

Town of Newington, NH

CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

Call to Order: Chair Jane Hislop called the October 10, 2019 meeting at 6:30 p.m.

Present: Chair Jane Hislop; Vice-Chair Weiner; Commissioners Ann Morton and Jim Tucker; Alternates Jane Kendall and Bill Murray

Absent: Alternate Sandra Devin; and Town Planner, Gerald Coogan

Public Guests: Town wetlands consultant, Mark West with West Environmental; Chris Cross

1) Wetlands Mapping Project: Update

Town wetlands consultant, Mark West with West Environmental presented updates on his progress on the mapping project as reference for to the Wetlands Overlay Ordinance proposal that would be presented for the 2020 Town Meeting vote. Mr. West stated that he had done aerial photos and was done mapping on Lidar, but invited the commissioners to respond to the work he was doing before he finalized it for presentation.

Mr. West said there was one set of wetlands information on the tax map, and a separate list of prime wetlands, so it would be nice if there was just one set of wetlands information so that people wouldn't have to guess what kinds of wetlands, and setbacks were on their properties. Mr. Wetlands said he talked to Meridian regarding the maps, and he was not confident in the sources of information, so he wanted to map the wetlands himself so he could be more certain of what were wetlands or ditches. Mr. West added that wetlands surveys were required for any developments, but mapping was important to determine what buffers were required provided.

Mr. West provided wetlands definitions of surface waters, and wetlands contiguous with surface waters, noting that manmade detention basins and treatment swales were not included as wetlands. Vice-Chair Weiner responded that he was taught that anything was that was dug and filled with water it became wetlands. Mr. West replied that it would depend on whether it was a manmade pond or treatment swale.

Mr. West said New Hampshire Department of Environmental Services (NHDES) defined intermittent and perennial streams. He said an intermittent stream might flow

Town of Newington, NH CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

over grass during heavy precipitation, or during snow melt, and already had a 50-foot buffer, but a perennial stream could be identified by the way it wore down to gravel and sand. He added that prime wetlands were also defined as perennial wetlands.

Mr. West showed the NHDES chart that described various features of buffers, and how they provided protection for water quality. He added that some people try to dry up their wetlands by cutting trees, but trees absorb water, and cutting can contribute to increasing wetlands in surrounding areas by removing their draining power.

Mr. West noted that without mapping and definitions, it had not been clear what kinds of wetlands setbacks were required when the Planning Board reviewed the hotel proposal on Woodbury Avenue, but he had identified fish, beaver, and other wildlife habitat in and around the wetlands, so mapping was important as a tool to assist developers in their planning.

Mr. West said contiguous streams had been defined as perennial wetlands that flowed to Great Bay, including Pickering Brook, Paul Brook, and Knight's Brook that would be identified in the Wetlands Overlay Ordinance, as previously discussed with the Commission.

Mr. West said there was variety in the stream systems, and showed photos of a section of Pickering Brook on Fox Point Road extension that had been filled in with stone, and was only a couple of feet wide, yet it was five feet wide upstream and connected to a large scrub wetland. Mr. West said the Lidar of the Pickering Brook system showed that it drained to prime wetlands, and that some studies said it was more important to protect headwaters.

Mr. West added that the Department of Transportation's (DOT) restoration of Railroad Brook was also a part of Pickering Brook with an outlet to the river. Chris Cross, a member of the Planning Board added that he thought it was important to control effluents by identify Railroad Brook as a contiguous stream. Mr. West added that Railroad Brook was all impounded, but agree that it was still a wetland to be protected.

Mr. West noted that several contiguous streams had not been identified on maps, including the stream going across Coleman Drive and up to Fox Point Road, where a section of the stream was five feet wide, and had scoured down to a mineral base. He said there was another section upstream at the same crossing where an owner ditched the whole stream, and the wetlands setback buffer was lost. Alternate Commissioner, Jane Kendall recalled that the stream behind residents' homes on Coleman Drive had increased since the Town had put in a culvert under Nimble Hill Road to drain the wetlands from Newington Public School. Mr. West discussed the significance of the streams from Coleman Drive to an original prime wetland on the Shackford Lot, and then down to the Bay by Trickey's Cove.

Mr. West also showed photos of the stream that ran to Great Bay through the culvert under Little Bay Road from the dug pond on Captain's Landing.

Chair Hislop asked if there were wetlands on the Knox property at the Adams Homestead on Nimble Hill Road. Mr. West replied that there could be some small wet

Town of Newington, NH CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

areas, but they were not significant enough to show on Lidar. Commissioner Kendall recalled that Duane Hyde, Land Conservation Director for Southeast Land Trust had previously discussed applying for an Aquatic Resource Mitigation (A.R.M.) grant, and had said that there were no significant wetlands to qualify for the grant.

