

**THE TOWN OF NEWINGTON  
NEW HAMPSHIRE  
INCORPORATED 1764**

**NEWINGTON CONSERVATION COMMISSION  
MEETING MINUTES  
THURSDAY, AUGUST 10, 2006**

- 1. Call to Order:** Vincent Frank, Chair Person called to order the meeting of August 10, 2006 at 7:08 P.M.  
**Present:** Vincent Frank, Chair Person; Barbara McDonald, George Fletcher (arrived at 7:12 PM, Jane Hislop, Peggy Lamson, Justin Richardson (arrived at 7:18 PM), Dottie Watson, and Tom Morgan, Town Planner  
**Not Present:** Bernie Pelech, Atty. and David George, Engineer of WD Devel. Partners, both for Texas Road House  
**Guests:** Sara Romeo, and John Sinnette with WD Devel. Partners.
- 2. Vincent Frank, Chair Person**  
Vincent spoke to the Board regarding addressing the Chairman to speak and not to interrupt while another member is speaking. He also spoke about anyone writing/sending letters without it being sanctioned by the Board. The Board needs to vote on writing letters otherwise if you don't, and do it as an individual, you do not represent the Board. Vincent discussed having a meeting twice a month providing there's a call for it, suggesting the second and fourth Thursday of the month. What's happening, they are getting notices that they have to answer within 14 days. Discussion ensued. Peggy moved that the Board authorize the Chairman of the CC when any applications coming from DES, Minimum Impact, Standard Dredge and Fill. or anything that's wetlands that we authorize the Chairman to request 45 days. Vincent: All in favor, AYE! None Opposed.
- 3. New Business**  
**Texas Road House**  
John Sinnette spoke, representing Texas Road House Restaurant. He took recommendations and suggestions from last months meeting and applied them to the plans and proceeded to cover them with the Board and see if there are any additional questions or anything else they can work towards. Surveyed the lot and all trees that were over 15 feet within the setback areas totaled 174 trees. So there's a substantial amount of vegetation on that site. They have full documents of survey that can be submitted with final proof of plans or however you would like to see those. They have enclosed that information onto our site plans. Essentially, almost all of the trees with the exception of a few around this edge (point to area on plan) from this curb cut all the way around the back of the site to the extension pond are being maintained. He would like to look at some options, proposed new plantings along the roadway to go with the curb and would like to see what the Boards thoughts are about possibly utilizing some of the larger trees or possibly a Maple to go along the front edge substituting those out for the proposed material.

Barbara: Does this plan show the existing trees or just the proposed trees? John: Shows existing trees as well. John passed out new copies of the plan. Barbara: Criteria to have the plans/information sent to the Board a week prior to the meeting so the Board could review them. John went on with the discussion. Peggy: It was right in the minutes for them to send all the information a week prior to the meeting.

Vincent: Requested sending a full site plan where it's legible. John: Had a note regarding ice being cleared, so that is being promoted in the landscape plan which was mentioned last time as well as some of these larger island areas there was some concern about snow storage and went to a non-covered vehicle which can handle the snow pretty well and opened up areas within the parking lot which should help with that concern. Jane: Do you have a list of different various species? John: Yes. Discussion ensued regarding vegetation/plantings.

Barbara: Two questions. Are the trees to be removed on this map? If you can highlight the ones that are maintained. Second, talked about clearing the land and do a site walk and you were going to check into it with the owner and didn't want to go out there the way it is. Where does that stand? Sara addressed this question. They are waiting for approval to clear the land. Barbara: How did you manage to get in there, did you tag these trees? John: Yes we did tag them; we sent in a professional surveyor and identified all the trees within the lot. Barbara: How did you get permission from the owner? Sara: We did get permission from the owner to do the survey and tag the trees. Sara: They tagged the trees and we went in they chose the ones to be removed and the ones to stay. Barbara: How were they detailed? John: They were identified and numbered on the site and corresponds with what you see on the plan. Discussion continued. John: Trees have been identified and numbered. John: Is there anything else? Vincent: Any other questions: Justin: Question, how maintenance will be performed, water irrigation, and how on-going responsibilities being handled. Discussion continued regarding plantings/landscaping. John: The Burning Bush has been removed and replaced with the American Cranberry Bush.

Vincent: Please send a site plan so it's legible to everyone and requested getting nine (9) copies.

