

Town of Newington, NH

CONSERVATION COMMISSION

Meeting Minutes for July 18, 2013

Call to Order: Chair, Jane Hislop called the July 18, 2013 meeting at 6:30 PM.

Present: Chair, Jane Hislop; Nancy Cauvet; Tonia Pulkowski; Jim Weiner; and Thomas Morgan, Town Planner

Absent: Julia Fijas

Public Guests: Langdon Library Trustees: Melissa Prefontaine; Lea Lamson; and Gup Knox; Ted Reed, Sprague Energy; Zack Jenkins, Appledore Engineering; Zack Taylor and Allen Folsom, Riverside Pickering Marine; Attorney F.X. Bruton; Justin Richardson

1) New Business:

A) Langdon Library Expansion: Tree Cutting

Melissa Prefontaine came before the Commission at the request of Board of Selectmen Chair, Rick Stern to discuss cutting trees to make room for the parking lots for the Library expansion construction. Ms. Prefontaine said the original proposal had angled parking in the front, but after meeting with the Planning Board, it was decided that two parking areas on either end of the building would allow better handicapped access and wouldn't block emergency access. The Library proposal did not include funding for cutting as many trees. Ms. Prefontaine said they consulted an arborist who accessed the surrounding trees, and made recommendations on which trees had reached maturity and should come down. They then walked the property with the construction manager to determine which trees had to come down for the parking lot, and also considered nearby pines with multiple crowns, and shallow roots that might come down on the building or the parking lot during a strong storm. Although there were several recommendations that they might want to take some of these trees down at the same time before construction, the BOS Chair requested that they take as few trees down as possible. Ms. Prefontaine said the arborist they consulted said removing the older trees would allow the younger trees to do better. Ms. Prefontaine invited members of the Commission to weigh in on the subject.

Commissioner, Jim Weiner said it was his experience in taking pines down during the construction of his home, that mature trees often fall during storms, especially when cutting surrounding trees. Chair Jane Hislop said it is often difficult to predict which trees will come down, however. Chair Hislop said the Commission has no money in their budget to contribute to the project, but thought the Library should hire an arborist to access the soil, to determine if the remaining pines are growing on boulders or ledge, and would be susceptible to blow downs.

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Ms. Prefontaine said the BOS approved of the UNH grant to contribute to the planting materials for a rain garden, with the Town providing the labor.

Ms. Prefontaine said the Library expansion committee is seeking other contributions toward landscaping since they didn't have enough landscaping funds after they found out there were additional costs for repairing damage to the original library that weren't known in the beginning of the project. Town Planner, Tom Morgan suggested they ask local business, including Sprague Energy to provide mitigation to local wetlands disturbances. Ted Reed, Engineering Manager for Sprague said it was not his decision, but he would "run it up the flag pole".

Jim Weiner moved to recommend approval for the cutting of forestry to make room for the parking lots for the Langdon Library expansion as proposed and approved. Nancy Cauvet seconded, and all were in favor.

B) Proposal by **Sprague Energy** for bank stabilization at **372 Shattuck Way**

Ted Reed, Senior Mechanical Engineer for Sprague Energy and Zack Jenkins from Appledore Engineering came before the Commission with drawings and photos showing tidal erosion around a dam that was created in 1973. Nothing has been done to the area since then and the erosion is undermining the pilings that support oil pipes. Their plan is to remove the cement, and replace it with riprap and stone. Chair Jane Hislop asked which way the erosion is coming from, and Mr. Reed said it is coming both ways from high and low tides.

Mr. Reed said they went to the BOA the night before, received approval, and they will be submitting their application to DES next. Chair Hislop asked how long before construction, and Mr. Reed said he thought 60-90 days before he got DES approval, and then he hoped they could start in September.

Nancy Cauvet moved to recommend approval for Sprague Energy's proposal for bank stabilization at their 372 Shattuck Way site. Tonya Pulkowski seconded, and all were in favor.

