

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

FEBRUARY 7, 2006

A meeting of the Planning and Economic Development Committee was held on Tuesday, February 7, 2006 at 7:05 p.m. in the Aldermanic Chamber.

Chairman Brian S. McCarthy presided.

Members of the Committee present: Alderman Richard LaRose
Alderman Mark S. Cookson
Alderman Michael Tabacsko

Members Not in Attendance: Alderman-at-Large Steven A. Bolton, Vice Chair

Also in Attendance: Alderman Fred S. Teeboom
Mike Lowe, Liaison, Nashua City Planning Board

ELECTION OF COMMITTEE CLERK

Chairman McCarthy called for nominations for a Committee Clerk

Alderman Cookson nominated Alderman Tabacsko

**MOTION BY ALDERMAN LAROSE_ THAT THE NOMINATIONS BE
NOW CLOSED
MOTION CARRIED**

**VOTE ON ELECTION OF ALDERMAN TABACSKO TO THE POSITION
OF CLERK OF THE PLANNING & ECONOMIC DEVELOPMENT COMMITTEE**

ALDERMAN TABACSKO ELECTED UNANIMOUSLY

COMMUNICATIONS

**MOTION BY ALDERMAN LAROSE THAT THE RULES BE SO FAR SUSPENDED AS TO
ALLOW FOR THE INTRODUCTION OF A COMMUNICATION RECEIVED AFTER THE
AGENDA WAS PREPARED
MOTION CARRIED**

From: James R. Tollner, Vice Chair, Human Affairs Committee
Re: R-06-05, Rescinding R-05-270, which Authorizes a Conservation Easement on
Certain City-Owned Land, and Authorizing a Similar Conservation Easement Subject
to a Reserved Right to Withdraw Land for Municipal Facilities on Certain Conditions

**MOTION BY ALDERMAN LAROSE TO ACCEPT AND PLACE ON FILE
MOTION CARRIED**

UNFINISHED BUSINESS - None

NEW BUSINESS – RESOLUTIONS

R-06-05

Endorser: Mayor Bernard A. Streeter
Alderman-at-Large James R. Tollner

RESCINDING RESOLUTION 05-270, WHICH AUTHORIZES A CONSERVATION EASEMENT ON CERTAIN CITY-OWNED LAND, AND AUTHORIZING A SIMILAR CONSERVATION EASEMENT SUBJECT TO A RESERVED RIGHT TO WITHDRAW LAND FOR MUNICIPAL FACILITIES ON CERTAIN CONDITIONS

Chairman McCarthy

If there is no objection from the committee what I would like to do is give a little background on the various resolutions that lead us to this point, and then accept testimony from the public, which I believe there are a number of people that are here to address the committee before we consider this resolution. Is everybody comfortable with that?

Alderman LaRose

Yes.

Chairman McCarthy

Some years ago there were several parcels of land accepted or purchased by the city in the southwest quadrant. The Clerk is handing out a map, which shows where those are (copy attached). The subject of the resolution is the parcels that are shown in blue. About half of that land was a gift from Terra Verde during the development of Maplewood, and that is an area, which is primarily known as Sam Tamposi Park. The other part was a property that we purchased, which constitutes the additions to the Yudicky Farm, and also, if you look at the blue pieces, the parts around Lovewell's Farm, which are known as the Hugh Gregg Conservation area. The Board passed a resolution to grant a conservation easement to the Society for the Protection of New Hampshire Forests, which protected that land, but in doing so allowed for withdrawal of pieces through a process if the city deemed them necessary for a public purpose. As a result of that feature of the conservation easement the Society declined to accept it.

At the end of the last term, the Board passed a resolution, which removed that language and went back to the original language drafted by the Society, which would have been acceptable. The resolution that is before us this evening proposes to put back the language that caused the easement not to be accepted. Additionally the easement that was approved last term no longer names the Society for the Protection of New Hampshire Forests as the sole grantee of the conservation easement, but allows it to be given to the Audubon Society or other conservation oriented organizations, which may be more in keeping with issues in the management of the quadrant.

If there are no objections I will open the floor to comments from the public. If you wish to address the committee please come forward, give your name and address and your testimony.

