

**MINUTES
CONSERVATION COMMISSION**

**1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

3:30 p.m.

April 8, 2015

MEMBERS PRESENT: Chairman Steve Miller; Members, Allison Tanner, Barbara McMillan, Elissa Hill Stone; Alternates, Matthew Cardin

MEMBERS ABSENT: Peter Vandermark, Kimberly Meuse, MaryAnn Blanchard

ALSO PRESENT: Peter Britz, Environmental Planner/Sustainability Coordinator

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I. APPROVAL OF MINUTES

1. March 11, 2015

It was moved, seconded, and passed unanimously (5-0) to approve the minutes as amended.

II.

A. City of Portsmouth Drinking Water Well Discussion

Brian Goetz, Deputy Director of DPW for the City of Portsmouth was present to brief the Commission on the state of a Portsmouth drinking water well. He stated that Haven Well (Pease) needs to be replaced. It was contaminated last year and had to be shut down. In order to have adequate supply in the future, the Air Force has agreed to fund the clean-up and reopening of the well. In 2008-2009, Emery and Garrett Groundwater conducted a comprehensive study of potential groundwater sources/supply. At the time, the study was conducted for long-term planning, however it has become a very useful and needed tool in the current determination. The investigation identified a number of properties as possibilities for a well. They have also completed site work and desk-top analyses. Al Pratt, Water Resources Engineer with the City of Portsmouth and John Brooks with Emery and Garrett Groundwater were also present to brief the Commission. Mr. Brooks stated that there are a couple of sites in Greenland they are investigating and three sites on conservation property. Granite underlies some of these sites and that would require a method such as fracturing to extract the water. Geophysical surveys have also been done. They've also included remote sensing, satellite imagery and other technologies in the analysis. The program to locate potential wells has been a rigorous one. A color map of the Proposed Exploratory Test Well Targets was passed out. Since they are exploratory

test wells, they are trying to keep the cost down for creating an access road. They will use timber mats for crossing the wetlands. There was discussion regarding the repair work that Eversource is conducting in the same area.

Chairman Miller suggested contacting Eversource to see if they might be able to combine access routes. Mr. Britz stated that the work that Eversource was doing may have already been completed, but that it is worth contacting them.

Ms. Tanner stated that Eversource will be taking measures to avoid the spread of Phragmites. She asked that the City do the same in locating the new well. She also inquired if their work would impact the drainage of the wetland.

Mr. Brooks stated that it would not affect the drainage of the wetland. Measures they are taking include the use of a 6" air hammer, a silt fence and possibly a mud or settling pit. They will look at the water quality sampling of the wells (for VOC's, etc.) and choose one. A 5-day pumping test is required by NH DES. They will monitor water levels in the test wells as well as domestic wells in the area. They will install piezometers in the wetlands. They will also look at surface water flow to determine if there are changes. Mr. Brooks stated that the water pumped during the test will be put far enough away from the well so that they are certain it is not recharging the well. The water removed during testing is put into surface water.

Chairman Miller stated that there is a beaver pond in the vicinity.

Mr. Britz stated that the water flows towards I-95 in this area.

Mr. Brooks referenced the handout which included state regulations and a timeframe for large groundwater withdrawal applications. There will be a preliminary report stating what is needed, what is proposed and why the City is doing this. Notices will be sent at that point to nearby municipalities who can request a public hearing so the public has an opportunity for input. Additional test wells may be required at this point if nothing satisfactory is found. Subsequently, the long-term pumping test is conducted. The data is reviewed and analyzed. Then the applicant submits a final report. The public can give input at this point again in a public hearing.

Ms. McMillan inquired if information was obtained on whether PSNH has used herbicides on the power lines.

Mr. Cardin stated that PSNH has not used herbicides since the 1990's.

Chairman Miller stated that his preference is that they not use the flooded road for access. These roads are an important part of the amphibian breeding cycle, but if they are the only, or best choice, he understands this.

Mr. Brooks inquired as to how long the breeding cycle lasts.

Mr. Cardin stated that the vernal pool breeding season lasts into early summer and then it is turtle breeding season. But a turtle sweep could be done after vernal pool season has concluded.

Mr. Goetz stated that they are probably 2- 3 months out. It may be fall before they are ready.

Ms. Stone inquired if it was possible to do the work in winter.

Mr. Brooks stated that this would be possible.

Mr. Cardin inquired if 5 days is enough time to do the drawdown test.

Mr. Brooks stated that the time-frame may need to be extended if the well is not performing well. He also stated that the state may require long-term monitoring (before and after the well is installed) particularly if the well is of high value. These things can determine long-term impact.

Chairman Miller thanked Mr. Pratt, Mr. Brooks and Mr. Goetz for their presentation and for keeping the Commission in the loop.

III. CONDITIONAL USE PERMIT APPLICATIONS

- A. 2299 Lafayette Road
Rye Port Properties, LLC, owner
Assessor Map 272, Lot 10

(This item was postponed at the March 11, 2015 meeting to the April 8, 2015 meeting.)

