.
- The pier building (a small pump house), installed by UNH in 1989 will be removed and replaced.
- The Mines Building, which houses a dry lab that has serious safety concerns, will be renovated and re-pointed to retain its historical image.
- ADA access will be incorporated into the renovations along with handicap accessible restrooms (currently this site is not ADA compliant).

The roof line of the new building will not show above the Mines Building therefore not altering the current view.

Chairman Ignatius asked Mr. Pennock how much money will be invested by UNH. Mr. Pennock responded that it will be under \$1M, a combination of grant money from NOAA that UNH has in hand along with approvals for use on this project. The Mines Building renovations alone will cost between \$50,000 and \$80,000.

Mr. Drew asked if the new building will mimic the Mines Building. Mr. Pennock responded that it will be a clapboard structure. UNH was advised against building in brick to allow the Mines Building to stand out as the main historical structure. Ms. Wilson added that the Division of Historical Resources and UNH have been working together to ensure compliance with historic structure renovation requirements. Mr. Pennock stated that UNH has also been submitting plan changes to DRED for approval.

Mr. Drew questioned the discharge of lab chemicals and wastewater. Mr. Pennock replied that human use is minor, permits are in place for discharged fluids and chemicals, and that the facility is not connected to the town's sewage system.

Ms. Wilson said a report prepared by UNH and the National Park Service depicts the history of this premiere military site. Access to this report can be obtained through a scheduled appointment at the Division of Historical Resources.

Mr. Uncles asked if there was any feedback from the Historical Commission in New Castle or Portsmouth. Ms. Czysz replied that the SLR notice was sent to the Town of New Castle and that they had not responded. Mr. Pennock added that UNH has been in contact with New Castle Selectman Gene Doherty who has been aware of this project for the last 4 to 5 months.

Director Barrett addressed the issue of dock space, which is at a premium in New Hampshire. He expressed frustration that the Department of Safety had failed to obtain rights to dock space at this site in prior discussions. Mr. Pennock replied that UNH would be willing to discuss dock space availability with the Department of Safety.

Mr. Uncles addressed the historical aspects of the Fort noting that Maine has restored most of their forts to a park-like setting. He feels that a 25-year lease is shortsighted in that the Fort could be a gem in Portsmouth tourism and this project could destroy the historic integrity of the site.

Ms. Wilson stated that the Division of Historical Resources has gone through a long and difficult review of the property and site and are comfortable with UNH's use of the Mines Building and the fact that Historical Resources will have a role in its renovations. They believe the new plans will complement the Mines Building and the aesthetic improvements will enable people to enjoy it even more. She further stated that this project is a focal point of New Hampshire history, land use, and economy.

Chairman Ignatius noted that the SLR review period runs to August 10, 2007. Mr. Carpenter asked Mr. Pennock if a delay in decision would have a negative impact on the project. Mr. Pennock responded that it would, citing that a delay would result in missing a deadline for review by the Long Range Capital Planning and Utilization Committee at their meeting in September, use of the facility is at a minimum during the winter months, UNH

has spent over \$200,000 on a study for Historical Resources, and portalets are the only restrooms currently available at the site.

Mr. Carpenter asked CORD to vote on this request today. Chairman Ignatius noted that CORD's next meeting is scheduled for September 6, 2007.

ACTION: MOVED by Mr. Carpenter, seconded by Mr. Christon, to APPROVE the request subject to no adverse comments being received during the remainder of the 30-day comment period. The motion passed by a vote of 5 to 2 (Mr. Uncles and Director Barrett in opposition). Due to the lack of a quorum, a ballot vote will be issued.

D. NORTHFIELD SLR 07-006
Request to grant a lease of 9,700 square feet to Merrimack Valley Railroad, Park Street.

The Department of Transportation (DOT) requests to lease approximately 9,700 square feet of land to Merrimack Valley Railroad, Park Street, Northfield, NH, owner of the former Northfield Freight Station building and land it sits on. The request has been made to lease the requested area for additional storage of railroad passenger cars and cabooses as other land leased by the requestor for storage is at capacity. There is no room on the Freight Station side of the main tract for expansion of additional side trackage; therefore, the Railroad operators were consulted and it was determined that a side track could be constructed on the opposite side of the main track. The lease would be solely for storage purposes and would include termination language in the event that this use would impact current and future rail use. At this time the side track has been constructed and this agreement will formalize the conditions and responsibilities specific to the use of the sidetrack.