Karen Archambault, 36 Edgewood Avenue

Expressed concerns that an easement with an escape clause to permit the possibility of development in the future does not provide protection. She went on to state that the City of Nashua Master Plan adopted in 2001 specifically mentions the Lovewell's Pond Area. Under Goals and Objections, in its conservation and preservation elements, the plan specifies Lovewell's Pond as a "high priority conservation area due to its presently unspoiled nature". It goes on further to state that the city "should develop a management plan for this land that aims to protect water quality and wildlife habitat while providing public access to this unique water resource" she asked that the committee concur with the Planning Board's recommendation and vote against R-06-05.

Charles Friou, 14 Althea Lane

Expressed his concerns that the City of Nashua is, in a sense, breaching its contract with its own citizens when it defers from the nature of land adjacent to or nearby properties purchased with an understanding of the surrounding acreage. He would like to see the city preserve the quality and nature of this part of New Hampshire

Paul Johnson, Browning Avenue

Expressed his opposition to the roll back of the conservation easement. He referenced several sections of the Nashua Master Plan where it states the intent of this property as one that requires preservation and careful management.

Kathy Vitale, 8 Massasoit Road

Concurred with the comments made by Ms. Archambault. She has strong beliefs that the city needs to continue to preserve conservation land. With regard to a potential school being built on this parcel, she was under the impression that another parcel in the southwest quadrant has already been set-aside for that purpose.

Debbie Gleeson, 15 Tanglewood Drive

Owner of Nature of Things Learning Center – is in the process of purchasing Kay Gregg's property on Gregg Road to build an elementary school, Second Nature Academy, an environmentally based elementary school utilizing nature, environment, and a green school curriculum. She expressed her frustration about the process itself. She had initially pursued purchasing land on this property, but backed out due to the frustration level involved in the process. If this parcel is not protected the city will lose this diversity of nature, and it will not be here for our children and their children. Is against R-06-05.

Barbara Pressley 11 Orchard Avenue

Spoke in opposition to R-06-05. A reverter clause for conservation land defeats the purpose of protecting the open space that we have.

Cynthia Overby, 520 Broad Street

Stated Lovewell's Pond is one of the last green spaces remaining in Nashua. The original intent of site was preservation. Wishes to see the site preserved without the chance of development.

Prescilla Giuffrida, 44 Tanglewood Drive

Concerned with any land developed that should be preserved as conservation land. Is in opposition of R-06-05.

Mayor Streeter

Stated that if the amendment he has proposed is not added the city could be faced with millions of dollars in expenditures should a municipal facility in that end of the city be required some years (50 or so) down the road. He desired having the ability to use a small portion of it? If the resolution stands without amendment this land will be turned over to a private non-profit entity forever. The legislation was passed in the last moments of last year. He chose not to veto it. He was assured there were at least 6 votes to sustain the veto, but he informed the Board that he would ask the Aldermen to reconsider it this year. Contrary to some neighbor's contentions, this property can never be developed. The proposed amendment will allow a small portion of it to be used for a city facility, and there are a number of steps that would have to be taken such as gaining the approval of the Conservation Commission, the Planning Board, and the Board of Aldermen, and then a vote of the citizens.

Chairman McCarthy

Mayor Streeter can you tell me what stops this property from being developed if there is not a conservation easement on it?

Mayor Streeter

Right now, as you know Alderman McCarthy, it is conservation land.

Chairman McCarthy

What is it that differentiates conservation land in our ordinances or in state law that gives it additional difficulty in being sold to the actions we took on 42 Pine Street last week? I find nothing that gives it additional ...

Mayor Streeter

Maybe we disagree on it. There is a big difference between that almost abandoned house at 42 Pine Street, which was not taken or even proposed for conservation land.

Chairman McCarthy

I agree that there is a big difference. I disagree that there is any additional protection afforded to this land over the piece on 42 Pine Street. This piece of land now and if we don't have an easement on it could be sold by the action of 8 members of the Board of Aldermen. I fail to see where any of our laws protect it additionally to that.

Mayor Streeter

This proposed amendment would protect that land in perpetuity with the exception of as I say a vote of the Board of Aldermen and a vote of the people of our community. Alderman McCarthy that piece of land 50 years from now at that end of the city will be worth millions and millions of dollars. What if we need a municipal facility on a small portion of it?

