

Newburyport Conservation Commission

May 21, 2013

City Council Chambers

Minutes

1. Call to Order

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

2. Roll Call

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

3. Minutes

Paul Healy moved to approve the minutes of the May 7, 2013 meeting as submitted. Steve Moore seconded the motion. The motion was unanimously approved.

4. General Business

Plum Island Update

Julia Godtfredsen said Dyke Hendrickson reported in the *Daily News* on May 20 that sand was removed from the north end of Plum Island and was used to refurbish the dune of the southern end of the island. He would not provide her with the source of the information. Such an action would more than likely require permitting under the WPA and/or the local ordinance. She will attempt to speak with the property owner.

Crow Lane Landfill Update

Julia Godtfredsen said the outfall pipe that was crushed has been repaired. She will ask Jon Eric White to determine if enough fill has been placed on top of the pipe to ensure it would not be crushed again. A meeting between the City and DEP about odors from the landfill was held on May 20. Only \$90,000 is remaining in the Financial Assurance Mechanism fund that was to be used for post-closure maintenance.

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

North Reservation Terrace

Request to Withdraw Notice of Intent

DEP File #051-0840

Julia Godtfredsen said the City no longer intends to realign North Reservation Terrace. The Order of Conditions was not recorded at the Registry of Deeds. DEP said it would be appropriate for the City to request that the application be withdrawn. Stone curbing had been removed in preparation for the work. Under the Order of Condition the stones were to be taken off of the island. If the Request to Withdraw Notice of Intent were to be approved, the site should be returned to its original condition. The Commission members wish to receive a letter and plan from the City indicating the site work that would necessary for the replacement of the stones and their size and location.

Mary Harrington

152 Northern Boulevard

Request to Withdraw Notice of Intent

DEP File #051-0851

The applicant's tenant had added a deck without a permit that was not two feet above grade. An Order of Conditions was issued for the raising of the deck. The applicant now wishes to remove the deck and restore the site to its original condition. She did not record the Order of Conditions at the Registry of Deeds and wishes to withdraw the Notice of Intent. A picket fence was removed at the time the deck was installed. The applicant wishes to replace it with a split rail fence. She must submit a Request for Determination of Applicability that will describe the fence she wishes to install. The Enforcement Order will remain in place until the illegal deck is removed. Mary Casey moved to approve the Request to Withdraw Notice of Intent. Doug Muir seconded the motion. The motion was unanimously approved.

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

6. Public Hearings

Geordie Vining, Office of Planning and Development

22 Merrimac Street/27R Water Street

Notice of Intent

Geordie Vining described the plans to repair the bulkhead at the central waterfront. The first phase of the project is expected to take place in the fall for the areas in worse repair, which are the bulkhead at the Fish Pier, the western cellular section and the riprap area near the boardwalk bridge. A representative of Bourne Consulting Engineering described the varying methods for repairing the different areas of the bulkhead. In the area of the Fish Pier some of the weep holes have enlarged, allowing material behind the sheet piles to wash out and create a sinkhole. New sheet piles will be driven in front of the existing bulkhead and the space between the two will be filled with concrete. A fabric form for concrete will be used in the riprap area. The work is to take place with a crane on a barge. Fueling will take place on the barge. The materials being removed will be caught for disposal.

Doug Muir pointed out the City filed the application and is listed as the owner but is not the sole owner. He said the Notice of Intent should be amended to include the additional owners as applicants. He also wants to be certain that the proper abutters have been notified when the NRA and Waterfront Trust have been added as applicants.

Joe Teixeira opened the hearing to public comment. Robert Wolfe said he was an original member of the Waterfront Trust. He said the new sheet piles would add two feet to the perimeter of the bulkhead over submerged land owned by the NRA. This would separate the Waterfront Trust from the river, making it landlocked, and giving control of the waterfront to the NRA. Geordie Vining said the building out of the bulkhead would not necessarily change its ownership. Joe Teixeira pointed out the issue is not within the purview of the Commission. Mr. Wolfe added that wall is holding back contaminated soils. Elizabeth Heath asked that the Commission require a full scope EIR. She said the additional property owners should be included on the Notice of Intent. Joe Brown said all three involved parties should sign the document. Joanie Purinton said a \$5 million project is not a minor repair and an EIR should be

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required. Geordie Vining said the bulkhead will function in the same way it does currently and a certificate was issued stating the project will not result in environmental impacts. Chris Currier spoke in favor of the project.

Steve Moore moved to continue the public hearing to the June 4 meeting. Paul Healy seconded the motion. The motion was unanimously approved. Joe Teixeira will distribute copies of the letter from Robert Wolfe.

