

Town of Newington, NH
CONSERVATION COMMISSION

Meeting Minutes, Thursday, November 10, 2016

- Call to Order:** Co-Chair Jane Hislop called the November 10, 2016 meeting at 6:30 PM.
- Present:** Co-Chair Jim Weiner; Cindy Gunn; Bill Murray; Alternate, Jane Kendall; and Town Planner, Gerald Coogan
- Absent:** Sandy Devins and Ann Morton
- Public Guests:** Ben Johnson; Kimberley Peace with Hoyle and Tanner Associates; Maria Stowell with Pease Development Authority; Ted Connors; Chris Cross; Margaret Lamson; Gail Pare; Melissa Prefontaine; Abigail Lyon and Kallie Matso with Piscataqua Region Estuaries Partnership

1) Subdivision Landscaping for Ben Johnson at Fabyan Point, Tax Map #, Lot#

Ben Johnson of Newington Road appeared before the Commission to discuss the best species of trees to plant along the construction of Fabyan Point Road.

Mr. Johnson said the plan called for twenty-one shade trees and Town engineering consultant, Eric Weinrieb with Altus Engineering recommended the American elm, but the landscapers and nurseries he talked with recommend a variety of species to reduce the risk of disease.

Co-Chair Hislop suggested he could talk with a nursery, but she would hesitate to plant elm because of their eventual susceptibility to disease. She added that a tree scientist had recently visited the U.S. Forest Service where she worked and stated that the clones were not that hardy either.

Co-Chair Hislop recommended that he plant a variety of five to seven native species for diversity. She said she had a list that included beech, hickory, oaks, some conifers such as balsam and firs and perhaps dogwoods. Co-Chair Weiner commented that dogwoods did well under trees such as horse chestnut, oaks and sweet gums.

Mr. Johnson said he could get elms and red and sugar maples. He asked if he could divide seven species into the twenty-one trees that were required to be planted. Co-Chair Weiner replied that he could also divide five species and plant an odd number of each. Co-Chair Hislop added that it would be a good idea to mix them up and not clump the same species together.

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2) **Tree Removal** along Pease Flight Path

Kimberley Peace and engineer, Mike Rogers with Hoyle and Tanner Associates appeared before the Commission on behalf of the Pease Development Authority (PDA). Ms. Peace passed out their plan for cutting trees in the runway flight path.

Town Planner, Gerald Coogan announced that this was an informational meeting, but that there could be a second meeting to discuss the wetlands impact in greater detail at another meeting after the Commission had more time to review the wetlands permit request that had just been received.

Co-Chair Weiner stated that he had called Mr. Coogan earlier to ask him to consider what legal rights the Commission, the town and Pease had in regards to the application.

Mr. Coogan replied that the PDA owned the land and they were only cutting their trees. He said the role of the Commission was to make comments on offsite impacts. He added that the PDA also might need an Alteration of Terrain (AOT) permit because of all the disturbance and a management plan.

Co-Chair Weiner commented that the PDA had presented the project before the Town in 2012 and again six to eight months ago. He asked if there were timelines they were working on.

Ms. Peace said the Federal Aviation Administration (FAA) made the determination that tree cutting was required and identified the trees obstructing navigation in 2010. She said there was quite a bit of back and forth between the PDA and the FAA to identify which trees were in question. She said there was another plan to remove a substantial number of trees by the cemetery, but they did an MEBA analysis to view impacts to the Historic District, wetlands and wildlife.

Ms. Peace said they met with the Historic District Commission and pulled the project back and were no longer proposing to remove the Historic District trees.

Ms. Peace said in December 2015 the FAA found no significant environmental impacts to the Historic District and the impact to wetlands would be mitigated.

Ms. Peace said they were also proposing to install a hazard beacon to shine on the trees so the aviators would be able to see their safe routes.

Ms. Peace noted that all work would be done on airport property, where they had the right to remove trees, but because the trees were being removed from wetlands, they were required to apply for a wetlands permit from the Department of Environmental Services (DES) and were now before the Conservation Commission for comments.

