

Newburyport Conservation Commission

December 6, 2011
City Council Chambers
Minutes

1. Call to Order

A meeting of the Newburyport Conservation Commission was called to order by Chairman Joe Teixeira at 6:30 p.m.

2. Roll Call

In attendance were members Joe Teixeira, Steve Moore, Dan Warchol, Paul Healy, Mary Casey and Doug Muir and Planning Director Andy Port.

3. Minutes

Paul Healy moved to approve the minutes of the November 15, 2011 meeting as submitted. Steve Moore seconded the motion. The motion was unanimously approved.

4. General Business

Wetlands Ordinance

Andy Port said the wetlands ordinance was accepted by the City Council and sent to committee. The committee is scheduled to meet on December 7 but does not plan to discuss the issue. The City Council is likely to vote at its next meeting to continue the item to the next session as the terms of the councilors are ending.

New Conservation Agent

Joe Teixeira said former Commission member Julia Godtfredsen has been hired as the new Conservation Agent.

Beach Access Walkover

Andy Port said the agreement still has not yet been signed but he expects this to be done before the next meeting. The gangway has been lifted for the winter.

Whittier Bridge Filing and Consultant Review

Informal Discussion

Representatives from MassDOT attended the meeting to discuss their plan for Fay, Spofford and Thorndike (FST) to conduct a peer review of stormwater management proposal in the Notices of Intent for Newburyport, Amesbury and Salisbury. FST will be working directly for MassDOT. The agency is proposing the peer review be undertaken because the project is on a fast track and it does not want comments to slow down the process. The Commission was invited to comment on the scope of work and will be allowed direct contact with FST, but MassDOT must be included in any conversation. It was emphasized that this is outside of normal procedures but would be allowed due to the size of the project. The City Engineer will also review the full storm water design. Mary Casey asked about the possibility of questions from the three communities

Newburyport Conservation Commission
December 6, 2011

being addressed on the website. Steve Moore said he is concerned by the shading study. Paul Healy asked about the possibility of a connection under the bridge to the Moseley to Maudslay trail. A connection is not a part of the project but there will be a maintenance access road.

Oleo Woods Conservation Restriction

David Santomenna represented the Essex County Greenbelt Association, which would hold the conservation restriction on the Oleo Woods property. The draft restriction has been submitted to the State for review and was presented to the Commission for comments. Doug Muir said that the conservation restriction prohibits the grantors engaging, or allowing other to engage, in prohibited activities on the conservation land. As the City will become the grantor, he does not want the City to be responsible for monitoring the homeowners. He suggested that the phrase "or permit others" be stricken from the document. Joe Teixeira said if the ordinance is adopted the Commission would have the capability to issue fines for the wetlands. Mr. Santomenna said he would work on the language about third party violations and the item will be on the placed on the agenda for the December 20 meeting.

Phillips Drive Enforcement Order

The Notice of Intent was distributed to Commission members and the item will be on the agenda for the December 20 meeting.

Mowing Date for Cooper North Pasture

Joe Teixeira said Geordie Vining made the changes that were discussed at the last meeting to the agreement. Doug Muir moved to approve the agricultural agreement between the Conservation Commission and Jere Myette for the non-exclusive use of the Cooper North Pasture. Paul Healy seconded the motion. The motion was unanimously approved.

5. Certificates of Compliance, Requests for Determinations, Requests for Minor Modifications

Union Specialties

3 Malcolm Hoyt Drive

Request for Certificate of Compliance

DEP File #051-0792

Bill Decie and Eric Botterman appeared for the applicant. Joe Teixeira asked about the berms that are shown on the existing conditions plan but have been removed. The absence of the berms might allow storm water to flow directly into the wetlands. Mr. Botterman said it was not intended for the berms to have been taken out and he will speak with the owner of the property. The item will be on the agenda for the December 20 meeting.

Thomas G. Lawrence

12 L Street

Request for Minor Modification

DEP File #051-0837

Bernard Christopher appeared for the applicant. The plans dated April 1, 2011 were revised on November 1 and again on November 29 to reflect the comments that were made at the November 15 meeting. The revised plans that the Commission requested at the April 20, 2011 meeting were

Newburyport Conservation Commission
December 6, 2011

never submitted. While the triangular portion of the deck has been removed, confusion has been created about the many versions of the plan. The most recent version of the plans shows a 12' x 12' utility shaft, which the Commission did not approve. Mary Casey said information on the style of fence must be provided. Paul Healy pointed out that at the November 15 meeting the Commission had voted that the changes did not constitute a minor amendment and they must be handled as an amendment. The applicant must submit a plan that shows the removal of the deck extension, the deletion of a set of stairs, the reduction in the size of the utility shaft, information on the fence type and the addition of an arrow from the label to the walkway. Steve Moore moved to continue the request to the December 20 meeting. Mary Casey seconded the motion. The motion was unanimously approved.

Bruce Arlington and M. Cathy Powers

16 Frances Drive

Request for Determination of Acceptability

A revised plan was distributed. Steve Moore moved to issue a Negative 3 Determination with conditions that erosion control must be installed and the tree must be replanted or replaced. Paul Healy seconded the motion. The motion was unanimously approved.

Dan Warchol moved to recess the meeting and open the public hearings. Mary Casey seconded the motion. The motion was unanimously approved.

6. Public Hearings
Strem Chemicals

7 Mulliken Way

Notice of Intent

DEP File # 051-0872

Eric Botterman appeared for the applicant, who is proposing to re-grade a swale that runs along the front and side of the property in order that water drains away from the property. Paul Healy moved to close the public hearing. Mary Casey seconded the motion. The motion was unanimously approved.

City of Newburyport – Water Treatment Division

7 Spring Lane

Notice of Intent

Doug Gove and Lisa Pietro from AECOM appeared for the applicant and presented the plans for the next phase of the project, which involves the construction of an 80' x 52' structure on the site of the old clearwell. There will be a new gravel access road to the structure, a continuation of the parking lot that was begun in phase one and a small planting strip along the road. A structure near the pond will be demolished and the pavement will be removed and will be replaced with loam and seed. Other work that is a part of the project is outside of the buffer zone. The project results in a permanent impact to the resource area but there will be a reduction of 18,000 square feet of impervious surface. The foundation of the pump station will remain in place but holes will be drilled in the slab to allow infiltration. The holes are to be five feet on center and the slab is about two feet thick. Joe Teixeira asked if testing for contamination would be done on the soil underneath the slab. Instead of drilling the holes the applicant will add a thin layer of stone with

Newburyport Conservation Commission
December 6, 2011

soil over it to act as a French drain and channel the water to the pond. The plan and narrative will be amended to reflect this change. Dan Warchol moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

Mary Casey moved to close the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

7. Enforcement

None

8. Orders of Conditions

Strem Chemicals

7 Mulliken Way

Notice of Intent

DEP File # 051-0872

Paul Healy moved to issue an Order of Conditions with no special conditions. Mary Casey seconded the motion. The motion was unanimously approved.

City of Newburyport – Water Treatment Division

7 Spring Lane

Notice of Intent

Mary Casey moved to issue an Order of Conditions with the condition that a plan is submitted showing that holes will no longer be drilled in the slab. Paul Healy seconded the motion. The motion was unanimously approved.

9. Adjournment

Mary Casey moved to adjourn the meeting at 8:50 p.m. Steve Moore seconded the motion. The motion was unanimously approved.