Barbara: Made a motion to look at this plan again once we have site plan in hand to review and will be able to answer their questions for the next meeting. Barbara would like to see them develop a landscape maintenance plan to go with it and have it marked somehow on a master plan what trees will remain. Sara: Yes, once we receive the approval. John: Encourage any additional feedback with questions/comments at this point feel free to communicate with us.

Vincent: We have a motion on the floor and Peggy seconded it. Vincent: Can you send it as soon as possible? John: Yes. Vincent: All in favor, AYE! None opposed. Motion passed. Barbara requested a site walk and Sara said she would have to discuss it with Bernie Pelech.

#### **4. Old Business**

**Shattuck Way Landscaping bond release letter #19001012 Ticom Com-Ed  
Justin Stepped down, recused himself.**

a) Barbara read the letter (via FedEx-2 day delivery) that everyone received in their packet from NewingtonEnergy, LLC, to Vincent Frank, Chair, dated July 28, 2006 and the following reads:

*Ref: Shattuck Way Landscaping.*

This letter is in response to a letter that you wrote to Consolidated Edison Inc.'s CEO, Kevin Burke on July 8<sup>th</sup> regarding the referenced matter. Mr. Burke asked me to investigate the matter and respond. The following is what I have learned:

Newington Energy Limited Partnership (NEL) is a special purpose entity partially owned by CED, a subsidiary of consolidated Edison, Inc.

Under a Joint Development Agreement NEL constructed the Industrial Corridor Road, now known as Shattuck Way. The Town wanted the road to relieve heavy truck traffic on other Town roads as well as facilitate future economic development. The design of the road included a planting plan for landscaping along the right of way. During the course of construction and landscaping, the town inspected the work and ultimately opened the road to the public.

The road has been in the town's control for over three years and functioning as intended. Recently, the town through their engineering firm, Edwards and Kelsey, prepared a report detailing the condition of the road. The Newington Conservation Commission also conducted a field walk of Shattuck Way this spring to catalog the condition of plantings along the road. NEL personnel and their consultant accompanied Commission members on that late afternoon field walk.

On May 3, 2006, NEL attended the Conservation Commission meeting. At the meeting it was determined that NEL had fulfilled the planting obligation as described on the plans, except for the planting of day lilies. NEL informed the Commission that it was their intent to resolve planting issues with the Board of Selectmen. On June 29, NEL agreed upon a settlement with the Board of Selectmen.

Throughout the development and construction of the power plant and on through current operations, NEL has worked with the Town of Newington and its elected Selectmen to remain a good corporate citizen and to meet all its commitments and obligations. We will continue to do so and believe the agreement NEL made with the Selectmen is consistent with those goals. Very truly yours, Michael Madia, VP.

Barbara would like the Board to respond as a Commission by letter to NewingtonEnergy and report to them and send them the minutes from the May 3<sup>rd</sup> meeting where we did not approve the landscape plan and where the Board did not release the Bond. This letter says we made an agreement with them; which never happened. Barbara went on explain what had taken place. The letter is telling the Board that the deal had already been made with the Selectmen. Barbara moved to formulate a letter to that effect and send it. She requested someone second the motion for the purpose of discussion. George seconded it. George asked what happened on the dates. Barbara: Peggy chaired the meeting on May 3<sup>rd</sup>. In reading the minutes, the Board never approved anything and the CC was not to

release the Bond. Peggy clarified on the site walk on April 19<sup>th</sup>, and made a motion not to release ConEd bond and seconded it on the site walk meeting. In the Site Walk minutes, Barbara McDonald made the motion for the Newington CC to advise the BOS not to release ConEd's Bond (Shattuck Way) as the CC completed a site walk and identified numerous omission, dead vegetation, incomplete wetland republication etc. in essence on incomplete landscape land. Serious attention is necessary for completion of project. Vincent motion carried in the affirmative. Voted unanimously. (NOTE: The site walk was dated April 19, 2006 and took place at 5:30 P.M. and completed at 7:40 P.M.

Barbara: Would like the Board to mail a letter in response to show how it was voted and what happened. Discussion ensued regarding the \$2,000, which was offered by George Germano. Vincent: Nothing was done according to plan. He saw them making the decision outside the meeting room. Vincent: Let's see ConEd's response to the letter. Peggy: Motion on floor and reiterated where the Commission stood on how it voted and sending a letter. Vincent: Everyone in favor, AYE! None opposed. Motion passed.