Ms. Peace said they met with DES and showed the impact numbers for the conversion with the removal of trees, leaving the shrubs on 1.76 acres in Newington. She said they determined the mitigation ratios to either preserve a wetland buffer or do restoration, but because the FAA discourages wetlands on airports, they were encouraging off site mitigation or an in-lieu fee of \$72,000 from the Aquatic Resource Mitigation fund (A.R.M.s) to the Town of Newington.

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Ms. Peace said DES wanted to encumber and tie the funds to a project so they recommended that they go to towns to hear if there were any projects; but because they needed the mitigation plan be resolved by April, they were looking for a shovel ready wetland enhancement or restoration project or conservation easement in town.

Ms. Peace added that Lori Sommer, director of A.R.M.'s at DES informed her that the town would not be able to use the PDA's \$75,000 toward the purchase of the Ripley's conservation easement purchase, which was already using mitigation funds from another wetlands impact though she wasn't sure why and said she could ask for more information on that. Co-Chair Hislop commented that the town was using mitigation funds that would be follow A.R.M.s funding criteria, but would be paid directly by Eversource, not A.R.M.s funding.

Co-Chair Weiner wondered if they might be able split the total acreage of the Ripley's conservation easement into two projects, one funded by Eversource and the other funded by A.R.M.s fund from Pease. Ms. Peace said she would like to think they could do a reconfigure. Alternate Commissioner Jane Kendall replied that A.R.M.s application criteria had a minimum acreage that might be an issue.

Ms. Peace their mitigation would require 3.4 acres of upland preservation with half an acre of wetlands conversion. Co-Chair Hislop said the Ripley's easement had both uplands and wetlands. Co-Chair Hislop added that she was not sure if the Ripleys would be interested in restoration on their property either.

Co-Chair Hislop said that the Town had also approached the abutting Boyntons about acquiring an easement on their property to complete a wildlife corridor easement from the Saba property to the Frinks as well.

Co-Chair Hislop added that there also was a dump in the Town Forest the Commission wanted to acquire funds for a cleanup as well. She said they had Stonehill Environmental do the surveying, and the next step would be testing. She said because the dump was established before the Environmental Protection Agency required towns to do cleanup, it was grandfathered so they might only be required to cover it rather than remove it; but the concern was that it could affect surrounding water. Gail Pare, Historic District Commission Chair added because it was in the oldest town forest in the country it was also part of the National Historic Register.

Co-Chair Weiner said he was concerned with clear cutting to the ground that would remove the sound and visual buffer and affect water runoff. He said he was not aware of the presentation of any studies being presented on the affects to the abutters and the surrounding area.

Ms. Peace replied that they would clear cut on the uplands, grind stumps below the surface, loam and seed, but they would not clear cut in the wetlands. She said the FAA said only want to fund the project once was the reason they were clear cutting.

Ms. Peace added that work had been done to minimize the impact and there would still be a buffer of trees so the runway wouldn't be visible from Little Bay Road. She added this was where the hazard beacon would be installed to make the trees visible.

Co-Chair Weiner commented that residents understood that they lived near an airport, but the sound of jets would become louder if the trees were removed. Ms.

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Peace replied that there had been studies showing that the noise mostly came from takeoff and landing and they did not anticipate any changes with the removal of the trees and berms wouldn't make any difference either.

Margaret Lamson of Little Bay Road and Newington representative for the PDA recalled working with the Air Force at Pease when she was a selectman. Ms. Lamson said she also recalled the PDA approaching the Board of Selectmen and the Historic District Commission again in 2000 when they purchased the property in question from Ghirabai Khalsa.

Ms. Lamson said the Air Force had cut trees before, but they had never clear cut like this before. She said she disagreed that the noise only occurred during takeoff and landing because residents already experienced their windows shaking with planes flying overhead.

Ms. Lamson said she was also concerned that the poor air quality would continue to deteriorate with significantly fewer trees. Ms. Pare agreed that the smell of kerosene was detectable when planes flew over and it would be visible by hanging a white sheet out on a clothes line.

