

Town of Newington, NH
CONSERVATION COMMISSION
Meeting Minutes, Thursday, December 9, 2021

- Call to Order:** Chair Jane Hislop called the December 9, 2021, meeting at 6:35 p.m.
- Present:** Vice-Chair Derick Willson; Andrew Meigs; Laura Rogers; Alternate Member, Jane Kendall; and Town Planner, John Krebs
- Absent:** Benjamin Hutchins; Alternate Member, Bill Murray
- Public Guests:** Duncan Mellor with CivilWorks Engineering; Brian Goetz, City of Portsmouth Deputy Director of Public Works; Brenden Walden with Gove Environmental Services; Mike Garrepy with Nimble Hill Realty Investments, LLC; Town Administrator, Martha Roy,

1) Conservation Easements and Mitigation Discussions: Regarding local mitigation projects in lieu of Aquatic Resource Mitigation (A.R.M.) funding for the Wetland Impact on Fox Point from the City of Portsmouth water main replacement across Great Bay.

Mr. Krebs said he had asked Brian Goetz, City of Portsmouth Deputy Director of Public Works to update the Commission on the status of the water main replacement under Great Bay onto Fox Point, and to discuss mitigation for impacts to the area.

Mr. Goetz said New Hampshire Department of Environmental Service (DES), and the Army Corp of Engineers (ACoE). Mr. Goetz said they had done some redesign after receiving comments that would add another \$1,000,000. Mr. Goetz added that they expected the permitting process to take over two years.

Mr. Goetz said they would receive design permitting funds through Representative Chris Pappas, and had received approval from the City of Portsmouth for funds to begin construction in December 2022.

Mr. Goetz said they were bidding on the project in October for November 2022 because construction had to happen during winter months, and completing construction by February or March, followed by restoration, and the main water line being in place by the summer of 2023.

Mr. Goetz said they were doing the staging on the Newington, which was better than the Durham side.

Mr. Goetz said this was the third time he had talked with the Conservation Commission, and they had also met with the Board of Selectmen, and responded with comments.

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Mr. Goetz said Town Administrator, Martha Roy had shared project recommendations, but the ACoE said they didn't meet their criteria because the conditions were too onerous for site specific projects in the five-year timeline of completion that required a yearly report. Mr. Goetz said they were told that they needed to put the mitigation impact in the in-lieu fund, and then the Town could apply for their projects. Mr. Goetz said the City of Portsmouth would offer a letter of support to the Town.

Duncan Mellor with CivilWorks Engineering commented that in 1980 mitigation rules stated that mitigation compensation from ACoE permitting should be applied to the same ecological system in kind, which would be entirely on Fox Point in this case, instead of out of kind as occurred with Eversource's transmission expansion project that applied the A.R.M.'s funds to other watersheds inland. Mr. Mellor went on to say that the Federal Army Corp of Engineers mitigation rules didn't agree with State DES permit application, but the impact was the same on both.

Mr. Mellor said mitigation would of benefit to the City of Portsmouth Water Department with their application because erosion could expose the water main.

Mr. Goetz said they had proposed mitigation projects for Durham as well, but ACoE, DES, and the U.S. Environmental Protection Agency (EPA), had all said they needed to submit the mitigation funds to the A.R.M.'s fund, so they had not considered local mitigation projects. Mr. Goetz said they would restore what they have done, and could return with their engineer, but they were most concerned about replacing the pipe as soon as possible before it sprung a leak.

Mr. Krebs responded that he hoped that funds could be directed to the Town rather than the A.R.M.'s fund, but they weren't trying to delay the project.

Mr. Krebs suggested could have a staff level meeting with legal counsel to draw up a request for direct payment of the funds. Mr. Mellor said the mitigation projects usually didn't happen for several years later, but it would be good to get the funds earlier.

Commissioner Andrew Meigs asked how the large truck deliveries would affect the quarter mile dirt road to Fox Point during the fall rains. Mr. Goetz said they would restore the road to the same or better condition.

Commissioner Meigs asked if any chance the City of Portsmouth could buy pipe before the bid. Mr. Goetz said they usually waited because they didn't have anywhere to store it, and would be concerned with damage prior to project.

Mr. Goetz said they would have contractors on site doing their restoration, so there was potential for piggybacking a mitigation project.

Mr. Mellor, Mr. Goetz, and Ms. Roy left at 7:08 p.m. at this point in the meeting.

2) NHDES Application: Dredge and Fill Permit request by Nimble Hill Realty Investments, LLC regarding property on Tax Map 6, Lot 1; Tax Map 11, Lots 2 and 3; and Tax Map 12, Lots 4, 6 and 9

Mike Garrepy with Nimble Hill Realty Investments, LLC, and Brenden Walden with Gove Environmental Services

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Mr. Krebs informed the Commission that he had received a letter from Town wetlands consultant, Mark West of West Environmental agreeing to the applicant's methodology and request to correct the prime wetland delineation. Mr. Walden said they also needed a letter from the Conservation Commission and Planning Board saying that they approve of the change to the wetland delineation along with the Dredge and Fill Permit application.

