



MARGARET WOOD HASSAN
GOVERNOR

STATE OF NEW HAMPSHIRE
OFFICE OF ENERGY AND PLANNING
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April 10, 2015

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to chapter 233, Laws of 2014, effective upon Governor and Council approval, authorize the Executive Director of the Department of Fish and Game to sign for the State of New Hampshire a deed conveying a perpetual drainage and slope easement, totaling 0.22 acres, and a temporary construction easement, totaling 0.22 acres on property acquired by the State of New Hampshire under the Land Conservation Investment Program (LCIP), to the City of Concord for reconstruction of the Sewalls Falls Bridge for the sum of \$500.00, deposited into the LCIP endowment fund.

EXPLANATION

Pursuant to RSA 162-C:7, the Council on Resources and Development (CORD) is responsible for managing and administering lands acquired under the Land Conservation Investment Program (LCIP), under the former RSA 221-A, "to preserve the natural beauty, landscape, rural character, natural resources, and high quality of life in New Hampshire."

RSA 162-C:7 also recognizes that, in the interest of public safety and welfare, minor expansions or alterations in the state highway system may require the NH Department of Transportation to obtain interests in LCIP lands adjacent to state highways, after review and approval by CORD. Projects determined by CORD to be outside the scope of this authority require approval of the General Court.

After considering several repair and reconstruction designs for the Sewalls Falls Bridge, the City of Concord determined that it was necessary for it to obtain easement interests in LCIP property adjacent to Sewalls Falls Road. City officials discussed their plans at a CORD meeting on January 9, 2014.

It was the consensus of CORD members that it was outside the scope of CORD's authority under RSA 162-C:7 to approve a transfer of an interest in LCIP property to a municipality and that General Court approval was necessary.

The General Court enacted House Bill 1145, which became effective on July 21, 2014 as chapter 233, Laws of 2014. It approved the conveyance of perpetual slope and drainage, as well as temporary construction easements, each totaling approximately 0.22 acres, to the City of Concord for the reconstruction of the Sewalls Falls Bridge.

Compensation paid to the LCIP endowment fund in the State Treasury was set at the fair market value of the two easement interests as determined by the City's assessing department in consultation with the Office of Energy and Planning.

On March 26, 2015, CORD voted to authorize the Executive Director of the Department of Fish and Game to sign the easement deed for the State of New Hampshire. We respectfully request approval of this action.

The Easement Deed has been approved by the Office of the Attorney General for form and substance.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Hatfield', with a small mark above the 't'.

Meredith A. Hatfield
Director

MAH/SS
Attachment

RETURN TO:
CITY OF CONCORD
COMMUNITY DEVELOPMENT DEPARTMENT
ENGINEERING SERVICES DIVISION
41 GREEN STREET
CONCORD, NH 03301

DEED OF EASEMENT
PUBLIC DRAINAGE AND SLOPE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

THE STATE OF NEW HAMPSHIRE, acting by and through the Land Conservation Investment Program and the New Hampshire Office of Energy and Planning with its principal office at Governor Hugh J. Gallen State Office Park, Johnson Hall, 3rd Floor, 107 Pleasant Street, Concord, Merrimack County, State of New Hampshire 03301 (“Grantor”), for consideration paid, grants to the **CITY OF CONCORD**, a municipal corporation with a usual place of business at 41 Green Street, Concord, Merrimack County, State of New Hampshire 03301 (“Grantee”), with QUITCLAIM COVENANTS, a Public Slope and Drainage Easement and a Temporary Construction Easement. Both easements are located on a piece of property adjacent to the mapped limits of Sewalls Falls Road, Concord, Merrimack County, New Hampshire, known as Map 76B, Block 1, Lot 68 on the City of Concord Assessor’s Maps. Said easements are more particularly identified and described as follows:

Public Drainage and Slope Easement

The Grantor conveys a Public Drainage and Slope Easement, with the perpetual right and easement to enter upon and to construct, lay, or build, and to reenter as necessity may require, to repair, replace, or maintain a pipe or pipes, swales, storm water detention areas and outfall, and appurtenances in, on, or through a portion of the Grantor’s land as described above, and the perpetual right and easement to construct, fill, maintain, and repair slopes and embankments at such an angle as will hold the material of said slopes in repose against ordinary erosion, in, on, or

through a portion of the Grantor's land as described above, said easement is more particularly identified and described as follows:

