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TOWN OF GOFFSTOWN

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BOARD OF SELECTMEN MEETING

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FEBRUARY 22, 2016



# Town of Goffstown

BOARD OF SELECTMEN  
16 MAIN STREET  
GOFFSTOWN, NH 03045  
497-8990 x100 • FAX 497-8993

## Feb. 22, 2016 SELECTMEN MEETING AGENDA

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

- 6:00 pm 1. **Acceptance/Correction of minutes:** 2/8/16 public and non-public minutes
- 6:05 pm 2. **Announcements**
- 6:10 pm 3. **Public Comment**
- 6:20 pm 4. **Department Heads:**
- a. Public Works Director Jacobs re: ROW encumbrance at 34 College Rd.
  - b. Police Chief Browne re: potential public/private partnership with St. Anselm College
- 6:40 pm 5. **Town Administrator's Report**
- a. Selectmen Meeting Schedule
  - b. Consensus Folder
  - c. Assessor's Recommendations
  - d. Out-of-State travel request from Fire Dept.
- 6:50 pm 6. **Selectmen Discussion**
- a. Committee Reports: EDC, Planning Board, Library Trustees, P&R Commission
  - b. New Business: No submissions
  - c. Old Business: Selectmen signatures needed on Conservation Easement (Finke, Map 12 Lot 6-3); Action Matrix
- 7:00 pm 7. **Public Comment**
- 7:10 pm 8. **Non-Public Session RSA 91-A:3 II (a) compensation, (b) hiring, (c) adversely effect reputation, (d) lease of personal property**

ADJOURN by 10:00 pm

The public is cordially invited to attend.

Except for scheduled public hearings all other times on the agenda are approximate.

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**Any person with a disability who wishes to attend this public meeting and needs to be provided a reasonable accommodation in order to participate, please call the Town Hall (497-8990 x100) at least 72 hours in advance so that arrangements can be made.**

# Town Administrator's Report

## February 22, 2016

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

- 6:00 pm 1. **Acceptance/Correction of minutes:** 2/8/16 public and non-public minutes #1
- 6:05 pm 2. **Announcements:** #2
- Supervisors of the Checklist are in session on 2/27/16 from 11:00 am – 11:30 am to correct the checklist and to register new voters before the March 9, 2016 Town Meeting.
  - Email from a Police Academy attendee commending Captian Kerry Steckowych
  - Email from Mike Pelletier commending the Police Dept. on traffic flow at the Primaries.
- 6:10 pm 3. **Public Comment**
- 6:20 pm 4. **Department Heads:**
- a. Public Works Director Jacobs re: ROW encumbrance at 34 College Rd.
  - b. Police Chief Browne re: potential public/private partnership with St. Anselm College
- 6:40 pm 5. **Town Administrator's Report**
- a. Selectmen Weekly Meeting Schedule

Weds.	6:30 pm	HDC	Room 107
Weds.	7:00 pm	Conservation Commission	Room 106
Thurs.	3:00 pm	10 Year Road Plan	Room 106
Thurs.	7:00 pm	Planning Board	Room 106
  - b. Consensus Folder
    - Employee Status Reports: CFF resignation; Fire Lieutenant retirement; Dispatcher – new hire; Bookkeeper retirement; Planning/Zoning Administrator new hire
    - Event Permit: Friends of the Norris Cotton Cancer Center – The Ultimate Prouty Bicycle Ride July 8<sup>th</sup>
    - 2012 Tax Deeding: Request to withdraw Map 19 Lot 25-5 from tax deeding
    - Annual Highway Safety Grant Application

***Motion to accept the consensus folder is needed.***
  - c. Assessor's Recommendations
    - Veteran's Tax Credits (recommended): Map 10, Lot 7; Map 6, Lot 24-48
    - Report of Timber Cut for 2015 (recommended): Map 10, Lot 30-3
    - Tax Deferral Lien (recommended): Map 6, Lot 22-32
    - Elderly Exemption (recommended): Map 6, Lot 17B-140
    - Solar Energy Systems Exemption (recommended): Map 11, Lot 15
    - Current Use Application (recommended): Map 10, Lot 29

***Motion needed to accept the Assessor's recommendations.***
  - d. Out-of-State travel request from Fire Dept. #5d  
At Tab 5d is a memo from Fire Chief O'Brien requesting authorization to attend the Emergency Services Conference in Boston next month for one day. There is no cost for this conference.  
***Motion needed to approve out-of-state travel.***
- 6:50 pm 6. **Selectmen Discussion**
- a. Committee Reports: EDC, Planning Board, Library Trustees, P&R Commission #6a
  - b. New Business: No submissions
  - c. Old Business: Selectmen signatures needed on Conservation Easement (Finke, Map 12 Lot 6-3); Review of Action Matrix #6c
- 7:00 pm 7. **Public Comment**

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In attendance were Chairman Peter Georgantas, Vice Chairman Mark Lemay, Selectman Collis Adams, Selectman Allen Brown, Selectman Scott Gross and Town Administrator Sue Desruisseaux.

**6:00 pm CALL TO ORDER by Chairman Georgantas**

The Board said the Pledge of Allegiance.

**ACCEPTANCE OF MINUTES**

*Vice Chairman Lemay made a motion to approve the minutes to the Board of Selectmen meeting of February 1, 2016. Selectman Brown seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

**ANNOUNCEMENTS**

Chairman Georgantas said there is a traffic alert regarding the Presidential Primary. On Tuesday, February 9, 2016, the Presidential Primary Election will be taking place at Bartlett School in Pinardville and at Goffstown High School. Due to an expected high volume of voter participation, traffic is expected to be heavy along Mast Road/Route 114. In order to ease the flow of traffic, the Goffstown Police Department asks motorists to seek alternate routes through town. Voters at the High School are asked that, if at all possible, use Shirley Hill Road to Wallace Road to get to the voting location. Commuters driving to points north and west of Goffstown Village on Route 114/Mast Road are urged to take Henry Bridge Road to Elm Street to Main Street. The use of these alternate routes will ease the backup of traffic at the roundabout near Wallace Road and reduce delays in getting to the polls. Police officers and CERT members will be in place at the High School to assist with parking and traffic flow and a shuttle bus will be circling the high school campus to assist voters who need to park in the rear parking lot in getting to the entrance. If you have any questions, please contact the Goffstown Police Department at (603) 497 - 4858. Thank you, in advance, for your cooperation and patience.

Selectman Gross said it is his understanding the rear door of the High School will not be open or accessible. Selectman Adams said it has to be opened for the handicap parking. Town Administrator Desruisseaux said there are handicapped spots back there. Chairman Georgantas said there is the bus for those who need it.

**TOWN ADMINISTRATOR'S REPORT**

**Selectmen 2 Week Meeting Schedule**

Town Administrator Desruisseaux said you have a two week schedule because we are not meeting on Presidents' Day. The EDC meets on Wednesday, February 10<sup>th</sup>, at 6:30 pm. Vice Chairman Lemay said he would attend the EDC meeting. The Planning Board meets on Thursday, February 11<sup>th</sup>, at 7 pm. Selectman Adams said he would attend the Planning Board meeting. Monday, February 15<sup>th</sup>, is Presidents' Day and Town Hall is closed. On Wednesday, February 17<sup>th</sup>, the Library Trustees meet at 7:30 pm. Parks & Recreation meets at 7 pm on that same day. Chairman Georgantas said on President's Day Town Hall is closed.

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**Consensus Folder**

Town Administrator Desruisseaux said there is an employee status report of a dispatcher hire. There is an event permit application from Out of the Woods Antique Center, 465 Mast Road, for an antique show on August 7, 2016. We also have two proclamations.

*Selectman Gross made a motion to approve the Consensus folder. Selectman Brown seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

**Assessor's Recommendations**

Town Administrator Desruisseaux said we have recommended elderly exemptions for Map 6, Lot 22-26, Map 3, Lot 37C12-107 and Map 43, Lot 29. We have recommended solar energy exemptions for Map 2, Lot 62-6, Map 21, Lot 111 and Map 27 Lot 21.

*Vice Chairman Lemay made a motion to approve the Assessor's recommendations. Selectman Adams seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

**2016 Voters Guide (Draft of Town portion)**

Town Administrator Desruisseaux said, based on Selectmen discussions and presentations at the Deliberative Session, enclosed in the Selectmen's packets is a draft Voters Guide explaining articles which will be on the official ballot. If you have any changes, please email her before Monday night so she can assemble the comments for the full Board's consideration. We plan to go to print by the end of next week. She hasn't received comments thus far. If you do have any please let her know. The zoning articles have nothing written after them because we are between Planners right now. She asked the Chairman of the Planning Board if she could do it and is waiting to hear back from her. If we don't, we'll just print the article so people will know what they are.

Selectman Gross said the only thing he wanted to add to Article 13, the Fire Station renovation, is the fact that it was built in 1950-something and there have been no major renovations at all. It is important for folks to know they are looking at a 60 year old building that hasn't had major renovations. Town Administrator Desruisseaux said if it needs something to fill space they can add a pie graph for the budget article.

**PUBLIC COMMENT**

Chairman Georgantas said someone is here to speak to Article 24. Town Administrator Desruisseaux said that was left open because they were going to take something from the minutes as to what the petitioner said. She has a prepared statement and that is even better.

Barbara Shult said she is unfamiliar with the process. She sent a letter with an explanation of Article 24. She would appreciate it if this was included rather than to leave the article with no explanation. The statement is two sentences: "The purpose of this article, submitted by petition, is to provide an opportunity for a publicly recorded vote for Goffstown residents to indicate their concern over the impact of Citizen's United decision on our electoral system. The six parts of the We the People pledge noted in the article address the different areas where it is felt reform is needed."

The Board's consensus was to go ahead with that language.

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**PUBLIC WORKS DIRECTOR ADAM JACOBS**

**Right of Way Encumbrance - #34 College Road**

DPW Director Jacobs said College Road is part of the Road Plan for 2016. It goes from Mast Road to St. Anselm's Drive. As part of that we had a pre-project survey done to verify right-of-way distances so we know what kind of real estate we have to work with for sidewalks, and road width for drainage repairs that will be part of the project. We had an idea there would be some right-of-way issues and the survey confirmed that. #34 is the one we are going to talk about tonight.

In his power point presentation he showed a vintage sewer plan from the 1950's. It shows the house, front porch and edge of pavement. There was a retaining wall set back a few feet from the road. There was an 8-9 foot distance to a retaining wall in the 1950's. In speaking with the residents and family at that address, they seem to recall sometime in the 2000's having DPW give them a rough idea where the right-of-way is so they could put in a retaining wall. We've narrowed down that time frame and think it was done in about 2002.

IT had some photography that was done as part of a flyover. The 2001 photo of the property shows no retaining wall. He showed a copy of a record of a phone call from the property owner requesting DPW come out because they wanted to put up a retaining wall. DPW gets called from time to time to give an idea where the line is. It's not a legal survey. In this case, we had a right-of-way book that just had the widths of a right-of-ways on the various sections of road in town. It is not a legal survey but is a best guess. College Road was listed as 40 feet wide. Chances are the employee went out and marked 20 feet from the center of the road, and gave them a rough idea on the lawn. 2006 is the first year the aerial photography shows the retaining wall. He showed a photo with an overlay of the Town tax map from the GIS system.