Ms. Pare asked if anyone had studied how much run off was going into the Boiling Spring from the Pease aquifer that was coming from up north. She said the spring used to provide well water to settlers in area and could be tapped into for municipal water supply if it had not been polluted by runoff from the former Air Force base and wondered when the last time the water had been tested and calculated. Co-Chair Hislop commented that she hoped it was not in the summer during the drought. Ms. Peace replied that the data was included in the hydrologic calculations. She said their intent was to leave a buffer to protect the water source.

Ms. Pare commented that there was marginal maintenance now and there were signs of flooding and road shifting. Mr. Rogers replied that they were not allowed to increase runoff, but they were supposed to remove trees and create a meadow that would be maintained yearly. He said the storm water infiltrated the forested ground that had an accumulation of humus and leaf matter.

Ms. Lamson commented that the old fire training site at Site 8 had wells in Newington that had been impacted by Pease Air Force Base and said the town didn't need any more contaminated wells from run off.

Commissioner Cindy Gunn commented that town often discovered that things happened in stovepipes when dealing with an entity and they didn't want to find out later that they knew nothing about the pollution so that was why these questions were being asked.

Mellissa Prefontaine of McIntyre Road, a direct abutter to the proposal said she had a well for domestic water that was tested every three months and asked how clear cutting 28 acres, leaving no root filtration would impact wells. Mr. Rogers said tree root systems were currently 20-30 feet apart now and post conditions would be grassed with the same amount of runoff. Ms. Prefontaine replied that she was not asking about the amount of storm water runoff, but if there had been a study on the filtration rate after the removal of trees. Ms. Peace stated that it would be the same filtration and Ms. Prefontaine replied that she didn't think six inches of grass would provide the same

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filtration as 100 foot trees. Co-Chair Weiner added that it would be helpful to see studies to confirm that the absorption and filtration of runoff would remain the same. Mr. Rogers replied that there were forest and meadow studies that predicted how cover types would affect runoff.

Commissioner Gunn commented that as real estate broker, she often dealt with shoreline protection guidelines that advised not to cut trees because grass didn't protect the shores from runoff. Mr. Rogers replied that their numbers came from the Army Corp of Engineers.

Ms. Prefontaine commented that the plume that went to Pickering Brook shifted, which affected the well that provides municipal water to Newington, Portsmouth and Greenland and she was told there was a new fracture because something had shifted in the last couple of years in the topography. She said she had a domestic well which was not on that plume, but they still test her well every three months. She said logic dictated that this had a potential to shift things again.

Maria Stowell with Pease said there was no way of knowing what would happen with the plume since the drought and municipal water was no longer being drawn from the Haven well, but she had been assured that ground water contamination was being worked on by the Air Force. She added that whatever happened with the Haven well, could not be confused with the safety of planes going in and out of airport.

Ms. Prefontaine stated that she possessed a document from the PDA when she purchased her home in 2008 that stated that they could trim trees, but it did not say they would be clear cut, adding that she never would have purchased the lot and built her home there if she had known there would be clear cutting. Ms. Pease said she was not aware of any documentation restricting clear cutting. Co-Chair Weiner recommended that Ms. Prefontaine provide a copy of the documentation for review.

Ms. Prefontaine asked if they could keep the barbed wire fence surrounding her property to keep wildlife out of her backyard. Mr. Rogers replied that it was only three feet high and wouldn't keep deer out.

Ms. Prefontaine said it was hard to believe there would be no change in acoustics after the clear cutting and wondered if there was any potential for further mitigation as occurred previously for sound mitigation in local homes. Ms. Stowell replied that the PDA and the FAA did four different projects over eight to ten years and provided noise mitigations to several homes, but the FAA had since announced that they didn't think they could get any more funding. She added that they had done a study with a new noise map and the models showed that removing the trees would have no effect on the noise.

Ms. Pare asked if the noise study was done with an average or peak noise period. Ms. Stowell replied that they were there to address the wetlands and how to spend mitigation funds, not to discuss the noise levels.