Beginning at a granite bound to be set on the westerly right-of-way line of Sewalls Falls Road at the most southerly corner of the herein described easement, said granite bound being North 19° 22' 45" East along the westerly right-of-way line of Sewalls Falls Road a distance of 199 feet, more or less, from the southeasterly corner of the land of the Grantor; thence

North 8° 04' 40" East across land of the Grantor a distance of 51.03 feet to a point;
thence

North 19° 22' 45" East across land of the Grantor a distance of 150.25 feet to a point;
thence

North 17° 36' 05" East across land of the Grantor a distance of 350.76 feet to a point;
thence

North 19° 55' 55" East across land of the Grantor a distance of 112.3 feet, more or less, to the Merrimack River; thence

Easterly along the Merrimack River a distance of 21.5 feet, more or less, to a point at the northeast corner of land of the Grantor at the westerly right-of-way line of Sewalls Falls Road;
thence

South 19° 55' 55" West along the westerly right-of-way line of Sewalls Falls Road a distance of 29.2 feet, more or less, to a second granite bound to be set; thence

South 19° 22' 45" West along the westerly right-of-way line of Sewalls Falls Road a distance of 29.60 feet to a 1" steel pin with a Holden cap #3193; thence

South 19° 22' 45" West along the westerly right-of-way line of Sewalls Falls Road a distance of 612.04 feet to said first granite bound to be set and the point of beginning.

Containing 9,537 square feet, or 0.22 acre, and meaning and intending to describe a perpetual public drainage and slope easement across a portion of land conveyed to the Grantor by deed of Frederic W. Rust, III, recorded at the Merrimack County Registry of Deeds on April 10, 1991, at Book 1857, Page 402, said easement is shown on a plan entitled "Easement Plat

prepared for the City of Concord encumbering the land of the State of New Hampshire, Project Location: Sewalls Falls Road, Concord, NH, Map 76B, Block 1, Lot 68,” dated Dec. 03, 2014, prepared by Richard D. Bartlett & Associates, LLC, to be recorded herewith at the Merrimack County Registry of Deeds.

The Grantor, its successors, and assigns, agree that they will not, without the consent of the Grantee, alter, erect, or maintain any building or other improvement, including landscaping, upon the above-described easement area that may unreasonably interfere with or endanger the above-granted rights and easement or the operation and maintenance thereof, and that the Grantee may cause to have removed any such building or improvement, including landscaping, that may be wholly or partly within the above-described easement area at the expense of the then owner of the land upon which the above-described easement lies.

Temporary Construction Easement

In addition to the Public Drainage and Slope Easement described above, the Grantor also conveys a Temporary Construction Easement, with the temporary construction access to construct, improve, grade, landscape, and other necessary work, including the operation of equipment, upon and across the land of the Grantor, together with the right of ingress and egress to enter upon and to construct, lay, or build appurtenances in, on, or through a portion of the Grantor’s land as described above, said easement contains 9,052 square feet, or 0.21 acre, and is more particularly identified as Temporary Construction Easement and shown on said plan entitled “Easement Plat prepared for the City of Concord encumbering the land of the State of New Hampshire, Project Location: Sewalls Falls Road, Concord, NH, Map 76B, Block 1, Lot 68,” dated Dec. 03, 2014, prepared by Richard D. Bartlett & Associates, LLC, to be recorded herewith at the Merrimack County Registry of Deeds. The temporary construction easement shall automatically expire upon the date that construction of the roadway and bridge improvements are completed. Upon the expiration of the temporary construction easement, all of the rights and benefits of Grantee in, to, and under this easement with respect to only the

temporary construction easement shall automatically terminate and be of no further force and effect.

For a more particular description of the improvements within the above described easement areas see the plan set entitled "City of Concord, New Hampshire, Bridge Replacement Project, Sewalls Falls Road Over The Merrimack River, Bridge No. 070 / 117, Project No. CIP 22, NHDOT Project No. 12004," prepared by McFarland Johnson, dated December, 2014, and on file at the City of Concord Community Development Department's Engineering Services Division.

Executed by the State of New Hampshire, acting through its Fish and Game Department, as agent of the Land Conservation Investment Program and the New Hampshire Office of Energy and Planning, and as authorized by the Governor and Executive Council on _____, 2015, Item #____, on this _____ day of _____, 2015, as authorized by Chapter 233 of the Laws of 2014.