Mark Gross, MFH Design Consultants was present to speak to the application. Luke Hurley of Gove Environmental was also present to speak to the application. The hired independent wetland consultant was at the site today. They were not able to make a final determination on a portion of the site in regards to the wetland delineation and whether the 2004 line is acceptable due to an area of gravel in which the augers were not able to penetrate. The applicant requested that the Conservation Commission hold a special meeting prior to the Planning Board meeting on the 30th so the Commission can provide the Planning Board with a recommendation for this application. They will be able to use the auger to obtain soil samples and will complete the wetland delineation prior to the special meeting. However, regardless of where the delineation is, the most important thing is the impact within the 100' foot buffer and that is a known quantity at this point and it is limited to 1,440s.f. None of the impact is pavement or structure; it is all slope work within the 100' buffer.

Chairman Miller stated that soils should be one of many indicators of a wetland not the sole determining factor. It seemed that soils were the determining factor in the applicant's early assessment. There is more to the delineation than he originally understood.

Mr. Hurley of Gove Environmental Services addressed the concern Chairman Miller had stating that the presence of hydrology, the presence of hydric soils and 50% or greater wetland vegetation are the 3 parameters that must be present and taken into consideration in order to determine whether a site is a wetland. They looked at all 3 parameters. They are scheduled for next Wednesday to get a backhoe out to the site and dig a few holes and make a determination about the wetland.

The 27th, 29th, or 30th was discussed as possible dates for holding a special Conservation Commission meeting with the applicant.

Ms. Tanner stated that if the 2004 line was to be considered the delineation, the Commission could move forward with the application immediately.

Mr. Gross stated that this is a possibility. However, the 2004 line puts the dumpster and the pavement back into the 100' wetland buffer. They are pretty limited for areas in which the dumpster and the pavement can be located. The building would not be located in the 100' wetland buffer.

Chairman Miller stated that this is an option that should be considered.

Mr. Britz stated that the applicant doesn't have a plan that depicts the impacts to the buffer for the 2004 delineation line. The application could be postponed until April 29th, 2015. However, there must be a quorum present in order to vote on the application. If there is not, it must be postponed until the next Conservation Commission meeting.

Chairman Miller asked if there were any further questions for the applicant. Hearing none, he asked for a motion.

Ms. Tanner made a motion to postpone consideration of the application for a Conditional Use Permit to a special Conservation Commission meeting on April 29th, 2015 at 4:30pm. The motion was seconded by Ms. McMillan. Chairman Miller asked for discussion.

Ms. Tanner asked that the applicant come prepared to discuss changes if the result of the delineation ends up being the 2004 wetland line. If there is anything impervious within the 100' buffer, the Commission is not going to look favorably upon it so the applicant should make needed changes to ensure that does not happen.

Hearing no other discussion, Chairman Miller called for the vote. The motion to postpone consideration of the application to the April 29th, 2015 Special Conservation Commission meeting passed by a unanimous (5-0) vote.

- B. 290 Heritage Avenue
Old Tex Mex, LLC

Assessor Map 275, Lot 7

Steve Riker and John Chagnon of Ambit Engineering were present to speak to the application. The plans were revised based on comments from TAC. The plans were approved by TAC last week. There will be a few minor changes to the revised plans, but no significant changes. Mr. Riker stated that Sheet C1 is Existing Conditions. There is a wetland located on the eastern end of the parcel that is under 10,000s.f.; therefore it has a 50' wetland setback. There is a wetland located on the opposite side of Heritage Avenue that is larger and requires a 100' wetland buffer. The site has been cleared recently. There are some trees that remain along Heritage Avenue. Sheet C2 is the Layout Plan that shows the proposal for a steel frame building and an area large enough for tractor-trailer for deliveries, a concrete dumpster pad, a rain garden in the northeastern part of the site. Sheet C3 is the Utility Plan. It shows the proposed utilities, roof gutters, downspouts, subsurface utilities. The site drains primarily to Heritage Avenue (shown on Sheet C3 stormwater management detail). They needed to match the existing runoff to what it is currently for Heritage Avenue for the 2, 10, 25 and 50 year events in both volume and quantity of peak flow rates for run off. To accomplish this, two rain gardens were proposed as well as a large subsurface system on the south side of the building. Sheet C4 is the Grading Plan. Sheet L1 is the Landscaping Plan. This is one of the plans that has been revised. Mr. Britz has been at the site and made some recommendations for wildlife movement through the site. There is a large expanse of undeveloped area behind this site. On the eastern side of Heritage Avenue, there is also some undeveloped area in which there is wildlife movement. The proposal is to create an enhanced corridor that wildlife could use for movement from one area to the next. The applicant has added plantings of Sweet Pepperbush and Witch Hazel to add wildlife value. They will also plant a seed mix with wildlife value (handout). The seeded area will be maintained once/year in the fall. There is also a Lighting Plan. Detail Plans are Sheets D1-D5. Sheet S1 is a site specific soil map. A Soil Scientist conducted a site specific soil survey for identification of soils in order to design a Stormwater Management Plan. The last three pages of the plans are architectural designs. The total area that will be disturbed within the 100' wetland buffer is 9,860s.f.