Town Administrator Desruisseaux said it is important to note it is not surveyed. DPW Director Jacobs said it is based on historical mapping and on a best guesses based on rights-of-way width. It's usually fairly close but he's seen it off as much as 5-10 feet. In this case it is fairly close to what the legal survey showed. We got those results back from the surveyor. Town Administrator Desruisseaux said it went in sometime between 2002 and 2006.

DPW Director Jacobs displayed a picture of a current survey. The right-of-way at #34 takes a 90 degree turn and goes up Holly Street. This, from the surveyor, confirmed what we had seen. This puts the wall at various distances within the right-of-way. Anything above the line is into the highway right-of-way. In most cases it's about 8 feet from the center of the wall to the right-of-way line. This shows it is in the right-of-way, and more importantly, it is directly in the middle of where a sidewalk would go. We looked at whether or not we could constrict the road to make these encumbrances less of a burden. It's already down to an 11 foot lane.

Across the street from the property there isn't a lot of real estate as well, and the property slopes up onto the lawn of the neighbor. We didn't have a lot of options so it's an encumbrance we will have to deal with. They took some pictures and did some temporary marking of where the legal right-of-way line is so the homeowner could know worst case scenario what we are talking about. The arrow in the picture shows how far back the right-of-way is from the street. It is about half of what is now behind the retaining wall.

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Showing a picture of the Holly Street side, he said on the Holly Street side it's not as big an encumbrance, but it does encroach a little bit. He displayed a picture that shows the location of the original retaining wall and what they think it looked like. He said the slope that is there went around the property.

Selectman Adams asked if this property is the only one. DPW Director Jacobs said this is the only one that is out of the ordinary. A minor encumbrance is one thing and we work it out. It's not a huge deal. Between the age and the size, and that it had been discussed publicly before, we knew we would have to deal with this one differently. The homeowners have said the base of the retaining wall is back further than what was there originally. It's also higher because it is flat rather than sloped. It may have improved sight distances because of the growth that may have been coming out from it is no longer there. It's also taller so, depending on the vehicle, some will have a better time and some will have a worse time getting around the wall.

His questions are if the Board wants DPW to treat this as other, minor encumbrances they encounter—to take care of it, and work with the neighbor to get an end result? It's tough in this case because the end result will need to have some kind of retaining wall. Town Administrator Desruisseaux asked about the final cost on that. DPW Director Jacobs said he doesn't know. It will depend on what the final line is. These get engineered by the pre-casting companies. It's probably \$10,000-12,000 range. It's a cost we will have to pay one way or another. Do we want to push the retaining wall back to the legal right-of-way line so it is no longer an encumbrance? Then future boards and departments don't have this issue to come back to. Town Administrator Desruisseaux said that is what we do with new roads.

Selectman Brown asked, because the Town went out and marked the right-of-way, does it put us in the limelight to change it. You have a signed piece of paper that they went out and marked the right-of-way as best as they knew it was. DPW Director Jacobs said it's tough to recreate what might have been said or done. Usually we tell folks it is our best guess and not a legal survey. Anything done near or in the right-of-way is at the owner's expense. We did try to recreate what might have been done. We measured 40 feet to see where it would place us. We measured from three different places—from the phone pole across the street, from the top of the hill across the street, and from the center of the road. All of them put the right-of-way in about the location that it is actually in. When the retaining wall was put in, the information may have been lost or something they didn't want to go with.

Selectman Adams said a concern is what kind of liability we are opening the Town up to. We have a situation that we know exists. It is clear and is fairly significant. In the future if there is an accident there, we know about it. Town Administrator Desruisseaux said it has been brought to your attention. Chairman Georgantas said now that we are talking about putting a sidewalk in, that is going to move.

He asked the homeowners if they had information to add. The property owner, Robert Kohler, said he has some pictures but didn't bring them. His son said he built the wall. We built it almost immediately after my father made the call and had the surveyor come out. Town Administrator Desruisseaux asked if they had an actually had a surveyor come out, or if he was

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talking about the Town employee who came out. The property owner's son said he came out and gave us marks to where it was. The original wall was right on the road. It was just stones and we removed them. We backed it up about 3-4 feet from the original spot of where it was.

Chairman Georgantas said he went through this with a property of his. They had stuff on the Town's property. It's not unusual. How do you handle this? DPW Director Jacobs said the only reason they are here is because he had seen it was discussed at previous Board meetings. He knew they would have to get together and talk about it.

If this was the original stone wall, we would have knocked on the door and told them about the project and what the surveyor says. We would talk with them about what to do. We'd be talking about either a retaining wall or a significant slope from their front door. Normally that would be done at Town expense if it's an older encumbrance. Being newer, and the size of it, he doesn't know. The fact that the Board had discussed it is the reason he brought it forward. He might not have otherwise.

Selectman Brown said we have documentation that they were given the okay to build it. It's not a stone wall and it is a little bigger. We should have to bite the bullet and move the wall back. Chairman Georgantas said he doesn't know where he (Selectman Brown) got that information. That paper given to them says it was a 40 foot right-of-way. A private contractor went in and built the wall in the Town's right-of-way. That piece of paper only says it's a 40 foot right-of-way. Selectman Gross said the DPW crew tried to recreate what 40 feet would have been. In each instance it would have been staked much closer to the home than where the wall ended up. Now it is a he said/she said as to where it was staked. DPW Director Jacobs said drawing the 20 feet from the center of the road was one of the methods they used to determine the right-of-way. Each of the methods were within about 2 feet of each other. This project is planned for this summer as soon as they are out of school. Chairman Georgantas said we should get a price on it and then sit down and go over it. He doesn't feel we can burden the taxpayers with something that was done improperly.

Town Administrator Desruisseaux said the question is if you want to go to the edge of the right-of-way. What is the other option? DPW Director Jacobs said the sidewalk needs are not all the way to the right-of-way. Do we do only what we need for the project? Chairman Georgantas said he would go to the right-of-way so there is no question. Town Administrator Desruisseaux said that would be in case anything happens in the future. DPW Director Jacobs said, from his point of view, the construction portion is on the Town. The question is if you would prefer to let the homeowner deconstruct the wall, or let DPW come in with a backhoe? We won't be reusing any of the material.

Chairman Georgantas said first we need a price for the wall. Town Administrator Desruisseaux said the blocks belong to the homeowner. If they want them, they should have them. We will have to work with them on that. Selectman Adams said we have to work with them. It sounds like they went with what they thought was good information from the Town. Chairman Georgantas said we can do the deconstruction because we are going to be putting in the sidewalk anyway. Selectman Gross said he disagrees. If it didn't exist in the first place, we'd just be building a wall. The question is if the Town is going to contribute man hours and equipment to

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take the wall down? If it is in the Town's right-of-way, the deconstruction should be the property owner's responsibility and the new construction part is our responsibility. Chairman Georgantas said he disagrees with that. Town Administrator Desruisseaux said she agrees with the logic. It is their stone wall in the right-of-way. Selectman Gross said any liability that comes of it is their responsibility.

DPW Director Jacobs asked the property owners if they wanted to keep the blocks when the wall is deconstructed. Robert Kohler said there is nothing that they would do with them. DPW Director Jacobs said it's a lot more labor intensive if the blocks are going to be saved. It's not much for us to deconstruct the wall if they are not being saved. For safety and expediency it is better for us to do it. Selectman Gross said the cost of the wall is a moot issue. If DPW wants to take the wall down, that's fine with him. But we need a legal agreement because we would be working on private property, then everyone is protected legally. If that stone wall did not exist, as part of this project for the sidewalk, we would have had to build that wall anyway. Chairman Georgantas said you don't know what the slope would have been. Now there is an 8 foot wall. If we had built it, would it have been that big?

Selectman Gross said there are really two costs. One is the retaining wall. It will be high because you are trying to keep the levelness of the yard. The other one might be half as high. DPW Director Jacobs said he could do a direct slope for zero cost. That would be too steep. They are moving the wall back quite a bit. Selectman Brown said, for the 80 feet of wall, the blocks—3 high--will cost about \$6500. DPW Director Jacobs said if it were Ready Rock they would build it themselves. Selectman Adams said he'd like to see a couple of options. That's a 4 block high wall with a cat walk on it. What about going 3 high and having a little bit of a slope? DPW Director Jacobs said they will also need a temporary construction easement from the property owner because they will go beyond the easement to do their work. That will be the coverage we need to take the wall down and replace the existing. We would probably start work in late June.

Town Administrator Desruisseaux asked if employees would be sent out if a case like that came in. DPW Director Jacobs said it is case dependent. We don't make it a practice. Town Administrator Desruisseaux suggested if they are marking it they should take a picture of where they marked it and have the property owner sign off, with the understanding that it is not a survey.

#### **CMAQ Update**

DPW Director Adam Jacobs said Town Administrator Desruisseaux provided you with some accounting information. Town Administrator Desruisseaux said you have the accounting sheet, and a memo from Don Borrer, In 2013 the Town passed Article 16 which was for the two intersections of Elm/High/Main Street and Pleasant/Main Street. It was to be funded from the CMAQ grant, impact fees, and unassigned fund balance. At this point we've basically paid for the design fees. We spent \$145,463.66. We have received a CMAQ grant for just under \$80,000. We used impact fees of \$62,448. That left about \$3,220 from the Unassigned Fund Balance. When DPW Director Jacobs presented last time, the Board seemed interested in the alternative proposal. He talked to DOT and they would want their grant money back, but as he showed in his proposal, he'll get more done for less money even without the grant. We would

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have to pay back that \$80,000 plus the \$3,220. At this point in time the auditors do the entry for the Unassigned Fund Balance. They committed that \$252,682 back in 2013 and it is there for us to draw on. If we stop at this point in the process, we would ask them to release \$169,666.34 back to the Unassigned Fund Balance. So it's really reclassifying it from Reserved Fund Balance to Unassigned Fund Balance. Since the scope of the plan has changed, she and DPW Director Jacobs talked. We could do it as part of the Road Plan or a special article. But it's a 2017 project and there is time to discuss it. Selectman Gross said he thinks it's a very clean way of doing it. It's black and white.

DPW Director Jacobs said the major discussions they had as a group for the decision to let DOT know formally whether we wanted to back out of or stop the grant process was the accounting end of it. We also had questions about underground utilities and streetscape things, and whether or not it would be leaps and bounds above. We had some discussion with Eversource, the city of Concord, and Portsmouth and got a rough idea of numbers. Basically to do underground utilities in that section will be about \$1 million. We would pay for the design and the installation. If we wanted to take on some of that as town work, the good news is we would save some money. The bad news is it is already going to be gangbusters to get the job done in 2017. To underground the wires would add to the time, and probably turn it back into a two-year project. The whole stretch of the project would be from the urban contract line on North Mast all the way to Mountain Road.

