

Town of Newington, NH
CONSERVATION COMMISSION

Meeting Minutes, Thursday, November 8, 2018

- Call to Order:** Co-Chair Jim Weiner called the November 8, 2018 meeting at 6:30 p.m.
- Present:** Co-Chair Jane Hislop (arrived late); Co-Chair Weiner; Commissioner Ann Morton; and Alternate Jane Kendall
- Absent:** Elizabeth Durfee; Jim Tucker; Alternates Sandra Devin; Bill Murray; and Town Planner, Gerald Coogan
- Public Guests:** Ted Reed with Sprague Operating Resources; Doug LaRosa; Town wetlands consultant, Mark West with West Environmental; Denis Hebert, Chair of Newington Planning Board; Henry Boyd with Millennium Engineering and Shannon Alther with TMS Architects; Richard Hackerman with Altus Engineering; Curt Nelson, tree expert with Eversource; Chris Cross with Newington Historic District

Co-Chair Weiner announced that Co-Chair Jane Hislop called to say she would be arriving late. He stated that discussion would be informational as there was no quorum for voting until Co-Chair Hislop arrived, and that Alternate Jane Kendall would be voting.

1) Landscape Review for **Sprague Operating Resources** on a new building at their site located at 372 Shattuck Way, Map #, Lot #.

Ted Reed with Sprague Operations and Doug LaRosa with Ambit Engineering, appeared before the Commission to present their landscaping plan.

Mr. Reed stated that he presented their site plan to the Newington Planning Board the previous week and it was approved with the condition that they receive the Conservation Commission's approval for landscaping.

(Co-Chair Hislop arrived at this point in the meeting at 6:38 p.m.)

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Mr. LaRosa stated that they intended to plant arborvitae on top of a two to five-foot wall to screen the building. Mr. Reed added that they intended to plant nine "Emerald Green" arborvitae trees and nine "Gentle Giant" arborvitae. Co-Chair Weiner commented that "Gentle Giant" was usually the first to be eaten by deer, but they usually grew past the feeding.

Co-Chair Hislop asked if they had investigated other species. Mr. LaRosa replied that they chose arborvitae because they were planting on top of the wall in a depressed area and they didn't want an expansive root system. Mr. Reed showed the commissioners where the Town sewer pumping station was nearby and added that a Denis Messier, manager of Newington's Waste Water Treatment plant wouldn't like roots nearby.

Co-Chair Hislop commented that arborvitae did a good job of blocking views, but they didn't handle snow loads well, Mr. LaRosa replied that snow load might be a problem earlier on, but they would use a three-stake system and snow load would be less of an issue once the tree grew. Alternate Commissioner Jane Kendall recommended using zip ties to keep the limbs together. Denis Hebert, Newington Planning Board Chair suggested making it a condition of approval to stake or tie the boughs together for the life of the tree.

Jane Hislop moved to recommend the landscaping plan for Sprague Operating Resources on a new building at their site located at 372 Shattuck Way, Map #, Lot #. with the condition that maintenance, be done for the life of the trees. Ann Morton seconded the motion, and all were in favor.

2) NHDES Permit Requests:

A) Expedited Wetlands Permit request for property owned by Joanne and Robert Albrightson and located at 15 Dumpling Cove, Tax Map 15, Lot 10

Henry Boyd with Millennium Engineering and Shannon Alther with TMS Architects appeared before the Commission to present their request for a recommendation for an Expedited Wetlands Permit.

Ms. Alther stated that they wanted to move the existing pavement to comply with the 100-foot setback. Ms. Alther stated that if approved by the Department of Environmental Services (DES), they would then raze and replace the existing house, and everything would be outside the 100-foot buffer.

Co-Chair Weiner commented that DES usually didn't allow equipment in the buffer and asked if they would be allowed to bring in excavation equipment. Mr. Boyd replied that DES was okay with them bringing in equipment because it was considered a good project to remove things from the 100-foot buffer.

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Mr. Boyd stated that they had taken extra precaution and inventoried all trees for their shoreline permit, and that they met the 50 and 150 requirements of trees.

Co-Chair Weiner asked if they intended to plant anything to secure the loose soil. Mr. Boyd replied that they would mostly use loam and seed.

