

Franconia Conservation Commission (FCC)

Meeting: May 9, 2023, 4 pm at Town Hall

Members present: Chris Nicodemus (Chair), Ginny Jeffryes, Red McCarthy, Jill Brewer, Art Daily, Mary Grote

Guests: Chris Ellms (Sugar Hill Conservation Commission and also Sugar Hill Select Board member (SH)), Kim Cartwright (Ammonoosuc Conservation Trust Executive Director (ACT)), Rosalind Page (ACT Board member)

Minutes: Red moves to approve 3-21-23 minutes. Jill seconds. Mary abstains. Unanimously approved.

Lang v Sabados property erosion/water drainage complaint on the flank of Ore Hill, affecting both Sugar Hill and Franconia, NH DES:

Chris N made a map and site photo presentation to explain. Ginny wonders whether we have any jurisdiction here. Chris N says we do because Franconia is impacted. Chris N visited the impacted landowner's (Lang) Franconia property recently to inspect it at owner's request. DES is involved due to Lang's complaint of erosion due to unpermitted changes of the terrain and wetlands hydrology of the area. It affects Mountain View Rd in Franconia and Lafayette Rd drainage areas. Slope of the hill is steep in parts. No state permit for terrain alteration done. There was a driveway permit on Lang's land which had a 30 foot wide access easement. Sugar Hill received a copy of last year's DES Letter of Deficiency about the unpermitted terrain alteration. Franconia did not. DES has requested from Sabados' specific solutions with time deadlines. There is a lot of water runoff, and the original hillside hydrology was based on mostly forested land, and there was a longstanding water drainage system with a small pipe draining to Lafayette Rd drainage in Franconia. That pipe size can't handle major excavation-induced drainage. Then, contractors filled in the original ditch along the field that drained the area, redirecting the previous drainage onto Lang's land flowing across the driveway, resulting in new flows and multiple streamlets on Lang's land and onto Mountain View Road downhill. Lang hired Headwaters Hydrology and Horizons Engineering to assess. Cutting extended beyond the 30 foot right-of-way. A substantial amount of sediment has come in – a few feet of silt in some places. Headwaters Hydrology sampled the drainage water in the new streamlets and found some high levels of cadmium and lead, probably from having disturbed presumably 19<sup>th</sup> century mine tailings from higher on Ore Hill. Lang and Sabados are in litigation. DES letter of deficiency was sent to Mr Sabados on 12/23/22 with various requirements, including a temporary stabilization plan and a post-alteration of terrain permit by late May.

Red (who is also the engineering consultant for town of Sugar Hill) explains: There are two DES violations: absence of alteration of terrain permit (survey showed more than 130K sq feet disturbed, and permit is required for > 100K) – after-the-fact permit is required per DES letter by May 23. Second violation was a wetlands permit violation – deadline for that retroactive permit app was April 28, which has now passed without a submission. Red has not received any DES response to his recent inquiries. The wetlands violations and drainage from point of view of engineering affect Franconia, and threaten Mountain View Road which can't handle more drainage. Retention ponds on the uphill private land to prevent the drainage are needed, per Red. Chris says the fact that wetlands are impacted, and contaminated drainage is occurring, means Franconia is impacted. But DES didn't cc Town of Franconia about this – we only heard about it due to Red's dual role.

Chris Ellms (SH) says that Franconia is involved due to wetlands impact and we should have been notified because a wetlands permit was required. Ginny says that the only role of a CC in wetlands permits is to mention any CC concerns to DES re permits, and the property dispute lawsuit was filed in

2021, so issue going on a long time. Chris Ellms says that our role is we need to watch. Red affirms that CC has a watchdog role here. As an engineer, he is concerned about the runoff along Lafayette Rd and Mountain View Rd; says that road washouts have occurred in past; inadequate ditches and culverts for additional drainage as it runs to the river below. Red suggests that the two Select Boards submit a joint letter of concern to DES about the infrastructure issues, because a larger issue than just Conservation Commission concerns. Further discussion results in Jill and Chris Ellms agreeing to bring the issue of a joint SB letter to DES to the towns' SBs at their next meetings.