Town Administrator Desruisseaux asked about the cost from Sully's to the bridge. DPW director Jacobs said that is the stretch they talked about to underground the project. Eversource can get us a better number if we give them the exact poles and what lines come off from them. You may have to do underground on the 1<sup>st</sup> block of the lines going off of Main Street. They would need actual pole numbers and other information from us to make a determination. They could do a little bit of the design work. And they could give us a number as to what the design work would cost. We can go that extra step if the Board wants to, but it is going to be about \$750,000-\$1 million.

Town Administrator Desruisseaux asked about moving them behind the buildings on Main Street. DPW director Jacobs said they did get into that. That would be very cost specific and they would need pole numbers. Selectman Gross asked about the streetscape. He said that could include lamps and sidewalks. In comparison to burying the utilities, what would that cost be considering we are already ripping up the road? DPW Director Jacobs said the initial calculations included sidewalk construction. DPW's choice would be to shift to an asphalt sidewalk, but a decision isn't needed now. Streetscape is more the decorative poles, benches, trash cans and that sort of thing. You are probably talking \$6,000 to \$7,000 range for a decorative lamp post. It won't double the cost like undergrounding the utilities would.

Town Administrator Desruisseaux said we also wanted to work in business signs for those off of Main Street. Selectman Gross said he thinks this is a good opportunity to redefine the Village area. Maybe we can partner with Main Street and private groups, etc. to make a statement. Sidewalk reconstruction was in CIP about 15 years ago. We were going to get federal funding and it never materialized. He thinks the sidewalks could be a whole lot better. Asphalt, or

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stamped asphalt, will be better. Town Administrator Desruisseaux is right. A lot of business owners have asked for a pole for signs. It helps folks.

Chairman Georgantas said the first issue is if we are going to give the money back. DPW Director Jacobs said the other is if the Board wants him to go to Eversource to get hard numbers. ***Selectman Gross made a motion to return the money. Selectman Brown seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.***

Selectman Gross said he was on the Board when we approved all this. It was all good intentions. The cost was substantially less than what it has evolved into. DPW Director Jacobs' proposal is the right way to go.

DPW Director Jacobs said if we give Eversource all that they need, the number they give us will not be a budgetary number. Selectman Adams said we have to have a number to work with. It may be an opportunity we don't want to pass up. Chairman Georgantas said we would go from Sully's to the bridge.

**Ten Year Plan Utility/Stakeholder Meeting**

Chairman Georgantas said David Pierce would like to be added to the list. DPW Director Jacobs said the Ten Year Plan Utility/Stakeholder meeting is scheduled for February 25<sup>th</sup> at 3 pm in Town Hall, Room 106. He said there is a list of invitees and he asked if there was anything to add. We want to get on record a fluid 10 year plan of what we want to do. If anyone has any hot or safety related items they want to take care of in the interim, they can let him know.

Selectman Gross said this is a big plan, which involves money, which involves budgets. It would be good to have someone on the Budget Committee who is informed. And maybe someone from the School District should be on there. Chairman Georgantas said Selectman Gross will be on the Budget Committee next year because you are running unopposed. You could do double duty. Town Administrator Desruisseaux suggested someone from CIP also. DPW Director Jacobs said he will send out the proposal and if people can't attend, they can forward their comments. And he will send the minutes when they are done.

**Joffre Street Turnaround**

DPW Director Jacobs said this was a Highway Safety Committee item. He had a diagram in his power point presentation. It came up a couple of months ago. There is no turn around at the end of Joffre Street. A duplex was built in what used to be a turn around. It used to be a free for all with an open lot and a horse shoe driveway. There is an area that was designated by easement as a turn around. There is a "No Parking" sign there now because people were parking there. We got permission from a homeowner to remove a good sized tree that was there, but even with that gone it is still a 3-6 point turn for a bigger truck, like a trash truck, to turn around.

The easement they would need to get for a proper turnaround is untenable for one of the owners of the duplex. It would be half way into the lawn. We looked for another solution in an area of a small stand of trees and stone wall that is owned by the condo association. Do we want to approach them to establish an easement and create a turn around? We would have to remove the second stone wall and some of the trees. He talked to the property manager who said they have a board meeting coming up and they can put him on the agenda. If we can carve out a space big

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enough for the bigger trucks to come in, and we will still have the easement by the duplex, which is enough to nose in and back up to go back down the street. It's not ideal but will be better than it is.

Selectman Gross asked why we wouldn't try to get an easement all the way through.

Chairman Georgantas recused himself and Vice Chairman Lemay chaired the meeting. Chairman Georgantas said he lives close to that spot, and as a condo owner, he would oppose that. He later returned to the Board.

DPW Director Jacobs said he did have some feedback from residents who thought that would be easier. The street itself is not constructed for that amount of traffic. It's in very rough shape. Chairman Georgantas said a concern of the residents with Plan Pinardville was that they were going to punch through that street and allow traffic up through. That road is not conducive to having regular traffic on it. Selectman Gross said there are some developments that use a crash gate. There is no traffic going through there but it gives more room to turn around. We could buy more space and even put up a hedge row. This is pretty tight to do what you are trying to do.

DPW Director Jacobs said we don't need much. It's just where the stone wall is now. Vice Chairman Lemay said it would make life easier if we could extend the hammerhead down and make it more like a T. DPW Director Jacobs said what the picture doesn't show is a boulder retaining wall near the duplex. It is almost two tiers. Part of it would be on the blue house property and part would be on the condo property. The people with the blue house were on board until we showed them how much we would need for a full hammerhead. They were okay with a minimum easement to back up onto the condominium property.

Chairman Georgantas said when they built the duplex the right-of-way for the turnaround was part of the deal. Town Administrator Desruisseaux said the easement is now where the black car is in the picture. It is not where it used to be. Vice Chairman Lemay asked about swapping easements with the owner of the property. DPW Director Jacobs said that is what we addressed when we first looked at this. The problem is that it is a duplex. One owner would benefit and the other would not. And it would cut deep into the property. The way the property line cuts at an angle, there is still a need for something behind it. We would need about ten feet. Vice Chairman Lemay suggested going to the board meeting and asking for a 10 foot easement.

**Overnight Lodging Request for Employee Development**

DPW Director Jacobs said there is a request from the DPW Director for overnight lodging for the Town Engineer. He had nominated Meghan Theriault for a new program with Primex who will be our new carrier for property liability. She was one of 16 people selected to participate. It is a several month program, meeting sporadically, with online readings. Part of that is that they like people to attend their two day conference in Bretton Woods. Town Administrator Desruisseaux said Primex does a very good job with their training.

*Vice Chairman Lemay made a motion to authorize the overnight stay for the Town Engineer for the conference in Bretton Woods. Selectman Adams seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

GOFFSTOWN BOARD OF SELECTMEN  
MEETING OF FEBRUARY 8, 2016

**Summer Internships**

DPW Director Jacobs said they are requesting again to post for their summer availabilities for interns. We have two storm water internships and two engineering internships available. All four can do jack-of-all-trades type of work. Chairman Georgantas said these are positions we've had before. Town Administrator Desruisseaux clarified they are under six months. Then we don't have to pay health insurance.

*Selectman Brown made a motion to authorize posting for the summer intern positions. Vice Chairman Lemay seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

**RFP for DPW Uniform Rental and Laundering Services**

DPW Director Jacobs said their contract is up and he requests to post a RFP for a Proposal for Uniform Rental and Laundering Services. He had delayed because of contract negotiations. It's basically the same as we are doing now. There is nothing extra. Town Administrator Desruisseaux asked if there is an option to amend it if they want to take something out or put something in. DPW Director Jacobs said the Town could modify, but it would depend on how substantial the modification. Town Administrator Desruisseaux suggested a clause that it could be amended with a 30 day notice in case we get a contract for next year. DPW Director Jacobs said he would normally put it in there to have an annual renewal depending on the contract.

*Selectman Adams made a motion to go forward with the RFP as discussed, with the condition it include a clause that it could be amended with a 30 day notice. Vice Chairman Lemay seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

**SELECTMEN'S DISCUSSION**

**Committee Reports:**

**Sewer Commission**

Selectman Adams said it was a short meeting. There was discussion about the Main Street roundabouts as we move forward with the improvements on Mountain Road/Pleasant/Mast Streets and Elm/High/North Mast Streets. A start date has not been set yet pending how it works out here. There was also a discussion on the Sewer Use Ordinance. They will resume that discussion after the Town Meeting in March. Cathy Whooten has decided not to run for re-election for the Sewer Commission.

Selectman Gross asked if there was any discussion about the meeting we had with them. Selectman Adams said they seem okay with the way it's moving forward and that we are at least considering it.

**NEW BUSINESS - No submissions**

Chairman Georgantas said for tomorrow, Selectman Gross, Selectmen Adams, and Selectman Brown will handle the High School. He and Vice Chairman Lemay will handle Bartlett Elementary. He will have shuttle duty first thing in the morning to make sure the workers get to the school. Selectman Lemay asked about just the Selectmen parking in the Family Dollar parking lot. Town Administrator Desruisseaux said it is okay as long as there is nothing to sign. At the High School workers should park close to Wallace Road.

GOFFSTOWN BOARD OF SELECTMEN  
MEETING OF FEBRUARY 8, 2016

**OLD BUSINESS**

**Action Matrix**

Town Administrator Desruisseaux said, regarding Grasmere Town Hall, we can do the removal of the crash door on the side door through the regular maintenance line. We are still looking for a date and time that is conducive for all for the EDSTAT meeting. She asked Assistant Town Administrator Derek Horne to check with them to see if they could come in on a Monday night. For the employee study, we are on target to have the report in April. Chairman Georgantas said the USPS is an ongoing public awareness issue. We are still waiting for Selectmen Adams to provide follow up (regarding the questions from private landowners regarding drainage on private property), for the letter to NH DOT, and for the Planning Board to look at the sign ordinance. We are also waiting to sign that easement. Town Administrator Desruisseaux said we are waiting for the document.

*7:25 pm Vice Chairman Lemay made a motion to enter non-public session per RSA 91-A:3 II (b) hiring. Selectman Brown seconded the motion. Roll Call Vote: Chairman Georgantas-aye; Vice Chairman Lemay-aye; Selectman Adams-aye; Selectman Brown-aye; Selectman Gross-aye. VOTE: 5-0-0. All in favor. Motion carries.*

*7:35 pm Selectman Adams made a motion to exit non-public session. Vice Chairman Lemay seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

*Selectman Adams made a motion to seal the minutes to the non-public session. Vice Chairman Lemay seconded the motion. Roll Call Vote: Chairman Georgantas-aye; Vice Chairman Lemay-aye; Selectman Adams-aye; Selectman Brown-aye; Selectman Gross-aye. VOTE: 5-0-0. All in favor. Motion carries.*

*Vice Chairman Lemay made a motion to authorize to Conditional Offers of Employment to fill the 28<sup>th</sup> and 29<sup>th</sup> patrol officer positions. Selectman Adams seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

*7:36 pm Vice Chairman Lemay made a motion to adjourn. Selectman Adams seconded the motion. VOTE: 5-0-0. All in favor. Motion carries.*

Respectfully submitted,

Gail Labrecque  
Recording Secretary

*Subject to approval by the Board of Selectmen.*

**PUBLIC NOTICE  
GOFFSTOWN  
SUPERVISORS OF THE CHECKLIST**

The Supervisors of the Checklist will be in session at the Town Hall, at 16 Main Street, Goffstown, NH on Saturday, February 27, 2016, from 11:00 a.m. - 11:30 a.m. for the purpose of making corrections to the checklist and for new voter registrations in advance of the Town Election on March 8, 2016.

