

Newburyport Conservation Commission

May 3, 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, Paul Healy, Steve Moore, Dan Warchol, Doug Muir and Mary Casey and Conservation Agent Mary Reilly.

3. Minutes

Steve Moore moved to approve the minutes of the April 19, 2011 meeting. Doug Muir seconded the motion. The motion was unanimously approved.

4. General Business

New Ordinance and Regulations Status

Andy Port said he is in the process of reviewing the documents. Commission members will hold a meeting to review the comments after they have been received.

Crow Lane Landfill

Joe Teixeira recused himself from the discussion. Mary Reilly said she attended a site visit with members of the City Council. She observed that New Ventures had not installed erosion control behind the large pile of trash. She contacted New Ventures about the issue and will revisit the site. Steve Moore said the erosion control has almost completely failed in the area at the far end near the pipe. Andy Port suggested the Commission might wish to file an Enforcement Order if New Ventures does not address the issues in a timely manner. He will submit a list of the Commission's concerns to the Mayor.

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

City of Newburyport, Department of Public Services

22-24 Merrimac

Andy Port submitted a map showing the locations of the meter pads, bollards and planters in the Waterfront Trust and NRA lots. He also submitted a typical detail of the bollards and meter pad and a map showing the area in which the Linpac was placed. The bollards will have four-foot footings while the footings for the meters only need to be two feet. Doug Muir pointed out the current RDA covers only the Linpac. The letter from Andy Port to the Commission dated May 2 and the attached documents will become a part of the RDA. Mary Reilly said the catch basins must be checked for siltation. She said she recently observed that the fabric was full of debris. The fabric should be maintained and cleaned after every rain event. Mary Casey said care should be taken than when the grate is lifted the fabric and collected material does not drop into the catch basin. Andy Port said the catch basins would be checked periodically over the next one

Newburyport Conservation Commission
May 3, 2011

or two months. He said he would notify Mary Reilly about any maintenance checks and activities. Mary Casey said an RDA would be needed in advance for any future enhancements or work done on the parking lot that is not spot maintenance. She asked about erosion control around the excavation for the meter pads. Andy Port said he thinks the pads have already been poured, but if they have not, erosion control will be installed. Steve Moore to issue a Negative 2 Determination with the conditions discussed. Mary Casey seconded the motion. The motion was unanimously approved. Andy Port said he would forward a list of current DPS projects to the Commission.

City of Newburyport

North Reservation Terrace

Request for Determination of Applicability

Richard Jones said the City wishes to use the Plum Island Point Boathouse as a polling station. An existing 42" elevated walkway must be widened to 48" in order to be ADA compliant. The existing pilings would be used for the new walkway. Currently a path leading to the walkway has been created from plywood sheets being placed on the sand. The City is proposing to replace the plywood with an 80' roll up walkway. Mary Reilly asked about the roll up walkway being removed during the winter. The Coast Guard Auxiliary uses the building monthly and it must be accessible year round. The plan for the walkway has not yet been prepared. Commission members would like to know how the walkway would be installed and what the impact to the dunes would be. The applicant requested a continuance. Steve Moore moved to grant a continuance to May 17. Mary Casey seconded the motion. The motion was unanimously approved.

TEC Associates

Mass. Bay Commuter Rail Right of Way

Request for Determination of Applicability

Klye Fair of TEC Associates said the MBCR is requesting the renewal of the wetland delineation along the commuter rail line right of way. The agency's Vegetation Management Plan expired on December 31, 2010. Its renewal must be accompanied by a renewal of the Determination of Applicability. The determination would allow spraying one time per year along a strip that extends ten feet on either side of the centerline of the track. Mary Reilly said she walked along the track and in one area the wetland is within the spray area. The vegetation along the track must be sprayed due to a fire hazard. The work qualifies for exemptions under 333 CMR 11.00. Paul Healy moved to issue a Negative 5 Determination. Dan Warchol seconded the motion. The motion was unanimously approved.

MassDOT, Highway Division

I-95

Request for Determination of Applicability

MassDOT is planning to replace signs along I-95 between Georgetown and Salisbury. Some of the signs are in the buffer zone to BVW. All of the work will be done from the breakdown lane. Mary Reilly visited the site with Andrea Norton-Wenzel of MassDOT and identified the signs for which erosion control would be required. Steve Moore moved to issue a Negative 3

Newburyport Conservation Commission
May 3, 2011

Determination with condition that erosion control is installed as indicated in the RDA. Mary Casey seconded the motion. The motion was unanimously approved.

Daniel Gobeil

27 55th Street

Request for Determination of Applicability

The applicant is proposing to replace an existing roof and roof deck in kind. No work is taking place on the ground. Mary Reilly said there is not much beach grass on the site. Paul Healy moved to issue a Negative 2 Determination with the conditions that all debris is removed from the site, materials may not be stored on the vegetated portion of the lot and any vegetation that is disturbed must be replaced in kind. Mary Casey seconded the motion. The motion was unanimously approved.

