

Newburyport Conservation Commission

April 7, 2015

City Council Chambers

Minutes

1. Call to Order

Chair Joe Teixeira called a meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

2. Roll Call

In attendance were members Joe Teixeira, Doug Muir, Dan Warchol, Jim O'Brien, David Vine and Paul Healy. Conservation Agent Julia Godtfredsen was also in attendance.

3. Minutes

Paul Healy moved to approve the minutes of the March 17, 2015 meeting as submitted. Doug Muir seconded the motion. The motion was unanimously approved.

4. Old and New Business

Coastal Erosion Commission Report

David Vine summarized the comments made by Mayor Holaday in her written response to the draft Coastal Erosion Commission Report and Recommendations dated January 7, 2015. The City commented on the report with other communities that are a part of the Merrimack River Beach Alliance. The group recommended that 1) a broader definition of emergency be developed; 2) a regulatory framework be adopted that allows flexibility for communities to take action to confront coastal erosion threats; 3) flexibility be incorporated into a state regulatory framework in order that innovative measures might be used in emergencies; 4) an ongoing task force be established to facilitate coordination among agencies and 5) regional coastal erosion commissions be established to represent all stakeholders involved in coastal erosion issues.

Colby Farm Update

Paul Healy said that at the April 9 Community Preservation Committee meeting it was reported the Open Space Committee supports using either the open space reserves or newly allocated CPC funds for the purchase of Lot 8, provided the City takes action to acquire Lot 1 when it becomes available.

Water Department Clear Well

Tom Smolski said an accidental overfeed of chlorine took place at the pumping station. In the effort to remove the chlorine, water was flushed through the hydrant at the rear of the pumping station, resulting in the flow of approximately 80 to 90 cubic yards of rocks and soil into Bartlet Pond. A floating silt curtain was placed in the pond to prevent the spread of the material and the slope was stabilized with haybales. A long-reach excavator would be used to remove the material from the pond and the slope would be restored. The work to restore the slope shall be permitted under the existing Order of Conditions for the water treatment plant. A Notice of Intent must be submitted for the dredging of the pond.

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 #051-0896

David Vine recused himself from the discussion. Julia Godtfredsen said the site at Cashman Park has been restored to its original condition. Doug Muir moved to issue a Certificate of Compliance. Jim O'Brien seconded the motion. The motion was approved with David Vine abstaining.

Department of Public Services □

24 Merrimac Street (NRA West Lot)

Request for Determination of Applicability

The DPS plans to replace the light poles in the NRA west lot and bury the wires. The work would require excavation for the installation of the conduit and the footings for the poles. The excess soil would be taken off site. This soil must be tested for contamination and disposed of properly. Jim O'Brien suggested a LSP be engaged to oversee the handling of the soil at the beginning of the work.

Doug Muir moved to issue a Negative 3 Determination with the conditions that any excavated material shall be backfilled immediately or removed from the site; there shall be no stockpiling of any excavated material within any resource area unless covered with plastic sheeting and surrounded by erosion control; and prior to the removal of any excavated material from the site the soil shall be tested for contamination and if contaminated the material shall be disposed of at a qualified disposal facility. Paul Healy seconded the motion. The motion was unanimously approved.

6. Public Hearings

Doug Muir moved to open the public hearings. Dan Warchol seconded the motion. The motion was unanimously approved.

Jim Straubb, Mass. DCR

Maudslay State Park Flowering Pond

Notice of Intent

DEP File #051-0931

Alex Patterson from ESS presented the plans to implement the final phase of the flowering pond restoration plan. The goal of the project is the restoration of the historic viewshed of the pond from the arch bridge that spans it and the improvement of the resource area by the removal of the soft sediment that has accumulated in the pond. Approximately 1,550 cubic yards of soft sediment would be removed. Some of this material would be used to create a wetland shelf in the pond and the rest would be disposed of at an upland disposal site in the State park.

The wetland shelf would be created to satisfy the performance standards of the WPA. The area around the arches has filled in and would be restored to land under water. The shelf would create an equal amount of BVW in the pond. All of the work to be done would be within the basin of the pond.

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Mr. Patterson reviewed the three parts of the sedimentation process. The Order of Conditions shall include a condition that an environmental monitor shall be on site throughout the project.

