

Town of Newington, NH
CONSERVATION COMMISSION
Meeting Minutes, Thursday, March 10, 2016

- Call to Order:** Co-Chair Jane Hislop called the March 10, 2016 meeting at 6:30 PM.
- Present:** Co-Chair Jim Weiner; Sandy Devins; Alternate Members, Cindy Gunn and Jane Kendall; Thomas Morgan, Town Planner
- Absent:** Ann Morton and Bill Murray
- Public Guests:** Planning Board Chair, Denis Hebert; John and Meg Ripley; Julia Peterson with Natural Resources Outreach Coalition (NROC); Lisa Graichen; Christina Hoffman with Environmental Resources Management (E.R.M.)

1) Knights Brook Corridor: Meet with property owners

John Ripley of Old Post Road said he had sent his wetlands survey sent to Town Planner, Tom Morgan, but he wasn't sure what to do next so he was seeking guidance. He said Mr. Morgan had advised him to converse with the Conservation Commission.

Chair Hislop said the Commission had presented the proposal as a mitigation project for the Eversource Transmission line expansion project, but it did not have sufficient wetlands to meet the Aquatic Resource Mitigation (A.R.M.) criteria.

Town Planner, Tom Morgan said the Commission had made progress securing wetlands along Knights Brook over the last several years. He said he thought the proposal would work for Eversource mitigation, but perhaps they could discuss other options.

Alternate Jane Kendall said Tracy Degnan with Rockingham County Conservation District said she would be willing to help research funding to put the Ripley property into a conservation easement.

Mr. Ripley asked what kinds of funding the Town had and Chair Hislop replied that the Commission had some funds and they could seek additional funding. She said it would be better to acquire additional funding to prevent draining the Commission's funding completely. She suggested that Mr. Ripley contact Duane Hyde with Southeast Land Trust (SELT) as there would be fewer restrictions.

Mr. Morgan said Mr. Hyde would also be a good person to determine the value of their property.

Commissioner Sandy Devins suggested Mr. Ripley check SELT's website for more information.

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Chair Hislop suggested the Ripleys also talk with the Baird family on Newington Road who had worked with SELT to put their property into a conservation easement.

Mr. Morgan stated that Town wetlands consultant, Mark West had already done a wetlands survey of Knight's Brook corridor so it wouldn't be seen as an isolated property.

Chair Hislop commented that was the reason the Ripley's property had been recommended for the Eversource mitigation. Planning Board Chair, Denis Hebert asked who denied the proposal. Chair Hislop replied that Sarah Allen with Normandeau Environmental who was representing Eversource had informed her that the proposal did not meet New Hampshire Department of Environmental Services A.R.M. funding criteria, yet they accepted Durham's proposal.

Mr. Hebert asked if other properties on either side of triangle that Eversource could weigh in on and Chair Hislop said the Hislop and Saba lots had already been put into conservation from the Spaulding Turnpike Expansion mitigation program.

Mr. Hebert said the hearings for the Northern Pass were going on so he hadn't been able to meet with Eversource yet, but he wanted to see if he could talk Eversource into reconsidering the decision. Chair Hislop replied that Ms. Allen with Normandeau Environmental had communicated that the A.R.M.'s funding deadline for Eversource's mitigation had already passed.

2) Buffers on the Bay: Meeting with Julia Peterson and Lisa Graichen

Julia Peterson with NROC appeared before the Commission to follow up on community education on non-point source shoreline protection, erosion control and buffers for local property owners., erosion control and buffers. Ms. Peterson said partners at Great Bay Estuarine Resources was working on another project that was looking at shoreline buffers, looking at existing research as options and tools.

Ms. Peterson also discussed the possibility of Jay Aube with the Department of Environmental Services (DES) presenting information on shoreline protection at a public forum. Co-Chair Weiner asked if Mr. Aube would appear by himself or as a team. Ms. Peterson said she thought he would probably appear y himself.

Lisa Graichen with Great Bay Estuarine Resources discussed their work in Stratham that began in September 2015 and included work with Great Bay National Wildlife Refuge, The Nature Conservancy, UNH's Piscataqua Partnership and DES. She said they reviewed much of their partners' existing literature and outreach materials, technical analysis of buffers for erosion control, community assessments, economic analysis, development pressures, water quality, functions buffers provide, mapping, decision processes, priorities, policy analysis, regulatory and non-regulatory, challenges implementing options, and the pros and cons of assistance programs regarding buffers. She said they would look at the gaps and in the end will pull the information together with their partners to make it available to communities.

