

NEWINGTON CONSERVATION COMMISSION MEETING
Amended Minutes
Thursday, April 6, 2006

Call to Order: Peggy Lamson, Chair Person called to order the meeting of April 6, 2006 at 7:15 P.M.

Present: Peggy Lamson, Chair Person: Jane Hislop, Justin Richardson, George Fletcher, Dottie Watson, Vincent Frank and Tom Morgan, Town Planner.

Not Present: Barbara McDonald

Guests: Gary S. Lynn, NH DES, Stephen G. LaBonte, Assistant Attorney General of Transportation and Construction Bureau, and Mark West, Scientist, Chris Waszczuk, Chief Project Manager and Peter Walker of Vanasse Hangen.

Minutes: Minutes to be accepted for March 2, and March 21st, Vincent made motion and seconded by Jane. March 2: Justin: Two corrections; should read in the minutes, *Mitigation* not "Litigation" and on last page, spelling of Peter "*Loughlin*" and typo on Vanasse "*Hangen*" corrections made. Vote on minutes of March 2nd as corrected, all in favor, AYE. Motion from floor to accept Minutes of March 21st. George made a motion and 2nded by Vincent. Peggy: One error; by Pease Wetland buffer, should read "*Portsmouth Herald*" not Portland Herald. Corrections made. Any errors or omissions. None. Call for a vote: All in favor of minutes of March 21st, AYE. Approved.

Correspondence:

Peggy: Letter from Attorney John Ahlgren. Stated that communication that Peggy gave in reference to Dirty Dirt to be transplanted to Newington that she didn't go into the timeframe. Peggy: the letter came to her from DOT and did not have time to respond to this because wetland has already given them a permit. Peggy is going to send a letter to clarify this to Atty. Ahlgren that she doesn't believe her BOS gave him the correct information. Vincent approved it, to do it. Everyone was given all the communication in his or her packet.

Old Business: DOT Spaulding Project – Wetland Mitigation

Peggy: Introduced Gary Lynn who sent letter to Dale O'Connell of DOT and at this time would like to welcome Chris Waszczuk regarding the Spaulding Turnpike relative to Wetland Mitigation. Also introduced Mark West, wetland Scientist.

Chris Waszczuk: Just to clarify, there was an e-mail sent to DOT with the CC recommendation for Mitigation of this project and was not initially copied on this e-mail and wasn't aware that it was sent. When had last few meetings and Public informational meetings in the communities what the message that he tried to relate back the budget task force was to get input from the Town to insure that we were proceeding in the proper direction and believe that initiated some discussion. I believe we are providing Mitigation which would be consistent with the CC position and from my understanding in that e-mail the CC identified Alternative "A" for Railway Brook for restoration as a top restoration priority, the Watson property as top preservation priority and the drive-in theatre property was identified as low priority. We do have roughly 20 acres of wetland test that we do anticipate with this project (12 acres). Also committed with 3 other small projects to mitigate as part of this overall project. Roughly total Mitigation that they committed to is roughly 22-23 acres. Tried to do is they looked at the impacts were at Newington and Dover and tried to mitigate both communities

accordingly. In Dover primarily identified preservation as a Mitigation proponent and Newington is in line restoration preservation. Would like to have Pete Walker to walk thru some of the process/coordination in developing this mitigation package and then different components that they are prepared to conclude and address DIS and then include in a Public Hearing. In addition to these proponents that we have identified as preferred elements, we do also have secondary proponents that should the preferred elements become attainable then there are secondary elements we can pursue.

Pete: We began project in 2003 and there was a scoping meeting back in 2003 that where we invited the Public and had a number of public informational meeting and number of advisory task meetings and throughout that period of time have been solicitating information on wetlands impact mitigation. Middle of 2005, mitigation opportunities and reached out to the communities and CC was contacted. Thru course of mitigation search did about 16 different parcel/properties in Newington. Discussion ensued referring to the map. Property not on initial list was the Watson property, which is largely undisturbed. As you know, Great Bay Partnership has been very active in acquiring conservation land on the bay. We have been trying to solicitate information and talked to Mark a couple of times and issued on November 1st, a memo making recommendations by the mitigation package and not until after that did we actually receive anything from the CC which was an e-mail from Mark. Proposal on table right now is perfectly consistent with what was contained in that e-mail and has been for some months. Not sure, other than just qualifying what really proposing at this stage, is a combination of restoration and preservation. We are prioritizing the Watson parcel and it's very expensive and hasn't begun any negotiation with the Watson landowners. Not certain it will work or not. If it doesn't, we have informally heard from other landowners that they would be willing to entertain placing an easement on their property and it's a good alternative. We are also recommending this restoration, talking either section A or B and hopefully in the future another project will come along and we will do whatever we can. Questions and answers continued.

Mark West reviewed list and important for the CC to understand the amount of work that will go into either one of these restorations projects. There are going to be challenges in either one of the restorations scenarios because of how they mesh together. Mark West suggests we need to identify the conservation values for the properties.

Tom: mentioned earlier that the drive-in property is third on list. Haven't heard anyone in favor of it. My question should it be taken off the list. Drive-in has no support here in town. *Pete:* On list as an alternative, low in priority.

Pete: This summer will make a final decision sometime in fall or winter. Next year decision to move ahead around the end of 2007. Working out details with Restoration plan sometime in 2008.

Mark: What's the best way to stay in the loop? *Chris:* Watson, very expensive piece of property to engage by ourselves. Other avenues to propose. Attending Public hearing is critical. They can provide information on status. *Chris:* Preference, doesn't want to engage in eminent domain. If they don't have any alternatives, they do have that option. Town to see the Watson property as a prime jewel and is extremely critical to preserve. Discussions continued. What is the time frame stated?