Chairman McCarthy

Well what municipal facility is it that we are likely to need?

Mayor Streeter

There is always the potential for a fire station, a police sub-station...

Chairman McCarthy

We have this piece of land here, which was deeded to us for a fire station, which is closer to the development that went on in that area all of which is in this band here and over in this larger area here.

Mayor Streeter

With all due respect wasn't that originally earmarked for a school?

Chairman McCarthy

No. The school site is over here except for the fact that Yudicky Farm, which was acquired over here, also has provisions in the deed to use it as a school site. We already have two sites for schools. The only piece of this land that is actually developable at all that we could use is the plateau that is outlined in blue behind Lovewell's Pond, which is virtually inaccessible by road unless one were to do residential development up there where it would produce a large number of very nice and attractive house lots. My analysis of this piece of property is we have two sites for schools, we have a site for a fire house, we already have a police sub-station over here, we have a piece of land promised to us over here, which is the old Gilson Road superfund site with buildings on it, which would be usable by Park & Recreation to service ball fields that we have a site over here for. To the best of my knowledge this area of the city is much better provided for in public facilities already due to the planning that the Board of Aldermen and Planning Board have undergone over the last ten years than any other quadrant of the city.

I think the piece that we purchased and that was given to us for the purpose of conservation should be given a meaningful conservation easement. I disagree with you that passing this resolution and having it signed only by the city puts any additional protection on it. The fact that we have put that in there is irrelevant. The Board can still sell it and no one is bound to the conditions of those unless someone else has accepted that easement.

Mayor Streeter

I appreciate your views Alderman McCarthy. I guess I am looking further ahead down the road than you are. I am looking maybe 50 years from now when perhaps the city might have need

for a portion of this property. That is my only concern. If this passes – the present resolution turns this property over in perpetuity.

Chairman McCarthy

It doesn't turn it over it grants an easement to a third party.

Mayor Streeter

That is just terminology, but in essence it is granting them the use of that, and they are overseeing it in perpetuity without anything happening to it at all.

Chairman McCarthy

It grants no usage rights by the way at all to any third party. It grants them the right to enforce restrictions on what we do with it.

Mayor Streeter

One of the reasons why I propose this. I believe you voted for the original legislation that had that ...

Chairman McCarthy

I did because we couldn't get anything stronger to pass at the time, and we didn't know that the Society would not accept it. That was a compromise to accept that which was proposed by our former Public Works Director by the way. Given that we thought that the Society might accept that easement anyway yes I did vote for it. I voted for it without that amendment beforehand.

Alderman Teeboom

Can I ask a question of the Chair? I am here because of Mr. Tollner's memo, which I thought was very persuasive. He said the only concern I have, and I went back and said it seems like a concern I have also, is that if the city has a need to build a school in the southwest quadrant that this land is a viable option. In another lifetime I was assigned to a committee of two to look for land for the school department, and that was my concern that we have land for the schools in case we need to build a school because that saves money. I think you said earlier, just clarify it again, that we already have land reserved for schools? Could you go over that one more time please?

Chairman McCarthy

The majority of the Maplewood Development, which is approximately 300 homes, is situated in this area here. There are an additional 80 or so homes built over here as part of the Rosewood Development, and 50 more in this piece here, which is Tanglewood. As part of the negotiations on building these, we forgave the impact fees and accepted instead a 20 acre parcel of land approximately at the corner of Buckmeadow and Ridge Roads, which is very close to the houses that have been built both here and the additional sub-divisions that have taken place on the other side of Ridge Road.

Alderman Teeboom

That is land that belongs now to the city?

Chairman McCarthy

It belongs to the city and it is there specifically for the purpose of putting in an elementary school to serve the neighborhood that it sits in.

Alderman Teeboom

Okay so that is twenty acres set aside. You also said we have set aside a sub-station somewhere that could be put someplace or a fire station?