Co-Chair Weiner asked how the project was funded and Ms. Graichen said it was a two-year project fed funded out of the University of Michigan.

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Chair Hislop said asked if this project was the same as the Coastal Risk and Hazards project. Ms. Peterson said that project consisted of the same players, and topics, but this project was focused on bringing them all together. Ms. Peterson said one element of Ms. Graichen's project was to gather available resources and she wondered if the U.S. Forest Service might be helpful. Chair Hislop said she could talk with the State and private entities.

Chair Hislop said she thought the Conservation Commission might sponsor a community education even on shoreline protection this spring, but she was not sure if anything that Great Bay Estuarine was doing could apply. Co-Chair Weiner asked if there was an outline on the grant. Ms. Graichen said she could put something together, but more than anything, it would be important to keep the conversation going and be aware of all community buffer work.

Mr. Morgan said he asked what the definition of a buffer was when he and Ms. Peterson last spoke. Ms. Peterson said it was an important question for this project and her definition was different than this project was using. Ms. Graichen said there were lots of different ideas among partners. She said they were trying to look at fertilizer application setbacks for buffers, but they were also interested in all activities so they could get on the same page from a team perspective.

Mr. Morgan said it might be helpful to forward some reading material on what other projects had been doing to help select something useful. Ms. Graichen replied that the project was not necessarily creating materials, but identifying other definitions and what was being done on other projects.

Chair Hislop said the town was losing a part of Fox Point after every storm. She said one family even approached the Commission with how to deal with erosion on their shore and they worked with DES. Co-Chair Weiner said a users' guide for someone that lives near water, would be helpful. Chair Hislop said she thought it should include anyone living near streams and ponds as well.

Co-Chair Weiner said some things had to be formally permitted with restrictions, and could be better hands off, but it would be good to know which would be best. Chair Hislop said they would also like to know whether it was better to go through a wetlands or wetlands buffer when it was necessary to access a property lot.

Co-Chair Weiner said vernal pools were also a hot topic because they dried up in the summer and developers didn't recognize them. Mr. Morgan said appropriate buffers could be helpful.

Ms. Peterson asked if they were trying to narrow down a project. Ms. Graichen said they were trying to keep it broad and inclusive, taking in all information related to buffers at this point, rather than starting narrow and missing community concerns.

3) **Shore land Protection:** Julia Peterson

Chair Hislop said she would like to do another community education outreach. Ms. Peterson said she spoke with Jay Auber at DES in the fall about working with agricultural colleagues and professional landscapers regarding shoreline water quality landscaping. She said landscapers loved guidance on what they could or shouldn't do.

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Co-Chair Weiner asked how long the presentation would be and Ms. Peterson said it would be about half an hour on professional landscapers and then another half hour for questions.

Co-Chair Weiner said he thought it would be nice to do something in the spring or early summer.

Ms. Peterson said she would work on the content and the Commission could secure a venue.

Ms. Peterson asked who their audience would be and Chair Hislop said she thought it would be of interest to the entire town, especially the shoreline owners, but she did not think it necessary to gear the presentation for children. Alternate Commissioner Cindy Gunn said she thought only shoreline property owners would be interested. Mr. Morgan said one Alternate Cindy Gunn said only shoreline prop owners interested. Mr. Morgan said one out of three residents live along the shoreline. Co-Chair Weiner asked about residents that lived near brooks, ponds and streams. Ms. Peterson said brooks and ponds of a certain size would be appropriate and opening the discussion to a larger group could inform and gain support.

Commissioners discussed scheduling the event on a Saturday or weekday evening. Alternate Commissioner Jane Kendall said she thought Tuesday or Wednesday nights when the library was open later would be good. The commissioners suggested Tuesday, April 19, 2016 from 6-8 p.m. as a first choice considering Chair Hislop pointed out that would be close to Earth Day, adding that New Hampshire public schools would be on vacation the week of April 26. Alternative dates of May 3 and May 10, 2016 were also given.

