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**Re: Frog Pond Restoration Project - Questions and Comments**

1 message

**Joseph Morgan** <jmadisonmorgan@gmail.com>

Fri, Dec 22, 2023 at 10:42 AM

To: Kimberly Turner &lt;KTurner@cityofnewburyport.com&gt;

Cc: Andrew Levine &lt;ALevine@cityofnewburyport.com&gt;, James J. McCauley &lt;JMcCauley@cityofnewburyport.com&gt;, Connie Preston &lt;CPreston@cityofnewburyport.com&gt;, Jennie Donahue &lt;JDonahue@cityofnewburyport.com&gt;

Dear Ms. Turner,

Thank you for your response to my November 14 email regarding the proposed alterations to the Bartlet Mall and Frog Pond. Per your recommendations I have watched the recordings of the Conservation Commission and Planning Board meetings and reviewed the responses to questions from the Community Services Committee. The following are my findings relative to the questions that I asked you in my email:

*1) Pond habitat: based on comments offered by Professor Vladimir Novotny, there was no survey of pond habitat performed by environmental biologists to determine the impact on aquatic wildlife in and around the pond. Without that information it seems that no one would be able to report on damage that might be inflicted on amphibian populations when the pond is de-watered and the sediment graded and capped. Why was such a survey not conducted prior to project design?*

I found no answer to, and very little discussion of, this question from the Conservation Commission. The Notice of Intent was drafted without including habitat impact. Consequently, the City did not conduct a survey of animal and plant habitat so that it could be included with other “scientific evidence” used in the basis of design for alterations to the Frog Pond. Professor Novotny states in his September 5 presentation to the Community Services Committee that turtles inhabit the pond and are considered an endangered and protected species. I did hear concern expressed by the CC for the turtle population (hence an acknowledgement of animal habitat) once dewatering commences, but not enough to recommend an action plan such as a survey or rescue/relocation. Furthermore, The Secretary of the Interior Standards “Guidelines for Rehabilitating Cultural Landscapes” recommends documentation of plant and animal life during the survey of water feature existing conditions. <https://www.nps.gov/crps/tps/landscape-guidelines/preserve/water.htm>

*2) Pumphouse: the original approved design for water recirculation was a pump housed in a concealed vault. Since that time the equipment scope has grown to the point where a 14-foot by 14-foot equipment room is needed to accommodate it. Moreover, that expanded footprint must now be housed in an architecturally designed pumphouse to make it compatible with the courthouse, as was discussed with the Planning Board. Based on a conversation with Professor Vladimir Novotny, I am concerned that the current equipment scope is overdesigned. The nanobubbler certainly seems excessive for natural pond restoration of this scale. Can examples be provided of other pond habitats that have been restored using a similar pumphouse design with similar equipment?*

I found no answers to this question either from the meetings of the Conservation Commission, the Planning Board or the Community Services Committee. The latter asked the question about the design team’s experience but I noted no response giving other similar projects as examples. I have not found on the GEI and Aqueous Consultant websites examples of similar historical urban pond restorations (or any environmental pond restoration) demonstrating documented success with the proposed design and equipment. Nor did I once hear the GEI and Aqueous team members at the meetings refer to other projects to demonstrate proposed design principles or successful application of same. Based on my professional experience, I find it highly unusual to have hired

engineering consultants without having verified project-relevant experience. The engineering consultants appear to have considerable experience with environmental remediation caused by industrial pollution, larger civil projects and new park or recreational water features – but not with sensitive existing natural pond habitat within historic cultural landscapes.

*3) Granite bench wall: I have been perplexed by the granite bench wall since I read the specification in the August bid documents. What had been originally reviewed and approved as a granite edge curb has become a raised basin wall. There appears to be no reason, functional, aesthetic, or historic as to why this change was made nor any consideration for the budget impact that it carries. How does this granite wall contribute to the project goals of pond water remediation?*

There was a brief reference to the granite bench wall by Carol Wagan in the Conservation Commission’s meeting of May 16. Apparently, it was changed from the flush granite curb of earlier presentations (see rendering) to a raised granite block wall to keep out geese and ducks. This seems like an extreme solution to a problem for which other far less costly solutions are available – the granite wall has a \$600,000 price tag. It will deter other amphibian wildlife from returning to the pond since it forms a barrier between the beach and water. Finally, it is incompatible with the original Charles Eliot design for the pastoral landscape around the pond.



