

# New Hampshire Council on Resources and Development

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## **FINAL MEETING MINUTES – July 14, 2016**

### **MEMBERS PRESENT**

Amanda Merrill, Chair, Director, NH Office of Energy and Planning  
Elizabeth Muzzey, Designee, NH Department of Cultural Resources  
Glenn Normandeau, Executive Director, NH Fish and Game Department  
Lorraine Merrill, Commissioner, NH Department Agriculture, Markets and Food  
Nancy Spaulding, Designee, NH Department of Transportation  
Robert Beaulac, Designee, NH Department of Administrative Services  
Timothy Drew, Designee, NH Department of Environmental Services  
William Carpenter, Designee, NH Department of Resources and Economic Development  
William Ray, Designee, NH Housing Finance Authority

### **OTHERS PRESENT**

Allen Brooks, NH Department of Justice  
Anna Rulli, NH Department of Resources and Economic Development  
Anne Edwards, NH Department of Justice  
Brad Simpkins, NH Department of Resources and Economic Development  
Brian Buonamano, NH Department of Justice  
Chris Aslin, NH Department of Justice  
Chris Gamache, NH Department of Resources and Economic Development  
Jim O'Brien, The Nature Conservancy  
Kellie Walsh, NH Office of Energy and Planning  
Larry Gomes, Nash Stream OHRV Task Force  
Lenny Rautio, NH Department of Administrative Services  
Maggie Machinist, NH Department of Resources and Economic Development  
Margaret Bell, NH Department of Justice  
Matt Leahy, Society for the Protection of New Hampshire Forests  
Naomi Houle, NH Office of Energy and Planning  
Phil Bryce, NH Department of Resources and Economic Development  
Richard Cook, NH Fish and Game Department  
Susan Slack, NH Office of Energy and Planning  
Tracey Boisvert, NH Office of Energy and Planning  
Vicki Quiram, NH Department of Administrative Services  
Will Abbott, Society for the Protection of New Hampshire Forests

**I. ROLL CALL AND INTRODUCTIONS**

The meeting was opened at 9:40 a.m. by Chairperson Merrill. CORD members and guests introduced themselves.

**II. MINUTES**

The draft minutes from the May 12, 2016 CORD meeting were reviewed. Ms. Muzzey requested to change “Department of Cultural Affairs” to “Department of Cultural Resources.”

**ACTION:** On a motion made by Mr. Beaulac, seconded by Mr. Carpenter, the minutes of May 12, 2016 were approved, including the correction suggested by Ms. Muzzey. Chairperson Merrill and Mr. Normandeau abstained.

**III. DISPOSAL OF STATE-OWNED SURPLUS LAND**

**A. STEWARTSTOWN – SLR 16-004**

Chairperson Merrill stated that at the previous CORD meeting, members requested additional information from the Department of Resources and Economic Development (DRED). She noted that CORD members were provided additional information from DRED electronically prior to the meeting and asked if members were satisfied with the additional information received; no members expressed dissatisfaction.

Mr. Gamache spoke on behalf of the Department of Resources and Economic Development (DRED), which is requesting to transfer ownership of three small sections of nonessential railroad corridor to an abutting landowner in exchange for permanent trail easements on two parcels of privately held land, protecting more than 4 miles of OHRV and snowmobile trail in Stewartstown and Stratford. Mr. Gamache explained that the three small parcels had been leased to the abutting landowner by the Department of Transportation in the past. Mr. Gamache explained that the Trails Bureau does not need the parcels and that in exchange, the Bureau will receive permanent trail easements on the two other parcels within Coos County. Therefore, the Trails Bureau feels this is a benefit for the State, and with CORD’s approval the Bureau will move forward with appraisal work for the parcels.

Chairperson Merrill asked if this proposal would result in additional ATV trails being opened or would maintain existing trails.

Mr. Gamache stated the intent is to maintain existing trails

Ms. Quirum asked about the width of the two trail easements. Mr. Gamache said they would be 30 feet wide to allow for proper maintenance.

Mr. Beaulac asked why the leases on this property were not renewed or continued in the early 2000s before or after the property was transferred from DOT to DRED.

Mr. Gamache stated to his knowledge it was a lapse.

Mr. Beaulac asked if disposing of the three properties would interfere with any future plan to reactivate the rail line. Mr. Gamache said it would not.

Chairperson Merrill asked Ms. Muzzey if she had received sufficient information regarding her request from the May 12, 2016 CORD meeting for photographs of the existing buildings.

Ms. Muzzey stated that the Department of Cultural Resources has received the additional information requested from DRED; however, staffs have not had time to fully review it yet.

Chairperson Merrill also noted that CORD has received comment from the Rivers Management Advisory Committee (RMAC) and Lakes Management Advisory Committee (LMAC) indicating that the property is located outside the jurisdiction of both committees because it is not within 250 feet of a river or lake.

Mr. Drew stated that the Department of Environmental Services (DES) supports the proposed exchange of property. He noted the only concern is the presence of underground petroleum storage tanks on the parcel owned by DRED and used for Mr. Marquis' business. Mr. Drew stated DES knows of no data to indicate existing environmental concerns on the three parcels.