Change of address and party affiliation changes can be made at this time.

If you are registering to vote, please bring photo ID, proof of date of birth and residence address. Anyone not born in the United States must also bring proof of citizenship.

Any person with a disability who needs to be provided a reasonable accommodation in order to participate, please call the Town Hall (497-8990 ext 100) at least 72 hours in advance so that arrangements can be made.

## Sue Desruisseaux

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**From:** Robert Browne  
**Sent:** Monday, February 01, 2016 7:56 AM  
**To:** Sue Desruisseaux  
**Subject:** FW: Captain Steckowych

Hi Sue,  
I thought I would share. Kerry has been teaching at the academy since before my time and is still one of the best instructors each class. His topic is without a doubt one of the most important as well.  
Rob

Chief Rob Browne  
Goffstown Police Department  
326 Mast Road  
Goffstown, NH 03045  
Bus. # 603-497-4858  
Fax # 603-627-9446  
[rbrowne@goffstownNH.gov](mailto:rbrowne@goffstownNH.gov)

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**From:** Josh Gadbois  
**Sent:** Sunday, January 31, 2016 5:59 PM  
**To:** Robert Browne  
**Subject:** Captain Steckowych

Dear Chief Browne,

Good evening. My name is Josh Gadbois. I've been a part time police officer for two years for Marine Patrol and I recently got hired full time by the Plymouth Police Department. I've been attending the 169<sup>th</sup> full time Police Academy and last week your Captain, Kerry Steckowych taught us arrest laws. I wanted to let you know that he is an extremely captivating individual when he was teaching our class and he had my full attention the entire time. I also want to let you know that I have an immense amount of respect for him despite the short time in the classroom I had with him. He was very passionate about police work and treating every person with respect regardless of what walk of life they come from. He was very motivating to me about battling complacency, avoidance of becoming a negative and complaining officer, as well as doing my absolute best every day that I sign on to my shift.

Captain Steckowych is the kind of police officer I desire to emulate and I hope to be as entertaining, intelligent, and compassionate as your Captain in my career. I hope that he continues to teach his class at the Police Academy for many more years.

Respectfully,

~Josh Gadbois

## Sue Desruisseaux

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**From:** Goffstown Police [police@goffstownpolice.com]  
**Sent:** Thursday, February 11, 2016 7:42 AM  
**To:** Sue Desruisseaux  
**Subject:** Fwd: Traffic for Primary

Thought I would share...

Rob

----- Forwarded message -----

**From:** Mike Pelletier  
**Date:** Thu, Feb 11, 2016 at 6:21 AM  
**Subject:** RE: Traffic for Primary  
**To:** Goffstown Police <[police@goffstownpolice.com](mailto:police@goffstownpolice.com)>

You guys did a great job. Wow, no problems and heard from people how pleased they were with the PD and the access to the GHS polling location. Maybe we should go help Merrimack? haha

Mike Pelletier

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5d



## MEMORANDUM

To : Susan Desruisseaux, Town Administrator  
Board of Selectmen

From : Chief Richard O'Brien 

CC : file

Date : February 17, 2016

RE : BOS Request: Out-of-State Conference / Training

The purpose of this memorandum is to request the Board of Selectmen to allow the Fire Chief / EMD to attend an Emergency Services Conference in Boston, MA – March 3<sup>rd</sup>, 2016.

The Conference is a 1-day program that covers various emerging topics in Homeland Security – specifically addressing multi-site attacks (as seen recently in Paris).

There is NO cost for the Conference.

If you have any questions regarding this request, please feel free to contact me.  
Thank you.

THIS IS AN UNOFFICIAL SUMMARY OF THE MEETING. PLEASE NOTE THE MINUTES ARE THE OFFICIAL RECORD OF THE MEETING.

Date: February 12, 2016  
To: Sue Desruisseaux, Town Administrator  
From: Patty Gale, Planning & Zoning Assistant  
RE: February 11, 2016 Planning Board Meeting

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**Present were: Chairman Barbara Griffin, , James Raymond, Michael Conlon, Tim Redmond, Collis Adams, Kimberly Peace and Patty Gale, Planning & Zoning Assistant.**

**Meeting convened at 7:05 p.m. All members present were voting members.**

Board members voted to approve the Minutes of January 14, 2016 and January 21, 2016 Public and Non-public Minutes, as printed.

**Map 38, Lots 72 & 73, Completeness Review and Subdivision Review/Conditional Use Permit Hearing, for a proposed lot line adjustment to adjust the lot lines between the two properties and to subdivide one new lot off of Lot 72, creating lot 72-1. Also being requested is relief from the 100 ft. (WSWC) Wetlands Surface Water Conservation Overlay District Buffer, where a 100 ft. building setback is required from any defined surface water/wetlands. The owner of the new proposed lot 72-1, would like to build a (2) two-family home within the outer 50' of the WSWC District. The property owners are: Christopher Tartsa (Lot 72) & Norton Phelps, III, (Lot 73), and are located on 26 & 12 Summer Street, Zoned: Residential-1 & within the WSWC Overlay District.**

Staff briefly explained the proposed application to the Board. The Board determined that there was no regional impact and voted to grant the requested waivers for acceptance purposes only, and accepted the application as complete. The Board heard a presentation from Joe Wichert, Land Surveyor for the application. The Board reviewed staff comments and recommendations. After opening the public hearing for public input and questions, and with no further discussion; the Board closed the public hearing and voted all in favor to granted the requested waivers, granted the relief of the outer 50 ' buffer of the Wetlands Surface Water Conservation District, and voted approve (6-0-0) the application with conditions.

The Board briefly reviewed correspondence.

Tim Redmond stated there will be a meeting scheduled soon with the Economic Development Council, Board of Selectmen, Planning Board and the Zoning Board of Adjustment, to hear a presentation from North Eastern University in regards to an Economic Review of Community Self Assessment.

**The meeting adjourned at 8: 15 pm.**

Respectfully submitted,

Patricia Gale, Planning & Zoning Assistant

**THIS IS AN UNOFFICIAL SUMMARY OF THE MEETING. PLEASE NOTE THE MINUTES ARE THE OFFICIAL RECORD OF THE MEETING.**



## *Town of Goffstown*

TOWN OFFICES  
16 MAIN STREET • GOFFSTOWN, NH 03045

**Date:** February 19, 2016  
**To:** Susan Desruisseaux, Town Administrator  
**From:** Derek M. Horne, Economic Development Coordinator  
**Re:** EDC 02/10/2016 Meeting

The Economic Development Council met Wednesday, February 10, 2016. In addition to accepting minutes of the 01/06/2016 meeting the EDC discussed the following:

### **Goffstown SpringFest**

The EDC has a table reserved at SpringFest = it will be located in the front hallway with other community organizations. The Council discussed how they want to participate and what material they wanted to present. This include a photo of the "Welcome to Goffstown" sign, Certified Sites pamphlets, results from the 2015 EDC Spring Survey, information highlighting Goffstown's natural resources, and result of the EDSAT.

### **EDSAT Presentation**

The Council discussed possible dates for the EDSAT presentation. Many members expressed frustration that Northeastern University staff was only willing to come to Goffstown during the day. The members requested that staff review the contract to determine whether the presentation was included in the cost of the survey.

### **Developers/Realtors Feedback**

The Council reviewed samples of a flowchart showing the typical development process in other NH municipalities. Members expressed a desire to have Town staff develop a similar flowchart based on actual practice.

The council restated their desire to meet with local realtors for a roundtable discussion on the current business climate, development concerns in Goffstown and suggestions related to economic development.

This roundtable discussion is set from Wednesday, March 2 at 7:00pm.

*(Email invitations were sent 02/19/2016)*

### **NHDOT – I-293 Exit 6 & 7**

Sel. Lemay provided an update of the next phase of the I-293 Planning Study underway. EDC members expressed a desire to be kept informed of the process and would like to participate in the process.

The next meeting of the Goffstown Economic Development Council is scheduled for Wednesday, March 2, 2016 at 6:30pm.

ECONOMIC DEVELOPMENT COORDINATOR

(603) 497-8990 ext. 119

FAX (603) 497-8993

[dhorne@goffstownnh.gov](mailto:dhorne@goffstownnh.gov)



# GOFFSTOWN PUBLIC LIBRARY

2 High Street • Goffstown, New Hampshire 03045

603/497-2102

THIS IS AN UNOFFICIAL SUMMARY OF THE MEETING.  
PLEASE NOTE THE MINUTES ARE THE OFFICIAL RECORD OF THE MEETING.

TO: Sue Desruisseaux, Town Administrator

FROM: Dianne Hathaway, Library Director

DATE: February 19, 2016

The Library Board of Trustees met on Wednesday, February 17, 2016:

## **Acceptance of Grant**

The Board accepted a \$209.00 grant from the NH Humanities Council for the program, "Antoine de Saint Exupery: the Man Who Wrote the Little Prince."

## **Thank You**

The Board extends sincere thanks to Patrick LaForge and the Goffstown Fire Department for CPR and AED training the staff on Monday, February 15.

## **Annual Staff Training**

The Library staff engaged in their annual training day on Presidents Day, February 15. The morning was spent with CPR/AED training and the afternoon was spent with reference interview training and use of services and library resources.

## **Annual Self-Evaluation**

The Board has received the self-evaluation survey and will submit it to the HR Chair prior to the March Board meeting.

## **Investment Policy**

The Board approved a revision to the Investment Policy.

## **Collection Development Policy**

The Board approved a revision to the Collection Development Policy.

## **Policy Review Matrix**

The Administrative & Finance Committee revised the Policy Review Matrix and distributed it to the Board and Library Director.

## **Online Library Design Workshop**

The Library Director and Board member Carl Foley, have been engaged with a 4-week online class to help formulate a plan for a building addition. It has been a valuable experience that we will be able to



## GOFFSTOWN PUBLIC LIBRARY

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2 High Street • Goffstown, New Hampshire 03045

603/497-2102

use to our benefit. Workshop description: *Library renovations and new design projects can be exciting, and overwhelming. This workshop will connect you to leading design thinkers and librarians to help you untangle complex issues related to your library's space design projects such as: space programming, fundraising, and finding the right design team. Participants will learn how to craft a robust report that you can deliver to your board, administration, staff, funders, and other stakeholders about creating a future-facing library building for your community-be it in a public or academic setting.*

*Learn time-saving strategies from leading design thinkers, architects and librarians in live keynote sessions (via webcast) and get personalized feedback on your plans in an online workshop setting from dedicated program facilitators experienced in library design. Discover your priorities, make a plan for board or administration involvement, and untangle complex issues related to your library space design.*

The next meeting of the Library Board of Trustees will be held on **Wednesday, March 16, 2016** at **6:30 p.m.** at the Goffstown Public Library.

