



September 10, 2017

Dennis Welch, Chair  
Windham Town Council  
8 School Road  
Windham, Maine 04062

**Re: Highland Lake Development Moratorium**

Dear Councilors:

I was impelled to write this letter to the Windham Town Council after watching the meeting on Tuesday, September 5<sup>th</sup> where the Council members, with no exception, appear to be sprinting forward to make an “emergency decision” to enact a moratorium on virtually all development within the Highland Lake watershed. At no point during the discussion did I hear any concern of what this action is going to cost the Town of Windham. I’m not talking about actual dollars or the potential for lawsuits. I’m talking about the message that this Council will be clearly sending by this decision.

It is crystal clear that this proposal by the Highland Lake Association has one purpose – to make sure that two specific land development projects are killed. Both of these projects are being developed under the careful scrutiny of the Town of Windham and Maine Department of Environmental Protection and are utilizing “Best Practices” as defined by both the Town and MDEP. It is important to note that these are called “Best Practices” because they do not represent merely the minimum standards for acceptable development, but the highest level of standards that have been developed utilizing extensive research. The problem is not solved by simply prohibiting new development – especially those projects that are being developed utilizing the highest standards for water quality treatment and long-term maintenance of erosion controls.

All of the discussions seem to revolve around whether today’s “Best Practices” for new development are good enough, or if we should make them just a little bit better for this special watershed. There is an equally important issue - fixing all the “Worst Practices” that exist within the watershed that have been the sins of the past. On the surface, it may seem like this moratorium is making sure the problem does not get worse, but it does nothing to make sure that eroded roads do not erode more, to encourage the establishment of buffers and soil infiltration areas, to prohibit the fertilization of lawns or prohibit seasonal cottages to be converted to year-round use without proper improvements to infrastructure.

The 2003 Highland Lake PCAP-TMDL Report estimated that 30% of the lake’s annual phosphorus load is generated from undeveloped natural areas classified as forest, wetlands, scrub shrub and open water areas. It is a common misconception that only developed land exports phosphorus – there is a baseline concentration of phosphorus that exists in the natural environment. The goal of Best Practices of land development is to allow stormwater runoff

sufficient contact time with soil particles so that phosphorus can be effectively removed from the stormwater before it reaches a water body, and also to limit the introduction of excess phosphorus into the watershed by limiting fertilizer application. That is why poorly maintained camp roads, old failing septic systems and high density development that occurs without sufficient soil absorption ability or fertilizer control contributes such a high amount of phosphorus to the lake – they are not developed utilizing the best practices that science has allowed us to now understand. While we cannot undo all the worst practices of the past, we have an opportunity to move forward using better methods.

It is undisputed that the chemistry of Highland Lake is out of control and this new infestation of Pico Cyanobacteria has perplexed most everyone that has become involved with the issue. I have spoken with representatives of the Maine DEP in Augusta who are responsible for watershed management planning, and they have no conclusions why this specific strand of Pico Cyanobacteria is creating a 4-week bloom in Highland Lake. Potential sources range from increased nutrient loading, global warming, erratic weather patterns, and introduction of Alewife that is disrupting the ecosystem and consuming organisms that used to keep the Pico Cyanobacteria in check.

Land projects that are developed under today's phosphorus control BMP's should not be placed in the category of "Lake Killers" that need to be banned by moratorium. We should welcome these projects and applaud them as model development for future projects. Many of these new projects will actually be able to fix existing issues through redevelopment. The two projects that are being demonized by the Highland Lake Association may very well leave the watershed in a better condition than they found it. For example, the Babbidge Farms project, which I am involved with, was proposing to construct stormwater ponds that would incorporate a significant amount of runoff from Falmouth Road that currently drains directly into McIntosh Brook untreated. Land developers are willing to work with the Town and Lake Association collaboratively to fix some of the existing issues, provided they are not run out of Town by after-the-fact moratoriums that leave them with no options after investing tens or hundreds of thousands of dollars in consulting, design and permit application fees. If the Town believes it can just raise the bar on the standards to the point that no one can develop land in the watershed, you have closed the door on private investment that could partner with the Town to implement measures that improve the water quality in the watershed. If the intent is to make sure everyone is following Best Management Practices, why are we so concerned with killing projects that are working hard to meet those high standards?

The closing remarks of the Highland Lake Association president at the September 5<sup>th</sup> meeting outlined an action plan that they intend to undertake over the next year to justify the need for the moratorium. The action plan involves a series of roundtable forums, informational meetings, a new comprehensive watershed survey and a review of ordinances. This has the ingredients of a planning study, not an action plan, and the timeline is a year to complete this work. If the planned work is limited to talking about the issues, there is no reasonable expectation that any improvement to lake water quality can be expected through the term of this moratorium. Projects that employ the highest level of Stormwater Best Management Practices should be allowed to move forward while this planning study is completed.

I find it extremely difficult to find the emergency situation that the Town or Highland Lake is faced with that requires such an extreme measure to be taken by this Council. I agree that prompt and serious action needs to be taken if water quality is to be improved, but we do not need to destroy the Towns' reputation in the process. The message this Council is sending with this proposed moratorium is loud and clear – do not put your money at risk in Windham because the Town will change the rules at the last minute, even if you are willing to go above and beyond the standards to try and work with them. I would never do business with an organization that operates this way.

Please carefully consider your actions when you bring this item to vote on September 12<sup>th</sup>. If the Town passes a moratorium and we let redevelopment opportunity escape during what may well be the peak of the economy's expansion, we will look back on this as another missed opportunity to partner with private development, and the Lake will be no better off. Let's work together as a community and with the Town of Falmouth and City of Westbrook to restore Highland Lake. Please deny this moratorium and allow these carefully designed projects to set the bar on responsible and sustainable land development practices.

Sincerely,

DM ROMA CONSULTING ENGINEERS

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