

Newburyport Conservation Commission

December 18, 2012

City Council Chambers

Minutes

1. Call to Order

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

2. Roll Call

In attendance were members Joe Teixeira, Paul Healy, Steve Moore, Doug Muir, Dan Warchol and Jim O'Brien. Also in attendance was Julia Godtfredsen.

3. Minutes

Steve Moore moved to approve the minutes of the November 20, 2012 meeting as submitted. Paul Healy seconded the motion. The motion was unanimously approved.

4. General Business

Jetty Repair

Julia Godtfredsen said the contractor for the jetty project has begun to truck in the stone. The stones are being dropped off of the trucks, causing the pavement to break. This is especially of concern because the storage area is located over underground utilities. The storage area might be moved to the other side of the parking lot, nearer the Coast Guard Station. Neighbors have also reported that their homes have been shaking.

Emergency Certification for Beach Scraping

Julia Godtfredsen sent Commission members draft procedures for obtaining an emergency certification for beach scraping. She based the procedures on requirements in the town of Newbury and supplemented them with conditions from other communities. She said the applicant's engineer would have to prove the project would be of a sufficient scope to ensure a positive outcome and that it would not increase erosion on neighboring properties or adversely impact natural or cultural resources. No lateral movement of sand would be allowed. An Army Corp of Engineers Section 404 Water Quality Certificate would be necessary. The process would be a lengthy one and should be started before an emergency situation is at hand. Paul Healy there might not be enough sand to scrape in the winter, as there is a difference between the summer and winter profiles of the beach. There might not be enough sand to allow scraping even in the summer in the area of 53rd, 55th and 57th Streets. Julia Godtfredsen will add conditions about the use of equipment on the beach before dating the document and marking it as a draft so that it might be distributed if requested.

EcoCollaborative Meeting

Joe Teixeira said a meeting is being planned by the EcoCollaborative for January to discuss the development of strategies to cope with the rise of the sea level rise.

8 Ashland Street Update

DEP appealed the Commission's decision on 8 Ashland Street. The Commission had issued an Order of Conditions due to procedural issues: it had not been clear during the public hearing that

the project might not be approved. DEP based its appeal in part on the lack of alternatives in the application. The applicant must demonstrate to DEP that the house would not be able to be located a greater distance from the wetland. A variance from the Zoning Board would have been needed in order for the house to be moved closer to the road. A site visit with DEP was held on December 4.

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

Jane and John Turi

15 Ashland Court

Request for Determination of Applicability

The applicant is proposing to construct a two-story addition to the side of a house where it would be located as far from the wetland as possible. A part of this section of the property is currently paved and the remainder is lawn. Dan Warchol moved to approve a Negative 3 Determination with the conditions that erosion control is installed along the wetland edge, no trees or shrubs are removed within 50 feet of the wetland and no equipment or materials are stored within 50 feet of the wetland. Paul Healy seconded the motion. The motion was unanimously approved.

6. General Business Continued

Clipper City Rail Trail Phase II

An extension of the Rail Trail is planned along the river, through the 25-foot no disturb zone. The ordinance specifies that unpaved public pathways would be allowed in this zone. Stantec, the firm designing the trail, sent a communication to Geordie Vining stating the reasons the trail must be paved. Julia Godtfredsen and Joe Teixeira walked the route of the trail with Geordie Vining and proposed pervious pavement. Mass DOT expressed its opposition to the use of pervious pavement for reasons the Commission found to be inadequate. Stantec provided other statements against the use of the material that were more convincing than those made DOT but that the Commission members still did not find completely persuasive. The members agreed, however, that digging to the appropriate depth to install pervious pavement would be a concern in this instance due to the presence of utilities and contaminated soils. The ordinance allows the Commission to waive the application of a performance standard provided: 1) it is demonstrated that there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with the regulations, 2) mitigating measures are proposed that would allow the project to be conditioned so as to contribute to the protection of the wetland and 3) the project is necessary to accommodate an overriding public interest. The Commission members agreed that the trail provides enough of a public benefit to outweigh their objections to the installation of pavement in the no-disturb zone. A straw poll among the members indicated they would allow the trail to be paved in the no-disturb zone provided that the conditions of the variance are satisfied. They will request specific mitigation methods related to storm water management.

7. Adjournment

Doug Muir moved to adjourn the meeting at 7:43 p.m. Paul Healy seconded the motion. The motion was unanimously approved.