*4) Dock: why is there a dock and how does it contribute to pond water remediation? The dock poses a drowning hazard for children; there is a playground just above it on the embankment.*

Much discussion centered on the dock in the Conservation Commission meetings. Most seemed to be concerned with its weight, the details for rolling it in and out of the pond, and how it fits over the recirculation pump inlet pipe. One commissioner mentioned the public safety hazard but there was no serious response or follow up discussion concerning controlled dock access, rails, life vest storage, lighting, etc.

Also, the boating program is mentioned in Question 33 from the Community Services Committee. Your response refers to the 2016 pro forma report. In that document it assumes that revenues will be able to offset pond operating cost and maintenance. However, the “comparables” cited are much larger bodies of water in more dense communities (e.g. Manhattan’s Central Park) and in no way guarantee sufficient market analysis to suggest that there is sustainable interest in a boating program on a small historical green.

My general impression is that the dock idea has not been well thought out either from the public amenity side nor from the City finance/revenue side.

*5) Historical landmark status: has the Massachusetts Historical Commission reviewed the project? The project intends to considerably alter this historic and cultural landscape that is cited both as a State and National landmark and recorded in their landmark registries. MHC is required to review any project that receives funding, licensing or permits by State or Federal agencies.*

I reviewed your August 30 document summarizing project permits and do not see the Massachusetts Historical Commission cited. Whereas the project may have been exempted from permitting by MEPA and the US Army Corps of Engineers, it will be receiving State funds through the CPA which should trigger review by MHC. The MHC website states "...However, MEPA's thresholds do not apply to MHC's review of state funded or licensed projects. In general, all projects that require a permit, license or funding from any state agency must file a Project Notification Form (PNF) with the MHC, regardless of whether they trigger a MEPA threshold."

Based on my further review of the project, it is clear that there has been a change of project scope. In presenting the project to the Historical Commission in early 2022 there was little or no discussion of the intended recreational use. Indeed, the fact that the parks department was seeking CPA funds in the Historical Preservation category implied that the project goals were a sensitive and light-touch remediation of the pond while respecting the historical park design and existing plant and animal habitat. The Newburyport CPC evaluation criteria for this category states "Protect, preserve, enhance, restore and/or rehabilitate city-owned properties, features or resources of historical significance." The current solution does not conform to the requirements of historical preservation assuming that the pond was to remain a city park water feature for contemplation and passive enjoyment.

Since early 2022 there has been a shift away from the historic preservation goal toward recreational use of the pond. This would explain the heavy-handed approach to the engineering solution of capping the pond and adding complicated recirculation, a deep well and excessive aeration, thus destroying the existing pond ecology. The Parks and Conservation Commissions are used to working in tandem to provide much needed and valuable recreational amenities to the citizens of Newburyport. However, the current design, emphasizing recreation over preservation, threatens the historical town green in ways that are disrespectful of the peace, dignity and tradition of a much beloved community landmark.

Regards,  
Joe Morgan  
55 Hill Street

On Tue, Nov 28, 2023 at 11:40 AM Kimberly Turner <[KTurner@cityofnewburyport.com](mailto:KTurner@cityofnewburyport.com)> wrote:

Mr. Morgan,

I am in receipt of the email describing your concerns regarding the Bartlet Mall Restoration Project. I hope you can appreciate the time and effort that has gone into this project: looking at this centuries-old problem from every angle and assessing the proposed solution based on scientific evidence obtained by months of on-site testing and current technologies available to us, and ensuring that all regulatory agencies are satisfied that the solution balances ecological, historical and recreational needs against costs, long-range success and maintenance burden. No design decision has been taken lightly with regard to this project.

Indeed, every one of your proposed questions have been answered, in some cases multiple times, in public meetings and public documents. I encourage you to look on the City's website, under the Parks Commission page, where there is a tab dedicated to the [Bartlet Mall Restoration Project](#). There you should find answers to your questions. In particular, I point you to the responses to the 33 questions that the Community Services Committee posed to the design team. A recording of that meeting can also be found [on-line](#). I also encourage you to read the minutes or watch the meetings of the Conservation Commission's 5/2, 5/16, 6/6 and 7/18 meetings as well as the Planning Board's 7/19 and 8/16 meetings.

