

Conservation Committee Meeting Minutes  
7:00 p.m., Monday, March 11, 2019  
Town Hall Lower Level Conference Room

Present: Jim Tasse, Chair, Emily Helliesen Day, Zack Matzkin, Bob Petitt, Philip Saucier\*, Mitch Wacksman

•Mr. Saucier was appointed by the Town Council at its March 11th meeting. Mr. Saucier refrained from participating in Conservation Committee discussion until after the Town Council vote.

Maureen O'Meara, Town Planner, Police Chief Paul Fenton

1. Mr. Tasse opened the meeting to public comment of items not on the agenda. No one spoke.
2. The minutes of the January 8, 2019 meeting were approved (5-0).
3. The committee reviewed draft amendments to the Dog Ordinance.

Mr. Tasse noted that LD 485 requires a person to remain on the scene in the event their pet has bitten another. The committee agreed that Sec. 7-1-5 should also require a dog owner to remain on scene. Biting should be considered a violation of voice or sight control.

The committee discussed the provisions of the Limited Privileges List. Mr. Tasse asked about enforcement. Chief Fenton said current practice is that a sworn statement of behavior witnessed is required. It is the officer's discretion if there is a violation of the law.

Mr. Tasse asked, "if you open the car door and let a dog run into the field and you are observed, that person could be on the Limited Privileges List (LPL)?" Mr. Matzkin asked if a dog runs out the back door. The committee discussion what actions should qualify to be added to the Limited Privileges List. Ms. O'Meara explained that the Limited Privileges List can be used as a local management tool.

Chief Fenton was asked to describe the court process under the current dangerous dog designation. He explained that the process is time consuming for his officers, who must appear in court, and the judge does not commonly make a finding that a dog is dangerous. There was common agreement that just having a dog at large would not automatically add someone to the LPL.

The committee discussed removal of dog waste and noted the committee has received public comment supporting removal. The committee prefers removal, except when waste is not in visible places. Staff was directed to look at Scarborough's provisions and provide draft language for review next month.

4. The committee discussed a Cliff House Beach Management Plan. The committee agreed the "season" will be May 1 - September 30th with limited dog access during the season. Mr. Wacksman noted that Cliff House Beach is more of a people beach than a dog beach. A final draft will be reviewed by the committee at the next meeting.

The committee also discussed restricting fires on the beach. Mr. Tasse is concerned with fires above the High Water Line (HWL). He suggests that fire residue be cleaned up within 24 hours of the fire or the fire should be built below the HWL.

Chief Fenton was asked about the Police Department's experience. He said the Police Department does receive calls regarding drinking, kids, kayaks. He likes the permit approach and accountability.

The committee discussed how, if a complaint is made and the officer arrives, the permit can be presented. If there is no permit, the officer has the discretion to write up a violation, but can also resolve the complaint without a violation notice.

The committee generally agreed not to regulate the smokiness of fires. Staff is directed to prepare a one page management plan for committee consideration at the next meeting.

The item was opened to public comment.

John Pearson, 24 Elmwood Rd - He thinks the 9 pm fire limit is too early. He gets a permit for 11 pm. If there is a complaint, it should be investigated and if the fire is ok, then you should be able to keep the fire. He likes the clarity proposed.

Wyman Briggs, 3 Mountain View Rd - He supports requiring that fires be located below the High Water Line.

Jeff Nickerson, 42 Warren Ave - He is researching wood burning stoves that discharge almost no smoke and limited ash. Can we carve out a stove option? Ms. O'Meara will check with the Fire Chief.

Tony Owens, 19 Seaview Ave - He does not want dogs on the beach at 6 pm. A lot of dogs are transported by vehicles because this beach is open and the result is more traffic in the neighborhood.

Tom Ward, 611 Shore Rd - He agrees with Mr. Owens. We need a definition of open space. The committee noted there is a list. He wants the property boundary of the beach identified.

Tony Owens - He supports a "people-friendly" beach.

Mr. Wacksman said he was ok with less dogs, while Mr. Matzkin said that the negative behavior with dogs will be addressed with the leash requirement.