Chris: Trying to have it finished up and hope to have it published in the next few months. The Public hearing is tied in for this summer. Target timeframes.

Peggy: Any other questions? Address Audience: discussion ensued.

Peggy: Very pleased Chris came down and taking the time to explain process and educate the CC. Thank you.

Mosher property discussion:

Mark: Asked to look at the Moser piece; 20 acre property, barn and field, abuts Railway Brook and Pickering Brook. Explained site regarding developers. Mark made copy of map for Tom to give to

Mosher so they know what was said about their site. Peggy would like to see Mark get out to walk Knights Brook as soon as possible. Peggy: Vincent made a motion to have Mark West review the Knights Brook, pros and cons and do the Watson property also. Seconded by George. All in favor, AYE. Motion carried.

Gary Lynn re: Transfer of contaminated soil to the Turnpike-Dover Sites DESSITE #1994-05028, Project #15337

Peggy: Gary Lynn is here from DES talk about the contaminated soil. Peggy unavailable to attend meeting of DOT a week ago. Gary: Based on level of interest came to answer additional questions and explain what we are dealing with to the full CC. There has been a little misinformation about what the material is. DOT did do a fairly extensive characterization of the piles. Explained testing process/analysis to the CC. Peggy: Monitoring, does DES receive a report that they do the water testing? Gary: Instructed DOT what to do in the letter. Additional groundwater monitoring wells will be sampled two weeks following installation and well development and analyzed for VOCs including naphthalene. The wells will be sampled in April, July, and September of 2006 and analyzed for VOCs, including naphthalene. Requested to submit groundwater-monitoring results within 45 days of sample collection. Also do testing near some landfills re drainage. Storm water testing on runways, etc. Peggy: Any other questions. Justin: Back on soil being brought back from Dover, what are the potential risks for the town or site, do you see any other significance? Gary: Essentially erosion. Erosion control and work with DOT and in between 2 years need to be watching the ground water quality.

George asked questions about the dirt that was hauled out in September, discussion continued. Steve LaBonte, Assistant Attorney General who is legal counsel was present at this meeting and was introduced to the CC. Peggy thanked Chris for coming to the meeting and a great evening of education of understanding and gave very good guidance and Mark worked very closely with you.

Bob Keating of Lordco re: dredge and fill

Bob Keating: He has a current permit that's expiring on the 19th of this month, April. He hired someone to replace the pilings. He has to reapply for a permit. Replacing 40 piles, 40 square feet-minimal impact. His purpose there was to inform them ahead of time of his request. Tom: Bring in paperwork and will be all set.

Dredge/Fill-Sprague Energy Corp.-File #2006-00688

Peggy: Asked if it was okay to send a letter stating that they are following everything which they've done before re: repairs and if they have any problems to notify them. It's pre-existing maintenance. Jane made a motion to accept it and to send a letter and George seconded it.

Shattuck Way Landscaping

Peggy for the record was refusing herself (Pease issue) to Justin's presentation relative to Prime Wetlands.

Tom: ConEd extensive landscaping plan/bond is expiring May16th. CC should probably address this issue. Peggy has talked to the BOS and nothing happened. Want everything completed.

Meridian did the plan. It's everything from Tyco up to the Asia Restaurant. Peggy: Made suggestion to get Meridian Engineering to attend meeting. Vincent made a motion to request their presence at a meeting and George seconded it. All in favor, AYE.

Brief intermission: Justin gave a brief update on Greenland re Supreme Court. Not much to report. Argument hasn't been scheduled yet. If anyone interested, possibly carpool, educational.

Justin: Would like to vote and move to retain a different legal counsel. That they look at what the issues are and have a couple of recommendations on who might want to and move to discuss legal issues that might come up and move to retain counsel. At this point, Peggy recused herself from the meeting. Vincent wants to table it the next meeting and at an open meeting.

Justin won't discuss it in that context because he works with a lot of attorneys and if he's making recommendations on who we should or should not hire, he's limited to what he says in a public meeting. Tom got the book on the ruling regarding Nonpublic Sessions.

Justin: Suggest if they want to wait for the next meeting, they will lose prime wetlands. If you see in the package Peggy distributed there is a request to the Department of Environmental Services right now pending to invalidate the prime wetlands and a decision approving the prime wetlands on the PDA property. This request will be acted on and DES will be forming their opinions sooner rather than later. There have already been discussions between DES and the PDA on this issue. Malcolm didn't want to work with us for a number of reasons. Justin has names of three attorneys'. Peggy had to recuse herself at this point.

Tom: Read 91-A:3-Nonpublic Sessions: (c) Matters, which, if discussed in Public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such a person requests an open meeting. Tom suggested going forward to discuss this issue and go nonpublic. Jane made a motion to go into nonpublic session and read the above also. George seconded it.

Justin: Is there any further discussion on the motion. None. All in favor of the motion, Aye. Opposed. None. Motion carried unanimously. Peggy Lamson has recused herself from the discussion noted.

Nonpublic meeting: Justin: there are 3 attorneys' for consideration.

Malcom dropped out on CC and reason was his caseload was too high. The three are:

- 1) Geoff Ransom
- 2) John Algram
- 3) Peter Bison

Justin personally thinks Geoff Ransom is good and half the price. Discussion ensued on selecting an attorney. Final conclusion, Tom suggested going with Geoff Ransom. Vincent made a motion to accept Geoff Ransom as the CC's new attorney. George seconded it. All in favor of the motion, Unanimous, motion carried.

At 10:00 P.M., Vincent made a motion to adjourn the meeting and seconded by George All in favor, AYE.

Respectfully submitted:
Pearl Travis-Sirois, Recorder/Transcriber
File: NCC Mins. Thurs. 4-6-06