

Town of Newington, New Hampshire

CONSERVATION COMMISSION

Meeting Minutes, Thursday, March 14, 2019

- Call to Order:** Co-Chair Jane Hislop called the March 14, 2019 meeting at 6:30 p.m.
- Present:** Co-Chair Jane Hislop; Co-Chair Weiner; Commissioners Liz Durfee; Jim Tucker; Alternates Sandra Devin; Jane Kendall; and Town Planner, Gerald Coogan
- Absent:** Ann Morton; Alternate, Bill Murray
- Public Guests:** Kimberly Peace with Hoyle, Tanner and Associates; Maria Stowell, Engineering Director with Pease Development Authority; Margaret Lamson, Newington representative for the PDA; Town wetlands Consultant, Mark West with West Environmental; Rob Hoover with TFMoran Engineering; Mark Phillips, CEO, Storage Barn; Denis Hebert; Brian Short

1) New Hampshire **DES Permit Request:** Application for reconstruction and drainage improvements for runway 16-34 by Portsmouth International Airport

Kimberly Peace with Hoyle, Tanner and Associates appeared before the Commission to present their proposal to correct a drainage issue between the Pease International Airport runway and the drainage ditches that collect stormwater runoff. Ms. Peace stated that the runoff was pooling and had shifted the wetlands outside of the drainage ditches, so they were informed by the Federal Aviation Administration (FAA) that they needed to be drained as the pools were an attractant to birds and other wildlife that could create aeronautic hazards. Ms. Peace stated that the New Hampshire Department of Environmental Services (DES) agreed because the pools of water were manmade and not natural, and that they could perform drainage maintenance.

Ms. Peace described the drainage plan that would involve grading and provide side-by-side twin piped culverts to avoid open ditches and drain the water.

Alternate Commissioner Jane Kendall asked where the water would drain, and Ms. Peace replied that the ditches would eventually drain to Great Bay.

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Commissioner Liz Durfee asked if the drainage would be going in a new direction, and Ms. Peace replied that they were only creating the piping system to move the water to treatment faster before it flowed off site.

Co-Chair Weiner asked what treatment the water would receive prior to reaching Great Bay and Ms. Peace explained that the surface water would flow through permeable pipes to collect, filtrate through a mulch fiber to provide treatment to the water that currently was not receiving treatment.

Co-Chair Weiner asked if there would be testing of water for contaminants. Ms. Peace replied that they had submitted an Alteration of Terrain (AoT) permit and there would be water sampling at that point. Maria Stowell, Director of Engineering with Pease Development Authority (PDA) added that they had taken a National Stormwater permit over from the Air Force many years ago and that the water was sampled after it went through the oil/water separator. Co-Chair Weiner asked for a copy of the permit, and Ms. Stowell said she would provide data from previous month.

Co-Chair Weiner commented that the rubber barrier, piping and filter sounded good, but he too was concerned that there would be an increase in volume going to Great Bay. Ms. Peace explained that the volume was the same, but that the speed that the water was delivered to treatment was what was changing. Newington's the PDA representative, Margaret Lamson commented that all developments were responsible for their stormwater runoff.

Commissioner Jim Tucker commented that there were many contaminants in the soil from de-icing chemicals and salt. He said he was concerned with more water flowing to Great Bay and he thought it would filter slower if allowed to sit. Ms. Peace replied that they were not pumping the water that had been pooling, but that they were moving it toward treatment quicker before it flowed to Great Bay. Ms. Stowell added that there also was storage in the filter media.

Co-Chair Hislop asked where the material that was removed would be stockpiled. Ms. Peace stated that the contractor stockpile area was shown on the plans. Ms. Stowell said there would be excess soil from digging the foundation for the terminal expansion as well, so that would be included in this AoT permit.

Co-Chair Weiner asked if there was any concern with contamination running out of the stockpile, and if would be tested to prevent runoff. Ms. Stowell replied that the soil wasn't the problem, but that they would be addressing and testing the ground water contamination from when the Air Force was on the site.