**OLD BUSINESS: 2/22/16 ACTION MATRIX (started 3/16/15)**

Mtg. Date	Item	Description	Schedule
06/15/15 07/13/15 08/03/15 08/31/15 09/28/15	Grasmere Town Hall	Grasmere Town Hall - Sept. deadline to finish LCHIP project; - monthly updates provided in HDC Summary; weekly updates to be provided by Vice Chairman Lemay; - 8/3/15 request for more info - what has been spent; what's left to be done; cost of fire escape repair; - Update on Fire Escape? Discussion on 9/28/15 & approvals to proceed - RFP for exterior maintenance on 3 sides approved 9/21/15; due date 10/20/15; report back to BOS 10/26/15 - 11/9/15 VC Lemay reported that fire alarms are all set; looking for clarification of engineers specifications - 12/14/15 BOS to review estimates for work to be completed	
06/22/15	EDC	Schedule Meeting with EDC 10/7/15 Agenda - Discuss scheduling meetings with real estate developers and real estate agents; 12/2/15 EDSAT review - EDC & 2 members of BOS	Schedule after the first of year
07/20/15	HR Matrix	Established sub-committee (Collis, Scott & Sue) re: placement on matrix; add CFF; Budget for Consultant for wage and classification study (\$12,400)	Awaiting Wage & Classification Study in April 2016
08/10/15 08/17/15 08/24/15 09/21/15 09/28/15	Pinardville	11/30/15 USPS will not revisit zip code issue, suggests changing duplicative street names or street numbers. BOS decides to continue multi-media public awareness - inserts in next tax bills; website; flyers in businesses; message boards; GTV; press releases	Ongoing Public Awareness Campaign
08/31/15 09/21/15 10/5/15	Planning Board	Collis to provide a follow-up to private landowners question regarding jurisdiction related to drainage on private property - change dev regs or amend zoning? Collis will assist with drafting a letter to NHDOT for Mitigation Funds for secondary impacts from the Route 93 project; funds could assist with Updates of Master Plan and Development Regulations Collis to ask Planning Board to look at a rewrite of Sign Ordinance - zoning amendment	Development Regs review by PB in 2016; B. Griffin's memo re: NHDOT Mitigation Funds rec'd & email sent to NHDOT & SNHPC re: fund availability
12/07/15	Performance Evaluations	Selectmen started Dept. Head evaluations in December	scheduled 2/22/16
12/21/15	Conservation Easement	Fincke Conservation Easement (waiting for easement to sign)	

60c

bc

THIS IS A NONCONTRACTUAL  
TRANSFER AND IS A TRANSFER  
OF TITLE TO A TOWN AND IS EXEMPT  
FROM THE NEW HAMPSHIRE REAL  
ESTATE TRANSFER TAX PURSUANT TO  
NEW HAMPSHIRE RSA 78-B:2, IX.  
THIS TRANFER IS ALSO EXEMPT FROM  
THE LCHIP SURCHARGE PURSUANT TO  
RSA 478:17-G II(a).

**CONSERVATION EASEMENT DEED**

**Timothy E. and Carrie L. Finke**, husband and wife, of 355 Montelona Road, Town of Goffstown, County of Hillsborough, State of New Hampshire 03045 (hereinafter referred to as the "**Landowner**", which word, where the context requires, includes the plural and shall, unless the context clearly indicates otherwise, include the Landowner's executors, administrators, legal representatives, devisees, heirs, successors, and/or assigns),

for consideration paid, with **WARRANTY COVENANTS**, grant in perpetuity to

the **PISCATAQUOG LAND CONSERVANCY**, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 5A Mill Street, Town of New Boston, County of Hillsborough, State of New Hampshire 03070, having been determined by the Internal Revenue Service to be a Section 501(c)(3) income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code (hereinafter referred to as the "**Easement Holder**", which word shall, unless the context clearly indicates otherwise, include the Easement Holder's successors and/or assigns),

and with an Executory Interest (as described in the Section "Executory Interest Holder", below), to the **TOWN OF Goffstown**, a municipal corporation organized and existing under the laws of the State of New Hampshire, with a principal place of business at 16 Main Street, Town of Goffstown, County of Hillsborough, State of New Hampshire (hereinafter referred to as the "**Executory Interest Holder**", which shall, unless the context clearly indicates otherwise, include the Executory Interest Holder's successors and/or assigns),

this **CONSERVATION EASEMENT** (hereinafter referred to as the "**Easement**") hereinafter described with respect to that certain area of land (hereinafter referred to as the "**Property**"), being unimproved land, consisting of approximately 59 +/- acres, situated on Montelona Road, so-called, a maintained Town road in the Town of Goffstown, County of Hillsborough, State of New Hampshire, comprising a portion of Goffstown Tax Map 12 Lot 6-3 and labelled "Conservation Easement Area" as shown on the plan entitled, "Tax Map 12 Lot 6-3, Land of: Timothy E. & Carrie L. Finke, Prepared for: Piscataquog Land Conservancy", as prepared by Tom Huot, LLS #00921, S&H Land Services, dated November 17, 2015, and recorded at the Hillsborough County Registry of Deeds on 12/23/2015 as Plan # 38737, (hereafter "**Plan**"), all more particularly bounded and described in Appendix "A" attached hereto and made a part hereof.

The Landowner intends, as owner of the Property, to convey to the Easement Holder the right to preserve and protect in perpetuity the Conservation Attributes of the Property, including:  
HYDROLOGICAL RESOURCES:

- Approximately 59 acres within the Black Brook Watershed;
- Approximately 1,700 feet of frontage along both sides of Purgatory Brook, and 2,000 feet along both sides of a tributary to Purgatory Brook;
- Approximately 5 acres of an unnamed beaver pond;
- Approximately 11 acres of wetlands, as identified by the National Wetlands Inventory;
- Approximately 9 acres that fall within the Zone A floodplain, as identified by the Federal Emergency Management Agency;

ECOLOGICAL SIGNIFICANCE:

- Blanding's Turtle (*Emydoidea blandingii*), a State listed Endangered Species, identified by the Ecosystems Management Consultants, with degree of rarity in New Hampshire indicated by a State Rank of S1 and across its total range by a Global Rank of G4, on a scale of 1 (extremely rare) to 5 (demonstrably widespread and secure), documented within 1 mile; Wood Turtle (*Glyptemys insculpta*), a State listed Species of Concern, identified by the Vanasse Hangen Brustlin, Inc., with degree of rarity in New Hampshire indicated by a State Rank of S3 and across its total range by a Global Rank of G4 documented within 1 mile; Northern Black Racer (*Coluber constrictor constrictor*), a State listed Threatened Species, identified by the NH Natural Heritage Bureau, with degree of rarity in New Hampshire indicated by a State Rank of S2 and across its total range by a Global Rank of T4 documented within 1 mile; Smooth Green Snake (*Eopheodrys vernalis*), a State listed Species of Concern, identified by the NH Natural Heritage Bureau, with degree of rarity in New Hampshire indicated by a State Rank of S3 and across its total range by a Global Rank of G5 documented within 1 mile.
- Approximately 35 acres that are classified as part of the NH Natural Services Network, a GIS-based tool developed by 13 private organizations and public agencies to identify lands that provide important ecological services and that are difficult and/or expensive to replicate;
- Approximately 36 acres of appalachian/oak/pine forest, 10 acres of hardwood/hemlock/pine forest, 1 acre of temperate swamp, and 2 acres of peatlands as determined by the NH Fish and Game Department's NH Wildlife Action Plan, revised as of 2015;
- Approximately 59 acres that are part of a larger 558-acre unfragmented habitat block as determined by the aforesaid NH Wildlife Action Plan;

- Approximately 23 acres that are classified as “Tier 1” (highest ranked habitat in NH), approximately 13 acres that are classified as “Tier 2” (highest ranked habitat in biological region), and approximately 23 acres that are classified as “Tier 3” (supporting landscapes), as defined by the aforesaid NH Wildlife Action Plan;

#### LANDSCAPE CONTEXT:

- The enhancement of the magnitude and impact of 311 acres of previously protected land nearby the Property, including: the 101-acre Black Brook Preserve property, which is owned by the Easement Holder; the 126-acre Blackbriar Woods Preserve property, which is owned by the Easement Holder; the 19-acre Preston Preserve property, which is owned by the Easement Holder; the 65-acre Waldfogel Tract property, which is owned by the Executory Interest Holder;
- Approximately 38 acres that are classified as being in the top 15% of the NH Wildlife Connectivity Model, a GIS-based model developed by the NH Audubon Society and the NH Fish and Game Department to identify areas that are a priority for wildlife movement and connectivity;

#### RECREATIONAL, SCENIC, AND CULTURAL RESOURCES:

- There are approximately over 7,300 feet (1.4 miles) of recreational trails throughout the property, with additional opportunities for wetland and aquatic resources education and scientific study.
- Approximately 700 feet of undeveloped, scenic road frontage along Montelona Road, a class V road;
- Approximately 1,700 feet of undeveloped, scenic frontage along Purgatory Brook and approximately 2,000 of an unnamed tributary to Purgatory Brook;

The above Conservation Attributes of the Property are further described and documented in a Baseline Documentation Report (as described in the Section “Baseline Documentation Report”, below).

The Easement Holder agrees by accepting this grant to honor the intentions of the Landowner stated herein and to preserve and protect in perpetuity the Conservation Attributes of the Property for the public benefit of this generation and the generations to come.

#### **1. PURPOSES**

The Landowner intends that this grant be consistent with applicable provisions of New Hampshire RSA 477:45-47 and that this Easement will confine the use of the Property to such activities that are consistent with the following conservation purposes (hereinafter referred to as the “Purposes of this Easement”):

- A. To maintain the Property in perpetuity as open space;
- B. To protect the Conservation Attributes of the Property and prevent any use of the Property that will significantly impair or interfere with the Conservation Attributes of the Property;
- C. To protect the water quality of surface water and groundwater resources on and under the Property;
- D. To protect the natural habitat of the Property, including habitat for rare plant and wildlife species, and exemplary natural communities;
- E. To provide for low-impact outdoor recreational and/or educational use, as defined herein, of the Property by the general public;
- F. To provide for the scenic enjoyment of the Property by the general public; and
- G. To conserve the Property's productive forest land, important forest soils, and the long-term protection of the Property's capacity to produce economically valuable forestry products.

The above Purposes of this Easement are consistent with and in furtherance of the clearly delineated Conservation and Open Space Goals and Objectives stated in the 2006 Updated Master Plan of the Town of Goffstown, which include: Natural resource Protection Goal C&OS 2 Objective to support the Conservation Commission's efforts to guide permanent protection of open space, and Goal C&OS 3 to "support and encourage the protection and maintenance of natural resources", and its Objective to support the "efforts to conserve important natural resources for the good of all of Goffstown".