Mr. Boyd went on to say that it was a high bank with no erosion and there was well-established undercover vegetation and heavy tree growth in that area.

Co-Chair Weiner moved to recommend the Expedited Wetlands Permit request for property owned by Joanne and Robert Albrightson and located at 15 Dumpling Cove, Tax Map #, Lot #. Ann Morton seconded the motion, and all were in favor.

b) NHDES Permit requests by the **Town of Newington** regarding an emergency culvert replacement on **Little Bay Road**, Tax Map 16, Lot 7-1 and Town ROW

Richard Hackerman with Altus Engineering, Town engineering consultant appeared before the Commission with his request for a recommendation.

Mr. Hackerman stated that a backup in the Little Bay culvert by Captains Landing caused the culvert to wash out during the July 28, 2018 storm. Mr. Hackerman explained that the application was submitted on July 31, 2018, but repairs needed to be done immediately so this included an after-the-fact emergency application.

Co-Chair Hislop asked if they had changed the culvert at all and Mr. Hackerman replied that they needed to increase the size of the culvert to be the same size as under the road, so it would no longer be restrictive. He added that DES was pleased that they were able to fix the culverts and didn't need to replace the entire road.

Mr. Hackerman stated that the culvert was mostly on Town property except for a small portion that was on the abutter's property. He added that the property owner signed off on it and they were able to do the repair without affecting anything else.

Co-Chair Hislop commented that the Conservation Commission was trying to identify which culverts needed repairs so that they could recommend them for funding.

Co-Chair Weiner moved to recommend the emergency and after NHDES Permit request by the Town of Newington for an emergency culvert replacement on Little Bay Road, Tax Map 16, Lot 7-1 and Town ROW. Ann Morton seconded the motion, and all were in favor.

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3) Newington Zoning Ordinance Recommendations: Article IX: Wetlands Overlay District

Town wetlands consultant, Mark West with West Environmental stated that Town Planner, Gerald Coogan asked him to look at the current Ordinance for recommendations on changes.

Mr. West noted that Section two had last been updated in 1997, but the State was now working on changes from 2016. He added that a new manual for Delineation had come out in 2009 and recommended that updates be made in keeping with those updates. Mr. West recommended adding the word "current" as a reference rather than a specific year so that the reference would not become outdated with new editions. Mr. West reviewed his recommendations, followed by a brief discussion on Section 4B (6): Driveways by Conditional Use Permit. Section on Permitted Uses. Denis Hebert, Newington Planning Board Chair suggested that the requirement be changed from a Special Exception granted by the Zoning Board of Adjustment (ZBA), to a Conditional Use Permit approved by the Planning Board so that an applicant could still have the option of going to the ZBA if they needed relief. Mr. West thought it might be better to say, "...a Conditional Use OR a Special Exception because of the statement "...as provided for in 4C", says Conditional Use.

It was noted that Mr. Coogan needed to get back to Mr. West to discuss the issue further.

Mr. West recommended an administrative correction on a typo under 7) c) "(f)footbridge"

Mr. West recommended that Section 6 be deleted as it was older and buffers setbacks were now smaller. Co-Chair Weiner stated that he thought it would be good to keep Section 6 in for reference. Mr. West noted that DES now had a manual for Best Management Practices (BMP) for avoidance and minimization of wetlands. He stated that the "*" Limited Cut" buffer under the NH CSP Act has been replaced so there was no need to reference Section 6.

Mr. West added that the new Shoreline regulations allow a lot more cutting, and the limited cutting was clear. He suggested that they reference the methodology, but it was necessary to reference the publication, which might change.

Mr. West said the definition of the word contiguous needed to be defined more clearly in Section 7 because it was not clear if it meant a direct connection to Great Bay or whether it included a stream or tributary that got there eventually.

Mr. West noted that there were many streams that drained in to Great Bay and the Conservation Commission wanted to protect the surface water of Great Bay, so protecting wetlands was important. Mr. West said they wanted to be fair, but they also wanted to protect Great Bay and the surrounding watershed, so the table should be easy for engineers and wetland scientists to know where the wetlands were.

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Mr. West said he didn't think a wetlands buffer was needed for temporary wet depression in a meadow or if someone didn't fill in a test pit, however. Co-Chair Weiner suggested keeping the square footage of 3,000 feet or less with a 25-foot buffer. Mr. West asked if someone would need to submit an application to the ZBA if they wanted relief when building.