C) Proposal by **Jeppesen Family, LLC** for pier replacement at **31 Welsh Cove Drive**

Zack Taylor with Riverside Pickering Marine came before the Commission with a proposal to replace an existing floating dock for their clients. The dock is currently sitting on emerging vegetation, and the new design would meet current environmental codes. It would be made of fiberglass instead of pressure treated wood or creosote treated wood that used to be used on docks and piers and leached toxins into the water. The fiberglass is expensive but long lasting.

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Nancy Cauvet asked if there is any eel grass near the site, and Mr. Taylor said there is not, and said the new pier would have no impact on emerging vegetation.

Jim Weiner moved to recommend approval to DES for the construction of a new pier at 31 Welsh Cove Drive as proposed. Tonya Pulkowski seconded, and all were in favor.

2) Other Business:

A) Tom Morgan announced a DES permit application from PSNH for a routine dredging of their intake pipe.

Jim Weiner moved to recommend approval to DES for PSNH's dredging of silt and sediment of their intake pipe. Nancy Cauvet seconded, and all were in favor.

3) Old Business

A) Fox Point Easement

Attorney F.X. Bruton discussed easement mergers with the Commission, and the possibility of creating a locally run non-profit entity such as "Friends of Fox Point" that comprised of residents, and would have an equal number of representatives from several Town boards to prevent any conflicts of interest or risk termination of the easement. Attorney Bruton said the the entity would need to list conservation of the property as the intent of their purpose. Town Planner, Tom Morgan said the intent would also be to prevent the possibility of a rogue Board of Selectmen from selling Fox Point, and to maintain the conservation management plan. Mr. Morgan said members could join just like the Historic District Commission. Nancy Cauvet said it would be important that the group be populated, and Attorney Bruton said the Board of Selectmen would appoint the board members from other boards. Chair Hislop said it would be important that not too many members of the Conservation Commission be appointed, and Attorney Bruton said the BOS could only appoint an equal number from various Town boards to prevent the non-profit from being a defacto extension of the Commission.

Jim Weiner asked if its board could dissolve the non-profit, and Attorney Bruton said it would not be good to dissolve it, and unlikely even if there were some rogue members because the members would be invested residents.

Attorney Bruton said he tried to pull out references to a management plan in the easement document, but found it necessary to keep several items in to maintain the objectives and keep it legal. He removed a reference toward assigning arbitration to the ZBA in a previous document done by Attorney Peter Loughlin because that is not the ZBA's role, and it is best to talk things through, and then go to court if necessary if there was a legal dispute. Attorney Bruton said the deed would provide for arbitration under

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the Arbitration Act. Jane Hislop agreed that the management plan was secondary to the easement plan in protecting Fox Point from sale.

Attorney Bruton said most conservation easements occur when private lands are purchased for conservation, and the only other municipality in the State that put its own land into a conservation easement was Strafford County. Strafford County set up their easements so that some parcels can never be touched, and others can be bought back with their own money should they ever need the land for municipal developments like a jail. Chair Hislop said it might be a good idea to consider delineating different areas of Fox Point for certain uses. Attorney Bruton referred to 3B ii in the easement draft that mentions certain uses with the dwellings, and recreation, and suggested they be considered further.

Justin Richardson asked if the easement could be designed to assign management to a charitable trust. Attorney Bruton said it would be okay for the non-profit to have a conservation purpose, but it would be important that it not be comprised of more than 50% of any Town board like the Conservation Commission to avoid the Doctrine of Merger.

Attorney Bruton said he would continue to research legal aspects of non-profits, and return for discussion in the next month or two.

Invoices: Jane Hislop inquired on the whereabouts of invoicing to pay for the flowers Peggy Lamson and Dorene Stern planted for beautification during the Town's tricentennial celebration.

Minutes: *Nancy Cauvet moved to approve the Minutes for the June 13, 2013 meeting. Jane Hislop seconded, and all were in favor.*

Discussions and

Announcements: Jane Hislop reminded everyone that the Gundalow Company is sponsoring Wednesday evening trips free to residents, and \$35 for guests with two weeks notice by calling 603-433-9505.

Adjournment: Jane Hislop motioned to adjourn, and Jim Weiner seconded. All were in favor and the meeting adjourned at 8:30 p.m.

Next Meeting: Thursday, August 8, 2013

Respectfully

Submitted by: Jane K. Kendall, Recording Secretary