Mr. West said McIntyre Brook had been on the Commission's original list of contiguous streams, but he wondered if it should be included since Pease had dug out and stoned the natural streams into ditches with floodgates and dams for drainage for the runways. Mr. West said it was no longer a natural system, but Pease was the largest wetlands in town, and the developed stream that was still important for water flow. Commissioner Kendall said she still thought it was important because it still ran to Great Bay.

Mr. West went on to discuss other streams near Pease, and said he couldn't find names for them. Commissioner Jim Tucker said he found one was referred to as Pinkham's Creek and the other by McIntyre was called Swandon's Creek.

Mr. West said he also observed during his mapping project that the unnamed stream by Newington Station that lead to the Portsmouth town line by Woodbury Avenue was also a contiguous stream. He stated that former Town Planner, Tom Morgan had recommended at one time that the Industrial and Commercial side of town be treated differently because of development, but the streams carried pollutants to Great Bay, so he thought it important to protect. He said the sewage treatment plant was there so anything that was already built near buffers was grandfathered, but he thought the Commission needed to determine if they wanted to recommend 100-foot buffers there, or not. Chair Hislop responded that even if spills occurred further up, she thought industrial companies needed to be aware that the stream flowed to the river, so it was still very important environmentally. Mr. Cross commented that the mall areas had key containment areas, but agreed that it was also important to show Paul Brooks as important, and future development proposals could require treatment plans.

Mr. Cross added that there was an open swale by the old ToysRUs building where a car dealership was being proposed, and Mr. West said that he would review it.

Mr. Cross commented that the thought that the drainage channel needed to be treated. Mr. West responded that the Ordinance talked about man-made, road-side swales not being included as wetlands with 100-foot buffers. Mr. Cross asked if the same was true of residential areas. Mr. West replied that he would need to review the Ordinance language, but they needed to be careful or they would could go and go and go if chase every watershed. Chair Hislop asked about identifying swales using different colors on the map. Mr. West replied that he had been hired to do map significant wetlands, and drainage swales had to be identified on the tax maps during any development project anyhow.

Town of Newington, NH
CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

Jim Weiner moved to accept the proposed definition of contiguous wetlands, and add contiguous streams to the wetlands setback chart. Ann Morton seconded, and the motion passed with all were in favor.

2) 2020 Zoning Amendment Proposal: Article VIII Wetlands Overlay District

Discussions with Mr. West regarding wetlands designations for the Wetland Overlay District continued.

Mr. Cross commented that contiguous stream designation needed further definition such as depth, length, or volume, besides saying that they led to Great Bay or the Piscataqua River. Vice-Chair Weiner agreed with Mr. Cross that they needed to provide more details for a contiguous stream. Mr. West stated that the best way to defined wetlands was to refer to watershed size. Vice-Chair Weiner asked Mr. West to write up as part of the definition of contiguous wetlands.

Chair Hislop suggested reference to environmental issue like marine life, vernal pools, etc. Commissioner Ann Morton asked how finely they could define contiguous. Mr. Cross said major streams might be the basis, but there were so many wetlands in town that flowed to Great Bay that they needed to specify the ones with the highest volume, or the most aquatic life.

Mr. West agreed that defending the Ordinance was important or the proposal wouldn't go anywhere, and that it was important not to build close to streams where pollutants would flow. He said the length of streams, speed, and volume of flow were all important to protect natural resources, and suggested including natural flows toward other streams, but the study of macro-invertebrates was not part of his budget this year.

Mr. West said his town had 28 streams, but Newington didn't have that many, and the stream leading from Captain's Landing was not the same as Knight's Brook or Pickering Brook, so it was easier to defend larger streams, but he suggested that they remove McIntyre Brook, which should be called McIntyre ditch. He said he didn't have the ability to dig out culverts on Pease Development Authority (PDA) property anyhow.

Mr. West said he was talking about structural setbacks, and not buffers. He said intermittent streams already had 50-foot buffers, and suggested that they consider doing a 75-foot buffer for smaller streams and a 100-foot setback for larger streams that were connected to contiguous streams.

Jim Weiner moved to list a 100-foot structural setback for perennial prime wetlands Knight Brook, Paul Brook, Pickering Brook, McIntyre Brook, Newington Station Brook, Railroad Brook, and the Sprague Energy wetlands, and list a 75-foot structural setback for the brook crossing Little Bay Road from Captain's Landing that was contiguous with Great Bay, and the stream running through the Shackford/Watson lot,

Town of Newington, NH CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

and the stream leading to Trickey's Cove that were intermittent wetlands contiguous with Prime Wetlands. Jim Tucker seconded the motion, and all were in favor.

Mr. West said he could change the definitions to say that the setback did not include man-made ditches except for McIntyre and Railroad Brook that would have a 100-foot buffer because they were contiguous to Prime Wetlands and they carried massive amounts of water to the Bay. Alternate Commissioner, Jane Kendall agreed, and said that identifying waters flowing to the Bay provided support for mitigation opportunities.

