

Newburyport Conservation Commission

August 16, 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, Steve Moore, Dan Warchol, Mary Casey, Paul Healy and James O'Brien and Planning Director Andy Port.

3. Minutes

Paul Healy moved to approve the minutes of the July 19, 2011 meeting as submitted. Dan Warchol seconded the motion. The motion was unanimously approved.

4. General Business

Mayor's Proposal for a Single Conservation Agent

Joe Teixeira said the Mayor intends to inform the City Council that she wishes to withdraw her proposal for sharing services with the Newbury Conservation Agent. He said she plans to investigate the possibility of a regional coordinator. Another option might be that an agent would be hired for 25 hours per week with the Conservation Commission paying for five of those hours. Dan Warchol said that while he would be willing to consider any proposal, the Commission's reservations about the Newbury plan would apply to any plan for shared services. Steve Moore said that an agent working 20 hours each in Newburyport and in a second town would be an improvement over the Newbury plan, where the agent currently works 35 hours. Joe Teixeira said the position in Newburyport requires more than 20 hours per week. Mary Casey asked why the Mayor believes sharing services is beneficial. Andy Port said the town of Newbury would have paid for the health benefits of the agent under the previously proposed plan.

DEP Site Visit

4-6 Hale Street

Andy Port said the neighbors did not file an appeal, but DEP has issued a Superceding Order of Conditions. He said DEP questioned if conditions #39-40 should be handled under a separate Notice of Intent and this must be determined in the field. A site visit is planned for Friday, August 19 at 10:00 a.m.

Plum Island Beach Access

Joe Teixeira said large stones are being found in sand that was deposited on Plum Island. He is concerned they might damage the coir bags. Andy Port said the sand was within the parameters of what is acceptable for Plum Island in terms of grain size, although it was to have been sifted.

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

Joe Teixeira

44 Hale Street

Request for Determination of Applicability

Joe Teixeira recused himself from the discussion. The applicant removed six white pines that had grown too large for their location near the house and one quaking aspen that was failing. A contractor had been scheduled to remove the trees after the matter was heard at the August 2 meeting, but the meeting was cancelled due to the lack of a quorum. The trees will be replaced with four quaking aspens and four evergreen trees. Dan Warchol moved to issue a Negative 2 Determination with the condition that the silt control is maintained throughout the planting phase. Paul Healy seconded the motion. The motion was unanimously approved.

City of Newburyport

1 Crow Lane

Request for Determination of Applicability

Composting Operations

Molly Ettenborough said that wetland scientist Marc Jacobs determined the proposed site of the composting facility is outside of the resource area and is non jurisdictional. Joe Teixeira said that at the site visit Commission members had indicated they would like the clearing activities to be further from the vernal pool. He said the vernal pool is the largest and most active in the city and he would not like it to be negatively impacted by a City project. Ms. Ettenborough agreed to increase the distance between the composting facility and the vernal pool. She said she is in favor of Steve Moore's proposal to use a portion of the existing Crow Lane right of way along the base of the landfill in order that fewer trees might be removed. Joe Teixeira suggested that some of the small trees from the cleared area be transplanted to another location on the site. Paul Healy moved to issue a Negative 2 Determination. Mary Casey seconded the motion. The motion was unanimously approved.

Springwell Investments, LLC

Russell Terrace Extension

Request for Minor Modification

DEP File #051-0739

Michael Seekamp appeared for the applicant and said the plans were changed in response to comments made by the Planning Board. Also, the Order of Conditions required the applicant to return to the Commission if approval was not granted to plant the trees from Lot 10 on City land. The Planning Board requested that the trees remain on the site and they will now be distributed along the edge of the buffer zone to the wetland. Other changes are: 1) the turnaround for the driveway on Lot 10 has been made larger, 2) 25 shrubs were added to screen the Little River nature trail from Lot 10, 3) the specifications for the rip rap for the constructed wetland #2 have been revised to be consistent with those for the spillway for constructed wetland #1, 4) minor revisions were made to the rain garden and it was added to hydroCAD calculations, 5) four witch hazels were added below the retaining wall on Lot 10, 6) more trees were added near the entrance of the development and 7) monuments will be added as discussed at the May 17

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meeting. Paul Healy said the changes could be considered to be minor because the issues have been discussed at past meetings. Steve Moore moved to accept changes that were approved by the Planning Board. Paul Healy seconded the motion. The motion was unanimously approved.