Co-Chair Hislop asked where the testing occurred, and Ms. Stowell replied that testing occurred where the water left their property. Co-Chair Weiner suggested that they should compare the preconstruction data with three post construction tests at three locations for comparison. Ms. Stowell responded that they would do tests on the water that left their property, but that there would be no way of being certain what other contaminants might occur once the water left their property, and no there would be no basis for comparison.

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Commissioner Durfee agreed that there wouldn't be time to get a historic baseline comparison of one pre-construction sample in one location if the project was starting soon. She added that there was quite a distance between the site and Great Bay, and agreed that they needed to look at data leaving this site, however.

Co-Chair Hislop commented that Pease didn't have jurisdiction once water left their property, but DES had jurisdiction of Great Bay and the question was if they were testing Great Bay. Ms. Lamson added that testing occurred at the end of McIntyre Brook and that the PDA didn't have jurisdiction beyond that point. Co-Chair Hislop asked Town Planner, Gerald Coogan to see if DES tested beyond the PDA, and Ms. Lamson said that she knew they used to when she was a member of the Conservation Commission.

Alternate Commissioner Sandy Devin commented that the water that was currently filtering into soil would be moving quicker, so the Commission wanted to be sure that the new system would be an improvement and they would like to see sample before and after for comparison.

Co-Chair Weiner stated that he was trying to determine if the contaminants leaving the site at an increased speed were less than they were. Ms. Peace replied that it would depend on what they were testing, but in general sense, yes. Ms. Peace added that there already was a permissible outlet, and that the airport was not in violation of stormwater permitting in the State. She said she hoped that the Commission would accept the qualitative understanding that the treatment would improve the condition of the runoff and not make it worse.

Jim Weiner moved to recommend approval for the application for reconstruction and drainage improvements for runway 16-34 by Portsmouth International Airport with the condition that the PDA provide the previous month's water test data, and comparative data one month after construction. Sandy Devin seconded the motion, and all were in favor.

Co-Chair Weiner commented that Ms. Lamson had been quoted in the newspaper as that the new Frontier airline that was going into Pease was beneficial to Newington. Ms. Lamson replied that she said that the new airline would contribute to the Pease International Airline operation and that a direct line to Orlando was a positive addition for flyers. Co-Chair Weiner asked how the new airline would benefit the town, noting that residents he spoke with weren't happy with additional airline noises. Ms. Lamson responded that the new airline was a benefit to Pease, not the town. Ms. Lamson went on to say that she was aware that residents were concerned with training school with the red helicopters, but she hadn't heard objections to the airline; however, this was not pertaining to the application, so she would be happy to discuss matters further at another time and place.

2) Wetlands Report: Regarding property owned by **Storage Barn II**, located at **River Road and Shattuck Way**, Tax Map 13, Lot 7-A

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Town Planner, Gerald Coogan stated that Town wetlands consultant, Mark West with West Environmental had informed him that he had another meeting, and could not attend until later in the meeting, so this item was delayed.

3) Landscape Plans:

- A) Amendment to approved landscape plan for **Storage Barn I** located at **2211 Woodbury Avenue**, Tax Map 19, Lot 2

Town Planner, Gerald Coogan stated that Town wetlands consultant, Mark West with West Environmental had prepared a wetlands analysis report of the Storage Barn II property located at River Road and Shattuck Way on March 4, 2019, and gave a copy to TFMoran Engineering and Storage Barn II's soil and wetlands consultant, Jim Gove with Gove Environmental for review. Mr. Coogan said that Mr. Gove and Corey Colwell with TFMoran presented a wetlands restoration plan to the Newington Planning Board on Monday, March 11, 2019, and Mr. West critiqued and agreed with the improvements.

Mr. Coogan informed the Commission that the Planning Board approved the application for a subdivision and development for the Storage Barn II with the condition that the Conservation Commission approve the amendment to the landscape for Storage Barn I as well.

Rob Hoover with TFMoran Engineering appeared before the Commission to present the landscape plan to remove the trees along the property line that were obstructing abutting Sponge Jet's solar capacity.