Ms. Peterson said they would need to get strategies and marketing materials out. Mr. Weiner said they could do every door direct mailing. Ms. Peterson said they should also spread the word to interested parties who were influential with neighbors. Chair Hislop suggested they discuss it with former Selectmen, Planning Board member and Conservation Commissioner, Margaret Lamson.

Ms. Peterson said she would email the date that Mr. Auber could attend. Co-Chair Weiner said he would call Laura, Langdon Library Director to confirm dates as well.

Chair Hislop asked if Mr. Auber would have handouts and Ms. Peterson said she was not sure, but she knew she did a Power Point presentation. Chair Hislop said DES has shoreline map.

4) Wetlands Permit application: Pan Am Railways

Christina Hoffman with Environmental Resources Management (ERM) appeared before the Commission to talk about a Pan Am Railways project on the rails along the Piscataqua River in the Waterfront Industrial zone.

Ms. Hoffman said they did a periodic inspection in December 2015, and found erosion on the slope that they needed to repair quickly so they submitted an application to DES for an emergency repair. She said DES did a site visit, they presented a plan of restoration and the project was completed in February.

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Ms. Hoffman said Pan Am repaired the slope by putting in cages with stone along the bottom with reinforced ballasts as well. She said they were coming before the Commission now for the standard review.

Mr. Morgan asked what the elevation of the track would be and Ms. Hoffman said it was approximately seven feet from the bottom of the slope to the top based on known high tide elevations.

Chair Hislop asked the frequency of inspection considering the erosion. Ms. Hoffman said she thought they did inspections more than once a year, but she didn't know when the last inspection occurred before the December 2015 inspection when the erosion discovered. Chair Hislop said retroactive approval for emergency repair made sense.

Jim Weiner recommend Pan Am's Wetlands Permit application for retroactive approval for emergency repairs to their railroad lines along the Piscataqua River. Jane Kendall seconded and all were in favor.

5) Conservation Easements: Review monitoring procedures

Mr. Morgan said he started going through archives to track down monitoring responsibilities for Town held easements, but he didn't find much. He said the Town held easements on three acres of open space on the Beane Farm and the Hislop property.

Mr. Morgan said the Town also held the deed to the former Saba property on the corner of Fox Point and Old Post Roads, but the Commission never discussed management. He said he had received a call by someone interested in the abutting Sergeant property, but he didn't have any answer as to what protections there were. Commissioner Kendall asked if there was an easement. Mr. Morgan said there was a fee easement, but no conservation easement.

Commissioner Sandy Devins asked if they might do a walk through once a year. Mr. Morgan said Chair Hislop had suggested get procedures in place and a walk through might be all right.

Mr. Morgan said Fox Point, the Flynn Pit, the basketball court and Hen Island were Town owned, but not in conservation either. He said Bloody Point was in the second historic district in town and owned by the State, but the Town periodically had long term leases, that have expired.

Mr. Morgan said the Town held easements on three acres adjacent to Flagstone Brook that was conveyed by developer Adelman, as well as Trickey's Cove that was monitored by Southeast Land Trust.

Mr. Hebert said the Planning Board had expressed an interest in looking at the conditions of approval as well.

Commissioner Gunn asked what was the point of holding properties without easements. Mr. Morgan replied that the Conservation Commission would like easements, but the Board of Selectmen probably wanted to keep their options open. He added that the Adelman property was between Eastern Ball Bearing and the Stern's property on Shattuck Way. He said it was Town owned, but it was abutted by a drainage

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ditch and was not suited for development. Chair Hislop added that the State law stated that the Town could not hold their own conservation easements because it would be considered a conflict of interest.

Chair Hislop asked Mr. Morgan if he made any progress on the Flynn Pit regarding mitigation for Wilcox Industries and the expansion of Shattuck Way. Mr. Morgan said DES was not interested in the Flynn Pit. He said the Selectmen met with Wilcox Industries who agreed to make a payment to DES for the wetlands impact instead.

Mr. Morgan suggested the Commission put together a management plan for open space. Chair Hislop said they should begin by reviewing the easements and make a bullet list for a management plan over the next few months.

Mr. Morgan said he would gather whatever materials he had.

Discussions:

Co-Chair Weiner read the entry in the February 11, 2016 Minutes regarding Nimble Hill resident, John Frink's comments on Knight's Brook Corridor at the last meeting regarding his concerns of pollution to his land from Eversource's Seacoast Reliability Project SRP). He asked Denis Hebert to give an update on the project.