Glenn Normandeau, Executive Director

State of New Hampshire
County of Merrimack

Personally appeared on this _____ day of _____, 2015, Glenn Normandeau, who acknowledges himself to be the Executive Director for the New Hampshire Fish and Game Department, and as such is duly authorized to execute the foregoing instrument for the purposes therein contained, by signing his name on behalf of the State of New Hampshire.

Justice of the Peace/Notary Public
My commission expires:_____

Concord City Council approval for the acceptance of this easement deed was granted at a public hearing for the Sewalls Falls Bridge replacement project, CIP #22, on October 11, 2011.

ACCEPTED: City of Concord

By: Thomas J. Aspell, Jr.
Title: City Manager
Date: _____, 2015

State of New Hampshire
County of Merrimack

Personally appeared Thomas J. Aspell, Jr., City Manager of the City of Concord, this _____ day of _____, 2015, and acknowledged the foregoing on behalf of the City of Concord.

Justice of the Peace/Notary Public
My commission expires: _____

New Hampshire Council on Resources and Development

NH Office of Energy and Planning
107 Pleasant Street, Johnson Hall
Concord, NH 03301
Phone: 603-271-2155
Fax: 603-271-2615



TDD Access: Relay NH
1-800-735-2964

DRAFT MEETING MINUTES – March 26, 2015

MEMBERS PRESENT

Meredith Hatfield, Chair, Director, NH Office of Energy and Planning
Robert Beaulac, Designee, NH Department of Administrative Services
Timothy Carney, Designee, NH Department of Education
Bill Carpenter, Designee, NH Department of Resources & Economic Development
Timothy Drew, Designee, NH Department of Environmental Services
Elizabeth Muzzey, Designee, NH Department of Cultural Resources
Richard Cook, Designee, NH Fish and Game
Gail McWilliams Jellie, Designee, NH Department of Agriculture, Markets and Food
Nancy Spaulding, Designee, NH Department of Transportation

OTHERS PRESENT

Susan Slack, NH Office of Energy and Planning
Steve Walker, NH Office of Energy and Planning
Rick Minard, NH Office of Energy and Planning
Jared Nylund, NH Department of Administrative Services
Paul Gendron, City of Concord
Ed Roberge, City of Concord
Lou Barker, NH Department of Transportation

I. ROLL CALL

The meeting was called to order by Ms. Hatfield at 9:35 a.m. CORD members, guests and OEP staff were introduced.

II. APPROVAL OF MINUTES

ACTION: On a motion by Mr. Cook, seconded by Mr. Beaulac, the minutes of January 15, 2015 were approved.

The Land and Community Heritage Investment Program request was postponed until Ms. Taylor's arrival.

IV. DISPOSAL OF STATE OWNED SURPLUS LAND

A. CONCORD – SLR 15-002

Mr. Roberge, Concord's city engineer, presented maps and drawings and an explanation of the planned reconstruction of the Sewalls Falls Bridge. The SLR request from the Department of Fish and Game is to convey two temporary construction easements, a permanent drainage easement and a heritage park/trail easement to the city on state-owned property managed by Fish and Game, known as the Sewalls Falls Multi-use Recreation Area. A total of 0.79 acres would be impacted by the easements. Mr. Roberge said the city is working with the state Division of Historical Resources on interpretive displays of the history of the Sewalls Falls area and will include re-use of granite blocks and the bridge's trestle structure in the heritage park. The park will include benches and will connect with an existing trail system. Mr. Roberge said the existing parking lot and boat launch will not be affected by the bridge project.

Mr. Cook explained the history of state ownership of the property and that US Fish and Wildlife Service funds had allowed Fish and Game to purchase the development rights on the property and to develop river access after a proposed hydroelectric project was abandoned. He said the Fish and Wildlife Service has no objections to the city's bridge project and its impact on the state property.

Ms. Hatfield noted that written comments were received from the Division of Historical Resources, which had no objection to the SLR request, and that the Lakes Management Advisory Committee responded that the request was not within its jurisdiction.

Ms. Hatfield also noted that the Rivers Management Advisory Committee had no objection and deemed the impact of the project *de minimis*, not requiring review by the full RMAC.

