



**New Hampshire Council on Resources and Development**

**Approved MINUTES – September 29, 2022**

Approved as presented on November 10, 2022.

**MEMBERS PRESENT**

Taylor Caswell, Chairman, Commissioner, NH Department of Business and Economic Affairs  
 John Martin, Designee, NH Department of Health and Human Services  
 Jack Ruderman, Designee, NH Housing Finance Authority  
 Mark Doyle, Designee, Department of Safety  
 Amy Clark, Designee, Department of Education  
 Stephen Labonte, Designee, NH Department of Transportation  
 Jared Nylund, Designee, NH Department of Administrative Services  
 Tracey Boisvert, Designee, NH Department of Natural and Cultural Resources  
 Betsy McNaughten, Designee, NH Fish & Game  
 Mark Sanborn, Designee, NH Department of Environmental Services

**OTHER PARTICIPANTS**

Stephanie Verdile, NH Office of Planning and Development (CORD Staff)  
 Alvina Snegach, NH Office of Planning and Development (CORD Recording Secretary)  
 Allen Brooks, CORD Attorney, NH Department of Justice  
 Lianne Prentice, The Bearcamp Center  
 Chris Boldt, Counsel for the Bearcamp Center, DTC Lawyers  
 Steven Whitley, Counsel for Town of Tamworth, Drummond Woodsum  
 Jim Pouliot, Town of Milford Water  
 Leo Lessard, Town of Milford DPW  
 Rep. Vanessa Sheehan, State Representative for the Town of Milford  
 Michael Viola, Town of Milford Chief of Police  
 Craig Frye, Town of Milford Police Captain  
 Ray Anderson, Director of Milford Area Communications  
 Eric Shelberg, Director, Milford Ambulance Service

**ROLL CALL AND INTRODUCTIONS**

The meeting was opened at 2:30 P.M. by Chairman Caswell. Council members and guests then introduced themselves.

**MINUTES**

- A. Approval of June 23, 2022, draft minutes

**MOTION:** *On a motion by Mr. Martin, seconded by Mr. Doyle, the June 23, 2022, minutes were approved by the unanimous vote in favor.*

## **LAND CONSERVATION INVESTMENT PROGRAM (LCIP)**

### **A. Land Conservation Endowment Fund. Request for authorization of Custodial Account Agreement.**

Ms. Verdile and Ms. Boisvert provided a summary of the Land Conservation Endowment and CORD's statutory responsibilities and noted that the new Agreement is being presented to CORD to formalize a change in the CORD Chair and changes to the Authorized Agents. These changes are needed due to the July 1, 2021, transfers of CORD to the Department of Business and Economic Affairs and the Conservation Land Stewardship Program to the Department of Administrative Services from the former Office of Strategic Initiatives. The new Agreement authorizes CORD Chair, Taylor Caswell, as the Administrator of the Land Conservation Endowment. In addition, it authorizes new Agents from the Department of Administrative Services to transact on behalf of CORD. The new Agreement continues to designate growth/income as the investment objective for the account.

Ms. Boisvert also spoke about the Land Conservation Endowment, how it is managed, and its investment objectives. She also requested that Department of Natural and Cultural Resources Business Administrator Caroline Anderson to the list of authorized agents.

Chair Caswell said there are two issues that CORD would need to vote on: a) the request for authorization of Custodial Account Agreement, and b) the request to authorize to expend the resources for fiscal years 2024 and 2025.

*Mr. Ruderman made a motion to authorize CORD Chairman Taylor Caswell to sign the Custodial Account Agency Agreement for the Land Conservation Endowment Fund.*

Mr. Nylund asked Ms. Boisvert to clarify whether she asked to add the DNCR Business Administrator to the agreement agents and she confirmed. Mr. Nuland noted this motion is for an amended agreement. *Mr. Nylund duly seconded and motion carried unanimously.*