STAFF REPORT
30-day review period ended July 16, 2007

Administrative Services: No comment.

Agriculture, Markets, and Food: No interest.

Bureau of Emergency Management: No comment.

Division of Historical Resources: No adverse impacts to historic resources.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: Supports the request only if the agreement prohibits the siting and operation of any kind of waste management facility and waives any defenses that federal law would preempt state regulation of such types of operations. This position is consistent with DES's letter to Representative Paul Hodes supporting HR 1248, the Clean Railroads Act of 2007. See letter on file.

Fish and Game: No objection.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: No comment.

Safety Services: No objection.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: Recommends approval with the conditions that the lease be for the sole purpose of storing railroad passenger cars and cabooses and will expire in one year. Additionally, that a penalty will be assessed based on a consultation with DOT, due to the benefit derived from the public trust without prior approval. See letter on file.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: Recommends disposal in the form of a one-year lease. The SCC expressed concern that this use was allowed on publicly owned land without oversight or enforcement action and compensation to the State. SCC requests a fine or retroactive lease fee be levied on the lessee. See letter on file.

Merrimack County Board of Commissioners: No interest.

Town of Northfield: The Town of Northfield offered the following comments and concerns:

- The facility is an asset to the rural character of both Northfield and Tilton.
- The property owners received planning board site plan review approval for the building.
- If they continue to expand the use of this site beyond what is presently there, the Town will require that they apply for site plan approval (expansion of a non-residential use).
- Request that no overnight “camping” or temporary living arrangements are allowed.
- Request that railroad events (additional private railroad cars are brought to the site) be prohibited from blocking the intersection of Gibson Mill Road as it prevents access to the adjacent public park and prevents access to emergency rescue vehicles.

See letter on file.

July 20, 2007 Discussion:

Mr. Barker provided a brief overview of the request. He stated that DOT feels a formal contract should be made since they are storing railroad cars. The contract will also define areas of storage and include no-blockage clauses.

Discussion moved to penalty assessment for use without prior approval. Mr. Barker commented that certain actions are allowable under their current operating agreement and he is unsure if a penalty could be assessed. Mr. Uncles stated that without legislative charge, DOT has no authority to assess a penalty.

DOT plans to draw up a one-year lease as the current lease for the east-side tracks expires next year; the renewal lease will include both properties. Mr. Barker stated that DOT is opposed to private railroad cars with sewer and electricity hookups.

ACTION: MOVED by Mr. Drew, seconded by Director Barrett, to APPROVE the request. The motion passed unanimously, 7-0. Due to the lack of a quorum, a ballot vote will be issued.

E. CONCORD

SLR 07-009

Request to sell a 12,000 square foot warehouse with office space and .55 acres of land in Concord.

The Department of Resources and Economic Development has recently received funding through the State's Capital Budget for a new warehouse, based on DRED being able to sell its existing Concord warehouse. The current building has serious safety concerns, is very energy inefficient, and DRED has outgrown the size of the building. The building was recently appraised to have a market value of \$332,000, which is needed to help fund the construction of a new warehouse at Bear Brook State Park. The existing warehouse is 12,000 square feet and is situated on a .55 acre lot on Langdon Street. Concord Trailways has expressed interest in purchasing the property to expand their bus service center.

STAFF REPORT

30-day review period ends August 10, 2007

Administrative Services: No comment.

Agriculture, Markets, and Food: No comment.

Bureau of Emergency Management: No comment.

Division of Historical Resources: No comment.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: No concerns so long as future owners are aware there was a petroleum spill on the site in 1991 and the property is subject to long-term groundwater monitoring. A Groundwater Management Permit was issued to NH DRED in 2006 for the site and is now in effect. DES feels that the warehouse's continued use can coexist with ongoing onsite groundwater monitoring. See letter on file.

Fish and Game: No objection.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: No comment.

Safety Services: No comment.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: Not applicable.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: No comment.

