

**Newburyport Conservation Commission**  
Minutes of the July 21, 2009 Meeting

**1. Call to Order**

A meeting of the Newburyport Conservation Commission was called to order by Chairman Paul Healy at 7:05 p.m.

**2. Roll Call**

In attendance were members Paul Healy, Steve Moore, Doug Muir, Mary Casey and Jannell Zarba and conservation agent Mary Reilly.

**3. Minutes**

The minutes of the July 7, 2009 meeting were approved as amended.

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

**Arik Keller**

216 Northern Boulevard

Request for Certificate of Compliance

Mary Reilly visited the site and reported that the plantings and gravel patio have been installed and are in compliance with the Order of Conditions. Steve Moore moved to issue a Certificate of Compliance for 216 Northern Boulevard. Mary Casey seconded the motion. All voted in favor.

**Donald Flanders**

Across from 296 Water Street

Request for Determination of Applicability

The applicant wishes to cut the invasive species that block his view of the river. Mr. Flanders submitted a letter of permission from the Mass. Audubon Society to cut the vegetation and detailed work plans for the cutting. Mr. Flanders was told that the cut material could not be taken to the City compost. He would like to leave it in place on the site. Mary Reilly will research proper disposal methods and will forward the information to the applicant. Steve Moore moved to issue a Negative 2 Determination with the conditions that the material is disposed of properly and all cutting is done by hand. Doug Muir seconded the motion. All voted in favor.

**5. Public Hearings**

Steve Moore moved to recess the meeting and open the public hearings. Mary Casey seconded the motion. All voted in favor.

**Terry Jones, Weeping Willow Realty Trust**

7 Graf Road

Notice of Intent

DEP File #051-0802

Tom Hughes appeared representing the Commission. He said he conducted a field review and found there were wetlands on the site. He looked at the bank and the land adjacent to the bank

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and found the waterways and the area bordering the bank to be jurisdictional. He said the vegetation on the site is not necessarily indicative of wetlands. The soils on the site had been disturbed but there are recent indications of wetlands.

Lisa Mead appeared for the applicant. She said that while a green roof would be desirable, its construction would increase the cost of the building by 100% due to the soils on the site. The plans have been modified and the size of the building has been reduced to 13,000 square feet. The project impacts 12,650 square feet of wetlands and it is being proposed that 18,835 square feet be replicated. Brian Murray discussed the porous paving that is to be used. An open-grated asphalt will be placed over a layer of pea stone, with a crushed stone reservoir underneath. The storm water will run off to a pavement box, which will handle a 100-year storm. A detention basin will be used for the roof runoff. Steve Moore said he would like to see the figures on the cost of the green roof. Lisa Mead said that she would provide the broad numbers, but that the client did not spend the money to do a full-scale analysis on a green roof or an analysis of potential energy savings. Instead the site has been reconfigured and the impacts reduced. Bill Decie described a deep-water pool that will be formed by water coming from the boatyard.

Tom Hughes said the wetland is manmade and a 2:1 replication should not be required. He would recommend quality rather than quantity for the restoration. The invasive species should be removed and there should be a meadow and upland area in order to attract a diversity of species. An existing area that provides a seed habitat for birds should be built upon. The bank that is lost should be replicated and should be serpentine in nature. There are good elements in the plan that must be further developed. Steve Moore asked to receive a copy of Mr. Hughes' comments. Ms. Mead said the applicant would like to know if the plans are heading in the right direction before money is spent to develop them further. Paul Healy said the plans are worth pursuing. Continued to August 18.

**John Scanlon**

53 Harbor Street

Notice of Intent

Steve Moore pointed out that four different addresses have been used on the application, which has not been signed by Mr. Scanlon. The address used on the notification to abutters was 37 Harbor Street. Bill Decie said the applicants would be re-notified. The hearing will not be opened until the August 4 meeting. Mr. Decie gave an informal presentation. The applicant is proposing to construct a new deck on an existing footprint. The project is being presented as a limited one because the deck pre-existed the coastal regulations.