Mr. Rogers commented that they gathered aircraft data from the prior year, did projections, did radar tracks to see where the planes traveled over land, accounted for terrain and didn't consider trees significant buffer because most of the noise was from the planes flying over, not on the ground, but there might be benefits from berms for planes on ground.

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Co-Chair Weiner commented that he had only just been informed at the meeting that the clear cutting went up to 28 acres. Ms. Lamson replied that certified letters had been sent out to abutters.

Ms. Peace added that there had been no effort to hide their plans. She said the FAA had identified the number of trees to be removed and the Newington Conservation Commission only had the right to comment on the permit for work in 2.5 acres on wetlands. Co-Chair Hislop commented that the town had been effected by multiple entities and had the right to comment on the clear cutting that could have an impact beyond the wetlands.

Co-Chair Weiner commented that there was an approved flight path, but some planes were not following the path and were coming within 50 feet of tree lines and along the shoreline on a regular basis. Ms. Stowell replied that she was not aware of the issue because she didn't receive the calls, but that there was a contact number to call for complaints. Co-Chair Weiner said two people told him that they called the noise line and had not received calls back. Ms. Pare nodded her head in agreement.

Chris Cross of Nimble Hill Road said Ms. Lamson was the Chair of the Transportation Management Committee for the PDA and he was a representative that people could inform if they received any complaints. He agreed that although the PDA had made attempts to mitigate the noise on the ground, noise was audibly louder when the leaves fell, but were still obstacles. He said there would be a forum to address noise.

Mr. Rogers said they had a forester look at the trees that were young and he estimated that they were last cut 50 years before. He said it depended on the age of the trees and the terrain and some tree growth was concentrated and some were higher because ground higher, but there would be more penetration of trees in 15-20 years if they weren't cut. He said the FAA considered it a hazard and because the airport receives Federal funding and they were obligated to identify and address hazards. He said they were cutting the trees that were penetrating the 40-1 departure surface in the runway protection zone. He said he a surveyor found a temporary easement on the Newington Historic District property.

Co-Chair Weiner suggested they consider a compromise with an increased buffer and only topping some of the trees. Mr. Rogers said topping trees not a good idea, high fatality.

Co-Chair Weiner said members of the public present for this meeting was a small representation of a larger population and suggested they continue discussions at the next meeting on the second Thursday in December.

3) **Conservation Easements and Mitigation Discussions:** Update on John and Meg Ripley's Easement at # Old Post Road, Tax Map #, Lot # and 2017 Warrant Article

This item was delayed to take the next item next.

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4) Piscataqua Region Estuaries Partnership (PREP) Discussion

Kallie Matso and Abigail Lyon with PREP's Monitoring Collaborative appeared before the Commission to ask if they would consider making a financial contribution to augment their funding from State and local funding, along with \$600 a year from the Environmental Protection Agency (EPA) for their work with Great Bay National Estuarine Reserve near the Greenland area, but also the surrounding watershed that included 42 towns in New Hampshire and ten towns in Maine. Mr. Matso stated that they had received \$97,000 from towns last year.

Mr. Matso informed the Commission that it was their job to collect data and research the health of the Bay. He stated that the Bay was only function at a five on a scale of 1-10 and on the decline. Mr. Coogan asked who made that determination and Mr. Matso said no one per se except that it was clear that there was an agreement among the scientific community that there was a downward trend.

Commissioner Gunn asked if they were working with the Conservation Law Foundation and Mr. Matso said someone from the Foundation was on their management committee.

Mr. Matso said they were holistic and worked with numerous partners, but the New Hampshire Charitable Foundation had asked them for a statement on the organization of the partnership of different specialty groups. He said their job was to track all the different studies done over the last 30 years.

Ms. Lyons commented that they could also work with Great Bay National Estuary Reserve regarding site plan reviews to identify features and red flags that could be helpful for conservation easements.

Co-Chair Hislop said monitoring easements was also an issue that the Commission needed to address. Ms. Lyons replied that they could direct the Commission to monitoring options.

Commissioner Gunn said it would be helpful to have a chart that showed how they utilized the data from all their partnerships. Mr. Matso replied that they did have a network analysis, but didn't have a flow chart, but they could develop one.