Co-Chair Hislop asked if applications would still need statements from the Town wetlands scientist and their own wetlands scientist. Mr. West said they would need to identify the location and boundaries of the wetlands on the site.

Mr. West said he finished the last wetlands inventory in 2005 and it should be updated to determine which streams were contiguous with streams like Knights Brook which was a first order stream that drained into the Bay. Mr. West said that Mr. Coogan suggested that he could map all the wetlands, but aerial photography and Lydar showed contours which enabled better mapping. He said it wouldn't be necessary to map all the wetlands; but they could determine which wetlands were perennial, seasonal like vernal pools and temporary from heavy rains, so they could determine which required 100-foot setbacks for greater consistency in regulations and enforcements.

Mr. West said he hadn't given Mr. Coogan an estimate for the work because they still needed to clarify whether a wetland was determined by size or because it was contiguous, but he thought determining it as contiguous would be clearer. Co-Chair Weiner asked Mr. West to provide a guesstimate. Mr. West said he had already mapped the Prime wetlands so now it was just a matter of getting aerial photography, working with a GIS person and their cost, and then putting the information on the tax maps, though he wasn't suggesting that the Commission pay for the tax maps. He said he thought it might run between \$5,000 to \$10,000, perhaps \$7,500, but he could be more accurate after he talked with his GIS person.

Co-Chair Hislop asked if the mapping could be done in a year and Mr. West said he thought he could. Co-Chair Weiner commented that he thought the Commission was over budget for the year and asked Mr. West if he thought he could do the work in increments over one to three years. Co-Chair Hislop noted that the Commission had \$5,000 in consulting anyhow, so they might only need to come up with another \$2,000.

Mr. Hebert suggested that Mr. West list the contiguous streams that he was familiar with this year. Mr. West agreed that it would be a good idea to add them to the tax map, so everyone knew where they were.

Mr. Hebert recommended giving the recommendations to Mr. Coogan as soon as possible because they needed to be finalized by the third week of January 2019 to hold a public hearing five weeks before the Town Meeting.

Co-Chair Weiner moved to recommend the following changes as discussed to the Newington Zoning Ordinance, Article IX: Wetlands Overlay District:

Section 2, Delineation Requirements

Section 4B, Permitted and Prohibited Land Uses in Wetlands:

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(6) Driveways by Conditional Use Permit. Section – Permitted Uses, to be changed from "...a Special Exception" to "...a Conditional Use Permit OR a Special Exception"

(7) Administratively correct typo on "footbridge

Section 6, Wetland Buffer Provisions, to be deleted

Section 7, Structural Setbacks –under "Resource: All Wetlands", including Prime Wetlands, and under all wetlands except Prime and Vernal Pools, reduce from 5,000 square feet to 3,000 square feet with a 25-foot setback

Jane Hislop seconded the motion, and all were in favor.

5) Seacoast Reliability Project: Flynn Pit Landscaping

Planning Board Chair, Denis Hebert handed out an August 29, 2018 and October 23, 2018 email from Sandra Gagnon, with Eversource, and the Conservation Minutes from June 2, 2016 that referenced Eversource's planting plan in front of the Flynn Pit off Little Bay Road.

Mr. Hebert said Ms. Gagnon's email discussed their concern with root systems interfering with underground transmission lines that they were installing and their intention of removing all red oaks and white pine that were known to have invasive root systems. Mr. Hebert said he then realized that their planting plan listed a succession of red oak and white pine, so he called a meeting to discuss other possibilities with Eversource's tree expert, Curt Nelson.

Mr. Hebert said he sent a list of recommendations for non-invasive, native trees to the Conservation Commission for consideration. Co-Chair Weiner commented that white pines were on the list, but his small white pines were not doing well because of needle cast disease.

Mr. Hebert commented that the white pine around the Flynn Pit seemed to be doing fine, but Co-Chair Weiner replied that many others were dying from needle cast that was spreading through town as well as other parts of the country.

Mr. Nelson stated that this was their first underground transmission line, so they didn't have solid maintenance specifications, but they knew they needed a 25 foot lay down area for the cable.