Norman Day / DLI Properties

10 Perry Way

Request for Certificate of Compliance

DEP File #051-0610

The applicant said former Conservation Agent Tracy Peter had requested that additional shrubs be planted in one area of the site. The work was completed and the applicant thought Ms. Peter had issued the Certificate of Compliance. The vegetation has become established and the work is consistent with the plan of record. Paul Healy moved to issue a Certificate of Compliance. Dan Warchol seconded the motion. The motion was unanimously approved.

Thomas Litle

6 Bayne Lane

Minor Change to Order of Conditions

DEP File #051-0868

The applicant did not appear but wishes to significantly change the location of the proposed pool. Steve Moore said the location of the trees in relation to the pool is not clear. A second site visit will be necessary.

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

6. Public Hearings

Scott Kinter

1 Lancaster Road

Notice of Intent

DEP File #051-0870

Mary Casey recused herself from the discussion. The applicant said he made the requested changes to the plans: the patio was reduced by five feet, two infiltration chambers were added and trees were marked with ribbons to indicate the limit of work. Loree Hazard, 3 Lancaster Road, said the USGS map indicates there is a perennial stream on the property and the area is always wet. Patty Durgan, 16 Shandel Drive, said she is concerned about the number of trees to be removed. She said the lot is the last vacant one on the street and provides a habitat for wildlife. She also said the stream has been diverted underground. Tracy Byers, 21 Shandel Drive, said the Perkins Park streambed is being altered and the impacts should be understood before other changes are allowed that might cause flooding in the neighborhood. Steve Moore pointed out the water is flowing towards, not away from, Perkins Park. David Durgin, 16 Shandel Drive, said a change in the flow at the bottom stream would impact the flow at the top of the stream and he would like DEP to look into the matter. Loree Hazard said she and her husband, Steve Hazard, asked questions in a letter dated August 16, 2011, that they would like to have answered. Paul Healy said the main issue seems to be if the stream is perennial or intermittent and while it is shown on the USGS map, the applicant has provided data for four

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days with no flowing water, which determines it is intermittent. Steve Moore added that a USGS map showed a perennial stream on Parker Street but the site was dry when visited by the Commission. Dan Warchol asked how the project would be impacted if the stream were determined to be perennial. Andy Port said the work would be allowed but the applicant would be required to offset the impact. He also said the presence of a perennial stream was not indicated in a 2008 application in the same neighborhood. Steve Moore moved to close the public hearing. Paul Healy seconded the motion. The motion was unanimously approved.

7. Enforcement

None

8. Orders of Conditions

Scott Kinter

1 Lancaster Road

Notice of Intent

DEP File #051-0870

Steve Moore moved to issue an Order of Conditions with the conditions that a line is run between the six trees that have been marked by ribbons to delineate the line of work and the line stay in place until the construction is complete and granite markers are installed to permanently mark the no disturb zone. Dan Warchol seconded the motion. The motion was unanimously approved.

9. Other Business

Crow Lane Landfill

Informal discussion

Joe Teixeira recused himself from the discussion. Mary Rimmer asked Commission members to comment on the mitigation plan for the landfill. The plan has not yet been submitted to DEP. She said she is proposing a standard wetland replication. The proposal includes treatment for an 18,000 square foot stand of phragmites. The invasive would be treated with an herbicide in the fall and cut and removed two weeks later. The treatment would be repeated in the spring. She suggested the cut material might be removed to the compost site. There was a concern that this would allow the phragmites to spread. The item will be on the agenda for the September 6 meeting.

10. Adjournment

Steve Moore moved to adjourn the meeting at 8:30 p.m. Mary Casey seconded the motion. The motion was unanimously approved.