

**Newburyport Conservation Commission**  
Minutes of the December 1, 2009 Meeting

**1. Call to Order**

A regular meeting of the Newburyport Conservation Commission was called to order by Chair Joe Teixeira at 7:05 p.m.

**2. Roll Call**

In attendance were members Joe Teixeira, Mary Casey, Jannell Zarba, Paul Healy, Dan Warchol, Doug Muir and conservation agent Mary Reilly.

**3. Minutes**

Paul Healy moved to approve the minutes of the November 17, 2009 meeting as amended. Mary Casey seconded the motion. All voted in favor.

**4. Requests for Certificates of Compliance, Requests for Determination and Requests for Minor Modifications**

Bob and Kim Richards  
4 P Street

Request for Determination of Applicability

The applicants requested an extension, as a Certificate of Compliance must be received from DEP. Doug Muir moved to grant an extension to January 5, 2010. Mary Casey seconded the motion. All voted in favor.

**5. Public Hearings**

Paul Healy moved to recess the meeting and open the public hearings. Dan Warchol seconded the motion. All voted in favor.

**Home Made Brand Foods**

2 Opportunity Way  
Notice of Intent  
DEP File #051-0836

Dave Ouellette appeared for the applicant. The plans have been modified since the last meeting. Mary Reilly walked the site with the applicant's representatives and the swales along the side and rear of the property have been designated as wetlands. Evergreens will be added for screening along the side property line. Maple trees will be added around the storm water basins to provide shade and habitat. The basins will be designed to retain a small amount of water and will be planted with a wetlands mix. The ends of the existing culverts under Malcolm Holt Drive will be repaired. The applicant is proposing to use open-faced concrete pavers for the fire lane. Mary Reilly said that mitigation would be appropriate. The applicant will develop a phragmites management plan. The excavation of phragmites will help with drainage issues. A wetland specialist must oversee the work. Mary Reilly asked that a more definitive maintenance log be developed. The snow management plan is not adequate. There are not many areas on the site to stockpile snow and there is a concern that it will end up in the swales or damage plantings. The applicant might be required to move snow off of the site. Doug Muir moved to continue to the public hearing to December 15. Paul Healy seconded the motion. All voted in favor.

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**Tom Lawrence**

12 L Street  
Notice of Intent  
DEP File #051-0836

Doug Muir and Steve Moore visited the site and had questions about mitigation areas, which have been staked but are not clearly understandable. A group site visit is necessary. Some mitigation has been proposed for areas that are already vegetated. Mary Reilly suggested that trees or shrubs could be added to provide habitat. Doug Muir moved to continue the public hearing to December 15. Paul Healy seconded the motion. All voted in favor.

**MassDOT Highway Division**

Whittier Bridge  
Abbreviated Notice of Resource Area Delineation

The project involves the replacement of the Whittier Bridge and the replacement or reconstruction of four other bridges and the widening of the road. The wetland in the Newburyport portion of the project is a coastal wetland along the river and includes a salt marsh and coastal beach. A site visit will take place at 7:00 a.m. on December 7. Paul Healy moved to continue the public hearing to December 15. Mary Casey seconded the motion. All voted in favor.

Doug Muir moved to close the public hearings. Paul Healy seconded the motion. All voted in favor.

**6. Orders of Conditions**

None

**7. Enforcement**

**HAJ Realty Trust**  
11 Malcolm Holt Drive  
Possible Enforcement Order

Bill Decie appeared for the applicant. During the preparation of the as-built plans, it was found that the work on the basin was not done according to the plans and cannot be certified by an engineer. The work cannot be corrected unless an Enforcement Order is issued because the Order of Conditions has expired. Paul Healy moved to issue an Enforcement Order. Doug Muir seconded the motion. All voted in favor.

**Sawyer Playground, Plum Island Point**

Work to expand the playground was being done without a permit. Large holes were dug and footing forms for playground equipment were installed. The forms are to be removed and the holes are to be filled. A Notice of Intent will be filed.

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## **8. Other Business**

### **Industrial Park Swale Maintenance**

The discussion that was begun at the November 17 meeting about the maintenance of swales continued. It was discussed that:

- If the swales have been maintained, they take on the characteristics of wetlands and are considered to be wetlands.
- The problem starts above the industrial park, in the Little River Basin. The best solution is to hold the water upstream.
- Slowing the water desynchronizes the flow and will help with problem. Cattails are beneficial in slowing the water.
- The removal of phragmites is desirable because they clog the swales by causing silt to build up.
- A hydrology study is needed but funding is an issue. A hydrology consultant might be able to make recommendations on how to manage some of the swales. A preliminary scope of work will be developed.

## **9. Adjournment**

The meeting was adjourned at 9:45 p.m.

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