### **B. Land Conservation Endowment Fund. Request for authorization to expend for FYs 2024 and 2025.**

Ms. Boisvert presented the request for authorization for fiscal years 2024 and 2025 and spoke about the statutory requirements and what the income is used for. She said that income is also utilized by the Department of Natural and Cultural Resources (DNCR) for monitoring and stewardship of conservation easements held by DNCR, where stewardship endowment contributions have been deposited into the fund. For fiscal years 2024 and 2025, CLS and DNCR are seeking CORD authorization to disburse up to \$250,621 for each fiscal year, which represents 5.5% of the 12-quarter rolling average of the market value as of June 30, 2022. This maximum annual disbursement would be split between the two agencies based on the proportionate percentage of contribution as follows: CLS - \$233,829 and DNCR - \$16,792. Ms. Boisvert added that these figures have been reviewed and approved by Treasury Department staff.

***MOTION*** made by Mr. Caswell to authorize disbursement of up to \$250,621 from the Land Conservation Endowment each year for fiscal years 2024 and 2025 to be split between the CLS Program and the Department of Natural and Cultural Resources as follows: CLS - \$233,829 and

*DNCR - \$16,792, which was duly seconded by Mr. Sanborn and passed with a majority vote in favor with Ms. Boisvert abstaining from the vote.*

### **C. Update on Tamworth- Perkins Easement**

Commissioner Caswell asked Attorney Brooks with the Department of Justice to provide a brief overview of the issue and any updates.

Attorney Brooks provided a brief historical overview of the issue that arose around a conservation easement held by the Town of Tamworth over the property that had been originally conserved under the auspices of the Land Conservation Investment Program (LCIP). The easement language stipulated that the property should remain under one owner if and when transferred, which unfortunately was not the case when the two of the three parcels under the easement were conveyed out to the third party. Attorney Brooks said that the Christopher Boldt, who legally represents the Bearcamp Center (the seller of the lots in question) was there to speak about the proposed solution.

Attorney Christopher Boldt from DTC Lawyers said he was representing the Bearcamp Center. Mr. Boldt displayed a color-coded map and went over the latest proposal which was to bring the sale of the property into compliance with the Conservation Easement requirements by subdividing the center lot by cutting the portion of it that is burdened by the easement and selling it to ZeroMile Farm along with the other two parcels that are also protected by the Conservation Easement. This would bring all three parcels under one ownership which is what the Conservation Easement stipulates. Attorney Boldt added that this proposal was reviewed by the Department of Justice and the Charitable Trust and neither had any concerns. He added that the latter also issued a “No Action Letter” to verify that it had no objections to this proposed solution. He then listed all the documents that were sent to CORD related to this proposal which were all in the meeting packet. Mr. Boldt concluded that all parties were now looking to CORD to give its “blessing” in order to proceed and allow Attorney Brooks to sign the Settlement Agreement on behalf of the Council.

Mr. Boldt then answered questions from the Council members about subdividing the central lot, location of the easement on it, gravel rights ownership (rights to level the area) going to the buyer, etc.

Discussion ensued about the need to have the CORD attorney sign the Settlement Agreement on behalf of the Council given that CORD’s jurisdiction is unclear in this case. Suggestion was made that CORD would write a letter instead where it would be stated that CORD agrees that this new proposal meets the criteria of the Conservation Easement and brings the sale into compliance with it. Mr. Boldt insisted that he would prefer the agreement to be signed as the matter ended up before CORD, therefore, in his view CORD had jurisdiction and would need to sign the ‘order’. He reiterated the Charitable Trust had issued a “No Action Letter” and he saw CORD in a quasi-judicial capacity in this particular case, therefore, he would like to have some type of signed paper, preferably the Settlement Agreement. Mr. Boldt said the Settlement Agreement does not bind CORD in any way, and it only confirms that CORD agrees with the proposed solution.

After a brief back and forth on the quasi-judicial view of CORD by Mr. Boldt, members asked Attorney Brooks to weigh in on CORD’s jurisdiction and whether the Council has to sign the Settlement Agreement. Mr. Brooks opined that by fulfilling their proposal the parties will be in

compliance with the terms of the easement, therefore, Mr. Boldt is asking for comfort to be memorialized so that nobody could come back and state that this proposal does not comply.