Mr. Hoover stating that would replace the trees with blue point juniper, viburnum and a third species of gnome mugo pine for foliage, flowers, form and texture.

Mr. Hoover added that the maintenance note included watering for the first year and that there was a contractor's guarantee. Co-Chair Weiner asked if they would use watering donuts or gators and Mr. Hoover replied that they were only planting bushes, not trees, but that the note said that the plants would remain in perpetuity of the development.

Commissioner Devin asked how big the plantings would grow, and Mr. Hoover replied that they probably wouldn't grow much during the first year that the roots were establishing, but that viburnum grew quickly and would probably grow nine inches a year. Mark Phillips, CEO, of The Storage Barn commented that the pattern of growth is "sleep, creep, then leap".

Commissioner Devin asked how many trees were being taken out, and Mr. Hoover replied that he was not sure, but that they were only removing the trees along the building. Mr. Phillips estimated that they were removing between 30-40 trees.

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Jim Weiner moved to recommend approval of the amended landscape plan for Storage Barn I located at 2211 Woodbury Avenue, Tax Map 19, Lot 2. Sandy Devin seconded the motion, and all were in favor.

B) Landscaping proposal for Storage Barn II site located at River and Shattuck Way, Tax Map 13, Lot 7-A

Rob Hoover with TFMoran said they had already presented the Planning Board with the landscaping plans, as well as the addressing the wetlands and buffer zones.

Mr. Hoover stated that Town wetlands consultant, Mark West asked that they plant the trees 15 feet on center in the 20-foot setback, and that would be planting balsam firs, red maples, tupelos, and white pine, along with a combination of arrowwood, highbush blueberry, red twig dogwood and winterberry to fill in for color and fruit for wildlife restoration. Mr. Hoover stated that they would replace the hybrid "Sparkle" winterberry with the hybrid winterberry, and clarify the use of a New England wetlands seed mix and straw mulch on the wetlands buffer from the plantings around the detention basin at Mr. West's request.

Mr. Coogan added that Mr. Phillips agreed to landscape the Town owned land on the corner as well.

Planning Board Chair, Denis Hebert commented that the applicant had done a lot to improve the impacts done to the wetlands and wetland buffer.

Sandy Devin moved to recommend approval for the Landscaping proposal for Storage Barn II site located at River and Shattuck Way, Tax Map 13, Lot 7-A. Jim Tucker seconded the motion, and all were in favor.

4) Wetlands Violations Notification: Property owned by Brian Short located at 336 Newington Road, Tax Map 54, Lot 6

Mr. Coogan stated that last month Town code enforcer, Kevin Kelly had been asked to review what appeared to be a wetlands violation at the residence of Brian Short at 336 Newington Road. Mr. Kelly talked with employees on site who were taking fill from the barn being built in the back and moving it through the front wetlands area instead of down the driveway. David Price with the New Hampshire Department of Environmental Services (DES) was then call and the operation was shut down. Mr. Coogan added that they received a letter signed by Collis Adams Wetlands Bureau Administrator with DES.

Mark Jacobs, certified soil and wetlands scientist hired by the applicant stated that Mr. Short was interested had received a building permit from Mr. Kelly and his workers traversed the wetlands when removing soil for the foundation, and then

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stockpiled soils before being reported. Mr. Jacobs stated that the placement of the soil was so that the flow of water to the culvert would not be impeded.

Mr. Jacobs said he had since delineated the wetlands, and submitted a report on March 8, 2019, showing the wetlands boundaries of a brook and a culvert with a 100-foot wetland and the setbacks from structures. He said Mr. Kelly was concerned that they were not acknowledging the violation, but they agreed to restore the wetlands area to the preexisting condition.

Mr. Jacobs said that Mr. Short would remove the fill and truck it off site. Mr. Jacobs said he hoped to have the wetlands restoration plan done, but he had prior obligations, so he was still working on it to meet the DES deadline by April 22, 2019 for approval.