And consistent with New Hampshire RSA 79-A:1 "Declaration of Public Interest", which states: "It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources." and which also states: "It is further declared to be in the public interest to prevent the loss of open space due to property taxation at values incompatible with open space usage. Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens. The means for encouraging preservation of open space authorized by this chapter is the assessment of land value for property taxation on the basis of current use."

And consistent with Conservation Strategy 700 "Land Protection" of the aforesaid NH Wildlife Action Plan, which states: "New Hampshire requires a network of permanently conserved lands that effectively represents the state's wildlife and habitat diversity. Land protection through conservation easements and acquisition ensures the long-term protection of our wildlife resources." And includes, "701 Objective: Protect riparian/shoreland habitat and other wildlife corridors" and "702 Objective: Protect unfragmented blocks and other key wildlife habitats".

And consistent with the clearly delineated Goals and Principles stated in the 2014 Piscataquog Land Conservancy Strategic Conservation Plan.

All the Purposes of this Easement are consistent and in accordance with the U.S. Internal Revenue Code Section 170(h).

## **2. USE LIMITATIONS**

Any use or activity on the Property that is detrimental to the Purposes of this Easement is prohibited, subject to the reserved rights specified in the Section "Reserved Rights of the Landowner", below. The Property shall be maintained in perpetuity as open space subject to the following use limitations:

- A. No industrial or commercial use or activity shall be conducted on the Property, except as provided in Section 3.A, below.
  - i. For the purposes hereof, "commercial" is defined to mean production, sale, or transportation for value.
- B. The Property shall not be subdivided or otherwise divided de facto into parcels of separate distinct ownership, and may be sold, transferred, devised or conveyed only in its entirety, except that the lease of any portion of the Property for any use permitted by this Easement shall not violate this provision.
- C. No structure or improvement of any kind, including, but not limited to, a dwelling, a cabin, septic system, residential driveway, tennis court, swimming pool, athletic field, golf course, dock, aircraft landing strip, tower, mobile home, storage trailer, or commercial structure shall be constructed, placed, or introduced onto the Property, except as provided in Section 3.B, below.
- D. No removal, filling, or other disturbance of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed on the Property, except as provided in Section 3.C, below.
- E. No mining, quarrying, excavation or removal of rocks, minerals, gravel, peat, sand, sod, topsoil, or other similar materials on the Property, except as provided in Section 3.C, below.
- F. No outdoor advertising structures, such as signs or billboards, shall be displayed on the Property, except as provided in Section 3.D, below.
- G. No application, dumping, injection, burning, or burial on the Property of man-made materials or materials then known to be or which reasonably should have been known to be environmentally hazardous or detrimental to the Purposes of this Easement.

- H. No rights-of-way or easements of ingress or egress in favor of any third party shall be created or developed into, on, over, or across the Property without the prior written approval of the Easement Holder, except those of record as of the execution of this Easement and those specifically permitted in the provisions of this Easement.
- I. The Property shall not be used to satisfy the density, open space, frontage, setback, or other requirements of any applicable zoning ordinance, subdivision regulation, or other land use regulation of any governmental unit with respect to the development of any other property. Notwithstanding the provisions of the immediately preceding sentence, said regulations shall not include those governing NH Current Use Assessment under New Hampshire RSA 79-A as may be amended from time to time.
- J. The Landowner may not give permission for the use or operation of off-highway motorized recreational vehicles, except as provided in Section 3.E, below. Further, the Landowner shall post the Property, as necessary, to prevent access to and use of the Property by such off-highway motorized recreational vehicles.
- i. For the purposes hereof, “off-highway motorized recreational vehicles” include, but are not limited to, full-sized four-wheel drive vehicles, all-terrain vehicles, snowmobiles, motorcycles, and dirt bikes.
- K. The Property shall not be posted against, and the Landowner shall allow use of the Property by the public for non-motorized, pedestrian low-impact outdoor recreational uses and/or educational uses, except as provided in Section 3.F, below. The Landowner shall not be required to allow camping on the Property. The Easement Holder shall be under no duty to supervise said access, use, or purpose.
- i. For the purposes hereof, “low-impact outdoor recreational uses” include, but are not limited to, hiking, cross-country skiing, snowshoeing, fishing, horseback riding, and hunting.
- ii. For the purposes hereof, “educational uses” include, but are not limited to, field trip and outdoor instructional use, wildlife nature observation and interpretation in the out-of-doors, scientific research in areas related to ecological systems and environmental conservation, and other such activities which promote a broad understanding of wildlife and natural resource management.
- L. In order to protect water quality, there shall be maintained a 100-foot buffer zone of natural vegetation that shall be left essentially undisturbed. The buffer zone shall be measured from stream, pond, and wetland edge, at the normal high water mark. Where there is an incised streambank, the buffer zone shall be measured from the top of the streambank. No bridge or other manmade structures shall be permitted in this zone, except as provided in Section 3.B OR unless the Easement Holder determines that such use is not detrimental to the Purposes of the Easement. These provisions do not in any way reduce the right of the Landowner to remove invasive species from the buffer zone.

- M. No alteration of location or removal of any stone walls or other monuments or markers that serve as legal boundaries as per New Hampshire RSA 472:6, or as legal boundary of this Easement as shown on the Plan.
- N. No use shall be made of the Property, and no activity thereon shall be permitted which is inconsistent with the Purposes of this Easement, except as reserved herein. The Landowner and Easement Holder acknowledge that, in view of the perpetual nature of this Easement, they are unable to foresee all potential future land uses, future technologies and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Easement. The Easement Holder, therefore, in its sole discretion, may determine whether (a) proposed uses or proposed improvements not contemplated by, or addressed in, this Easement, or (b) alterations to existing uses or structures, are consistent with the Purposes of this Easement.

### 3. RESERVED RIGHTS OF THE LANDOWNER

The Landowner reserves all rights accruing from ownership of the Property that are not expressly prohibited herein and are not inconsistent with the Purposes of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- A. **Forestry:** The Landowner reserves the right to conduct commercial forestry activities on the Property, as described below, and provided that the productive capacity of the Property to produce forest crops shall not be degraded by such activities.
- i. For the purposes hereof, "forestry" shall include, but not be limited to: the growing, stocking, cutting, and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; and, the processing and sale of products produced on the Property (such as firewood and maple syrup), all as not detrimental to the Purposes of this Easement.
  - ii. If any forestry is conducted for commercial purposes, it shall be performed, to the extent reasonably practicable, as hereinafter specified in accordance with the following goals, and in a manner not detrimental to the Purposes of this Easement.
    - a. The goals are:
      - maintenance of soil productivity;
      - protection of water quality, wetlands, and riparian zones;
      - maintenance or improvement of the overall quality of forest products;
      - conservation of scenic quality;
      - protection of unique or fragile natural areas, such as the habitat for state of federally recognized rare, threatened, or endangered species, or such as exemplary natural communities, such habitat or communities as identified by the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and/or natural communities;

- protection of unique historic and cultural features; and
- conservation of plant and animal species.

- b. Such forestry shall be performed in accordance with a written forest management plan appropriate for the sites, soils, and terrain of the Property, prepared by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder. Said plan shall be current within ten (10) years of harvest, and be in accordance with then-current, generally accepted best management practices recommended by government or private, nonprofit natural resource conservation and management agencies then active, including but not limited to recommended practices in “Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire (second edition)” Bennett, Karen P. editor, December 2010, or similar successor publications.
- c. At least sixty (60) days prior to any timber harvesting, the Landowner shall submit to the Easement Holder a written certification, signed by a licensed professional forester, or by other qualified person who has been approved in advance and in writing by the Easement Holder, that the forestry plan for the Property has been prepared in compliance with the Purposes of this Easement and the proposed harvesting activities conform with the plan. Upon request by the Easement Holder, the Landowner shall submit the plan itself to the Easement Holder within ten (10) days of such request. It is acknowledged that the plan’s purpose is to guide forest management activities in compliance with the Purposes of this Easement, and that the actual activities will determine compliance therewith.
- d. Any timber harvesting with respect to such forestry shall be conducted in accordance with said plan and be supervised by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder.
- e. Such forestry shall be carried out in accordance with all applicable federal, state, local, and other governmental laws and regulations.

**B. Structures or Improvements:** The Landowner reserves the right to construct ancillary structures or improvements on the Property, provided that they are:

- i. Necessary in the accomplishment of the forestry, habitat management, low-impact outdoor recreational, educational, or conservation uses of the Property, including, but not limited to, trails, fences, bridges, culverts, sheds, or the existing permeable-surface driveway; and
- ii. Not detrimental to the Purposes of this Easement.

Any such construction of an ancillary structure or improvement on the Property that has permanent foundations or an impermeable roof shall be subject to the notification requirements set forth in the Section "Notices", below.

Prior to the commencement of Structure or Improvement activities on the Property, the Landowner shall secure all necessary federal, state, local, and other governmental permits and approvals.

- C. **Excavations:** The Landowner reserves the right to remove, fill, or otherwise disturb soil surface, change the topography, surface or subsurface water systems, wetlands, or natural habitat on the Property, provided that such activity:
- i. Is necessary in the accomplishment of the forestry, habitat management, agricultural, low-impact outdoor recreational, educational, or conservation uses of the Property;
  - ii. Does not harm state or federally recognized rare, threatened, or endangered species, or species of special concern or exemplary natural communities, such determination of harm shall be based upon information from the NH Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and/or natural communities;
  - iii. Does not cause significant soil degradation, erosion, or significant pollution of any surface or subsurface waters; and
  - iv. Is not detrimental to the Purposes of this Easement.

Removal from the Property of such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be subject to the notification requirements set forth in the Section "Notices", below and subject to the approval by the Easement Holder.

Prior to the commencement of Excavation activities on the Property, the Landowner shall secure all necessary federal, state, local, and other governmental permits and approvals.

- D. **Advertising Structures:** The Landowner reserves the right to display outdoor advertising structures on the Property, provided that they are:
- i. Desirable or necessary in the accomplishment of the forestry, habitat management, low-impact outdoor recreational, educational, or conservation uses of the Property; or
  - ii. Necessary for public safety; and
  - iii. Not detrimental to the Purposes of this Easement.

E. **Off-Highway Motorized Recreational Vehicles:** The Landowner reserves the right to use or operate off-highway motorized recreational vehicles on the Property, provided that they are:

- i. Desirable or necessary in the accomplishment of the forestry, habitat management, low-impact outdoor recreational, educational, or conservation uses of the Property; and
- ii. Not detrimental to the Purposes of this Easement.

F. **Posting Against Public Access:** The Landowner reserves the right to post portions of the Property, against public access and use for purposes other than low-impact outdoor recreational or educational uses, including, but not limited to, camping or hunting; and against public access and use of forestland during stand establishment, harvesting, or other active forest management operations such as construction or maintenance of woods roads. This shall not be construed as the right to post the entire Property against public access.