Mr. Boldt responded the parties want to make sure they were done as this has been going on for quite some time.

Mr. Brooks was also asked whether CORD would need to approve authorizing him to sign the Agreement on behalf of CORD if that was the direction CORD was going. Mr. Brooks answered in the affirmative.

Mr. Boldt reiterated the matter ended up before CORD in March of 2022 by no means of invitation, therefore, he views the Council as having jurisdiction over the matter, and having found a resolution, would like to get something in writing memorializing it. He continued that if CORD would like to provide a letter similar to the Charitable Trust's "No Action Letter" and have him amend the Settlement Agreement, he would be amenable to that, but in the end, he would like to walk out the room with a signed piece of paper. He added that in case of a letter he would need to go back to the Tamworth Selectboard to make sure they are also on the same page and that would create an unnecessary delay. Mr. Boldt concluded that he would respectfully ask CORD to sign the agreement but will take what he can get in the end.

Attorney Brooks responded to the comment by Mr. Boldt about CORD's quasi court capacity and that it would be a little bit different had the parties to the sale/easement decided to proceed with the sale and remained non-compliant with the easement terms. Mr. Brooks said that in the past he had sued other parties and named CORD a party to the suit, which is a little bit different. In those cases CORD had interest in the property.

Mr. Boldt said that precisely because CORD can be a party to the suit, he would like to have something on paper where this resolution is memorialized.

There was some back and forth on how the issue ended up before the Council in the first place, after which Commissioner Caswell said there is no question that the current proposal does comply with the conservation easement requirements and CORD has no issues with it. Chairman Caswell said that the discussion now is how to manifest that in a manner that is acceptable to both CORD and Mr. Boldt, recognizing the uniqueness of this matter, its history, CORD's role in it, and whether or not any precedent would be set.

After a short discussion that there may be a need to have two motions to consider, ***MOTION was made by Mr. Labonte that CORD recognizes that the conveyance would bring the matter into compliance with the terms of the conservation easement. Ms. McNaughten duly seconded and motion passed with everyone voting in favor.***

Then members discussed how to convey this in a best possible way considering the uniqueness of the situation and the previous motion that CORD recognizes that the proposal is now in compliance with the conservation easement requirements. Along with Mr. Boldt's request to sign the Settlement Agreement, options such as letter of agreement, letter of acknowledgement, or no action letter were proposed.

***MOTION was made by Mr. Sanborn that CORD would direct Attorney Brooks, CORD legal counsel, to prepare a letter to be signed by CORD Chairman acknowledging compliance in this situation with CORD's authority and for the minutes of this meeting to be attached to this letter***

*to memorialize that it was voted as such by the full board. Mr. Ruderman duly seconded. Mr. Nylund made a friendly amendment to limit that to the proposed corrective transaction to bring it in compliance with the conservation easement. Mr. Sanborn agreed to the amendment and Mr. Ruderman seconded the amended motion.*

Attorney Brooks asked to clarify whether the letter needs to be signed by the Chair or by Mr. Brooks and whether the members would like to review it before it is signed, or whether they trust Mr. Brooks with it if he abides by the parameters that the Council had set.

Mr. Sanborn answered that his thinking was that the Chair signs it as he is representing the body that voted for it and that he is comfortable with letting Mr. Brooks and Mr. Caswell finalizing it.

*Chairman Caswell called for a vote and motion passed by a unanimous vote in favor.*

### **LAND & COMMUNITY HERITAGE INVESTMENT PROGRAM (LCHIP)**

Nothing at this time.

### **SURPLUS LAND REVIEW**

Chairman Caswell said that there were two applications submitted for this meeting and noted that there were a lot of people present at for the review of the application for Milford that was listed as the second one on the agenda. He suggested to take it out of order.

- b. 2022 SLR 003 Request from the New Hampshire Department of Natural and Cultural Resources (DNCR) that proposes to lease to US Cellular space on a proposed 120-foot monopole for a cellular antenna array and ground space within a proposed fenced enclosure for supporting telecommunications equipment. The property is known as the Federal Hill Fire Tower Property, located at 347 Ponemah Rd., Milford, NH) Milford Tax Map 53, Lot 22).**

Ms. Verdile introduced 2022 SLR 003 and said that Ms. Boisvert will be presenting the application.

