

**MINUTES FOR THE JANUARY 8, 2003 CONSERVATION COMMISSION MEETING
PORTSMOUTH, NEW HAMPSHIRE
1 JUNKINS AVENUE
Conference Room "A"**

3:30 p.m.

January 8, 2003

MEMBERS PRESENT: Chairman Alanson Sturgis; Members Carlton McNeil; Allison Tanner; Brian Wazlaw; Don Green; Charles Cormier; J. Lyn Walters; and, alternate Steve Miller

ALSO PRESENT: Peter Britz, Environmental Planner

ABSENCE EXCUSED:

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1. Acceptance of minutes from meeting of December 11, 2002

Mr. Green made a motion to approve the minutes from the December 11, 2002 meeting and Mr. Walters seconded the motion with the following amendments:

On page 2 third paragraph should have reflected that the geese would also eat the newly planted sea grass.

On page 2 under #3 Other Business, the second sentence should also have included that a copy of a brochure from the Shore and Protection Act be mailed to the developers and the residents at Tuckers Cove.

Let the record reflect these changes have been made.

The motion passed unanimously with a 7 – 0 vote.

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**2. Wetlands Bureau permit application:
a) Esther Kennedy for Pickering Avenue**

Chairman Sturgis stated that four members of the Commission inspected the property; however, there is no one present to speak to the application. He stated the request is made because the existing pier has deteriorated as well as the ramp and pilings. Ms. Kennedy is also proposing to rip rap her shoreline to help eliminate ongoing serious erosion problems.

Chairman Sturgis stated we have received a letter from Marsha McCormack of 53 Salter Street in opposition that was read into the record which had the following thoughts: "Her property abuts this property and is separated by a narrow creek. It is true that the project would repair the shoreline and the pier would be an improvement over what is existing. She feels that if the property was used for purposes other than Ms. Kennedy's personal enjoyment it would become a different proposal. The old wharf has been replaced recently; however, this property has not been used commercially and been "left to decay" for many years. The proposal represents that five of the six abutters have a dock of one sort or another; with one exception. The docks provide a small access for a one boat use and are used by the homeowner. Ms. McComack added that this area is an "old densely populated area" and what is being done as neighbors has a direct impact on all of the abutters and she asked that all possibilities of the application be taken into consideration when making a decision".

Chairman Sturgis stated that he feels the proposed dock looks like a perfectly good project to him. The area is zoned Waterfront Business. Ms. Kennedy plans to rent slips to the neighbors. Mr. Britz stated that Ms. Kennedy has been renting slips right along and there are commercial docks along this shoreline. The area is zoned for Waterfront Business and is perfectly legal.

Mr. Britz stated the State feels this is a grandfathered dock. This would not be built as a new project because only one slip per 75 feet of the shoreline would be allowed. This is a grandfathered use; therefore, the owners can have what they had prior to this application.

Chairman Sturgis as well as Mr. Green stated they had no objection to the proposal.

A motion was made and seconded that a favorable recommendation be made to the wetlands bureau and all agreed with a 7 – 0 vote.



**3) Conditional Use permit application
Kelly Property for Woodbury Avenue**

NOTE: This application will not be acted upon unless the report of the independent wetlands scientist has been received.

Chairman Sturgis stated that he did not have a report from the Independent Wetlands Scientist and that the application should be tabled until we have that report from the scientist. Because of the current weather conditions, it may be a long time before the snow has melted.

There are 2.3 acres that is being proposed to be filled and the Commission members felt that the application was similar to the Kentucky Fried Chicken application that has never been completed.

Chairman Sturgis stated the motion should be to postpone the application pending receipt of a report from the Independent Wetlands Scientist. There is nothing else we can do until we have that information.

Mr. Britz stated this application would also require a Variance from the Board of Adjustment.

Ms. Tanner made a motion to table this application pending a report from the Independent Wetlands Scientist and was seconded and approved unanimously with a 7 – 0 vote.



4) Other Business

Chairman Sturgis stated there has been a request made to the City Council for the City to enact an Ordinance on regulating piers. Newcastle has such an Ordinance; however, he added he did not feel a need for a City Ordinance to regulate piers was in order since the State regulates piers fairly closely. The Core of Engineers also monitors these piers. Newcastle Ordinance concerns itself with the aesthetics of the pier and feels this would just open a can of worms that will be pounced on by Attorneys. Chairman Sturgis stated he did not know how you could judge the aesthetics of a pier unless it was painted bright red. The Planning Board has been asked for a recommendation to be made to the

Council on this subject since somebody is going to want to know what the Conservation thinks about having such an Ordinance. He added that he never heard of a complaint from anyone regarding the piers. The City requires a Building Permit.

Ms. Tanner asked who would determine if a pier was unsafe. Chairman Sturgis stated he felt that the Building Inspector would have jurisdiction over whether a pier was safe or not.

Mr. Britz stated the State has written a draft local ordinance for docks and piers and feels it was developed for the lakes regions; he added that he would have a copy available for the Commission to review so that we can make a recommendation to the Planning Board.

Chairman Sturgis stated he feels that to have an Ordinance for docks and piers would be a totally unnecessary regulation. Everything is working fine with the way we have been handling these type situations. If the Planning Board wants a recommendation from the Commission, the Commission feels that it is totally unnecessary for the City to regulate piers.

Mr. McNeil made the motion and Ms. Tanner seconded that it is a totally unnecessary regulation and that they have no role in this regulation. The Commission feels that the current procedure is working fine and that they should continue to make recommendations to the Planning Board

Mr. Britz stated he feels that the Commission will rely on the rules in place by the State and in this way, the City would have adequate control.

Chairman Sturgis stated that the City Arborist position is still up in the air; however, Brad Lown has indicated that he is still interested in this position. Chairman Sturgis stated he feels strongly that we need an Arborist or someone who is impartial before trees are taken down. The Arborist needs to be a resident of the City and will be appointed by the City Manager. Dick Adams has indicated he would also be interested in this position.



5) Next scheduled meeting:

The next scheduled meeting will be held on February 12, 2003 at City Hall in Conference Room "A"



6) Adjournment

There being no further business to come before the Commission, the motion was made and seconded and approved unanimously to adjourn at 4:15 p.m.

Respectfully submitted,

Joan M. Long
Planning Department Secretary

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