**b) Newington Defense Fuel Support Point, Semi-annual Groundwater Monitoring Report for April 2006 sampling-i.e. non-compliance report of #DES#900112-N-002.** (Justin came back into the meeting.) Concerns hazard waste over on Patterson Lane. Suggestion to just file the paperwork.

**c) Dirty Dirt Pile #3**

Vincent: The Board sent a letter to LaBonte and others and did get some action and did not appreciate what they did (re silk fence). He went on to explain what they did. They discussed letter Justin sent to NHDOT Shattuck Way-Exit 4 Site Visit. David Price got his second memo and Justin asked Steve if he could go out there. Justin went on to explain what was agreed on. Barbara asked to read under *Conclusions and recommendations: #4. It reads:* In my opinion, Exit 4 is configured such that there is not much room available for the treatment of storm water using preferred methods such as vegetated swales, infiltration, etc. I recommend that the Commission consider encouraging the NHDOT to develop a storm water treatment system as part of the turnpike expansion project. Did you talk with them? Justin went on to explain this.

Peggy: Good memo. Barbara: Good recommendations Justin proposed. Just to close the loop and Justin talked with David Price and got the feeling that both sides DOT and DES are looking very closely at this and that David's probably drafted something or was going to draft something and it's going to go up all the way up to the Commissioners level on both sides before we see anything. Justin went on to give his feelings on this. Peggy thanked Justin.

Gail: Bridge Books. Tom: Thirty days to respond. It's the next step on the Big Bridge. Tom: Public Hearing set for September 21<sup>st</sup>. Comments are left open a short time after the hearing.

Jane: Can we make a motion to send a letter and include in the letter that we have gone through several episodes of at least 50 year storms and they seem to be becoming quite regular and the State needs to consider including a storm water treatment system of some type in that area as part of the turnpike extension.

Tom: the U.S. Army Corp of Engineers, the Federal Highway Administration and DES hold PH on Sept. 21st. The deadline for written comments is October 6<sup>th</sup>.

Peggy: Seconded Jane's motion. Vincent: Any questions? All in favor, AYE. Motion passed. Justin not in favor and should learn more about what they are doing before making any comments and explained his reasoning. Vincent: Move on, motion passed.

**5. Other Business**

Barbara just received a DES notice of Administrative Completeness-Minimum Impact Expedited Application, Wetlands File Number 2006-01812, Town of Newington, Brickyard Way, Newington, and Tax Map/Lot @22/Row. Acknowledges receipt on 7/17/06 the NH DES Wetlands Bureau received the Administrative Completeness-Minimum Impact Expedited Application, and may be requested for more information/additional filing fees involved. Barbara found #3 interesting and proceeded to read it. "If your project does not qualify for the expedited review process in which case your application will be reviewed as a Standard Dredge and Fill Application. Please note, if the local CC did not sign the application or if your town does not have a CC, your project will not qualify for the expedited process and will be reviewed under the Standard Dredge and Fill. So to Barbara that's a safeguard, if we don't sign the MI, it goes as a Standard Dredge and Fill application. Basically we voted to extend it for 45 days. It further works along with that theory.

**6. VIP Boat Tour of Great Bay Estuary 9/20, 9/30**

Anyone interested in going, See Tom.

**7. Received Spaulding Turnpike Books Volumes 1 and 2.**

Barbara reiterated, *Deadline* for comments if *October 6<sup>th</sup>*.

**8. Acceptance of Minutes of July 13, 2006.**

Barbara was unclear about the monies under "Acceptance of Minutes" re: the \$7,000.00. Justin went on to explain that \$2,000.00 was approved and that the \$2,000 got paid twice and it got crossed over regarding attorney fees, etc. Barbara, on Page 4, Correct RSA 40-5,8,17 to read "*RSA 485-A:17*". Also under Justin, thirteen lines down, should read: "brought to the attention by Commissioner, Justin Richardson" strike "of the PB".

Vincent: Any more questions? All in favor of accepting the minutes of July 13? AYE! None opposed. Motion passed. *Jane notified the board that she will not be in attendance for the next six weeks.*

**9. Barbara made a Motion to adjourn,** and George seconded it. Vincent: All in favor, AYE. Meeting adjourned at 8:55P.M.

Respectfully submitted:

Pearl Travis-Sirois, Recorder/Transcriber

File: NCC Mins. 8-10-06