Tom Casey

225 Northern Boulevard

Request for Certificate of Compliance

DEP File #051-0846

Bob Watt appeared for the applicant, who is requesting a waiver from the condition that an as-built plan is provided. A letter was received from an architect stating the work has been done according to his drawings. A plan stamped and signed by a professional engineer was not submitted. Mr. Watt said the letter from the architect should be sufficient as he prepared the engineering drawings and the work was done on an existing foundation. The applicant added a second floor to an existing structure and replaced a porch on a solid foundation with a deck on pilings. The amount of impact was reduced by 158 square feet. The plantings would normally be monitored for two growing seasons and a partial Certificate of Compliance would be issued in the interim. Mr. Watt said the applicants were not required to install the beach grass and they did so on their own. A fence will be installed to protect the beach grass and none was disturbed. Dan Warchol said the before and after photographs showed a difference in the condition of the beach grass. Mr. Watt said this was due to the difference in the seasons in which the photographs were taken. Joe Teixeira asked about the blocks located in the sand and was told they existed previously. Paul Healy moved to issue a full Certificate of Compliance with perpetual conditions that an application shall be filed for any additional work, only native species shall be planted and no lattice or other enclosures shall be installed around the pilings. Doug Muir seconded the motion. The motion was unanimously approved.

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

6. Public Hearings

Antoinette Gentile

8 62nd Street

Notice of Intent

DEP File #051-0865

Bill Decie appeared for the applicant, who is proposing to remove and replace the east side foundation of the structure. The length of this side of the foundation is 30 feet. The material that

Newburyport Conservation Commission
May 3, 2011

must be removed from around the foundation will be stockpile on the western part of the site. Mr. Decie estimated that 25 beach grass plants would be disturbed and will be replaced. He will count the number of plants to be impacted before work begins. A fence will be added along the northern portion of the structure to protect the beach grass. Mary Casey moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

Chris Skiba, Newburyport Development

Browns Wharf

Notice of Intent

DEP File #051-0863

Commission members attended a site visit for which the location of the tanks had been marked. The requested documents have been submitted. A letter was received from John O'Connell stating the three tanks may be removed without causing damage to the bulkhead and a letter was received from Natural Heritage stating the project would not result in any adverse impacts. Enpro provided a contingency plan. A notification about the project was sent to Bob Lynch of the DEP Waterways Division. Larry McCavitt of Chapter 91 Citizens' Committee asked that the Commission not close the public hearing until a response to the letter to Ben Lynch has been received. Joe Teixeira will provide him with a copy of the letter. Doug Muir moved to close the public hearing. Mary Casey seconded the motion. The motion was unanimously approved.

Bud Jerrett

17 Graf Road

Notice of Intent

DEP File #051-0864

The applicant requested a continuance. Dan Warchol moved to grant a continuance to May 17. Steve Moore seconded the motion.

Springwell Investments

Russell Terrace Extension/Crow Lane

Amend Order of Conditions

DEP File #051-0739

Michael Seekamp appeared for the applicant. He said Springwell Investments wishes to amend the Order of Conditions for a 24 lot OSRD. The changes to the plans primarily involve the house design and driveways, but one major change involves Lot 10, which was considered to be retired. The applicant now wishes to develop the lot. Mr. Seekamp said that with the reconfiguration of Lot 9 and the addition of a retaining wall, Lot 10 could be developed without impacting the wetland. Christensen and Sergi is currently reviewing the storm water data and the applicant intends to provide updated plans to the Commission.

Mr. Seekamp said the trees on Lot 10 are too dense and some might be removed to other areas of the subdivision. Steve Moore said that many trees were cut on City property behind Lot A and the trees might be located there. Another area for replanting might be behind Lot 10 where the trees are sparse. Commission members expressed concern about snow removal on Lot 10. The snow should not be pushed into the wetland or the rain garden. A guardrail should be added at the top of the retaining wall and a stone wall could be installed to protect the rain garden. Dan Warchol commented that the rain garden on Lot 9 appears to be smaller than had

Newburyport Conservation Commission
May 3, 2011

been previously proposed. Mr. Seekamp said the house is now smaller, allowing for a smaller rain garden. Joe Teixeira said he concerned that the finger wetlands on Lot 10 are a part of a yard. He said the lots are small and homeowners often attempt to enlarge their properties. Granite posts with medallions could be used to mark the wetlands. Mr. Seekamp asked for a vote on the development of Lot 10. While a vote could not be taken at this point in the public hearing, some Commission members said they would not be opposed to the plan as long as certain conditions are met. They want the wetlands and rain gardens to be appropriately protected, the finger wetlands to be marked with monuments and trees from Lot 10 to be replanted. Steve Moore suggested re-orienting the house on Lot 10. The retaining wall might be made larger to discourage intrusion into the wetlands. Mary Reilly suggested members express their suggestions and concerns in writing for the Planning Board. Joe Teixeira said he is not in favor of the plan. He is concerned about the additional impervious surface and the location of the structure near the beginning of Little River watershed. Mary Reilly would like Commission members to review the older subdivision documents. Members would like to receive information on the maintenance responsibilities of the Homeowners' Association and an O & M plan for storm water.