City of Concord: No comment.

July 20, 2007 Discussion:

Mr. Carpenter said the Concord property is undergoing a competitive bid process for the appraisal value and DRED has capital budget approval of \$718,000 to build the new warehouse.

Chairman Ignatius asked if the market value of \$332,000 includes both building and land. Mr. Carpenter responded that it does; however, there is very little land.

Ms. Wilson commented that neither site has undergone a review by Historical Resources. Chairman Ignatius asked Ms. Wilson if she would like CORD to table this request pending their review. Ms. Wilson stated she is just asking that review protocol be followed and does not understand how this project was missed. Mr. Carpenter responded that budgetary approval was received only recently and he will ensure it is on Historical Resources' agenda.

ACTION: MOVED by Mr. Drew, seconded by Director Barrett, to APPROVE the request. The motion passed unanimously, 7-0. Due to the lack of a quorum, a ballot vote will be issued.

IV. OLD BUSINESS

A. MAPPING STATE OWNED LANDS

Chairman Ignatius stated that the agencies are continuing to work on this project. Mr. Carpenter added that DRED has been working closely with DOT on mapping State-owned railroad lands. Mr. Drew stated that DES has mapped 9,117 acres, mostly located in Pittsburg.

Mr. Barker passed around aerial photo prototypes where photographs were laid over tax maps. He announced that new maps of the Lakes Region that include Lake Winnisquam, Paugus Bay, Lake Waukewan and Lake Winnepesaukee will be arriving soon. Chairman Ignatius asked if they could be entered into GRANIT. Mr. Barker said it could. Chairman Ignatius will ask Ken Gallager of the Office of Energy and Planning to contact DOT's mapping staff on this project.

B. LEGISLATION

Chairman Ignatius noted that HB 710 will establish a commission to study issues relative to the practice of leasing state-owned real estate on the shores of public waters. This

commission will be comprised of representatives from the Dept. of Transportation, Dept. of Environmental Services, Dept. of Resources and Economic Development, Dept. of Safety, Fish and Game Dept., Housing Finance Authority, CORD, Lakes Management Advisory Committee, Rivers Management Advisory Committee, and Public Water Access Advisory Board.

Mr. Uncles suggested CORD would be best represented by Chairman Ignatius or Senior Planner Jennifer Czysz. It was agreed that Ms. Czysz be designated as the CORD representative to the study commission. Chairman Ignatius said a report on the commission's findings will need to be filed by November 30, 2008 and asked members to submit comments on issues that should be addressed.

V. NEW BUSINESS

A. DISCUSSION OF THE ENVIRONMENTAL IMPACTS UPON LAKES FROM THE LEASING OF SURPLUS LANDS

Mr. Quarles stated that the Public Water Access Advisory Board has submitted comments regarding the private use of a public trust. He cited the development at 18 Mile Point where permanent docks, not seasonal docks, have been constructed. He also cited a project in Belmont that threatens to fragment the shoreline. He sees the new study commission as an opportunity to work on the modification of the State leasing scheme.

Ms. Forst added that when the public comes upon a dock, they automatically assume it is private property, that someone owns the lake and area around it, and as a result they feel they should not remain in that area. This is a false assumption as these docks are built on public land in public waterways. She also stated that access to docks is being installed on steep slopes. Recently, slope development caused a 350' mudslide that hit a culvert, slid down the rail bed, then into the lake.

Mr. Smith stated that a study in Minnesota revealed the negative impact docks have on aquatic life and surrounding trees and brush. He also noted that Lake Winnepesaukee has no public access.

Mr. Christon asked Mr. Barker if DOT has an inventory of the shorefront leases that have been issued and what is the flow rate of new lease requests. Mr. Barker responded that there is an inventory, and that most requests have been renewals. He added that DOT is very concerned about the slopes.

VI. ADJOURNMENT

The meeting adjourned at 12:00 PM.

Meeting Schedule:

September 6, 2007

November 1, 2007

All meetings will be held at the Office of Energy and Planning, 57 Regional Drive, Concord, NH, unless otherwise noticed. Meetings begin at 9:30 AM.

Respectfully Submitted,

Amy Ignatius
Chairman

AI/mkz