Chris: Town Forest tax lot 17-3 and 17-2 conservation easement process:

Chris completed a project application draft to ACT for Town Forest. Chris invited Rosalind of ACT to explain the next steps.

Rosalind explains the process:

Once formal application for a project is received and complete, the ACT Lands Committee and Board starts the due diligence process.

1) The required property survey has been done.

2) Landowner - FCC acting on Town's behalf - needs to decide what land use rights to reserve. If we want to create trails on the property [there are none currently], the FCC should discuss among ourselves where they should go. Also, FCC needs to discuss what other management principles (example is water quality), and "reserve rights" for perpetuity we want written into the easement. Putting in a well?. Timber harvesting?. Recreation?. So we need to anticipate the future conservation needs there. Once we've decided that, then ACT looks at whether our desired reserved restrictions and uses are compatible with conservation.

3) There are project costs that ACT incurs. There is a lengthy baseline documentation report of the conditions on the property on the day ACT acquires the easement; also staff costs involved with creating the easement; and also ACT's stewardship costs in perpetuity for inspecting the property annually to ensure easement is honored. There are grants we can apply for to pay for those costs. Some funders will pay for these costs, in this case for water quality conservation, because we have water resources (streams, ground water resources) on this property. We have wildlife resources. We have connectivity with other conserved lands here, which are another basis for funding. And if we decide we want trails, that's another avenue for grant funding for the project costs. Part of this consideration of grant funding will be deciding whether we want ACT to apply for the project cost grants, or whether the Town will. If the Town does, then we use those funds to pay ACT. Or, ACT applies and keeps to offset costs. ACT prefers that the Town be the grant applicant, so that ACT can still apply for the same project cost grant on behalf of other their other conservation projects that year, should the need arise. It doesn't have to be decided now, but FCC needs to discuss this issue.

4) Rosalind has started to put ACT's project budget together: includes staff time, baseline documentation report, their lawyer's review, drafting the easement, and the long-term stewardship costs. These costs are the ones which grant funding can help to pay for. She thinks project costs will not be large. The project budget is completed before we decide what grants to apply for. Timing is up to both ACT and FCC.

Chris:

FCC is not skilled in writing grants, but it could be a growth area in collaboration. The folklore he's heard (not seen documented anywhere, he's not clear it's true) that might make it funding-eligible is if it was acquired as a potential water resource, although in 1980 when Town Forest was acquired, our Town's water districts, wells and water infrastructure were already in place. Franconia Water Dept currently has a major federal grant for upgrading the water system and the source well. He will be speaking to Water Commission at their meeting this week about whether any thoughts or interest in

this. When going for water resource-related grants, it helps to get a letter from Water department. Another factor: recent PSU student NRI tri-town project shows that the aquifer under Easton and Franconia gets one of its high volume recharges in the area that includes the Town Forest. And, Chris mentions that if the town wants to be able to put a well there, we want to reserve that right. Ginny: She researched Grafton Co Deeds site last year regarding our purchasing map 17-3 property. Various old easements were mentioned in deeds, some on surrounding properties. Some recent easements (1950s and 1970s) were for Rte 18 and I-93 highway construction drainage ditch installations – not for water rights. The earlier one - early 1900s - was on several parcels, referencing a landowner who seemed to own a large farm north and west of map 17.3; the various easements (though not 17.3) allowed multiple surrounding landowners access to a spring on his property – which may have been to be north of what's I-93 and south of Magowan Hill Road. And the easement on what's now 17.3 permitted same farmer to cross what may be the old farm road on that property that heads from Rte 18 to that first brook. Ginny is not convinced that the 1980 Town Forest acquisition had anything to do with town water system resources. She is not in favor of allowing a well on the Town Forest property. She thinks that aquifer protection and ground water protection on the Town Forest is the important thing. A threatened fish species – Red-bellied Dace – was found by Trout Unlimited somewhere in a stream by or very close to the Town Forest -when Trout Unlimited did their stream survey in about 2015 of the Lawrence parcel and the nearby upstream areas. Rebecca Brown presented this stream survey at the public hearing in about 2015 for purchasing the Lawrence Fam Forest. Ginny thinks the stream survey may be in ACT records somewhere.