**ACTION:** On a motion by Mr. Normandeau, seconded by Ms. Spaulding, CORD voted to recommend SLR 16-004 pending review by the Department of Cultural Resources.

#### **IV. RSA 9-B SMART GROWTH REPORT**

##### **A. Update from Office of Energy and Planning**

Ms. Slack thanked CORD members for providing feedback on the draft Smart Growth Report. She noted that based on these comments more examples of smart growth were moved into the body of the report, the appendices were reduced to one which contains the text of RSA 9-B and the history of smart growth in the State, and minor grammatical changes were made throughout the document.

Mr. Drew asked for clarification on page 3 of the report regarding DOT's context sensitive solutions and how they differ from the concept of Complete Streets.

Ms. Slack stated that Complete Streets is a broader concept about planning for, designing, and maintaining streets and highways for all uses, not just motor vehicle use.

Ms. Spaulding noted that Context Sensitive Solutions is a way for an approach for state transportation departments to present information to the public and to allow local advisory groups and the public to have a forum to bring forth their concerns.

**ACTION:** On a motion by Ms. Muzzey, seconded by Mr. Drew, CORD voted to approve the RSA 9-B Smart Growth Report with the possible addition of material regarding context sensitive solutions.

Chairperson Merrill recessed the meeting for ten minutes at 10:06 a.m.

**V. LAND CONSERVATION INVESTMENT PROGRAM (LCIP)**

**A. Nash Stream State Forest (LCIP State fee-owned property)**

Chairperson Merrill noted that CORD received a letter from the Appalachian Mountain Club, The Nature Conservancy, and Society for the Protection of New Hampshire Forests raising questions and concerns about CORD's role in the management of the Nash Stream property and whether or not existing ATV trails there are in compliance with state law.

Chairperson Merrill stated that OEP staff reviewed the letter in further detail and consulted with the Department of Justice.

Mr. Simpkins, Director of the Division of Forest and Lands, and Mr. Gamache, Trails Bureau chief, , provided an overview of DRED's role in the management of the Nash Stream State Forest as well as historical background about the property and how it was acquired. Mr. Simpkins made reference to the letter from Commissioner Rose addressed to CORD, which provides a more detailed review of DRED's responsibilities and management techniques for the Nash Stream State Forest, and referred to three maps that were displayed for the group.

Mr. Simpkins said DRED manages the property keeping in mind the purposes of the original acquisition were to: protect the natural beauty and resources of the Nash Stream watershed; continue to protect the forest economy and wood products industry; and protect public access to recreation.

Mr. Simpkins said the original management plan was published in 1995 and prohibited the use of ATVs. He explained that the management plan was updated in 2002 and included designation of the West Side ATV trail as a three- to five-year pilot, and established a process for plan revision every 10 years

Mr. Gamache said that after three years as a pilot trail, DRED continued studies of the West Side Trail for an additional two years, when then Commissioner Bald approved it as a permanent trail.

Mr. Simpkins said that in 2012 DRED received a proposal from Ride the Wilds for a connector trail across the northern edge of Nash Stream Forest to network existing trails from Millsfield on the east to other existing trails on the west leading to Colebrook and Pittsburg. DRED then "opened" the management plan revision process and the proposed Kelsey Notch trail was endorsed by the Nash Stream Citizens Advisory Committee and, after internal reviews, it was the consensus within DRED to open the Kelsey Notch trail as a pilot. A second trail to nearby gas pumps was proposed but tabled by DRED. The proposed Kelsey Notch trail was an existing gravel road and snowmobile trail. DRED presented the Kelsey Notch trail proposal to CORD in March and April 2013, although CORD took no formal vote.

Mr. Simpkins said the trail opened in June 2013 as a pilot until the management plan could be revised. He said a technical team did a site walk in 2015 to analyze the coarse and fine filter criteria required by RSA 215-A:42 and RSA 215-A:43 and that the tech team felt the trail passed the filter requirements.

Chairperson Merrill asked if DRED has any documentation that indicates how the reviews of the Kelsey Notch Trail and other proposed ATV trails in Nash Stream are done.

Mr. Simpkins said a technical team visited the Kelsey Notch Trail to review the coarse and fine filter criteria in 2015 but did not produce a written document. Only hand-written notes are available. Mr. Simpkins noted that DRED is currently developing a checklist of all OHRV trail criteria that includes a signature section so that it may be kept on file to provide better documentation for the future.

Mr. Gamache provided an overview of the history and management of the West Side Trail and the Kelsey Notch Trail in Nash Stream.

Chairperson Merrill asked what role the Department of Fish and Game had in the approval process for the West Side Trail. Mr. Simpkins said no checklists were developed and no documentation exists. Chairperson Merrill also asked about the existence of memorandums of understanding (MOUs) between DRED and Fish and Game. Mr. Simpkins said there were no written agreements before 2013 but since then, there have been annual agreements approved by Governor and Executive Council, transferring money to DRED for ATV enforcement. Mr. Simpkins said DRED could strengthen the MOUs to meet statutory requirements.

