

Town of Newington, NH
CONSERVATION COMMISSION

Meeting Minutes, Thursday, March 2, 2017

- Call to Order:** Co-Chair Jane Hislop called the March 2, 2017 meeting at 6:30 PM.
- Present:** Co-Chair Jane Hislop; Co-Chair Jim Weiner; Ann Morton; Alternate, Jane Kendall; and Planner, Gerald Coogan
- Absent:** Sandy Devins and Bill Murray
- Public Guests:** Fred Borman, UNH Cooperative Extension; David Emery; James Olcott with TM Marine Construction and Chip Tacetta, co-owner of TM Marine; Melissa Prefontaine

1) Wetlands Application for John Emery to construct a 6'x20' fixed pier with a 3'x30' seasonal gangway and a 10'x20' seasonal floating dock for his property located at 170 Fabyan Point Road, Street, Tax Map 50, Lot 2

James Olcott with TM Marine Construction appeared before the Commission on behalf of their client seeking comments and a recommendation for a Department of Environmental Services (DES) Wetlands Permit.

Co-Chair Hislop asked Mr. Olcott if their design was recommended by DES and Mr. Olcott replied that it was the preference over skids.

David Emery, the applicant's father stated that the mud flats were deep that the construction was necessary for access to the water even during the high tide.

Chip Tacetta, co-owner of TM Marine Construction said added that 15-20 feet nearest to shore was decomposed ledge. He stated that setting the pilings on rock would cause the ice to drive them up during winter months and cause the dock to fold so their design would prevent this from happening. He noted that the 30' pier would be permanent, but they would lift the float before winter each season.

Co-Chair Hislop asked if there were any other docks in the vicinity and Mr. Olcott replied that the only other abutter was the U.S. Fish and Wildlife easement who had been informed of their proposal and had to issues with the proposal.

Co-Chair Weiner commented that the property was non-conforming, but he didn't see any issues with the proposal. Co-Chair Hislop added that there already was a precedence with approving docks.

Jane Hislop moved to recommend approval for the Wetlands Application for John Emery to construct a 6'x20' fixed pier with a 3'x30' seasonal gangway and a 10'x20' seasonal floating dock for his property located at 170 Fabyan Point Road, Street, Tax Map 50, Lot 2. Jim Weiner seconded the motion and all were in favor.

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2) Pease Tree Cutting Plan:

Co-Chair Weiner passed out maps of the tree cutting that Pease Development proposed and for reference to what the foresters had suggested in their meeting and memorandum. Co-Chair Hislop noted that the Prefontaine property on the corner of Little Bay Road and McIntyre Road that abutted the proposed cutting area was not shown on the map.

Town Planner, Gerald Coogan introduced Fred Borman, Rockingham County Forester with the University of New Hampshire Cooperative Extension who had met with PDA's forester, Charles Moreno and made recommendations for replacement plantings in some of the areas to be clear cut.

Mr. Borman said he had sent a copy of his memo to Town counsel, Attorney John Ratigan.

Mr. Borman stated that he felt that eastern red cedar, which was compact, and only grew to 30-45 feet tall would be the best choice for replanting rather than Canaan fir, which was attractive to deer. Mr. Borman added that hemlock trees were the preferred yard for deer.

Mr. Borman went on to say that Attorney Ratigan informed him that the Federal Aviation Administration (FAA) expressed concern with red cedar attracting starlings, so he spoke with biologists who said that starlings fed in grassy areas and although they might roost in any tree, they were not particularly attracted to red cedar.

Co-Chair Hislop asked how long eastern red cedar were expected to live. Mr. Borman replied that they didn't live if oak or white pine, but he had seen some that were as old as 60 or 70 years.

Co-Chair Weiner said three lines of trees had been proposed, but Newington was proposing four to five rows. Mr. Borman agreed that increasing the rows would not add greatly to the costs. He went on to say he had originally suggested staggering the plantings in his memo, but upon further consideration he realized that would make mowing difficult so he was now suggesting the trees be planted in columns.

Mr. Borman stated that seedlings from the State Forest Nursery were only six inches tall and would get lost and struggle with competing grass and brambles like raspberries. Discussion ensued regarding the size and cost of trees through a wholesaler with a preference toward taller trees of at least two to three feet that would grow faster.

Mr. Borman stated that the saplings would require a watering plan of one to two inches spaced out once or twice a week depending on rainfall. Commissioner Morton asked about the frequency of watering and Mr. Borman following the fire danger schedule for watering.

Commissioner Jane Kendall asked about difficulty of access. Mr. Borman replied that a four-wheel drive pickup truck with a 100-200-gallon tank with 200-300 feet of hose could probably access the trees from Arboretum Drive. Commissioner Kendall suggested the use of water donuts or gators as had been used for two years on the tree plantings between the Fire Department and the Public School. She suggested that the

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watering gators be provided by the company that did the landscaping maintenance for Pease, rather than the Town going to the cost of purchasing them for short-term use. Co-Chair Weiner asked Mr. Borman if he would add the gator solution to the cost of the trees in his memo.

Discussion ensued regarding the clear cutting and replanting areas and the buffers. Mr. Borman stated that there were a lot of white pine seedlings in the 200-foot buffer between the cutting area and Little Bay Road and he didn't think there was a need for any more.

Abutter, Melissa Prefontaine of McIntyre Road stated that she had given Co-Chair Weiner a copy of a letter from the Planning Board that was included in the subdivision agreement for the purchase of her property that referenced a legal agreement that the PDA would top the abutting trees surrounding her property on a regular basis. Ms. Prefontaine stated that her legal counsel, Attorney Bernie Pelech checked to confirm the legal agreement.