Chairman McCarthy

Well we have a police sub-station at Maplewood. We have a lot on Gilson Road, which was originally intended to be a firehouse. I am not sure that is where I would put one. I don't believe that putting one in this area here is useful because you are probably two minutes by fire truck from the edges of this, which means the response time to houses out here is no better than the response time from Conant Road. It would seem to me that it makes more sense to acquire a piece of property in the commercial area at Maplewood if we were to locate a firehouse out in that area. I think we actually have some more planning to do there because this site was originally selected as a result of a fire pro report in '92. That report, however, took into account the fact that running approximately through here and across the river was the Southwest Parkway and produced a firehouse that could respond to Broad Street as well. That is not going to happen so I think we need to do some additional study.

We have in fact, as a matter of planning, required sprinkler systems in the areas that are out here so that we have adequate response time to those. I think our fire needs are adequately addressed by what we have out here. I think by the time we get to building that station we may want to think about something different.

Alderman Teeboom

Yudicky Farm – I always thought the school was going to go there. I remember 12 years ago that is the site we focused on. What are the plans for Yudicky Farm?

Chairman McCarthy

If you look at this map we own the bottom piece up to this line here. As part of the acquisition of this property we traded this other piece, which is not actually probably Yudicky Farm property so that the C-2 area is no longer the city's that is part of the Tanglewood Development.

Alderman Teeboom

What do we own in Yudicky Farm?

Chairman McCarthy

We own everything that is green except for this little piece here.

Alderman Teeboom

Can we build a school there or anything there?

Chairman McCarthy

Yes – subject to some wetland concerns yes. The property was purchased with the intent of putting a school on it. I believe that it was originally purchased with the intent of possibly putting a second high school there. We did not either then or when we located the second high school on Broad Street choose to go to that site primarily because of access concerns. It might be appropriate for either an elementary or middle school if we ever needed one of those in that area.

Alderman Teeboom

The area that we are talking about, this Lovewell's Pond area, is that mostly wetlands? Can you build on there?

Chairman McCarthy

This piece that is up here, the one with the blue outline and the little fingers in it is buildable, but it is very difficult to access. You have to use Old Ridge Road and then use a narrow cart road that goes between the back of .. you can't really see it on here as well, but there is a short strip between the back of the abutting lots on Ridge Road and the pond where a narrow road could go through there and up the hill. What it is suitable for is residential development. What it is probably not suitable for is a public facility because of the access, the turns, and the grades of getting to it.

Alderman Teeboom

Is the blue the part we are talking about – all of the blue or what part are we talking about?

Chairman McCarthy

It is roughly all of the blue.

Alderman Teeboom

So the upper part of the blue is not buildable?

Chairman McCarthy

There are fingers of wetland throughout there as well.

Alderman Teeboom

Thank you.

Alderman LaRose

My recollection of Yudicky Farm is that piece of land was bought a long long time ago and that was supposed to be where the original high school was going to go. There were a lot of arguments on where the high school should go. It was a ten-year process. In those days there wasn't very much out there so it didn't seem logical to build a high school so far out. It got converted into playing fields. It was purchased for the schools.

My understanding is that Main Dunstable Road, the Main Dunstable School that is a very large piece of land that could actually have two schools on it am I right?

Chairman McCarthy

Yeah it probably could. It has a large number of soccer fields on it now.

Alderman LaRose

The F part in the Lovewell, why is that all just a circle in blue and the middle is white?

Chairman McCarthy

Because these are old maps and I marked them up just before the meeting. They had some maps around of the colored pieces. I don't know why they didn't include that ... this map came from when we negotiated the purchase of the yellow piece, and that may have been a late addition to put that piece in. That is a piece that was actually – there was a proposed 27-lot sub-division on that piece when we purchased it.

Alderman LaRose

Thank you.

Chairman McCarthy

Are there any other comments from the audience?

Ken DuFour, 52 Conant Road

Spoke in opposition of the legislation. Feels the conservation easement reads well, but will not be accepted by anyone. Urged the committee to reject the legislation.

Chairman McCarthy

I did want to point one more thing out on the map, which is the property that Mrs. Gleeson was talking about where The Nature of Things would be moved to is over here on the far side of Gregg Road from this piece. There is an owner in the old Gregg property who owns a portion of the shoreline on Lovewell's Pond who has in fact told us that if we get a conservation easement in place on the city's part of it they would be willing to offer us one on the piece that they own so that the entire shoreline of the pond is protected altogether.

Alderman Cookson

I was actually going to ask the piece that the Second Nature Academy was originally looking at, not where they are going to now, but originally looking at, where was that in relation?