Ms. Muzzey asked for clarification about the distinction between pilot trails and permanent trails, and the process involved prior to the trails opening. She also asked if the process of how to determine when a study should be conducted is written in any rules or guidance documents.

Mr. Gamache said the West Side and Kelsey Notch trails were opened as pilots before studies were done by DRED but, in response to a question from Chairperson Merrill, he said that site walks were done at Jericho ATV Park before those trails were opened. He said the guidelines that apply specifically to the Jericho trails are looser than the coarse and fine filter requirements that apply to other ATV trails on state land. He said establishing pilot trails gives DRED authority to shut them down immediately if problems arise.

Mr. Simpkins said he believes CORD's role has changed over the years and those state agencies that have management responsibilities for LCIP properties need a guidance document regarding the role of CORD in the management of such properties. He said DRED was "looking for the sideboards." He said CORD should determine if ATV use is appropriate in Nash Stream and, if so, DRED should determine where trails should be located.

Mr. Simpkins described the various levels at which land management decisions are discussed, including within the department, with staff from other state agencies, with outside groups and with the public. Decisions are then approved at the division director level and finally by the Commissioner. He said he feels that DRED has met the spirit and intent of the law and feels good about its Nash Stream management.

Mr. Simpkins said DRED has received multiple proposals about opening additional connector trails within Nash Stream. He said DRED has not acted on these proposals yet.

Mr. Simpkins stated DRED plans to provide CORD with the draft of a proposed updated Nash Stream Management Plan for consideration at the September 2016 CORD meeting.

Chairperson Merrill thanked Mr. Simpkins and Mr. Gamache for their overview.

Mr. O'Brien, representing The Nature Conservancy, provided a letter to CORD members from TNC, the Appalachian Mountain Club and the Society for the Protection of New Hampshire Forests in response to Commissioner Rose's letter to CORD.

Mr. O'Brien made note of CORD's role in the management of Nash Stream and the need for clarification of its role as manager and administrator of the Nash Stream property as well as other State-held LCIP lands.

Mr. O'Brien said that RSA 162-C: 6 gives CORD a strong role to play in the management and administration of former LCIP properties. He said the information presented by DRED underscores the need for CORD oversight, not just input. He said CORD should ask if DRED's stewardship is adequate and make sure that DRED meets the letter of the statutes.

Mr. O'Brien said TNC, AMC and SPNHF were concerned that the Kelsey Notch Trail was opened despite the fact that the 2002 management plan states that ATV trails can't conflict with the management plan and that no other roads or lands were open to ATVs other than the West Side Trail. He said the management plan makes no provision for pilot trails and that there is no authority for the Kelsey Notch Trail.

Mr. O'Brien also said the April to June 2016 MOU between DRED and Fish and Game covered the Connecticut Lakes Headwaters and Jericho, in addition to Nash Stream, and authorized the transfer of \$2,100 to DRED. He said this was not an adequate amount of money for monitoring and enforcement. He also said ATV trails should not be established until the coarse and fine filter analysis required by RSA 215-A is completed.

Mr. Abbott said he had been executive director of the LCIP program 26 years ago and that he believed the intent of RSA 162-C was to provide oversight for long-term stewardship of LCIP lands after the program was ended.

Mr. Gomes, spokesperson for the Nash Stream OHRV Task Force, read a letter addressed to CORD regarding the importance and popularity of ATV trails in the Nash Stream State

Forest. He said because Nash Stream Forest is so large it is difficult to travel east to west without crossing through it. He noted that the West Side Trail is located within a mile and a half of the forest's western border, and that the Kelsey Notch trail is within a mile of the northern border. Mr. Gomes said the Task Force was proposing another trail within a mile of the forest's southern border. He said keeping OHRV trails along the outer perimeter of the forest accommodates the need for critical trail connections while preserving the heart of the forest for traditional uses.

Chairperson Merrill thanked Mr. Gomes for the information provided.

Chairperson Merrill asked if any CORD members or other public had further comments.

Director Merrill said CORD's next steps would be to seek clarification of its statutory role in managing and administering properties acquired through the LCIP, noting that the question applies not just to Nash Stream. She and other CORD members requested existing documentation from DRED regarding the legality of the West Side and Kelsey Notch trails, including memoranda of understanding (MOUs) with other state agencies, the original Nash Stream management plan as well as the 2002 update, the original document assigning management responsibilities to DRED, the original deed, the conservation easement held by USDA Forest Service, and coarse and fine filter documentation. Ms. Spaulding suggested making the documents more accessible by posting them on OEP's website. CORD members discussed the possibility of organizing a time to visit Nash Stream Forest before the September CORD meeting. OEP Staff will follow up with CORD members and DRED to obtain additional documents and possibly schedule a site visit.

## **VI. OTHER BUSINESS**

Chairperson Merrill reminded CORD members to please respond to Ken Gallagher's (Office of Energy and Planning Staff) request regarding suggestions about a naming issue by next week.

Chairperson Merrill noted the next CORD meeting will be held on September 8, 2016.

Chairperson Merrill adjourned the meeting at 11:42 a.m.

Respectfully Submitted,

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Amanda A. Merrill, Chair  
Director, NH Office of Energy and Planning

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