Andrew Meigs moved to have the Conservation Commission write a letter accepting Town wetlands consultant, Mark West's recommendation to Design his December 9, 2021, letter for an amendment from the previous prime wetland map to the current prime wetland that was confirmed on the ground per Gove Environmental regarding property on Tax Map 6, Lot 1; Tax Map 11, Lots 2 and 3; and Tax Map 12, Lots 4, 6 and 9 Dec 9, 2021 letter. Laura Rogers seconded the motion, and all were in favor.

Chair Hislop said she would sign the letter that Mr. Krebs wrote.

Mr. Garrepy said he had talked about wetland buffer and direct impacts from a couple of driveway crossings, and the road crossing at the Commission's previous meeting.

Mr. Garrepy said they were proposing to install an open bottomed box culvert for the stream crossing that would maintain hydrologic conductivity, and the passing of amphibians and small mammals.

Mr. Krebs said the Planning Board had requested open drainage instead of closed drainage.

Mr. Krebs commented that aside from the tidal buffer, 4,075 cumulative square feet of wetland impact for this scale of a 14-lot subdivision was relatively minor.

Mr. Garrepy said they would be paying around \$7,900 to the A.R.M.'s fund. Chair Hislop said it would be difficult to find any local mitigation because all the impacts were on private property.

Chair Hislop asked if they were designating areas on the lots for septic systems. Mr. Garrepy said they were required to dig two test pits per lot. Mr. Krebs added that they had to prove that there was 4,000 square feet of suitable area for a leach field, but most of the lots were slightly less than 5 acres so there was plenty of room even if they moved them.

Mr. Garrepy said several of the lots would also have to apply for a Shoreline Permit when they designed their house.

Commissioner Meigs asked if discussion on the demolition of the existing houses would be covered in another meeting. Mr. Krebs replied that demolition fell under the building inspector's jurisdiction.

Commissioner Meigs asked about removal of the septic system, and Mr. Krebs said it was standard to drain, and crush the septic tank, and leach field, and that also fell under the building inspector's jurisdiction.

Mr. Krebs said the Zoning Board of Adjustment (ZBA) granted to the variance allow the Nimble Hill Road house to be closer to the road, but didn't grant the variance

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to allow multi-family housing, so the granted variance was meaningless in terms of allowing the house to remain.

Mr. Krebs said he hoped that the houses wouldn't be demolished the same day as road construction began.

Mr. Garrepy said the house on Coleman Drive was already vacant so would be the first to be demolished. Mr. Garrepy said he hoped to have a period of time to work with the tenants on Nimble Hill Road to find other housing.

Vice-Chair Willson noted that there was a memo from the New Hampshire Natural Heritage Bureau that the area had only been surveyed for certain species. Mr. Garrepy responded that part of the Alteration of Terrain (AoT) Permit required that a wildlife study be done on those properties, and Gove Environmental had submitted them to the State. Mr. Walden said they would have to redesign the plan, or mitigate if there was any issue.

Vice-Chair Willson said he would like a copy of the report. Mr. Walden said he could send the report electronically.

Chair Hislop said she had observed some invasive species during the site walk, and asked if any rare plants had been recorded. Mr. Walden said he didn't think so.

Derick Willson moved that there were no objections to the Dredge and Fill Permit request by Nimble Hill Realty Investments, LLC regarding property on Tax Map 6, Lot 1; Tax Map 11, Lots 2 and 3; and Tax Map 12, Lots 4, 6 and 9. Chair Hislop seconded the motion, and all were in favor.

Other Business Discussions:

Chair Hislop asked about planting trees in a grove in recognition of past members. Commissioner Laura Rogers suggested shrubs in planting areas, and Alternate Commissioner Jane Kendall suggested erosion control planting on Fox Point.

Chair Hislop noted that \$24,180 reimbursement on current use taxes from the Akerley subdivision would be added to the Conservation Fund.

Town Planner, John Krebs asked Ms. Roy if the Watson property was in current use and Ms. Roy said it was. Chair Hislop added that she had requested an additional \$162,651 be added to the Conservation Fund from the Budget Committee, along with encumbering on the consultant and education line items.

Chair Hislop said she might be traveling on January 13, April 14, and May 12, 2022, and wouldn't be available to attend meetings on those dates.

Commissioner Laura Rogers said she would not be available for meetings in March 2022.

Minutes: *Andrew Meigs moved to approve the October 14, 2021, Minutes. Vice-Chair Willson seconded, and all were in favor.*

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Adjournment: *Andrew Meigs moved to adjourn. Chair Hislop seconded, and the meeting adjourned at 8:16 p.m.*

Next Meeting: Thursday, January 13, 2021

**Respectfully
Submitted by:** Jane K. Kendall, Recording Secretary

DRAFT