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## City held after-the-fact hearing on property purchase

By RICK GREEN, THE LACONIA DAILY SUN  
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LACONIA — On July 8, the city Conservation Commission held a public hearing and authorized an expenditure of up to \$250,000 to purchase land on Pickerel Pond Road, an acquisition it actually made in private two years ago.

Why vote to authorize something that had already occurred?

“Our legal counsel at the Mitchell Group advised that there should be a meeting and a vote,” Planning Director Dean Trefethen said in an interview Tuesday. “That public hearing and vote should have happened before.”

Instead, in 2018, the Conservation Commission discussed the purchase in non-public sessions, and the City Council approved it in a non-public session. The public was never told how their money was spent until minutes from these sessions were released last year and it was reported in The Laconia Daily Sun.

Then-Mayor Ed Engler said the failure to notify the public that a purchase had been made was “an oversight.”

But former Mayor Tom Tardif complained to the New Hampshire Attorney General’s office that this was a serious violation.

Laura Spector-Morgan, an attorney with the Mitchell Group, acknowledged in a letter to the Attorney General that proper procedures were not followed.

She noted that the commission has the ability to acquire property subject to the approval of the governing body, in this case the City Council, which approved the purchase in private on Aug. 13, 2018.

“The only requirement is that it (the commission) hold a public hearing before expending funds for the purchase of real property,” she said. “Unfortunately, the Conservation Commission failed to hold a public hearing on the expenditure of the funds. A public hearing was held to correct this error on July 8, 2020.”

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Trefethen said holding a public hearing to authorize an expenditure that had already been made is a bit like “closing the barn door after the horse has left.”

“But our legal counsel thought that at least if we do the process now, it’s better than not doing it at all.”

Tardif had another analogy.

“Say police catch you running a red light. You go before a judge and say you’ve gone to the light again and stopped on a red. Do I still get a fine for running the light? The judge would say, ‘You’re kidding me.’”

In his complaint to the Attorney General’s office, Tardif also complained about another purchase the city did without notifying the public — \$103,000 spent on a property that could eventually be used by the Public Works Department, which it abuts. This purchase was also first brought to light by The Laconia Daily Sun based on unsealed minutes from a non-public session.

Tardif also claimed “abuse of office” by city officials regarding the decision to purchase property associated with St. Joseph Church — also arrived at in a non-public session, and the funding of the purchase with an entry listed in the budget only as “XYZ.”

City officials say they have acted appropriately and in a way designed to save the public money. If the city’s interest in a particular piece of property were known, it could drive up the cost of that property.

Nicholas A. Chong Yen, assistant attorney general, said in a Sept. 22 letter to Tardif that complaints about appropriation and municipal budget law are outside his enforcement authority as are complaints about New Hampshire’s open meetings law.

“If you would like to pursue this matter further, we encourage you to consult with private counsel with respect to the allegation of the Right-to-Know law violation,” he said. “Private counsel may also provide legal advice on how you can further address the alleged failure of Laconia officials to follow applicable appropriation and municipal budget law. This matter is closed.”

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