Ms. Slack explained comments received from the Upper Merrimack River Local Advisory Committee, which had been asked by RMAC to provide comments. Ms. Slack said the LAC was not opposed, but raised concern for the precedent set by disposing of Land Conservation Investment Program (LCIP) property through legislative action. Ms. Slack said a clarification was sent to the LAC explaining that the LCIP property was a different parcel than the one subject to this SLR and that it was not the first LCIP property to be affected by legislative action.

Ms. Hatfield asked Mr. Roberge to explain the impact of the bridge project on the LCIP property, which is also managed by the Department of Fish and Game and is the subject of a request later on the agenda. He said the property was located

across the road from the SLR request property and that the legislation approved in 2014 (HB 1145) permits a slope and permanent access easement of .22 acres and a temporary access easement, also of .22 acres.

Mr. Roberge noted that the bridge is currently closed to traffic, and that the city hopes to begin work on the LCIP property this summer and open the bridge in October 2016.

Mr. Carpenter complimented Mr. Roberge on his presentation of a complicated project.

ACTION: On a motion by Mr. Beaulac, seconded by Mr. Carpenter, SLR 15-002 was unanimously approved, subject to no adverse comments received by the close of the public comment period. Mr. Cook abstained.

III. LAND AND COMMUNITY HERITAGE INVESTMENT PROGRAM (LCHIP)
Dijit Taylor, Executive Director

Ms. Taylor explained that disbursements from the Community Conservation Endowment Fund are used to provide annual payments to LCHIP grant recipients who properly monitor and report on the condition of their protected property. She explained that RSA 162-C:7 gives CORD the responsibility to oversee and expend the funds in the endowment and that both CORD and the LCHIP Board of Directors have, since 2009, agreed to the payments to grant recipients as an incentive for proper stewardship. She said LCHIP is requesting permission to spend up to half of the fund's income on the monitoring payments. Base payments are \$200 per property, but properties that present more complex monitoring challenges may receive up to \$800.

In response to questions from CORD members, Ms. Taylor said the fund currently has a balance of over \$3 million. She said interest earned is not used toward funding new projects.

ACTION: On a motion by Mr. Beaulac, seconded by Ms. Muzzey, CORD unanimously endorsed the expenditure of up to \$88,275 of income from the LCHIP Community Conservation Endowment to be used for payments to grant recipients who submitted acceptable annual monitoring reports for 2014.

IV. DISPOSAL OF STATE OWNED SURPLUS LAND (continued)

B. MEREDITH – SLR 15-003-A, 15-003-B, 15-003-C and 15-003-D

Mr. Barker explained that the Bureau of Rail and Transit proposes to renew leases of state-owned water frontage on four parcels of railroad land in Meredith to abutters for use and maintenance of pedestrian crossings, docks and waterfront access, including to mooring fields. Three of the waterfront properties are on Lake Winnepesaukee and one is on Lake Waukewan. RSA 228:57-a permits such leases

for up to five years and allows renewals. Mr. Barker said the four leases and renewals have been recommended by CORD in 1994, 2000 and 2006. Mr. Beaulac asked if all four leases are in existence and if the lessees are making required lease payments. Mr. Barker said they were.

Ms. Hatfield said the Division of Historical Resources provided comment that it had no objection to recommending approval. Mr. Drew said the Department of Environmental Services had reviewed the areas involved and had no concerns.

ACTION: On a motion by Mr. Drew, seconded by Ms. Muzzey, SLR 15-003 A through D were unanimously approved, subject to no adverse comments received by the close of the public comment period on April 20, 2015.

C. SALEM – SLR 15-004

Mr. Nylund explained that the state liquor store in Salem would be moving soon from its current location to a larger retail space. Therefore, the Liquor Commission is seeking to sell the single-story concrete block building that houses store #34 and its 4.89-acre parcel on South Broadway. Mr. Nylund said the Salem store has the fourth largest sales volume of all the Liquor Commission stores. He added that the SLR application indicated the building had been constructed in 1965 as a state police barracks, but that he later discovered that was not accurate and that he wasn't sure if the building had ever been a state police barracks. He said the property would be offered for sale at no less than fair market value. In response to a question from Mr. Drew, Mr. Nylund said there would be no site work on the property prior to sale. He said the property contains a small brook and some wetlands.

Ms. Hatfield said that the Division of Historical Resources had commented that no historic properties would be affected by the request. She noted the public comment period does not close until April 20.

ACTION: On a motion by Mr. Beaulac, seconded by Mr. Drew, SLR 15-004 was unanimously approved, subject to no adverse comments received by the close of the public comment period on April 20, 2015.