#### 4. **AFFIRMATIVE RIGHTS OF THE EASEMENT HOLDER**

To accomplish the Purposes of this Easement, the following rights are conveyed to the Easement Holder:

- A. To preserve and protect the Conservation Attributes of the Property;
- B. To determine which uses or activities are consistent or inconsistent with the Purposes of this Easement, to prevent any use or activity on the Property that is detrimental to the Purposes of this Easement, and at its discretion, to require the restoration of such areas or features of the Property as may be damaged by any inconsistent use or activity, as set forth in the Section "Resolutions of Disputes", below;
- C. To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement; provided the Easement Holder shall not unreasonably interfere with the Landowner's use and quiet enjoyment of the Property; and
- D. To install small conservation signs around the perimeter of the Property for purposes of identifying the Property as a conservation land protected by the Easement Holder; and one sign of the Easement Holder's choosing identifying the property as conservation land.
- E. To conduct educational uses, as defined herein, subject to the prior permission of the Landowner.

## 5. NOTICES

- A. All notices, requests, and other communications, required or permitted to be given under this Easement, shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested, or equivalent to the appropriate address set forth above or at such other address as the Landowner and Easement Holder may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.
- B. Notices of intention to undertake certain permitted actions: The purpose of requiring the Landowner to notify the Easement Holder prior to undertaking certain permitted activities, such as is provided for in the Section "Reserved Rights of the Landowner", is to afford the Easement Holder an opportunity to ensure that the activities in question are designed in a manner consistent with the Purposes of this Easement. Unless otherwise indicated, whenever notice is required the Landowner shall notify the Easement Holder in writing not less than sixty (60) days prior to the date the Landowner intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Easement Holder to make an informed judgment as to its consistency with the Purposes of this Easement. Where the Easement Holder's approval is required, the Easement Holder shall grant or withhold its approval in writing within forty-five (45) days of receipt of the Landowner's written request therefor.
- C. Notices of subsequent transfer: The Landowner agrees to incorporate the terms of this Easement in any deed or other legal instrument by which the Landowner divests him/herself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. The Landowner further agrees to give written notice to the Easement Holder of the transfer of any interest at least thirty (30) days prior to the date of such transfer.

## 6. BENEFITS, BURDENS, AND ASSIGNMENT

The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity. The benefits of said Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistently with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code and applicable regulations promulgated thereunder, which organization: has among its purposes the conservation and preservation of land and water areas; agrees to and is capable of protecting the Purposes of this Easement; and, has the resources to enforce the restrictions of this Easement. As a condition of such assignment, the Easement Holder shall require that the Purposes of this Easement continue to be carried out. Any such assignee or transferee shall have like power of assignment or transfer.

## 7. RESOLUTION OF DISPUTES

- A. The Landowner and Easement Holder desire that issues arising from time to time concerning the interpretation of the provisions of this Easement, or any use or activity on the Property, will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Landowner and Easement Holder agree that if either party becomes concerned whether any proposed or actual use, activity, or failure to take action complies with the provisions of this Easement, wherever reasonably possible, the concerned party shall notify the other party of the perceived or potential problem, and the parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.
- B. If informal dialogue does not resolve the issue, and the party proposing or performing the activity agrees not to proceed with the proposed or actual use or activity pending resolution of the on-going dispute, either party may refer the dispute to mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the parties shall agree on a single impartial mediator, who shall be an attorney licensed to practice law in New Hampshire or an experienced land use or land conservation professional. Each party shall pay its own legal fees and other associated costs, and the costs of mediation shall be split equally between the parties.
- C. If the parties agree to bypass mediation or the dispute has not been resolved by mediation within sixty (60) days after the delivery of the mediation request, or the parties are unable to agree on a mediator within thirty (30) days after delivery of the mediation request, then, with the Landowner's continued agreement not to proceed with the disputed use or activity pending resolution, either party may refer the dispute to binding arbitration by request made in writing and in accordance with New Hampshire RSA 542. Within thirty (30) days of the receipt of such request, the parties shall select a single impartial arbitrator to hear the matter. The arbitrator shall be an attorney licensed to practice law in New Hampshire, with experience in conservation easements and applicable training and experience as an arbitrator. Judgment upon the award rendered by the arbitrator may be enforced in any court of competent jurisdiction. The arbitrator shall be bound by, and follow the substantive law of New Hampshire and the applicable provisions of the United States Internal Revenue Code. The arbitrator shall render a decision within thirty (30) days of the arbitration hearing.
- D. If the parties do not agree to resolve the dispute by arbitration, or if the parties are unable to agree on the selection of an arbitrator, then either party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by permanent injunction, and to require the restoration of the Property to its condition prior to the breach and for such damages as may be appropriate.
- E. Notwithstanding the availability of mediation and arbitration, if the Easement Holder believes that some action or inaction of the Landowner or of a third party is causing irreparable harm or damage to the Property, or creates an imminent threat of harm, the Easement Holder may seek a temporary restraining order, preliminary injunction, or other

form of equitable relief from any court of competent jurisdiction to: enforce the terms of this Easement; enjoin any violation by temporary or permanent injunction; and, to require the restoration of the Property to its condition prior to any breach.

#### **8. BREACH OF EASEMENT – EASEMENT HOLDER’S REMEDIES**

- A. If the Easement Holder determines that a breach of this Easement has occurred or a threat of breach exists, the Easement Holder shall notify the Landowner in writing of such breach and demand corrective action to cure the breach and, where the breach involves damage, disturbance, or harm to the Property, to restore the portion of the Property so damaged to its prior condition in accordance with a plan approved by the Easement Holder.
- B. The Landowner shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach, undertake those actions, including restoration, which are reasonably calculated to swiftly cure said breach and to repair any damage. The Landowner shall promptly notify the Easement Holder of its actions taken under this Section.
- C. If the Landowner fails to take proper action under the preceding paragraph, or fails to continue diligently to completely cure said breach, the Easement Holder may undertake any actions, in the Landowner’s name, that are reasonably necessary to repair any damage or to cure such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such breach.
- D. If the Easement Holder, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to any Conservation Attribute of the Property, the Easement Holder may pursue its remedies under this Section without prior notice to the Landowner or without waiting for the period provided for cure to expire.
- E. The Easement Holder shall be entitled to recover damages from the party directly or primarily responsible for the breach or for damage to any Conservation Attributes protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, or environmental attributes of the Property. Without limiting the Landowner’s liability therefore, the Easement Holder, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- F. The Easement Holder’s rights under this Section apply equally in the event of either actual or threatened breach of the terms of this Easement and are in addition to the provisions of the Section “Resolution of Disputes”, above. The Landowner agrees that the Easement Holder’s remedies at law for any breach of the terms this Easement are inadequate and that the Easement Holder shall be entitled to the injunctive relief provided for herein, including specific performance of the terms of this Easement, without the

necessity of proving either actual damages of the inadequacy of otherwise available legal remedies. The Easement Holder's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

- G. Provided that the Landowner is directly or primarily responsible for the breach, and if a court of law determines such responsibility, all reasonable costs incurred by the Easement Holder in enforcing the terms of the Easement against the Landowner, including, without limitation, reasonable attorney's fees and costs and expenses of suit, and any costs of restoration necessitated by the Landowner's breach of this Easement shall be borne by the Landowner; and provided further, however, that if the Landowner ultimately prevails in a judicial enforcement action, each party shall bear its own costs. Notwithstanding the above, if the Easement Holder initiates litigation against the Landowner to enforce this Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Easement Holder to reimburse the Landowner's reasonable costs and reasonable attorney's fees in defending the action.
- H. Any delay or forbearance by the Easement Holder in exercising its rights under this Easement in the event of any breach of any term thereof shall not be deemed or construed to be a waiver by the Easement Holder of its rights hereunder. No delay or omission by the Easement Holder in the exercise of any right or remedy upon any breach by the Landowner shall impair such right or remedy, or be construed as a waiver. The Landowner hereby waives any defense of laches, estoppel, or prescription.
- I. Nothing contained in this Easement shall be construed to entitle the Easement Holder to bring any action against the Landowner for any damage to, or change in, the Property, or to any person, resulting from causes beyond the Landowner's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, disease, infestation, and earth movement, or from any prudent action taken by the Landowner under emergency conditions to prevent, abate, or mitigate significant damage to the Property, or any person, resulting from such causes.
- J. The Landowner and Easement Holder reserve the right, separately or collectively, to pursue all legal or equitable remedies, as set forth in this Section, against any third party responsible for any actions inconsistent with the provisions of this Easement, and, further, prior to either party taking any such separate action, the Landowner and Easement Holder shall first discuss with one another opportunities for taking collective action.

## **9. TAXES AND MAINTENANCE**

The Easement Holder shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.

## **10. SEVERABILITY**

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award

or otherwise, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

**11. HOLD HARMLESS**

The Landowner agrees to release, hold harmless, defend and indemnify the Easement Holder from any and all liabilities including, but not limited to, injuries, losses, damages, judgments, costs, expenses, and fees which the Easement Holder may suffer or incur as a result of, arising out of, or connected with: i) the activities of the Landowner or any other person on the Property, other than those caused by the negligent acts or acts of misconduct by the Easement Holder; or, ii) violation or alleged violation of, or other failure to comply with, any federal, state, or local law, regulation, or requirement by any person, other than the Easement Holder, in any way affecting, involving, or relating to the Property.

**12. ENVIRONMENTAL RESPONSIBILITIES**

Nothing in this Easement shall be construed as giving any right or ability to the Easement Holder to exercise physical or managerial control of any of the Landowner's activities on the Property, except for the Easement Holder's rights and responsibilities related to the monitoring of the Property and enforcement of this Easement, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended ("CERCLA"), or of any other federal, state, or local law or regulation making operators of property responsible for remediation of contamination.

**13. EXTINGUISHMENT AND CONDEMNATION**

- A. **Extinguishment:** If circumstances arise in the future such as render the Purposes of this Easement impossible or impracticable to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which the Easement Holder shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such judicial termination or extinguishment, shall be determined in accordance with this Section. In making this grant of Easement, the Landowner has considered and acknowledges the possibility that uses prohibited by the terms of this Easement may become more economically viable than the uses specifically reserved by the Landowner pursuant to this Easement. It is the intent of both the Landowner and Easement Holder that any such change in economic conditions shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to this Section.
  
- B. **Condemnation:** If all or any part of the Property is taken, in whole or in part, by exercise of the power of eminent domain or is acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, the Landowner and Easement Holder shall act jointly to recover the full value of their interests in the Property subject to the taking or in lieu purchase and to

recover all direct or incidental damages resulting therefrom. All expenses reasonably incurred by the Landowner and Easement Holder in connection with the taking or in lieu purchase shall be paid out of the amount recovered. The amount of the proceeds to which the Easement Holder shall be entitled, after payment of any expenses, shall be determined in accordance with this Section.