Co-Chair Hislop said the Commission had already presented their 2017 budget for the year to the Board of Selectmen. Co-Chair Weiner suggested they return for one of the Commission's annual community education events to inform residents, which would support their request for a donation in the following year's budget.

Mr. Matso said they would love to do a presentation. He said they had materials, but felt many people didn't people read.

Co-Chair Hislop commented that a prime example of a project that she would have expected responses to the Eversource transmission expansion cable going across Great Bay, but no one attended to analyze or object on the impact besides one professor from UNH. Mr. Matso replied that they would've been glad to have commented.

Mr. Matso said their vision for the next three years was to ask for the same amount of money. Commissioner Gunn asked if had time line for their spending. Mr. Matso said they would continue to work up the data that was often collected, but not

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processed. He said they also wanted to improve their website and improve their public outreach communications.

Mr. Matso said the health of the Bay was suffering, including the health of eel grass that many of the marine life depended on and the sustainability of oyster beds despite work being done by DES and UNH. He said the beds would survive three years and then die, mostly because of sediment, but they weren't certain where the sediment was coming from. He said it had long been thought that the increase of nitrogen that fed phytoplankton was significant, but now they were also observing an increase in seaweed that was blanketing the bottom of the bay and choking out other life forms.

Commissioner Kendall asked what they knew about the effects of nitrogen from wastewater in the Bay and the expectations of upgrades treatment plants. Mr. Matso replied that the EPA was pushing for upgrades to reduce the nitrogen output from wastewater treatment plants, but there was still a need for good monitoring systems.

Co-Chair Hislop suggested that they return for a community education event in April 2017 and then the Commission would have more information when they presented their 2018 budget next year. Mr. Matso said they had determined that their request would amount to \$1.27 per person based on consensus. Commissioner Gunn Newington had a highly-educated community that would want to know where the money would go and a flow chart would help them understand.

Commissioner Gunn asked if they could take private donations and Mr. Matso said they could through their Great Bay 20/20 program.

3) Conservation Easements and Mitigation Discussions: Update on John and Meg Ripley's Easement at # Old Post Road, Tax Map #, Lot # and 2017 Warrant Article

This item was taken out of order in order to hear the previous item first.

Co-Chair Hislop said she Board of Selectmen, Jan Stuart had recommended encouraging the Ripleys to open their easement up to public access. Commissioner Kendall said she thought that Tracy Degnan with Rockingham County Conservation District who assisted the Ripley's, had asked them if they wanted public access and they said they did not and it was not required by the A.R.M.'s criteria that Eversource was following. Co-Chair Weiner replied that they could still ask the Ripley's again.

Mr. Coogan said he recalled that Ms. Degnan had said she would try to eliminate public access on the easement. Commissioner Kendall asked Mr. Coogan if he would confirm that understand with Ms. Degnan and Lori Sommers. would talk with Laurie about.

Co-Chair Weiner suggested that they also needed to consider using the \$72,000 mitigation fee from the PDA's tree cutting on the abutting Boynton property, which was smaller, but with more wetlands. Co-Chair Hislop agreed and asked Mr. Coogan to continue to keep them updated.

Co-Chair Hislop commented that she also hoped to do a community education event on easements.

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4) **Other Business:** Budget

Co-Chair Hislop informed the Commission that she had presented the 2017 budget to the Board of Selectmen. She said \$191 had been added to FICA and the Selectmen had allowed for changes from the previous year because they had overdrawn the Consulting line item.

Co-Chair Hislop said Selectmen Cosmas locovozzi suggested that they present one warrant article for \$75,000 for the Ripley's property instead of one for \$30,000 and another for \$45,000.

Jane Kendall moved to amend the 2017 Conservation Commission budget to \$11,592. Jane Hislop seconded the motion and all were in favor.

Minutes:

*Cindy Gunn made a motion to **approve** the Minutes of October 13, 2016. Jane Hislop seconded and all were in favor.*

Adjournment: *The meeting adjourned at 9:00 p.m.*

Next Meeting: Monday, December 8, 2016

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