Chairman McCarthy

That is this parcel up here – E-1, which abuts the Main Dunstable School property.

Alderman Cookson

Alderman McCarthy you certainly have a wealth of knowledge with regard to this. You have actually indicated a lot of things that aren't on this map, and you have been pointing to different areas. It certainly would be helpful for me, and I am not sure if it would be helpful for anybody else to actually have that documented somewhere so that it would be available whether it be C-2, which is a potential site for a school or some of the other places that you pointed out – the 20 acres again that are available. Is that – you said that is at Buckmeadow. Is it south of the Terra Verde dedication – where that wording is?

Chairman McCarthy

It is on the other side of Buckmeadow also. If you go in and look I believe now on the GIS system the subdivision around it has been recorded and that probably shows up as belonging to the City of Nashua.

Unidentified Alderman

I was on the GIS earlier today trying to get a picture of that. You just can't quite zoom it at the right scale, but it is slightly north of the Ridge Road/Buckmeadow, and it is pretty clear when you see all of the other parcels on there that one is the piece that is the 20 acres.

Alderman Cookson

You also made some comments about fire needs and where they should or should not be located, and I am wondering if our fire department has a recommendation or insight into location as to where they would put it especially as the southwest quadrant continues to develop.

Chairman McCarthy

I don't remember any recent discussions where the fire department had an opinion. As Mr. DuFour pointed out they are more concerned with the eventual building of Station on Thornton Road basically because we have more unserved need there. We were able to require sprinklers on some of the outlying house in the southwest. The point there is the plan of record predates – the plan of record goes back to the Hulls Corner development, which would have put 3,500 units of housing on the pieces that we have purchased and the ones that were developed that now hold about 400 houses. Given that we changed some of that around it probably makes sense to look a little further at where to site the fire station. If I were to build one today my recommendation would be the lot that Hannaford owns that they want to put a Shop N Save on at Maplewood that the neighbors are not very interested in having a Shop N Save on either.

Alderman Cookson

I have heard twice this evening in reference to the Nashua Master Plan that there is a need to develop a management plan. It was mentioned by our first speaker Karen Archambault and it was also mentioned in Paul Johnson's comments. We hear this that there is a need to develop a management plan. Who is responsible for that management plan, when was it last visited, and what are the current management plans?

Chairman McCarthy

I think Mrs. Gleeson wanted to comment on the fire station question, and then we will come back to that one.

Debbie Gleeson

Thank you. When we first approached purchasing the land on Gilson Road we did contact the Fire Department, and we did receive a letter back from them. Unfortunately I did not bring it tonight. They expressed interest in setting up a station in the Maplewood Commons Development somewhere. They felt that up on Gilson Road was a little bit too out of the way and too residential, and they thought that being right in Maplewood Commons or any of that land adjacent to it would be the most appropriate place for them.

Chairman McCarthy

With regard to the management plan, because the easement wasn't let we did not pursue doing one on this property. We have a sort of prototype conservation plan for properties. The only one where we have done a specific one so far is actually the northwest conservation land, which the Conservation Commission basically drafted amendments to the generic stewardship plan, which were specific to that particular piece of property. I would envision that we would do the same thing on this one. There would be a plan that whoever the grantee of the easement would participate in as well.

Alderman Cookson

Then would it be the Conservation Commission that is responsible for that management plan?

Chairman McCarthy

On behalf of the city it probably would be.

Alderman Teeboom

Has the School Department, the Fire Department, and the Police Department weighed in with any commentary on this one way or another?

Chairman McCarthy

No they have not nor did they express any interest when the property was acquired in having parts left for them. The long answer is yes in terms of the planning of each of the other facilities. The Fire Department has weighed in as you just heard that they would like to have something more centrally located to where the housing is in the Maplewood Commerce Center. The Police Department actually has a sub-station in the Maplewood Commerce Center, and the School Department, the Board of Education did in fact vote to recommend the sighting of the school site on Buckmeadow Road. If you look you can't see the rest of the quadrant in here, but in fact you have Main Dunstable over here, you have the other school site over here, and those are actually about equal distant from New Searles, which is up here and Bicentennial which is over here, which gives you a good distribution of school sights throughout the southwest quadrant.