Mr. Coogan stated that Mr. Kelly would have Town wetlands consultant, Mark West of West Environmental review the wetlands restoration plan at the expense of the homeowner. Mr. Jacobs replied that he would prepare the restoration plan for Mr. Kelly, but they would like to avoid an unnecessary expense. Mr. Coogan stated that Mr. Kelley would make that decision.

Co-Chair Weiner stated that Mr. West needed to review the restoration plan if it was prepared by another party. Mr. Short replied that he would have hired Mr. West directly if he had known that was a possibility.

Commissioner Kendall asked if Mr. Short needed to keep the soil on site, and Denis Hebert, Planning Board Chair replied that only topsoil had to remain on site. Mr. Jacobs replied that Mr. Short might need soil, but this was clay, so it would be trucked away.

Mr. Short stated that he was out of town when construction began. He said he was aware that there was a lot of soil and it would truck it away, but Mr. Jacobs advised that it should remain until everyone agreed on how to proceed.

Mr. Jacobs stated that 3-1/2 feet of the footing for the proposed barn area would be within the 100 foot setback of wetland so they would also need a Conditional Use Permit from the Planning Board, but Mr. Short could make the barn four feet smaller to stay out of the wetlands buffer to speed the construction along, and keep his crews busy with this project during their down time.

Co-Chair Weiner responded that reducing the size of the barn would be preferable to keep the building in conformance, and that entrance and exit to and from the construction site would need to stay in the driveway. Mr. Jacobs agreed and said the fill would be removed, and the grade would be returned to its pre-existing grade and reseeded.

Commissioner Devin asked about the pond. Mr. Jacob replied that there used to be a makeshift earthen pond with two to three feet of water, but there was no water there now.

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Mr. Coogan said the next Conservation Commission meeting would be held on Thursday, April 11, 2019. He asked Mr. Jacobs if he thought he could have the restoration plan ready by then, and Mr. Jacobs thought he could.

Mr. Coogan informed the applicant that the restoration plan would need to be reviewed by Mr. West before they submitted a Conditional Use Permit application, and they would then need 30 days to post a public notice for a public hearing before the Planning Board. Mr. Jacobs replied that they were restoring the wetlands in the 100-foot buffer, and he thought that requiring a Conditional Use Permit seemed strict, but they could reduce the size of the barn. Mr. Short said they would reduce the barn so that they wouldn't need a Conditional Use Permit.

(Town wetlands consultant, Mark West arrived at this point in the meeting at 7:44 p.m.)

Co-Chair Hislop said the Conservation Commission would have no jurisdiction over DES decisions. Mr. Coogan agreed that the Conservation Commission could make a recommendation, but this was only an informational meeting.

2) Wetlands Report: Regarding property owned by **Storage Barn II**, located at **River Road and Shattuck Way**, Tax Map 13, Lot 7-A

(This item was delayed until Town wetlands consultant, Mark West arrived.)

Mr. Coogan asked what he thought of Mr. Jacob's points on the wetlands on Mr. Short's property on Newington Road, and Mr. West said he would have liked to have seen the square footage, and more definitive statements.

Co-Chair Hislop said she would like Mr. West to review the restoration, and Mr. Coogan said Kevin Kelly the code enforcer would contact him.

Mr. Hebert expressed concern with the possibility of a conflict of interest with applicants hiring the Town's wetlands consultant, who was usually paid by the Town, then reimbursed by the applicant. Mr. West said he had plenty of work elsewhere and he had no problem not representing applicants in town.

Mr. West said most contractors should know to stop construction during the wet season. He noted that DES usually had David Price sign letters and not Collis Adams. He said he called DES, and there was a suggestion that they might find someone like certified wetlands scientist like Collis Adams to review Jim Gove's dispute on the wetlands delineation on the Storage Barn II site on River Road and Shattuck Way.

Mr. West noted that most landscape architects and nurseries were interested in aesthetics, but hybrids were not a good substitute for wetland restoration of native species.