V. LAND CONSERVATION INVESTMENT PROGRAM (LCIP)

A. Ms. Hatfield said CORD had been asked to authorize the Fish and Game director to sign deeds conveying the slope and access easements on LCIP property discussed earlier in the meeting for the Sewalls Falls Bridge project to the City of Concord. The conveyance was approved by the legislature in 2014. Mr. Cook explained that in-house counsel for Fish and Game advised that CORD should vote authorize the executive director to sign for the state.

ACTION: On a motion by Mr. Carpenter, seconded by Ms. Muzzey, CORD voted unanimously to authorize the executive director of the Department of Fish and Game to sign the deed for the state conveying easements to the City of Concord, pursuant to

Chapter 233 of the Laws of 2014 (HB 1145), for the Sewalls Falls bridge replacement project, subject to review by the Department of Justice.

- B.** Ms. Hatfield explained that the Office of Energy and Planning works with the Treasury on management of the Land Conservation Endowment Monitoring Fund and was seeking CORD's approval for OEP to sign the custodial account agreement with Treasury, a copy of which each CORD member has received. Mr. Beaulac asked if any changes in management of the fund had occurred since the last agreement. Ms. Hatfield said there were none.

ACTION: On a motion by Mr. Beaulac, seconded by Mr. Drew, CORD voted unanimously to authorize OEP to sign the custodial agreement. Ms. Hatfield was recused.

- C.** Mr. Walker, stewardship specialist in the Conservation Land Stewardship Program, updated CORD members on an issue involving a breach of the Bunten conservation easement on farm property in Orford involving encroachment of septic systems for a restaurant. He shared an aerial photograph and sketch of the property showing the area of encroachment. He explained that negotiations have been ongoing with new owners of the property to correct the easement breach, which would result in one of the septic systems being removed and the other being rendered inoperable. Mr. Walker explained that an extensive chef's garden sits atop one of the septic systems, and rather than require destruction of the garden to remove the septic system, rendering it inoperable would be satisfactory.

Ms. Jellie said the Department of Agriculture has also been involved in the discussions and said she felt the proposed agreement is a good solution that protects the easement and allows agricultural uses to continue. Ms. Hatfield said OEP was seeking approval from CORD to allow OEP to develop an agreement along the lines outlined, in consultation with Agriculture and DOJ. She said OEP would report back to CORD and, depending on how discussions progress, may need to come back to CORD for further authorization.

ACTION: On a motion by Mr. Carpenter, seconded by Mr. Carney, CORD voted unanimously to authorize OEP, in consultation with the Department of Agriculture and the Department of Justice, to develop an agreement with the owner of the property that would result in removal of one of the encroaching septic systems and abandonment of the second septic system.

VI. OTHER BUSINESS

- A.** Ms. Hatfield informed CORD members that the current state budget bills working through the legislature, HB 1 and HB 2, call for the Conservation Land Stewardship Program to be moved out of the Office of Energy and Planning and to the Department of Fish and Game, although there have also been suggestions that the program should move to the Department of Resources and Economic

Development. The proposal is the result of the efficiency recommendations that all state agencies were asked to make because it was felt it made sense for the program to be housed in an agency that was more involved in land management. Ms. Hatfield also said that oversight for the Conservation Land Stewardship Program would remain within CORD's jurisdiction.

- B. Mr. Barker referred to SLR 14-024, which was tabled by CORD in November 2014 until DOT could sort out several legal issues. The request was to lease up to 300 linear feet of Lake Winnepesaukee state-owned waterfront railroad property to the Needle Eye Road Association. Mr. Barker said DOT would bring the request back to CORD for consideration with a proposed lease of 50 linear feet of waterfront instead of 300. Mr. Beaulac said he would prefer that DOT withdraw SLR 14-024 and submit a new request. CORD members agreed that they would prefer DOT to submit a new SLR request.

VII. ADJOURNMENT

ACTION: On a motion by Mr. Beaulac, seconded by Mr. Carpenter, the meeting was adjourned at 10:36 a.m.

Respectfully Submitted,

Meredith A. Hatfield, Chair
Director, NH Office of Energy and Planning

MH/kw

CORD 2015 Meeting Schedule

January 15, 2015	March 12, 2015 (postponed to March 26, 2015)
May 14, 2015	July 9, 2015
September 10, 2015	November 12, 2015