Mr. West said he could look at the limited cut buffers in Section 6 as well. Mr. Cross said he knew Section 6 and Section 7 charts were logical to the Commission, but they were difficult for the general public to understand because they had to consider what the terms on the chart meant. Mr. West said naming the wetlands, and then adding the size of smaller wetlands resources would help to understand the setback.

Mr. Cross went on to say that he thought they also needed to provide explanation of the impacts to 3,000 square feet and 5,000 square feet of wetlands. Mr. West replied that DES already established impacts for 3,000 square feet.

Mr. West stated that he would have his GIS person include volumes and stream length references and water quality protection. He said he intended to have his mapping done the next day and then have his GIS person do the mapping the following week so that he could provide much of the information by October 21, 2019, before the Monday, Oct 29, 2019 Planning Board meeting.

3) Conservation Projects for Eversource Mitigation Funds

Chair Hislop stated that Eversource had informed the Town that they would need to apply for an Aquatic Resource Mitigation (A.R.M.) grant to receive the mitigation impact funds from Eversource's Seacoast Reliability transmission expansion project. Chair Hislop asked Mr. West if he might make a recommendation for a project proposal. Mr. West said they couldn't do an A.R.M.s study without going through the requirements. He said he would have to look at wetlands, photograph them, and do a functional assessment, which he had done for another community for \$7,000.

Mr. West said applications had to be done by April, and site walks done in August, before awards were issued in November.

3) NHDES Wetlands Permit Updates:

- A) Update on request by **Mike Barker and Kim Jacques** for Wetlands Permit recommendation to construct a 22' x 26' garage, and 18' above ground pool, and a 35'+ walkway at their home at **518 Shattuck Way, Tax Map 7, Lot 4**

Town of Newington, NH

CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

This item was postponed so until after Mr. Barker's meeting with David Price at the New Hampshire Department of Environmental Services (DES).

Vice-Chair Weiner said he spoke with David Price with DES regarding Mr. Barker's presentation of their future yard project proposals, and Mr. Price told him that he had only explained DES rules and regulations, and what information was necessary for an application.

B) Wetlands Violations

Vice-Chair Weiner commented that several violations had been reported to NHDES, including the Patenaude property on Nimble Hill Road, Brian Short's property on Newington Road, and heavy equipment on the Shackford lot of Nimble Hill Road.

Vice-Chair Weiner said the Planning Board had approved of a change of use for Mainely Grass at the former Eastern Bearing site on the corner of Nimble Hill Road and Shattuck Way, but not he was concerned that high nitrogen fertilizer from their trucks parked in the back could run onto the parking lot to the brook leading to Trickey's Cove. Mr. West said that area was part of the Railroad ditch. Mr. Cross pointed out that the parking lot was designed to drain to a drainage area at the front.

4) 2020 Conservation Commission Budget: Update

Chair Hislop said the Town wanted to hire Charley Moreno as the Town forester and she was asked to provide a template. Chair Hislop said she would be attending a forestry soon, and would put out feelers for further assistance.

5) Updates: Town Planner Report

Chair Hislop said Mr. Coogan had provided a copy of the coastal flood zone maps. Vice-Chair Weiner said he thought they did a horrible job showing his house under water. Mr. Tucker added that his home was in a tidal flood zone.

6) Correspondence and Invoices:

Jim Weiner moved to approve payment of \$275 for New Hampshire Association of Conservation Commissioners annual membership. Jim Tucker seconded the motion, and all were in favor.

Chair Hislop announced that Mr. West was running a workshop at the annual meeting that would be held on November 2, 2019, and more information would be available online.

Town of Newington, NH
CONSERVATION COMMISSION

Meeting Minutes, Thursday, October 10, 2019

7) Additional Discussions

Vice-Chair Weiner said he had written a letter to the Board of Selectmen to request that funds be moved from the Commission's Forestry budget to beautification so that the Commission could pay \$550 plus shipping for the replacement sign he wanted to put up at the entrance of Fox Point. Vice-Chair Weiner said Town Administrator, Martha Roy informed him that his request had not been done, and that the Board of Selectmen had agreed to sign off on replacing the sign.

Chair Hislop stated that former Selectmen Rick Stern had reminded the Board of Selectmen that it was their responsibility to pay for the sign, and not the Commission's responsibility.

Minutes: *Jim Tucker moved to approve the Minutes for the September 19, 2019 meeting. Ann Morton seconded, and all were in favor.*

Adjournment: *Jim Weiner moved to adjourn. Jim Tucker seconded the motion and the meeting adjourned at 8:51 p.m.*

Next Meeting: Thursday, November , 2019

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

These Minutes were approved and adopted at the November 14, 2019 Conservation Commission Meeting.