A MEPA certification has been received. A 401 water quality certification application has been filed and Section 404 approval from the Army Corp. will be sought. Mr. Patterson will forward the MEPA comments and the 401 summary to the Commission members. He will also coordinate a site visit for members of the Commission and the Army Corp.

Doug Muir moved to continue the public hearing to the May 5 meeting. Paul Healy seconded the motion. The motion was unanimously approved.

Anthony Barbaris

6 Perkins Way □

Notice of Intent

DEP File #051-0933

Lisa Mead represented the applicant. The proposed project is for the construction of two buildings of 10,000 square feet each with parking for 55 vehicles. The area of the buildings and parking lot would be 48,000 square feet, leading to 42% of the property being covered by impervious surfaces. Two mitigation areas of 2,295 and 7,838 square feet would be created. A portion of the mitigation area would be located in the town of Newbury.

Ms. Mead said two isolated wetlands exist on the site. The applicant will demonstrate that they do not play a roll in the protection of the interests put forth in the Wetlands Protection Act. She went on to say if the Commission does not agree the applicant has overcome the presumption of significance, it would have the authority to permit the project by granting a variance. The performance standards might be waived if there are no reasonable alternatives that would allow the project to proceed in compliance with the regulations provided the project is necessary to accommodate an overriding public interest and mitigating measures are proposed that will allow the project to contribute to the protection of the wetlands. She said the proposed project would serve the public interest by providing flood storage and higher functioning wetlands. She added the construction of two new buildings on the site would also benefit the public by increasing the tax base of the city. She said the project does not meet any of the four conditions under which the Commission might deny a variance.

Patrick Seekamp said the Commission issued an ORAD for the site in 2008. On January 2, 2015 the wetland boundary expired after the NOI was not filed. The resource areas on the site are a jurisdictional bank and two isolated vegetated wetlands located in the upland portion of the site. He said the latter are shallow and do not contribute to flood storage, but do have some habitat value. He said the two newly created wetlands would be of a higher value because they would be tied to the jurisdictional bank and would create flood storage.

The applicant must amend the Notice of Intent with regards to quantifying the impacts on the resource areas. Additionally the presumptions of significance have been rebutted for the IVW but not the BVW or the 25-foot no-disturb zone.

Paul Healy moved to continue the public hearing to the May 5 meeting. David Vine seconded the motion. The motion was unanimously approved.

Ann and Herb Sears, 284 Water Street, LLC

284 and 309 Water Street□

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Notice of Intent

DEP File #051-0932

Doug Muir recused himself from the discussion. Tom Hughes represented the applicants. He said the project involves two separate parcels that are on the same deed and are separated by a road. On one of the parcels the applicants wish to construct an addition to a single-family home and connect the addition to an existing barn with a covered walkway. An existing garage would be removed and the driveway, which would eventually be paved, would be re-routed. A plan would be submitted at a later date for the plant materials that would eventually be installed around the structures.

A pervious patio with flagstones and a fence would be added on the waterside parcel. Native plant materials would be installed along the fence. Mr. Hughes said that while the patio is within the 25-foot no-disturb zone, it would be constructed of rice gravel, which would infiltrate more quickly than the existing lawn and native plant materials would be installed as a mitigation measure. He submitted a list of the plant materials that might be used. Julia Godtfredsen said the Commission does not need to issue a variance for a lot that is entirely within the no-disturb zone provided the applicant has demonstrated the proposed work has been designed to minimize impacts to the buffer area.

Paul Healy moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved.

Dan Warchol moved to close the public hearings. Joe Teixeira seconded the motion. The motion was unanimously approved.

7. Orders of Conditions

Ann and Herb Sears, 284 Water Street, LLC

284 and 309 Water Street□

Paul Healy moved to issue an Order of Conditions with the standard conditions. David Vine seconded the motion. The motion was approved with Doug Muir abstaining.

8. Other Business

Joe Teixeira said he has submitted an ethics form in order that he would no longer need to recuse himself from any discussions concerning the landfill.

9. Adjournment

Dan Warchol moved to adjourn the meeting at 9:30 p.m. David Vine seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will be held on April 21, 2015.