Commissioner Kendall asked about planting to limit succession of new growth after cutting back the 25-foot setback. Mr. Nelson replied that he wasn't sure, but he knew they had to maintain the 25-foot right-of-way, so he thought it would be best to limit planting for a screen in front.

Mr. Hebert suggested planting swamp maples in the existing right-of-way, but the problem was with the setback was that the poles would still be visible. Commissioner Kendall commented that most swamp maples that survived were hit or miss and the maples that the landscaper recommended planting below the Newington Public School entrance died because the soil was wet and anaerobic. She asked if willows might be a

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consideration. Co-Chair Hislop replied that willows had a problem with sending out invasive roots.

Co-Chair Hislop said she was concerned with sensitivity to snow load in looking at the list of two varieties of maple, magnolia and redbud southern species. She said the other species were not tall enough to provide a screen. Mr. Nelson agreed that it would be best to stick with compatible native species.

Co-Chair Hislop discussed the possibility of dogwoods but noted that Korean dogwoods had the best success when planted in the open and native American dogwoods often died off from a mildew like disease. Co-Chair Hislop recommended a mix of five species to insure survival rather than a monoculture that might be susceptible to being wiped out by a disease.

Mr. Hebert suggested that they should stick with an evergreen that would provide screening all year. Co-Chair Hislop stated that would bring their choices down to arborvitae and firs, noting that she had a balsam from the New Hampshire State Nursery. Mr. Nelson commented that fir trees might be narrow. Commissioner Kendall recommended staggering a planting of firs and the wider arborvitae with drooping boughs that had been planted between the Newington Fire Department and the Public School as they were known to hold the snow load and be deer and salt resistant.

Discussion continued regarding the height and caliper of the trees. Co-Chair Weiner suggested that the trees be a caliper of three inches, but Mr. Hebert suggested 1-1-1/2 inches. Mr. Nelson agreed that a smaller caliper tree might have better success when competing and filling in the gaps of surrounding. Mr. Nelson also suggested that they wait until the cutting was done before making a final decision on suitable species. A discussion on what would be done with the wood chips after the clearing. Mr. Hebert Mr. Hebert recommended that they removed the pine wood so that it would eliminate the potential for spreading disease or invasive species.

Co-Chair Weiner moved to accept Eversource's landscaping proposal in front of the Flynn Pit for their Seacoast Reliability Project with the following conditions:

- *that the Conservation Commission would revisit the tree selection once the area was cut and the cable buried*
- *that the tree height be no less than six to eight feet high with a 1-1-1/2-inch minimum caliper.*
- *that several species of fir and evergreens be staggered as a screen to block the view*
- *that Eversource's subcontractor would not substitute the agreed upon species*
- *that Eversource would maintain and replace the trees if they failed within the first 75 feet if they failed to thrive*
- *that Eversource would work in good faith with the Town*

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Ann Morton seconded the motion, and all were in favor.

6) Town Forest Tree Cutting

A) Historic District Commission presentation of cutting done near the Old Parsonage and the Stone School

Mr. Cross appeared before the Conservation Commission as a representative of the Town Meeting House. He said he spoke with Historic District Commissioner, Lulu Pickering regarding their hiring a tree cutting service after Newington Building Inspector, Kevin Kelly informed them that the nearby aging pines were putting the buildings at risk. Co-Chair Weiner stated that after he spoke with Co-Chair Hislop, he discovered that the HDC didn't have jurisdiction over cutting the Town forest. He said the Town Forest was under the Conservation Commission's jurisdiction according to the Town's bylaws.

Co-Chair Weiner said that he and Co-Chair Hislop liked the idea but wanted to be sure that the HDC understood that they needed to work with the Conservation Commission to make final decisions. Mr. Cross said Ms. Pickering and HDC Commissioner Edna Mosher voted in favor of the cutting before they understood that that the Town Forest was under the Conservation Commission's jurisdiction. He said Ms. Pickering read the RSA and got the Board of Selectmen to agree that they would fund a certain amount for the cutting as recommended by the building inspector. Commissioner Kendall suggested that they consult with Martha Roy, the Town Administrator and Gerald Coogan, the Town Planner for clarification.