Rosalind says that investigating species of concern with the state's records is part of the baseline documentation report (BDR) they do via the NH Heritage Bureau info, which helps with deciding about what grants to go for. She says that another grant we could probably get in 2024 is LCHIP, which is limited to properties that permit public access for fishing and hunting. Private owners don't go for LCHIP as often due to the public access commitment, but as a town, we would be competitive for it. She says we probably only need to apply for 2 grants to cover the project costs and stewardship costs. When she finishes the budget, she will meet with us again and we can discuss the source of funding. In the meantime, FCC should be discussing what usage rights we want to reserve for the easement: timber, wells, recreation trails, and the other options. She suggests we make lists of what we want to reserve, and what we know we don't want to happen on it.

Chris: FCC will discuss over time. Not urgent since we now own it. He thinks reasonable expectation is to have this finished in 2024 or 2025. The surveyor contract included their adding conservation placards, but until the easement is complete, they can't. The rest of the survey contract is complete. Chris has requested Jill to have SB pay the survey bill balance bill but to reserve \$300 dollars for them to add the placards when easement is final. He thinks we should consider whether to do an additional map now, if we are to allow use, and put the map cost into project cost. Can discuss further another time.

Chris: update on Plymouth State students' tritown NRI public presentation on 5/1/23:  
Chris, Ginny and Art were present. PSU students produced a story map. It's an online resource with maps, to be updated over time. The aquifer maps are interesting. They will steward it and PSU will host it with their GIS licenses. We can get a printed PDF as well as put links on the town website. Ginny notes that 1 of the 4 students is a junior who will continue working on it before it goes public, and was excited about continuing it. We can ask them to add additional layers other years. Red wonders how to see it now for commentary. Chris says there is already a link available on the agenda but PSU is still tweaking the final copy.

Red is concerned about the red dots of poor water quality on their water quality map. Chris notes that their work showed PFAS in some wells in the aquifer recharging area at Ham Branch. Red says the PFAS is in wells on Hunt's former property, now owned by Presby, north of the transfer station. Discussion of where the 2 major aquifer recharges from ground water are in town. Chris says the aquifer is 400 feet below the surface. Red says the Plymouth students' map needs to correct a hydrology term re "transmissivity" – which he defines for us. Mary thinks the monitoring wells at Hunts/Presby used to be tested annually, wonders if still happens. Unknown. Ginny recalls from 1960s watching the now-transfer station dump burn all the trash every week and suspects there's contamination throughout that area. Ginny says that the state DES water quality dept has picked a few places to offer PFAS testing – for example Bethlehem recently – but it's too expensive for the state to test everywhere. Private citizens can pay to test their wells for PFAS compounds, such as is happening around Forest Lake.

Chris: Reminder that Ben Kilham talk we co-sponsored is 5/18.

Chris: Suggests we work on a conservation plan to address issues of what our mission is going forward, and what we want to see, starting in second half of year. Ginny thinks we don't have the expertise and thinks it isn't in our mandate and that deciding now about future issues like recreation isn't wise. Things change and science evolves. Too many things are in flux. We need experts. E-bikes and E-ATVs are new, for example. She thinks discussions are ok, but we shouldn't do a conservation plan. It's already a part of planning board master plan mandate. Red thinks we would need to hire experts, go through hearings, etc. He thinks townspeople also have a say. Ginny says RSA 36 says our FCC mission is conservation of water resources and natural resources. No mention of recreation. Red says there are a bunch of groups in town doing things, needs coordination. Says would need an expert firm to pull it all together.

Adjourned at 5:15 pm.

Next meeting: TBA in June  
Minutes by Ginny Jeffryes