Jerry Mullins said the Parker River Clean Water Association would like trees to be planted in a way that would buffer the Little River Natural Trail from the development. Joe Cheever, 89 Storey Ave, asked about a potential impact to trees along Russell Terrace.

Mr. Seekamp asked if some work could begin to take place. The silt fence and haybales need to be replaced. The design would be the same except for around the finger wetlands. He also would like to begin the wetland mitigation. Mary Reilly said she would like the limit of work to be delineated. These three tasks may be started. Joe Teixeira asked about connecting the mitigation wetland to the other wetlands. Mr. Seekamp said it might be possible to dig through the berm by hand. The plan for the wetland is a part of the original package, but the plan for the hydrolic connection was not and must be included. Steve Moore moved to continue to the public hearing to May 17. Dan Warchol seconded the motion. The motion was unanimously approved.

Tim Tracy

28 53rd Street and Multiple Lots

Notice of Intent

DEP File #051-0860

The applicant has requested a continuance. Paul Healy moved to grant a continuance to the June 7, 2011 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

National Grid

95 Water Street

Mary Casey recused herself from the discussion. Matt Kelly of Vanasse Hangen Brustlin discussed the proposed demolition of five unused buildings and the removal of electric infrastructure. One foot of soil beneath the structures and 9 cubic yards of contaminated soil are also being removed. The buildings are located a resource area: they are in the floodplain, on land subject to coastal storm flowage and within the 100-foot buffer zone and the riverfront area. The soil will be removed from the site as soon as possible. A site visit will take place on May 12 at 6:00. Jerry Mullins, 7 Parsons Street, representing the Coastal Trails Coalition, asked if the

Newburyport Conservation Commission
May 3, 2011

contaminated soil would impact the Rail Trail. Mary Reilly said she would inform Geordie Vining of the project. Bob Chadwick of the American Yacht Club said he is concerned about the sea wall, which is eroding very quickly. Steve Moore said the Commission is not able to require National Grid to repair its wall. Steve Moore moved to continue the public hearing to May 17. Mary Casey seconded the motion. The motion was unanimously approved.

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

7. Enforcement

John and Cynthia Palladino

23 Philips Drive

A wooden retaining wall was installed along the bank of an intermittent stream. Fill was added along the wall in order to widen the driveway. Trees have been cut and it appears that the homeowner intends to add more fill. Mary Reilly told the homeowner to stop the work and recommended that he hire a wetland scientist. He attended the meeting before the issue was discussed. Paul Healy moved to issue an Enforcement Order requiring a Notice of Intent to be filed by June 7 so that the issue might be on the agenda for the June 21 meeting. Under the Enforcement Order, the homeowner will be required to hire a wetland scientist to delineate the wetland. The Notice of Intent must include an assessment, a restoration plan, and a timeline for the completion of the work. Steve Moore seconded the motion. The motion was unanimously approved.

Marc Emmons

9 Doe Run Drive

Joe Teixeira recused himself from the discussion. An Enforcement Order was issued for adding topsoil in the buffer zone to the BVW. The Enforcement Order required a Notice of Intent be filed by November 2, 2010. Mary Reilly contacted Mr. Emmons, who said he intends to file the Notice by May 24. She did not receive a receipt indicating how much fill had been delivered as she requested.

8. Orders of Conditions

Chris Skiba, Newburyport Development

Browns Wharf

DEP File #051-0863

Mary Reilly distributed a draft Order of Conditions. Paul Healy suggested that the contingency plan for the repair of the bulkhead be added to the list of documents on page one of the conditions. Dan Warchol moved to issue an Order of Conditions with the special conditions that John O'Connell is on site at the time of the excavation to ensure the stability of the bulkhead and the Commission is copied in a timely manner on any NCP notifications. Mary Casey seconded the motion. The motion was unanimously approved.

Antoinette Gentile

8 62nd Street

DEP File #051-0865

Newburyport Conservation Commission
May 3, 2011

Dan Warchol moved to issue an Order of Conditions with the special conditions that materials must be stockpiled on eastern side of the site, any disturbed beach grass will be replaced in kind, no new footings may be installed and the Commission must be notified if more repairs than expected are needed.

9. Adjournment

Steve Moore moved to adjourn the meeting at 10:15 p.m. Paul Healy seconded the motion. The motion was unanimously approved.