Steve Asen, Mass. DCR

Curzon Mill Road/Maudslay State Park

Notice of Intent

Dan Herzinger said Mass. DCR has contracted with the ESS Group to develop a restoration plan Flowering Pond, which has been deteriorating. The implementation phase of the project includes three primary elements: 1) the breaching of upstream beaver dams, 2) the management of the vegetation at the edge of the pond and 3) the control of erosion along the trails. The resource areas include land underwater, inland bank, riverfront area and rare species habitat. The beaver dams created a series of terraced ponds above the Flowering Pond. The dams will be partially breached to restore the stream that once ran through the area. The breaching will gradually lower the water in the pond in a controlled manner and will relieve the stress on the dams. Seven trees that are diseased or falling into the pond have been identified for removal. DCR would like to remove dead or diseased trees as needed on an ongoing basis. Erosion is occurring along a steep trail at the north edge of the pond. Gravel will be added and the trail will be re-graded towards a swale. The swale will channel stormwater into a rain garden. Vegetation will be installed where erosion is occurring at two areas at the southern end of the pond on either side of the bridge. Erosion control will be installed along the limits of disturbance. The Notice of Intent does not cover the removal of trees from the pond. Steve Moore asked that the large tree near the location of the proposed rain garden be protected. Three members of the Friends of Maudslay State Park spoke in favor of the project. Paul Healy moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

Chris Skiba, Newburyport Manager, LLC

One Tournament Wharf

Notice of Intent

Paul Avery appeared for the applicant and described the work that took place under an Emergency Certification. The steel of the bulkhead had corroded and the material behind it had washed out, compromising the deck. New sheet piles were driven behind the existing ones. Steve Moore moved to close the public hearing. Mary Casey seconded the motion. The motion was unanimously approved.

Chris Skiba, Newburyport Manager, LLC

McKay's Wharf - 58R Merrimac Street

Notice of Intent

Paul Avery appeared for the applicant. The timber piles that supported a small travel lift have deteriorated. The applicant wishes to remove and replace the piles in kind. The work will disrupt 270 square feet of the intertidal zone. The piles will be driven and the work will take three to five weeks to complete. The staging area will be located in the parking lot. Mary Casey

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moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

John and Irene Kucinski

12 75th Street

Notice of Intent

Tom Hughes appeared for the applicant, who wishes to demolish a house and deck and remove a paved driveway in the AE zone. Mr. Hughes said the impact to the beach grass would be minimal because the footprint would remain largely unchanged and the decks would be much higher from the ground. He said there is an opportunity to increase the amount of native vegetation on the site. The area is subject to high winds. It was suggested that snow fencing be installed and shrubs be planted. Comments from Natural Heritage have not yet been received. Mary Casey moved to continue the public hearing until June 4. Steve Moore seconded the motion. The motion was unanimously approved.

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

7. Orders of Conditions

Steve Asen, Mass. DCR

Curzon Mill Road/Maudslay State Park

Paul Healy moved to issue an Order of Conditions with the following special conditions:

- the tree to the northeast side of the bridge shall be saved. If any modification to the stormwater BMPs are required for this, the applicant must forward the corrections to the plan to the Commission and if the change is significant the applicant will be required to file an amendment.
- the removal of trees shall not damage any other healthy vegetation.
- the Commission shall be informed of the removal of any trees beyond those that have been identified in the Notice of Intent. The applicant may proceed with the work within two weeks of the notification unless otherwise instructed by the Commission or Agent.
- there shall be perpetual conditions for vegetation management and the maintenance of the storm water BMPs.

Steve Moore seconded the motion. The motion was unanimously approved.

Chris Skiba, Newburyport Manager, LLC

One Tournament Wharf

Steve Moore moved to issue an Order of Conditions. Paul Healy seconded the motion. The motion was unanimously approved.

Chris Skiba, Newburyport Manager, LLC

McKay's Wharf - 58R Merrimac Street

Paul Healy moved to issue an Order of Conditions with the special condition that fuel oil or other hazardous materials are not stored on the barges or within 50 feet of the river. Steve Moore seconded the motion. The motion was unanimously approved.

8. Enforcement

Julia Godtfredsen will obtain more information about the alleged dredging of sand from the river and its transfer to Newbury. She would issue a Notice of Violation if appropriate. The party will be notified that a permit is needed before any work may take place in the future.

9. Other Business

Whittier Bridge Update

Julia Godtfredsen said the amended Notice of Intent was received. She said Andy Port intends to speak with Paul Colby about the proposed pier at Spring Lane. The City and DOT must decide if the pier would remain. She pointed out it would be necessary for the City to take ownership of the pier if it were to be left at the end of the construction. The Order of Conditions might indicate that the pier is to be removed if the City decides not to take ownership of it.

10. Adjournment

Steve Moore moved to adjourn the meeting at 10:15 p.m. Jim O'Brien seconded the motion. The motion was unanimously approved.