

## **Newburyport Conservation Commission**

February 16, 2016

City Council Chambers

Minutes

### **1. Call to Order**

Chair Joe Teixeira called a meeting of the Newburyport Conservation Commission to order at 6:46 p.m.

### **2. Roll Call**

In attendance were members Joe Teixeira, Paul Healy, Doug Muir and Steve Moore. Dan Warchol, David Vine and Dan Bourdeau were absent.

### **3. Minutes**

Paul Healy moved to approve the minutes of the February 2, 2016 meeting as submitted. Steve Moore seconded the motion. The motion was unanimously approved.

### **4. Old and New Business**

#### **Drone Photography of Plum Island**

Bill Sargent recommended the next quarterly run be omitted and the money that would be saved be used to concentrate on filming storms in February, March and April. The cost would be \$100 per run. The Commission members decided they do not wish to alter the contract, as they have the ability to add runs after storms as desired.

Steve Moore moved to allow Bill Sargent to share the photographs that have been taken for the Commission. Paul Healy seconded the motion. The motion was unanimously approved.

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

#### **David Smith, GZA GeoEnvironmental, Inc.**

244 Merrimac Street

Request for Certificate of Compliance

DEP File #051-0914

David Smith said the work to reconstruct the pier at Cashman Park was completed in the summer with two deviations from the plans: two wooden benches added to the pier head and the design of the railing was changed. Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

#### **Erin and Paul LaRosa**

8 Wildwood Drive

Request for Certificate of Compliance

051-0918

A swimming pool was installed in the buffer zone to the BVW. A fence was to have been added at the edge of the decking but instead was installed at the boundary of the wetland. A portion of the fence was installed within the wetland boundary but this does not appear to have impacted

Newburyport Conservation Commission  
February 16, 2016

any wetland vegetation. Paul Healy moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

**6. Public Hearings**

Paul Healy moved to open the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

**Craig Pessina, Chart House Development, LLC**

23, 23R, and a portion of 25 Hale Street

Notice of Intent

DEP File #051-0948

The applicant requested a continuance. Doug Muir moved to continue the public hearing to the March 1 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

**MassDOT Highway Division**

Whittier Bridge

Amend Order of Conditions

DEP File #051-0875

The applicant requested a continuance. Paul Healy moved to continue the public hearing to the March 1 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

**Evergreen Development LLC**

18 Boyd Drive

Abbreviated Notice of Resource Area Delineation

Tom Hughes represented the applicant and distributed material to be reviewed for consideration at the next meeting. He reiterated his position that the basins on the golf course were created to handle stormwater from Boyd Drive and to provide water to irrigate the course. He said because the basins were constructed for stormwater management, they should not be regulated as natural wetlands. The application intends to file a Notice of Intent because the basins would be jurisdictional either way whether they are determined to be isolated vegetated wetlands or isolated lands subject to flooding. The performance standards are different for these two types of resource areas. The applicant would be required to apply for a variance to alter the basins if the Commission concludes they are IVW.

Joe Teixeira reported Andy Port requested the hydrology of the site be included in the peer review. He said an understanding should be gained of the way in which the flow of water under the ground interacts with the resource area. Mr. Hughes responded the WPA specifies a civil engineer shall delineate the resource area. He said a hydrogeologist would become involved during the Notice of Intent phase of the project. It was agreed the selection criteria for the peer review would include the capability of reviewing the hydrology of the site. The review would not be included in the initial scope of work but the scope could be revised to include it if necessary.

Lisa Mead presented information on a 1979 appeals court case concerning a subdivision that had been proposed for the site. She said members of the Planning Board denied the application after they were told the Department of Health would not approve of it. Upon appeal

Newburyport Conservation Commission  
February 16, 2016

the decision was remanded back to the Planning Board, who sought input from the Health Department and Water Department.

The site visit was cancelled due to snow. It will be rescheduled during the upcoming week. Julia Godtfredsen will prepare a draft scope of work for the peer review.

Joe Teixeira opened the hearing to comments from the public. Peter Chu, 17 Boyd Drive, said 1.8 acres of the site are wetlands according to the plan of record previously submitted to the Conservation Commission. Tom Hughes responded this wetland existed before the original subdivision plan was presented and appears to be a result of work done in the gravel pit. Ann Marie Vega, 21 Boyd Drive, asked about the hydrology of the site being included in the peer review process. She was told even if a study of the hydrology was determined not to be necessary for the Conservation Commission it would be a part of the Planning Board review process and other concerns of the neighbors would be addressed after the Notice of Intent has been filed. Peter Hatcher, 15 Boyd Drive, asked about the way in which drainage rates are calculated. Scott Thibault, 3 Boyd Drive, asked for clarification on how if the basins were determined to be IVW, the ability to alleviate flooding at the bottom of the street would be impacted. Niall Robinson, 2 Boyd Drive, said the documents show a connection between the aquifer of the City wells and the water under the golf course. David Marino, 7 Boyd Drive, said he is concerned about the water table being high. Allison McDougall, 19 Boyd Drive, said because the water table is high, hydrogeology should be a part of the peer review. Joe Teixeira explained that most of these concerns would be addressed during the peer review process.

Doug Muir moved to continue the public hearing to the March 15 meeting. Paul Healy seconded the motion. The motion was unanimously approved.

Doug Muir moved to close the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

## **7. Enforcement/Violations**

### **216 Northern Boulevard**

Bill Simmons represented Donamarie Casey and said she intends to alter the fence to bring it into compliance with the local ordinance. She will remove every other slat of the fence to make it 50% open. She is not yet sure how to meet the requirement the lower two feet of the fence is 80% open while at the same time enclosing the dog. She is scheduled to meet with the fencing contractor on February 23.

## **8. Adjournment**

Steve Moore moved to adjourn the meeting at 9:15 p.m. Doug Muir seconded the motion. The motion was unanimously approved. The next meeting will be scheduled for Tuesday, March 1, 2016.