It is false that the originally approved granite edge was 6" height. From the earliest application to the Community Preservation Committee (as was sent to you via Historical Commission Chair Richards on 9/14), you can see that all renderings and application documents refer to a seat-height edge.

Sincerely,

Kim D Turner (*she/her*)

Manager of Special Projects

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**From:** Joseph Morgan <[jmadisonmorgan@gmail.com](mailto:jmadisonmorgan@gmail.com)>

**Sent:** Tuesday, November 14, 2023 7:36 PM

**To:** Kimberly Turner <KTurner@CityofNewburyport.com>

**Cc:** Andrew Levine <ALevine@CityofNewburyport.com>; James J. McCauley <JMcCauley@CityofNewburyport.com>; Connie Preston <CPreston@CityofNewburyport.com>; Jennie Donahue <JDonahue@CityofNewburyport.com>

**Subject:** Frog Pond Restoration Project - Questions and Comments

Dear Ms. Turner,

After being introduced to the Frog Pond Restoration Project via my volunteer work with the Historical and Community Preservation Commissions, I most recently have followed the project by attending Planning Board and Community Services Committee meetings and reviewing the design documents issued for bidding. Whereas I am a supporter of the project's goals to clean the pond water, abate any serious source(s) of contamination and restore a healthy ecosystem, I am perplexed at certain aspects of the design, which I feel are extraneous to these goals. I have spoken to many others of my concerns but, as project manager, you are the best source for responding to my specific questions and comments since you know the entire history of the project. I would be most grateful for any further details you might provide regarding the following issues:

1) Pond habitat: based on comments offered by Professor Vladimir Novotny, there was no survey of pond habitat performed by environmental biologists to determine the impact on aquatic wildlife in and around the pond. Without that information it seems that no one would be able to report on damage that might be inflicted on amphibian populations when the pond is de-watered and the sediment remediated through dredging and capping. Why was such a survey not conducted prior to project design?

2) Pumphouse: the original approved design for water recirculation was a pump housed in a concealed vault. Since that time the equipment scope has grown to the point where a 14-foot by 14-foot equipment room is needed to accommodate it. Moreover, that expanded footprint must now be housed in an architecturally designed pumphouse to make it compatible with the courthouse, as was discussed with the Planning Board. Based on a conversation with Professor Vladimir Novotny, I am concerned that the current equipment scope is overdesigned. The nanobubbler certainly seems excessive for natural pond restoration of this scale. Can examples be provided of other pond habitats that have been restored using a similar pumphouse design with similar equipment?

3) Granite bench wall: I have been perplexed by the granite bench wall since I read the specification in the August bid documents. What had been originally reviewed and approved as a granite edge curb has become a raised basin wall. There appears to be no reason, functional, aesthetic, or historic as to why this change was made nor any consideration for the budget impact that it carries. How does this granite wall contribute to the project goals of pond water remediation?

4) Dock: why is there a dock and how does it contribute to pond water remediation? The dock poses a drowning hazard for children; there is a playground just above it on the embankment.

5) Historical landmark status: has the Massachusetts Historical Commission reviewed the project? The project intends to considerably alter this historic and cultural landscape that is cited both as a State and National landmark and recorded in their landmark registries. MHC is required to review any project that receives funding, licensing or permits by State or Federal agencies.

In general, from my perspective, there appears to have been substantial scope creep associated with the Frog Pond Restoration Project. Without survey data of the pond's habitat and clear project goals for accommodating an existing ecosystem, I am concerned that the pond has been labeled as a "toxic site" to be decontaminated and sterilized by the design team. I have heard remarks about the lack of relevant experience on the part of the engineering consultants, and it alarms me to think that the City may be implementing the wrong solution for "restoring" this cultural and historic landmark. I hope that there might still be an opportunity to circle back, review the project goals with all stakeholders, and have the entire design reviewed by experienced consultants in aquaculture restoration. A simpler, more cost effective, and eco-friendly solution may be identified that will save Newburyport, as well as Massachusetts, taxpayers a lot of money.

I thank you in advance for your knowledgeable assistance in this matter.

Respectfully,

Joe Morgan

55 Hill Street