Jeff Nickerson - He supports signage, including a reference to no fireworks.

The committee agreed, by a consensus of 4-2, that dogs on leash should be allowed in the evening. Mr. Matzkin stated that we should not make policies to discourage beach use, but rather policies on how the beach should be used. Ms. Day predicted that, with these policies, there should be a huge difference on the beach experience. The committee agreed to monitor beach activity and review after the 2019 season.

5. The committee discussed possible trail improvement projects with eagle scout candidates John and Tom Gray. The scouts are comfortable with boardwalk construction and one is looking at restoring the sanctuary area at the Methodist Church.

The Conservation Committee encouraged Troup 230 to look at the trail that needs to be installed from the Pollack Brook bridge to the Spurwink River. The scouts will return to a future meeting with specific proposals.

6. The committee agreed to delay a discussion of the budget and pending projects (due to time constraints), with the exception of the Spurwink bridge and boardwalk redecking, which has been funded in a prior year CIP. The committee discussed the options estimated by Jordan Gower. The committee eliminated option 2, the thinner plank composite decking. They discussed using pressure treated wood v. composite decking. By a

vote of 6-1, the committee chose the pressure treated wood option (Option1).

7. The committee agreed to table Item 7 discussion to the next meeting due to time limitations.
8. The committee discussed the easement monitoring report submitted by the Cape Elizabeth Land Trust (CELT) on the Cross Hill open space. Mr. Tasse asked Ms. O'Meara for a summary of her research.

She has sought advice, specifically in response to a suggestion by CELT that the town has a one-year time limit to act. She learned that CELT may have a time limit as part of their certification. The advice she has received is that a *plan* for addressing encroachments must be prepared, but that it may take several years to cure encroachments. Further, third party encroachments, where neither the town nor CELT are actively violating easement provisions, can be acted upon differently than violations by easement or property owners. She also said the town has a moral responsibility to manage open space consistent with easement restrictions, including addressing encroachments. Designated as steward of the greenbelt, the Conservation Committee is the appropriate group to represent the town as landowner at this level.

Chris Schorn, CELT Stewardship, spoke about working toward addressing infringements. CELT wants more coordination with the town. The infringements need to be observed in the field and then some flexibility and options to address them should be developed. He said a Conservation Committee member could join him and visit 2-3 sites a week.

A member of the Conservation Committee, Mark Fleming, did accompany CELT on the earlier visit when the list was developed. Why does a Conservation Committee member need to visit the site when CELT has prepared a list?

Mr. Wacksman suggested that the third party violators need to be contacted.

Mr. Schorn said that as the easement holder, CELT does not see itself as the point of contact with third parties. He thinks most of the encroachments are misunderstandings with property owners and he wants someone from the Conservation Committee to work with CELT. He

thinks knocking on doors and calling people will be better received than sending a letter.

Mr. Tasse quoted from page 5 of the easement where "Holder" has rights to address encroachments. Mr. Schorn suggested that Sec. 9 indicates it is not CELT's responsibility. Mr. Tasse and Mr. Saucier suggested that Sec. 9 relates to limited responsibilities at time of sale only.

David Briman, CELT board member, asked to be recognized. He said CELT and the Town have common interests and CELT views this as most effective as a joint effort. CELT can't prevent trespass and the Town has standing. Committee members did not agree with this interpretation of the easement language.

Ms. O'Meara pointed out that the Conservation Committee has a history of addressing encroachments, but that it includes a standard boundary survey to confirm there is an encroachment, which is costly. Mr. Saucier referenced the encroachment section in the Open Space Management regulations in the Conservation Ordinance.

Chris Tullman, CELT, said that CELT had only included on its list encroachments where they were confident of the location on open space. He said the town has permitted a driveway encroachment located at 70 Cross Hill Rd. Ms. O'Meara said she would follow-up on this item.

The committee agreed that CELT should move ahead to work with land owners encroaching and the committee will join CELT if available.

9. The meeting adjourned at 9:50 p.m.