Alderman Teeboom

So neither the school, fire or police have an objection to keeping things the way they are as I understand it?

Chairman McCarthy

Correct.

Alderman Teeboom

Okay. Does the public have access to Lovewell's Pond?

Chairman McCarthy

Pedestrian access yes. There is an area where you can park and walk up over Aldridge Road here and then there is another area up at Ridge Road where you can walk in.

Alderman Teeboom

Will the public retain that right?

Chairman McCarthy

Yes. It is actually fairly heavily used by people who are hiking and other passive recreation.

Alderman Teeboom

There is nothing in the easement to prevent...

Chairman McCarthy

No.

Alderman Teeboom

Thank you.

Alderman LaRose

Thank you. Am I correct in saying that the Yudicky Farm is still actually under the jurisdiction of the School Department?

Chairman McCarthy

That may well be the case. It certainly has pragmatically been more under the jurisdiction of the Park & Recreation Department for their use.

Alderman LaRose

But the School Department could use it if they needed it?

Chairman McCarthy

I believe so.

Alderman LaRose

That is what I think, but I am not sure. I am not sure if you are looking for an amendment to this or if you are looking to hold it and amend it or to take action on it.

Chairman McCarthy

I would be looking for a motion for indefinite postponement because the easement that we passed in the last term I believe is correct as it stands.

MOTION BY ALDERMAN LAROSE TO RECOMMEND INDEFINITE POSTPONEMENT

ON THE QUESTION

Alderman LaRose

I think the city has to be good stewards of the land, and we certainly have to be good stewards of land that is supposed to be conservation land. We can't kind of try to say well it is conservation but we can do this and do that. The fact of the matter is we have been good stewards of the land and we have looked to the future by purchasing land for a school in the future. The Fire Department has looked at where they would like to put a firehouse and the Police Department has also taken care of their needs already. I think although the Mayor is

saying well 50 years down the road I think we have done what needs to be done for today, and 50 years down the road and 100 years down the road.

Chairman McCarthy

I think we have been looking out for fifty years down the road for some time now.

Alderman Tabacsko

I will join Alderman LaRose in voting to indefinitely postpone. I would say to that 50 years down the road I would hope that future generations will look back and thank us for what we are doing in that by keeping this in conservation it will preserve the character of that neighborhood. As a resident of Ward 5 I think that is very important. Thank you.

Chairman McCarthy

I would like to read Alderman Tollner's note, which he had asked to be done. It states that he won't be able to be here this evening because he is out of town. "It is my understanding, after speaking with the Legal Department and the Mayor, that if R-05-270 remains in effect we would not be able to build a school on this land should the city's future needs require a new school in the southwest quadrant. I have also been informed that the group we planned to grant the easement to is not in favor of any arrangement that would allow a school to be built on these premises. I am not interested in selling the land nor am I interested in developing it. The only concern I have is if the city has a need to build a school in the southwest quadrant that this land be a viable option. I agree with the neighbors and the Conservation Commission, but it is imperative that the city have an option to build a school on this land in the future should the need arise."

Motion is for indefinite postponement. Is there any further discussion?

MOTION CARRIED

Ken DuFour, 52 Conant Road

Asked for and received clarification on the December legislation that was passed. He continued by asking whether it would be the Mayor's Office that would take the lead on presenting the easement. Chairman McCarthy responded he would hope that after the Board of Aldermen expresses policy in that way, that the Mayor's Office would in fact take the lead in executing it.

Alderman Teeboom

On Mr. DuFour's point, you could, as the Chairman, emphasize this is a unanimous vote and then send a note and say that the expectations of the execution of the easement or the arrangement ... you sign a quick note and point out that it was unanimous.

Chairman McCarthy

I would probably do that once it passes the full Board.

NEW BUSINESS – ORDINANCES - None

DISCUSSION

Director Katherine E. Hersh provided the committee with an update on the activities of the Community Development Division and participated in a discussion of how the committee can be updated on ongoing projects on a regular basis.

ADJOURNMENT

**MOTION BY ALDERMAN LAROSE TO ADJOURN
MOTION CARRIED**

The meeting was declared adjourned at 8:45 p.m.

Alderman Michael Tabacsko
Committee Clerk