**City of Newburyport Beach Management Plan**

Plum Island

Notice of Intent

DEP File Number 051-0829

Christine Player of Vine Associates appeared for the applicant. DEP expressed concern that the City lacks the commitment to implement the plan. Language in the plan was subsequently changed and is now satisfactory to DEP. Mary Reilly said there is a concern with access areas. This issue will be more thoroughly explored in the next phase of the plan. Doug Muir moved to close the public hearing. Mary Casey seconded the motion. All voted in favor.

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### **City of Newburyport Dredging Project**

Notice of Intent

DEP File #051-0830

Jack Karelis from the Army Corp. presented plans for the maintenance dredging of the federal entrance channel. DEP comments have been received and Christine Player discussed the responses to those comments. Many specifics of the plan will not be finalized until the contractor has been selected. The Corp. has not specified whether the pipeline will be floating or submerged; the contractor will determine this. Ms. Player said a direct pipeline is not practical in this instance. Steve Moore said the pipeline as proposed is located in the worst possible place because of the tides and currents. He also said the pipeline on the beach will cause erosion in front of it. Mary Reilly said many engineers have reviewed the proposal. Mary Casey said there is a concern because in some areas the beach is very narrow. She would like there to be stations from which the level of sand on the beach will be monitored. The final location of the pipeline will be staked at the time of construction. Sadruddin Hemani, 30 55<sup>th</sup> Street, said in October last year there was no beach in front of the dune adjoining his property at high tide and the situation is different during storm season than it appears at this time of year. Mary Reilly asked about what would happen if there were no distance between the high tide and the toe of the dune. Weekly monitoring could be made a condition. Paul Healy pointed out that a coastal engineer might notice something a contractor would not. Jannell Zarba asked if the pipeline would impact the sandbags that have been placed at 55<sup>th</sup> Street. The contractor could be required to protect them. Doug Muir moved to close the public hearing. Mary Casey seconded the motion. All voted in favor.

### **U.S. Coast Guard**

63R Water Street

Notice of Intent

DEP File #051-0828

A timber bulkhead has severely deteriorated and needs to be repaired. Alternatives were investigated and the preferred alternative is to install a new steel bulkhead in front of the existing timber one. A tree is being removed in order to keep a clear line of sight along the fence. Steve Moore moved to close the public hearing. Doug Muir seconded the motion. All voted in favor.

### **6. Enforcement**

#### **Carla and Robert Moore**

16 Basin Street

The Moores have indicated that they will attend the August 4 meeting with their attorney. Doug Muir asked that any submittals be distributed for review before the meeting.

### **7. Orders of Conditions**

#### **City of Newburyport Beach Management Plan**

Plum Island

Notice of Intent

DEP File #051-0829

Doug Muir moved to issue an Order of Conditions. Steve Moore seconded the motion. All voted in favor.

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**City of Newburyport Dredging Project**

Notice of Intent

DEP File #051-0830

Steve Moore said he is not in favor of the project and does not think the Commission has had all of its questions answered. Paul Healy suggested that the Commission be allowed to review the final plan before any work is done. Doug Muir recommended that there be no excavation of the dune and the pipeline shall not be placed on the dune. A coastal engineer or scientist will be required to report on the Newburyport portion of the beach weekly and after any major storm. Structures such as the sandbags at 55<sup>th</sup> Street are to be protected. Doug Muir moved to issue an Order of Conditions with the special conditions discussed. Steve Moore seconded the motion. The motion passed with Jannell Zarba voting in opposition.

**U.S. Coast Guard**

63R Water Street

Notice of Intent

DEP File #051-0828

Doug Muir moved to issue an Order of Conditions. Jannell Zarba seconded the motion. All voted in favor.

**8. Adjournment**

The meeting was adjourned at 10:30 p.m.