Mr. Cross stated that the cutting of all the pine trees in front of the Stone School and a few in front of the Town Garage had already been done the previous Sunday morning. He said the HDC had contributed \$2,000 and the Board of Selectmen were paying for the trees cut in front of the Town garage. Co-Chair Weiner said the Conservation Commission could contribute \$1,500 to the cost of the cutting from this year's Town Forest budget for some additional cutting.

Co-Chair Hislop asked what the HDC would use the \$1,500 for and Mr. Cross replied that the HDC was interested in doing some plantings in front of the Old Town Hall. Chair Weiner replied that the Conservation Commission was glad to assist because the Town Forest budget was for the Forest Maintenance, but there were no funds set aside for beautification plantings in front of Town Hall. Co-Chair Hislop added that the Conservation Commission avoided spending money on beautification because there had been problems with long term maintenance after the fact. Mr. Cross said the HDC thought the planting might be a joint activity with the Conservation Commission, but he understood that there were no funds in the Beautification budget to contribute at this point.

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B) Newington Town Meeting House request to cut 6 to 8 flagged trees in the Town Forest

Chris Cross presented information on a recently discovered deed that showed that the Town Meeting House privately owned five acres between Mr. Cross' house at the end of Nimble Hill Road and the parsonage. Mr. Cross said the parcel was sold to the Meeting House in the 1860's when the parsonage was built, but it was not included when the Town did the tax maps. Mr. Cross said the discovery had been confirmed by research done by the Board of Selectmen. Mr. Cross noted that the parcel is also in the water pollution hazard zone.

Mr. Cross stated that new rules were established in 2019 for religious organizations claiming tax exemption on their property, requiring that they made religious use of the property. He said the Town assessors said there would be a \$2,000 tax for the five acres but indicated that the Meeting House could meet the rule sufficiently if the 1,000 square feet of the property was used as a parking lot for six to eight spaces, and for outdoor religious services. He said they had no intention of paving the parking area, but they would need to cut eight pines to stabilize the area to access an area for seasonal outdoor services.

Co-Chair Weiner commented that he would like to see some landscaping if they were to cut trees. Mr. Cross replied that they were leaving an oak, but they could not use Town funds because the Meeting House owned the private lot, but the congregation had funds they could use. He said Lulu Pickering wanted to put up old horse hitching posts in keeping with the historic nature of the site.

7) Mitigation and Conservation Easements: Proposal of an easement on property, owned by John and Meg Ripley, located at 50 Old Post Road, Tax Map 17, Lot 15

Co-Chair Hislop read a letter from John Ripley that stated that they wanted to withdraw their request for an easement.

8) Conservation Plaques

Co-Chair Hislop recommended postponing discussion on this item until next month's meeting.

9) 2019 Conservation Commission Budget

Commissioners reviewed the budget and agreed to keep the line items the same except to reduce the Legal budget from \$1,000 to \$600; and raise Beautification from \$50 to \$100 to contribute to the Historic District plantings in front of the Old Town Hall,

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and to increase Consultation to \$7,500 for Town wetlands consultant, Mark West with West Environmental to update the contiguous wetlands.

Commissioner discussed talking points for the changes for a maximum ask of \$13,192 and a minimum ask of \$12,050.

Jane Hislop moved to recommend that Jim Weiner present talking points for the Conservation Commission budget of \$13,192. Ann Morton seconded the motion, and all were in favor.

10) Other Business:

Co-Chair Hislop read an email from Sandra Gagnon, with Eversource Siting and Construction services that said she was not able to see the notice for the Conservation Commission's November 9, 2019 meeting on the Town's website, so someone should be notified.

Co-Chair Weiner said she would like the Commission to purchase the new supplement to the ACE wetlands delineation manual and would check on the price.

11) Invoices:

Co-Chair Hislop requested a payment of \$97 to Jim Weiner for sedum purchased for the Langdon Library rain garden to be paid out of the Beautification budget. Ann Morton seconded the motion, and all were in favor.

Minutes: *Co-Chair Weiner moved to approve the Minutes for the September 13, 2018 meeting. Ann Morton seconded, and all were in favor.*

Adjournment: *Jane Kendall moved to adjourn. Jane Hislop seconded the motion and the meeting adjourned at 9:40 p.m.*

Next Meeting: Thursday, December 13, 2018

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

These Minutes were approved and adopted at the December 13, 2018 Conservation Commission Meeting.