Ms. Prefontaine went on to say that the trees had not been topped in decades and that she would not have purchased her property if she had known that clear cutting would occur. Ms. Prefontaine expressed concern that clear cutting would decrease storm water filtration, increase the risk of ground water contaminants in the well water, decrease light and noise and jet fuel buffers that would affect the privacy, quiet, cleanliness, structural stability and value of her home. She commented that the PDA should offer to purchase homes at fair market value or at least offer to install acoustic windows as they had done previously for some other homes in Newington. Co-Chair Hislop responded that the funding for acoustic refitting was long gone.

Ms. Prefontaine commented that she would have liked the Board of Selectmen to have been involved in meetings with the PDA. Mr. Coogan replied that the Board of Selectmen had been involved. Co-Chair Hislop added that the Conservation Commission could only make comments and recommendations on proposals and had no power to deny the PDA. Ms. Prefontaine commented that the Town should have done due diligence in regarding to the clear-cutting proposal. Co-Chair Weiner replied that the Town was doing everything it could to negotiate with the PDA, but the PDA was under State jurisdiction and the Town could not prevent them from clear cutting per the FAA safety guidelines.

Mr. Coogan commented that the PDA had been working on the tree cutting proposal since 2008. He said the FAA's legal counsel in Boston confirmed the PDA's authorization to cut everything. He went on to say that Portsmouth PDA board representative, Attorney Peter Loughlin wrote a 20-page letter that got the PDA board to approve of the plantings.

Ms. Prefontaine asked why these discussions had not been made public and Mr. Coogan replied that the PDA had worked with the Historic District Commission, but no one had worked with the Conservation Commission until they finalized the clear-cutting proposal recently.

Mr. Borman commented that there was a historic 200' buffer between McIntyre Road and the cutting area. He had aerial photos showed clear cutting between 1962 and 1974 when McIntyre Road went in. He Mr. Borman said the buffer area was mature

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with white pine and oak trees that were over 100 years old, and an understory of American beech and hemlock that was shade tolerant. He agreed that the PDA should have brush hogged the area every few years to keep trees from succeeding as they have and that was the reason to mulch and replant lower growing trees to eventually shade out regrowth.

Co-Chair Weiner said they also discussed regrading of the berm that flowed into the prime wetlands, but they still wanted to know what would be done regarding runoff. Mr. Borman commented that a normal rainstorm probably wouldn't have a great impact, but massive snow melts and 50 year storms would have more effect.

Discussion ensued regarding water runoff from clearcutting and grass planting that the PDA engineers claimed would filter as well as the trees. Mr. Borman agreed that grass would not filter as well as trees.

Ms. Prefontaine asked about the PDA's plans for an Alteration of Terrain (AoT). Co-Chair Hislop said the PDA was not required by DES to go before Commission. Commissioner Kendall commented that they were not required to go before the Commission, but they still sent copies of the permit to the Town and the Commission should review them. Mr. Coogan said copies had been received and he would forward them to the Commissioners.

Mr. Coogan commented that forester, Charley Moreno used to be the Town's forester, but was working for the PDA now. He asked Mr. Borman if he would continue to be involved in the negotiations with the PDA. Mr. Borman replied that he could only share information and could not advocate or represent anyone as a UNH Extension Service employee couldn't advocate or represent. Co-Chair Hislop suggested they contact the forester that worked in the Town forest with UNH students.

Co-Chair Weiner made a motion to have Mr. Borman forward his memorandum with revisions and questions to Attorney Ratigan. Co-Chair Hislop seconded the motion and all were in favor.

3) **Appointments**

Co-Chair Hislop reminded Commissioner Morton and Co-Chair Weiner to send letters to the Board of Selectmen if they were interested in continuing to serve on the Conservation Commission. She added that a letter also needed to be sent to the Selectmen to say that the Commission would like the reappointment of Commissioner Morton and Co-Chair Weiner, as well as looking for new members.

4) **Conservation Easements and Mitigation: Updates**

Mr. Coogan said he had received a draft letter regarding terms for an easement for the Boynton property on Old Post Road. Co-Chair Hislop asked if could send letter to

Mr. Coogan said Sarah Allen with Normandeau Environmental, representing Eversource's transmission line expansion said they were going through the review

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process for the Darius Frink Farm that was on the National Historic Registry before completing the mitigation grant review.

Co-Chair Hislop commented that the grant followed the Aquatic Resource Mitigation application criteria, but it would be paid directly. Co-Chair Weiner commented that payment of additional funds for the property from the warrant article request at Town Meeting could depend on receipt of the grant.

Co-Chair Hislop said she would not be able to attend Town Meeting, but asked Co-Chair Weiner if he would read the letter at the meeting that she had written.

Minutes: *Co-Chair Hislop made a motion to **approve** the Minutes of February 25, 2016. Co-Chair Weiner seconded the motion and all were in favor.*

Correspondence and Invoices:

Co-Chair Hislop moved to pay Town wetlands consultant, Mark West \$767 for his review and memo on Eversource's comments on the wetlands impact from their transmission line expansion project. Ann Morton seconded the motion and all were in favor.

Adjournment: *The meeting adjourned at 8:15 p.m.*

Next Meeting: Monday, April 13, 2016

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

These Minutes were approved and adopted at the April 13, 2017 Conservation Commission meeting.