Mr. Hebert said he had been trying to get Eversource to consider going through Pease Development to avoid impacting as many residential homes. He said the PDA said they were okay with going through their property, but they met resistance when they asked if they could go through Great Bay National Wildlife Refuge.

Mr. Hebert said the aforementioned Peter Forbes with the U.S. Air Force only monitored water, but nothing else and Pease monitors the soils so he wouldn't know if there were contaminated soils on Mr. Frink's property.

Mr. Hebert said Eversource had to make sure that sites were monitored to receive Federal and State approval. He said the Town couldn't do anything except to inform Peter Forbes if contamination was found.

Chair Hislop asked for an update regarding Eversource going through Great Bay. Mr. Hebert said there was a lot of deep mud and silt and the Army Corp of Engineers (ACE) used a certain process with a plow, pushing silt aside the silt to lay cable down and then the silt falls back over it. He said to dredge with big machines made a big mess and this process would make the least impact. He added that the only place they would be digging when coming up in mudflats.

Mr. Hebert said he thought they would proceed during high tide and then have to stop when the tide changes, which was a short turn around time.

Mr. Morgan said when they drilled under the bay when the gas line went under the Bay. Mr. Hebert said Eversource would have to purchase properties at both end and they also didn't want to take them by eminent domain or mention it because they could be fined. He said Northern Pass was trying to buy the properties and if they couldn't, they could force eminent domain.

Co-Chair Weiner asked about running the transmission lines underground. Mr. Hebert said some land owners didn't want the lines underground. He said Eversource

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owned the right-of-way above ground that was moved from Pease Airbase when they moved and it is still haunting the town.

Mr. Hebert said the Planning Board appreciated the work that the Commission does for the town and they made several ordinance changes to retain the rural character in town.

Mr. Hebert said he had proposed a 100' buffer from wetlands, but there was an extreme outcry. Mr. Morgan said he received a call of concern from a Newington resident that had a pond on his home lot.

Chair Hislop asked about the buffer between the Belanger development and the Wilsons. Mr. Hebert said the prior owner was granted a curb cut across from the Town Hall entrance and the Planning Board tried to get a 30' buffer, but the Ordinance only required a 15' buffer.

Commissioner Gunn asked if there was a vegetation clause and Mr. Hebert said most residents want vegetation between properties and he was surprised that Mr. Belanger didn't want more. Mr. Morgan said the Planning Board and the Zoning Board of Adjustment did have legal authority to propose what they thought was reasonable even though it was not in the regulations.

Mr. Hebert reported that Jones and Beach Engineering, representing Fabyan Point Road subdivision asked the Planning Board how they wanted to mark their wetlands. He said it was an excellent idea to put something permanent in the ground to prevent encroachment. but the Board had never had an occasion with that process before.

Mr. Morgan said the Town of Seabrook purchased thousands of wetlands markers for property owners so they couldn't say they didn't know how to acquire them.

Commissioner Devins asked how a landowner would know where to place them. Mr. Morgan said wetlands scientist would show them where to place them. He said they could also be provided for existing home owners that wanted to identify their wetlands and buffers as well. He said he could inquire on a supplier and price.

Mr. Hebert asked if there was anything the Planning Board could do to help the Commission and Chair Hislop replied that it would be helpful if the Planning Board and Commission could have a joint meeting to discuss wetlands and wetland buffer management so everyone could be on the same page with developers.

Mr. Hebert said the Technical Review Committee held review sessions for developers and a representative for the Commission could sit on the Committee. Commissioner Gunn volunteered to sit on the Committee.

Jane Hislop moved to recommend Cynthia Gunn as the Conservation Commission representative for the Technical Review Committee. Jim Weiner seconded the motion and all were in favor.

Minutes:

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Ann Morton made a motion to approve the Minutes of February 11, 2016. Sandy Devins seconded and all were in favor.

Other Business: Reappointments to the Conservation Commission

Chair Hislop said she sent a letter to Town Administrator, Martha Roy and the Board of Selectmen to recommend appointments for Cynthia Gunn and Jane Kendall as Alternate Commissioners.

Adjournment:

Jane Hislop moved to adjourn. Sandy Devins seconded and the meeting adjourned at 8:19 p.m.

Next Meeting: Monday, April 14, 2016

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