5) Community Education Outreach: Spring for the Bay

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Co-Chair Hislop said that she approached three U.S. Forest Service employees, who agreed to join a guest panel discussion for Spring for the Bay. She said Elize Munch, tree pathologist would talk about tree diseases; John Perry, an urban forester would talk about tree species and their care; and Florence Peterson would talk about invasives.

Co-Chair Hislop asked Co-Chair Weiner if he could ask the Langdon Library if they had a thumb drive on their computer for the presentation.

6) Conservation Easements and Mitigation: Seacoast Reliability Transmission Expansion Project

Mr. Coogan informed the Commissioners that the Town settled with Eversource, and that Eversource guaranteed to pay the Town the \$120,000 in wetlands mitigation funds. He said the Town would still have to apply for Aquatic Resource Mitigation (A.R.M.) funding, but Eversource guaranteed that they would still pay the funds directly toward restoration work at Fox Point.

Denis Hebert who was working on negotiations with Eversource on behalf of the Town added that there would be an additional \$ 396,000 that would be paid in three separate payments over three years, plus another \$120,00 for historic preservation. Mr. Hebert added that the Board of Selectmen determined that the back side of the Stone School, The Town sheds and possibly the back of the transfer station could be used for the construction equipment laydown area. He said there would be a lot of construction vehicles in town for at least a year.

Mr. Hebert said Eversource was also looking for a place to store the subsoils coming out of the Frink property, Gundalow Landing and Hannah Lane after testing. Co-Chair Hislop wondered if the clay soil extracted could be used for erosion control on Fox Point, but they would still need some top soil for planting the living shoreline. Mr. Hebert said he was not sure yet what volume of soil they were talking about.

Mr. Hebert said Eversource was also taking the existing line through the Frink property and Hannah Lane to upgrade the electrical infrastructure. He said some trees might need to be trimmed, but it would be an improvement for reliable power in town.

Mr. Hebert added that Eversource would be glad to take any other trees in the right-of-way if anyone was interested in having them cut. Co-Chair Hislop commented that Eversource never went down Old Post Road the last time they did tree cutting. Mr. Hebert responded that they were also going before the Planning Board for a Scenic Road request and he would also like the Conservation Commission's input.

Mr. Coogan asked when construction would start, and Mr. Hebert said they had a certificate to start construction, but were going before the Supreme Court in 30 days, then there would be another 30 days for a decision, or it could go another year to year and a half.

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7) Other Business and Discussions:

A) Appointments:

Co-Chair Hislop announced that Liz Durfee and Jane Kendall were up for reappointment along with herself. She said the the Board of Selectmen would need a letter of interest.

Commissioner Durfee said she didn't know the long-term prognosis of her residency in the Town, but she would happy to serve as long as possible.

B) Aquatic Resource Mitigation Meeting

Commissioner Durfee informed the Commission that she attended an Aquatic Resource Mitigation (A.R.M.) meeting last month. She said DES was not able to attend the meeting, but the Association of New Hampshire Conservation Commissioners' executive director provided updates on relevant legislation changes.

Commissioner Durfee said the Hampton Conservation Commission was mapping data and working on adaptation strategies for flood resilience.

Commissioner Durfee said the University of Cooperative Extension was also working on a wildlife action plan, State regulation updates, and criteria for conservation grants if properties fell into tiers of supporting landscapes.

Commissioner Durfee said there would be another meeting on April 23, 2019.

C) Town Forest Management Plan

Commissioner Devin said she had obtained a copy of the Oyster River Forest Management Plan that had been prepared by Charles Moreno.

Minutes: *Jim Weiner moved to approve the Minutes for the February 14, 2019 meeting with corrections as noted. Sandy Devins seconded, and all were in favor.*

Adjournment: *Jim Weiner moved to adjourn. Liz Durfee seconded the motion and the meeting adjourned at 8:29 p.m.*

Next Meeting: Thursday, April 11, 2019

Respectfully

Submitted by: Jane K. Kendall, Recording Secretary

These Minutes were approved and adopted at the April 11, 2019 Conservation Commission Meeting.