



New Hampshire Council on Resources and Development

DRAFT MINUTES – January 09, 2025

MEMBERS PRESENT

- Heather Shank, Designee, Department of Business and Economic Affairs, Chair
- John Martin, Designee, Department of Health and Human Services
- Jared Nylund, Designee, Department of Administrative Services
- Eric Sargent, Designee, Department of Transportation
- Patrick Hackley, Designee, Department of Natural and Cultural Resources
- Allen Wyman, for Designee, Department of Agriculture
- Jim Oehler, Designee, NH Fish & Game
- Jack Ruderman, Designee, NH Housing Finance Authority
- Adam Crepeau, Designee, Department of Environmental Services (joined at 3:02 PM)

OTHER PARTICIPANTS

- Paula Bellemore, Executive Director of Land & Community Heritage Investment Program (LCHIP).
- Chris Aslin, CORD Attorney, Senior Assistant Attorney General, Environmental Protection Bureau

ROLL CALL AND INTRODUCTIONS

The meeting was opened at 3:00 PM by Chair Shank.

MINUTES

Approval of December 12, 2024 meeting minutes.

December 12, 2024 minutes were reviewed, and no changes were made.

MOTION: *On a motion by Mr. Martin, seconded by Mr. Wyman, the December 12, 2024 minutes were approved as written by a majority vote in favor with one abstention by Mr. Ruderman.*

LAND & COMMUNITY HERITAGE INVESTMENT PROGRAM (LCHIP)

Paula Bellmore, Executive Director of Land & Community Heritage Investment Program (LCHIP). Request for distribution of Community Conservation Endowment monitoring funds.

Ms. Bellmore, from the NH Land and Community Heritage Investment Program, requests approval from the Council to withdraw up to \$254,912 from the Community Conservation Endowment (CCE) fund for the purpose of awarding stewardship grants for the 2024 monitoring year and supporting LCHIP’s administration of the stewardship program in fiscal year 2025.

50 Ms. Bellmore then answered a few questions from members about the administrative staff and
51 who the grants go to.

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53 **MOTION:** *Motion was made by Mr. Wyman, seconded by Mr. Ruderman, to approve the*
54 *withdrawal of up to \$254,912 from the Community Conservation Endowment (CCE) fund for the*
55 *purpose of awarding stewardship grants for the 2024 monitoring year, and supporting LCHIP's*
56 *administration of the stewardship program in fiscal year 2025. Motion carried with a 7:2:0 vote,*
57 *with Mr. Hackley and Mr. Oehler abstaining.*

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59 **OTHER BUSINESS**

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61 **VI. OTHER BUSINESS**

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63 **CORD procedures discussion**

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65 Chair Shank said the updated draft of the guidance document discussed at the previous
66 meeting was in the packet. The final draft is intended to be given to Steve Walker to distribute to
67 owners of LCIP properties when they have questions about permitted activities and the
68 procedures to follow for requested changes. Once this document is finalized, it will be branded
69 and made available as needed.

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71 Mr. Martin noted that it was a good idea to create this guidance document. He also suggested
72 the document clarify whether the landowner should be addressing CORD or the managing
73 agency. He also asked why it notes that CORD opinions are not legally binding.

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75 Chair Shank explained that this is only in cases where the municipality has the authority. The
76 municipality can ask CORD to weigh in, but that would be a courtesy request and CORD's
77 opinion is not legally binding in that case.

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79 Mr. Martin also asked who would be administratively responsible for going through the process
80 when an amendment is requested. Attorney Aslin said that the managing agency would be
81 involved with the process if they supported the approval.

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83 Mr. Sargent noted that it was a good document overall but noted that there is no instruction on
84 the process of deed amendment and what is required from a property owner when an amended
85 is requested. Chair Shank and Attorney Aslin noted that the document is intended to be a
86 general summary of processes. If a property owner wanted to pursue an amendment, more
87 detailed documents would be provided.

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89 There was a brief discussion about the amendment process itself and whether the managing
90 agency should be the one driving it. Mr. Aslin noted that CORD can provide some advice and
91 instructions on how to proceed, and possibly some legal support from the CORD attorney,
92 should the managing agency legal counsel seek it.