Ms. Boisvert provided some background information for the Federal Hill Fire Tower Property that contains a fire tower that is actively used by DNCR for wildfire detection. Local public safety radio antennas for fire and regional dispatch, as well as mobile cellular antennas owned by US Cellular, are affixed to the fire tower. Associated public safety radio equipment is housed in the adjacent fire watchmen's cabin and US Cellular's radio equipment is housed within a large concrete shelter on the property. The property is also used recreationally by the public who hike to the site via the access road and can view the surrounding area from the fire tower structure. The state is partnering with US Cellular to build a new 120' monopole and fenced enclosure on the property. These new facilities will be owned by the State and DNCR will in turn lease out space on the monopole and in fenced enclosure to both US Cellular and the local public safety entities similarly to how it currently does. DNCR will be replacing the fire tower cab during the 2023 construction season and the antennas currently attached will need to be permanently removed. The overall project will allow the communications infrastructure to remain at the site but be entirely separated from the fire tower facilities, which are frequented by the public. The US Cellular lease will be for up to 20 years (including extensions), which is why this is coming through the surplus land process.

Then Ms. Boisvert answered questions about location of the new tower location, concrete shelter, lease, etc.

Ms. Verdile noted that requests for comments had been sent out and there was support of the project.

**MOTION** made by Mr. Sanborn, seconded by Mr. Martin to recommend approval lease to US Cellular space on a proposed 120-foot monopole for a cellular antenna array and ground space within a proposed fenced enclosure for supporting telecommunications equipment at the Federal Hill Fire Tower Property, located at 347 Ponemah Rd., Milford, NH, Tax Map 53, Lot 22). The motion was adopted with everyone but Ms. Boisvert (who abstained) voting in favor.

- a. **2022 SLR 002 Request from the New Hampshire Department of Administrative Services (DAS), on behalf of the New Hampshire Department of Environmental Services (NHDES), to dispose of 1.8 acres of state land and a 1,792-square-foot, single-story office building situated thereon. The property is located at 80 Glen Road Gorham, NH. (Tax Map U3, Lot 42).**

Ms. Verdile read the item into the record and said Mr. Nylund is going to be speaking about this application. Mr. Nylund said that The Department of Administrative Services (DAS), acting on behalf of the Department of Environmental Services (DES), proposes to dispose by sale of approximately 1.8 acres of surplus state land and a 1,792-square-foot, single-story office building situated thereon. The subject property is located at 80 Glen Road (NH Route 16) in Gorham, New Hampshire and is the former DES Gorham office, which was vacated earlier in 2022. DES has no further need or use for the property. He then said that when the application was being filed it was discovered that DNCR had interest in the property, therefore it will not need to go through CORD anymore. After a brief statement from Ms. Boisvert regarding the interest in the property and Mr. Sanborn's explanation why NHDES no longer has interest in it, **MOTION** was made by Mr. Nylund to withdraw the 2022 SLR 002 application. Mr. Sanborn duly seconded and motion carried with everyone but Ms. Boisvert (who abstained) voting in favor.

## OTHER BUSINESS

### Next Meeting: November 10, 2022, from 3:00 to 4:00 pm

Chair Caswell informed the members that the next CORD meeting would take place on November 10, 2022 from 3 to 4 PM.

### Proposed CORD 2023 meeting dates:

January 12, 2023;	March 9, 2023;	May 11, 2023.
August 10, 2023;	October 12, 2023;	December 14, 2023.

**MOTION:** After a motion by Mr. Doyle and a second by Mr. Ruderman the proposed 2023 meeting schedule was adopted as presented on the Agenda.

Ms. Verdile said she will send out calendar invites to everyone. Ms. Clark also asked if the meeting packets be attached to the calendar invites as opposed to being sent via a separate email.

Members also agreed to keep the time of the meetings from 3 to 4 PM.

With business completed, the meeting was adjourned at 3:58 PM.