- C. **Valuation:** This Easement constitutes a real property interest immediately vested in the Easement Holder, which, for the purposes of this Section, shall have a fair market value which shall be determined as follows:
- i. **If the Landowner claims a charitable contribution deduction,** that value determined by multiplying (1) the fair market value of the Property without deduction for the value of this Easement as of the time of said extinguishment or condemnation, by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property at the time of this grant without deduction for the value of this Easement, those values being those used to calculate the deduction for federal income or estate tax purposes allowable by reason of this grant, pursuant to the IRS Code Section 170(h) or 2055(f), determined by an appraisal report which shall be prepared by a qualified appraiser on behalf of the Landowner and which the Landowner shall submit to the Easement Holder. For the purposes of this Section, the ratio of the value of the Easement to the value of the Property unencumbered by this Easement shall remain constant. Any increase in value attributable to improvements made after the effective date of this Easement shall accrue to such of the Landowner and/or Easement Holder that made the improvement(s).
  - ii. **If the Landowner does not claim a charitable contribution deduction,** that value determined by an appraisal prepared by a qualified appraiser as of the time of said extinguishment or condemnation.

The balance of the amount recovered, after payment of any expenses, shall be divided between the Landowner and Easement Holder in proportion to the value of their respective interests in that part of the Property extinguished or condemned as determined above.

#### 14. **ADDITIONAL EASEMENT**

Should the Landowner determine that the expressed Purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Landowner may execute an additional instrument to that effect, provided that: the Purposes of this Easement are not diminished thereby; a public agency or qualified organization described in the Section "Benefits, Burdens, and Assignments," above, accepts and records the additional easement; and, the Landowner has given advance written notice, including a copy of proposed additional easement, to the Easement Holder and the Executory Interest Holder at least sixty (60) days prior to execution.

## **15. AMENDMENT**

If, owing to unforeseen or changed circumstances, the Landowner and Easement Holder and the Executory Interest Holder agree that an amendment to, or modification of, this Easement would be appropriate and desirable, the Landowner and Easement Holder and the Executory Interest Holder may jointly amend this Easement pursuant to: the provisions and limitations of this Section; the then-current amendment policies of the Easement Holder; and applicable state and federal law. Any amendment shall be consistent with the Purposes of this Easement, and shall not impair the Conservation Attributes of the Property protected by this Easement. No amendment shall affect the qualification of this Easement or the status of the Easement Holder under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, and NH RSA 477:45-47 as may be amended from time to time, nor shall any amendment affect the perpetual duration of this Easement. Any amendment shall be executed by the Landowner and Easement Holder and the Executory Interest Holder and shall be recorded in the Hillsborough County Registry of Deeds. Nothing in this paragraph shall require the Landowner or Easement Holder or the Executory Interest Holder to agree to any amendment or to consult or negotiate regarding any amendment.

## **16. ENTIRE AGREEMENT**

This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, and agreements relating to this Easement, all of which are merged herein.

## **17. GOVERNING LAW AND INTERPRETATION**

This Easement shall be interpreted under and governed by the laws of the State of New Hampshire, and shall be liberally construed to effect the Purposes of this Easement.

## **18. MERGER**

The Landowner and Easement Holder and the Executory Interest Holder explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of this Easement are to last in perpetuity, and that, to that end, no conveyance of the underlying fee interest in the Property by or to the Easement Holder or the Executory Interest Holder shall be deemed to eliminate this Easement, or any portion thereof, under the doctrine of "merger" or any other legal doctrine.

## **19. BASELINE DOCUMENTATION REPORT**

In order to document the Property's current condition and specific Conservation Attributes, the Easement Holder has examined the Property and compiled an inventory of relevant features consisting of a report, maps, photographs, and other documentation (the "Baseline Documentation Report"). The Baseline Documentation Report has been signed by the Landowner and Easement Holder, thereby acknowledging it to represent accurately the condition of the Property at the date of the conveyance of this Easement, and is filed with the Easement

Holder with a copy provided to the Landowner. The parties intend that the Baseline Documentation Report will serve as an objective information baseline and shall be used by the Easement Holder for monitoring compliance with the terms of this Easement. The parties further agree that, in the event a dispute arises with respect to the condition of the Property or a particular resource thereof, the parties shall not be foreclosed from utilizing any other relevant document, survey, or report to assist in the resolution of the dispute.

**19. EXECUTORY INTEREST HOLDER**

- A. If the Easement Holder ceases to exist or ceases to function as a qualified conservation organization under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, or if the Easement Holder ceases to enforce the Easement conveyed hereby or fails to enforce it within thirty (30) days after receipt of written notice from the Executory Interest Holder requesting such enforcement, then the Executory Interest Holder shall have all of the rights heretofore granted to the Easement Holder to enforce this Easement. All reasonable costs of such enforcement shall be paid by the Easement Holder.
- B. In the circumstance of the immediately preceding paragraph, or in the event the Easement Holder acquires the underlying fee interest in the Property, the Executory Interest Holder shall then also have the right to terminate the Easement interest of the Easement Holder in the Property, after providing written notice to the Easement Holder, by recording a notice to that effect in the Registry of Deeds referring hereto. The Executory Interest Holder shall thereupon assume and thereafter have all interests, rights, responsibilities, and duties granted to and incumbent upon the Easement Holder in this Easement.
- C. The Easement Holder reserves the right to challenge any such assertion and affidavit filed by the Executory Interest Holder. Any dispute as to the viability or efficacy of the Easement Holder shall be resolved by a court of competent jurisdiction.
- D. The interests held by the Executory Interest Holder are assignable or transferable to any party qualified to become the Easement Holder's assignee or transferee as specified in the Section "Benefits, Burdens, and Assignment", above. Any such assignee or transferee shall have like power of assignment or transfer. Any holder of an interest in this Easement desiring to transfer or assign its interest shall send written notice describing said intention to all other holders of any interest in this Easement at least thirty (30) days prior to such transfer or assignment taking effect.

Signature Page Follows

The Easement Holder, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Easement Holder, all in the furtherance of the Purposes of this Easement.

IN WITNESS WHEREOF, we have hereto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Carrie L. Finke

\_\_\_\_\_  
Timothy E. Finke

The State of New Hampshire  
County of Hillsborough

Personally appeared this \_\_\_\_\_ day of \_\_\_\_\_, 2016 Carrie and Timothy Finke, who acknowledged the foregoing to be their voluntary act and deed.

Before me, \_\_\_\_\_  
Justice of the Peace/Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

ACCEPTED: PISCATAQUOG LAND CONSERVANCY

By: \_\_\_\_\_  
Christopher Wells, Executive Director/President  
Duly Authorized

The State of New Hampshire  
County of Hillsborough

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016 personally appeared Paula S. Bellemore, Executive Director of the Piscataquog Land Conservancy, and acting in said capacity, and being authorized so to do, executed the foregoing instrument on behalf of the Piscataquog Land Conservancy as its voluntary act and deed for the purposes therein contained.

Before me, \_\_\_\_\_  
Justice of the Peace/Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

ACCEPTED: EXECUTORY INTEREST HOLDER

By: \_\_\_\_\_  
Goffstown Selectman

The State of New Hampshire  
County of Hillsborough

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016 personally appeared Town of Goffstown Board of Selectmen, and acting in said capacity, and being authorized so to do, executed the foregoing instrument on behalf of the Town of Goffstown as its voluntary act and deed for the purposes therein contained.

Before me, \_\_\_\_\_  
Justice of the Peace/Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## APPENDIX A

The property subject to this Conservation Easement is a certain parcel of land on the westerly side of Montelona Road, Goffstown, N.H. Said parcel of land is shown as a portion of Tax Map 12 Lot 6-3 on a plan entitled; "Tax Map 12 Lot 6-3, Conservation Easement Plan, Land of: Timothy E. & Carrie L. Finke, Prepared for: Piscataquog Land Conservancy, Located at: 355 Montelona Road, Goffstown, N.H." Said plan is recorded at the Hillsborough County Registry of Deeds on 12/23/2015 as Plan # 38737, and being more particularly described as follows:

Beginning at a rebar found on the westerly side of Montelona Road. Said point being the Easterly corner of the herein described parcel;

Thence along land of Florin S63°48'14"W 93.41' to an iron rod found;

Thence continuing along land of Florin S03°46'11"W 379.61' to an iron rod found;

Thence continuing along land of Florin and along land of Gilbert S15°12'33"W 578.30' to a drill hole set in a stone wall at land of Kos;

Thence along land of Kos and along land of the Swanson Family Trust and along said stone wall S80°50'15"W 295.03' to a point;

Thence continuing along land of said Swanson and along said stonewall S81°05'37"W 408.72' to a point;

Thence continuing along land of said Swanson and along said stonewall S80°23'59"W 495.89' to a drill hole found at a corner of stonewalls;

Thence continuing along land of Swanson and along land of the Pointer Fish & Game Club, Inc. N9°34'52"W 1983.43' to a pile of stones at land of Fields;

Thence continuing along land of said Fields N79°44'20"E 237.88' to a stone bound at land of Nault;

Thence along land of said Nault N80°03'39"E 834.66' to an iron rod found in a stone wall at land of St. Onge;

Thence along land of said St. Onge S2°52'27"W 344.32' to a point;

Thence across land of Finke N71°37'55"W 192.47' to a point;

Thence continuing across land of Finke S76°44'11"W 65.61' to a point;

Thence continuing across land of Finke S61°37'28"W 71.44' to a point;

Thence continuing across land of Finke S8°13'38"W 148.97' to a point;  
Thence continuing across land of Finke S20°00'53"E 40.09' to a point;  
Thence continuing across land of Finke S79°17'04"E 148.34' to a point;  
Thence continuing across land of Finke S86°43'20"E 159.71' to a point;  
Thence continuing across land of Finke S33°05'58"E 77.06' to a point;  
Thence continuing across land of Finke S54°21'01"E 66.00' to a point;  
Thence continuing across land of Finke N86°02'15"E 110.76' to a point;  
Thence continuing across land of Finke N63°56'41"E 200.00' to a point;  
Thence continuing across land of Finke N36°50'24"E 222.01' to a point on the westerly line of Montelona Road;  
Thence along the westerly line of Montelona Road S33°31'49"E 31.47' to an iron rod found;  
Thence continuing along the westerly line of Montelona Road S34°12'53"E 107.56' to a point;  
Thence continuing along the westerly line of Montelona Road S29°27'25"E 88.44' to a point;  
Thence continuing along the westerly line of Montelona Road S25°45'58"E 77.77' to a point;  
Thence continuing along the westerly line of Montelona Road S17°46'10"E 115.28' to a point;  
Thence continuing along the westerly line of Montelona Road S10°02'17"E 218.62' to the point of beginning.  
Said easement containing 2,570,236 S.F. ± or 59.005 Acres±.

**MEANING AND INTENDING** to describe a 59 +/- acre portion of that conveyed from John Walker and Kathleen Albert f/k/a Kathleen Walker to Timothy E. and Carrie L. Finke, dated May 31, 2007 and recorded at the Hillsborough County Registry of Deeds in Book 7854, Page 1034.