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94 There were more questions from Mr. Sargent about whether CORD should be a signatory on
95 the new amended deed, to which Ms. Aslin said that it should be the managing agency instead.
96 He added that as long as the person to sign is authorized to do so, it would be ok.

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98 Chair Shank added that there will be other documents specifically describing processes like
99 amendments and those will be discussed at a future meeting. She explained that some were

100 already drafted by Attorney Brooks in 2017 and will be further developed during future CORD
101 discussions.

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103 Mr. Nylund said that he understood that each conservation easement amendment process
104 depends on who the owner and the managing agency is and therefore the process is not
105 uniform and is unique to each transaction.

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107 Chair Shank added that CORD would be heavily relying on the expertise of the managing
108 agency as they know what the conservation easement is intended for better than anyone. She
109 also said that this guidance is not intended to alter any procedures already in place, it is only to
110 provide clarification.

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112 There was a brief discussion of whether the guidance is suggesting the first contact to be the
113 managing agency which then can refer people to CORD. Attorney Aslin noted that the idea was
114 to stay away from managing agencies giving legal advice, therefore, this guidance document
115 could be provided first and guide the property owner as to whether they need to go to CORD or
116 not for their particular issue.

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118 Members discussed the uncertainty of the managing agency interpreting the deed language as
119 to whether an activity is allowed. Mr. Aslin seconded Chair's Shank sentiment that if the
120 managing agency is unclear, CORD involvement is the best option. He suggested that initially
121 the DOJ counsel could also be consulted prior to going to CORD.

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123 It was noted that this is not clear in the current document. Chair Shank agreed that as written, it
124 cuts the managing agency out of the process. She will follow up with Attorney Brooks about
125 adding the language indicating the managing agency should be contacted first.

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127 Ms. Bellmore noted a request made to CORD last year where the landowner was very frustrated
128 with the length of the process and suggested adding some language about the fact that it could
129 be a lengthy process and advise the landowners to prepare well in advance.

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131 There was a brief discussion about the case mentioned by Ms. Bellmore and how it came to
132 CORD. The managing agency was not sure whether they could make a decision on their own in
133 that case based on the deed language.

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135 Chair Shank noted that this is why this guidance was created, to help clarify procedures. She
136 also noted that all the properties under LCIP have since been transferred to CORD, therefore
137 the managing agencies should be aware of that anytime they see LCIP noted in the deed
138 language, it essentially is referring to the agency.

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140 Mr. Nylund reiterated his concern with the guidance under Courtesy requests and informational
141 items, noting that CORD's opinions are not legally binding and suggesting changing it to
142 something of the effect that CORD's opinions are merely CORD's interpretation of the deed.

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144 Chair Shank suggested clarifying in the document that courtesy requests refer to instances
145 when the municipality has the authority. She noted that while the municipality is the easement
146 holder, CORD could request its legal counsel to rectify violations if it becomes aware of any.

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148 Mr. Wyman provided a brief recollection of how all the properties bought with LCIP funds were
149 dispersed among various state agencies for easement management and that there are certain
150 statutes that specify CORD involvement in the process.

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Attorney Aslin said that at this point CORD has the ultimate authority over the interest in all LCIP funded properties.

Mr. Ruderman reiterated that there should be language in the guidance about the CORD's decisions and the weight they bear on the process.

For clarification, Mr. Aslin noted, as an example, that for easements managed by an agency of the state, CORD has the authority to which change agency is responsible. CORD cannot do the same if the municipality is the responsible party. In that case, CORD can become an enforcer, should the municipality neglect its easement management responsibilities for an LCIP property.

Attorney Aslin clarified that CORD's decisions are not legally binding in a sense that the disagreeing party can take the action to court and then the court will have the final say.

Mr. Hackley asked whether CORD would be involved in a conservation easement amendment for a non-LCIP property. Attorney Aslin said that CORD would have no involvement.

Chair Shank thanked everyone for their input and suggestions and asked Attorney Aslin to relay the suggestions to Attorney Brooks so that he could incorporate them into the guidance document for further CORD discussion.

There were no further discussions. Chair Shank announces the next meeting is March 6, and that SLR application deadline is January 31, 2025.

Chair Shank adjourned the meeting at 3:50 PM.

NOTE: SLR application deadline is January 31 for the March 2025 meeting, a department staff person must attend to present any requests their agency refers to CORD.