Ms. Tanner inquired about the possibility of one driveway instead of two.

Mr. Chagnon stated that the applicant will have a lot of deliveries with large vehicles. Being able to access the site from one side of the site to the other is important. If there were only one driveway, there would not be a large enough area for tractor trailers entering and exiting the site. Moreover the grade at the front of the site is considerable.

Ms. Tanner asked about the granite curbing.

Mr. Chagnon stated that the City of Portsmouth requires granite curbing at the site radius.

Ms. Tanner stated that there are turtles in the area. She inquired as to whether they would be able to get by the curbing.

Mr. Chagnon showed the small area (the radius and the entrance) dedicated to granite curbing and stated that the turtles would be able to cross and move around the site.

Chairman Miller stated that he appreciated the effort to accommodate wildlife through installation of the corridors but said that wildlife will not necessarily stay within the bounds of the corridor. He inquired about the possibility of wider strips for the corridors.

Mr. Riker stated that it is challenging because there is not a lot of room in which to work. There is 5' of corridor on their parcel, but also a 5' strip on the adjoining parcel. They are just attempting to create a situation that is perhaps not ideal, but better than existing conditions.

Chairman Miller stated that it is important that the owners and those working in the area understand what the applicant is working towards in terms of wildlife. Otherwise, he felt that it would fail. Some efforts to formally communicate and educate around this effort would be appreciated.

Ms. McMillan inquired as to whom delineated the wetland.

Mr. Riker stated that he delineated the wetland (behind the proposed building).

Ms. McMillan stated that there seems to have been dumping on this site.

Mr. Riker stated that it is his opinion that the wetland is an old gravel pit.

Mr. Chagnon stated that when the adjacent lot was developed at 145 Heritage Avenue, overburden was pushed onto this site.

Ms. McMillan stated that there is an area in the wetland of deep fill. There is a huge pile of gravel actually in the wetland.

Mr. Riker stated that is on the abutting parcel.

Ms. McMillan stated that the abutting property is fenced. Forgoing any additional fencing would be helpful.

Mr. Chagnon stated that TAC required fencing along the property lines to keep any debris from blowing offsite. Other areas will be for snow storage so fencing would not go in these areas anyway. This item will be clarified with the Planning Board.

Mr. Britz would like to include a stipulation for approval for monitoring the wetland across the street (for water level).

Mr. Chagnon stated that Sheet C1 shows the underdrains for the rain gardens. They will be taking out (below the overburden layer) 10' of ledge so theoretically they are in the

water table (because the water table is in the overburden layer). It may just end up being an extra layer of protection.

Mr. Cardin inquired about the time frame that the applicant has in mind.

Mr. Chagnon stated that the target is to begin construction June 1st, 2015 and for the occupant to be in the building in September of this year.

Ms. McMillan inquired if the rain gardens are really rain gardens if they have underdrains.

Mr. Chagnon stated that they are because their purpose is to filter the runoff through a soil medium.

Chairman Miller stated that he has seen this design.

Mr. Britz stated that the Christmas Tree Shop site was designed this way.

Mr. Chagnon stated that TAC had a condition that a post construction monitoring plan with mitigation measures be put in place and approved by DPW to ensure that flow rate does not increase. Part of what the applicant had to do during the approval process was a stress test.

Mr. Cardin asked about the outlet drain to rain garden number 1 on Sheet C3.

Mr. Chagnon stated that this is the overflow drain (for larger storms).

Chairman Miller opened the public hearing.

The Property manager for 280 Heritage Avenue (2 buildings to the South) was present to speak to the application. He is concerned about blasting of the ledge (and also stated that this property is fenced in the back because the owner required it).

Mr. Chagnon stated that the blasting must follow standard protocol. The applicant will be in touch with the owner regarding a pre-blast survey.

David Ecker, abutter to the site was also present. He stated that he was present just to listen.

Chairman Miller asked if there were any further questions for the applicant. Hearing none, Chairman Miller asked for a motion.

Ms. Tanner made a motion to recommend approval of the Conditional Use Permit Application with stipulations. The motion was seconded by Ms. McMillan. Chairman Miller asked for discussion.

Stipulations were discussed and noted as follows:

- 1) Before site construction begins, the applicant shall measure current water levels of the wetland to the west of the site and monitor water elevations of this wetland during construction and post construction at least quarterly for two years. If the results clearly demonstrate an impact to the adjacent wetland system, the applicant will work with the City to address and mitigate these impacts.
- 2) That the occupants are educated about wildlife passage through the area on the site and that signage is erected to notify the users of the site and to protect the wildlife passage area as well;
- 3) That the City's Environmental Planner is informed of the results of the monitoring studies until the site stabilizes.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval of the Conditional Use Permit Application with stipulations as noted passed by a unanimous (5-0) vote.

IV. OTHER BUSINESS

1. CC Roundtable – Report
Ms. McMillan and Chairman Miller attended a Conservation Roundtable. The purpose of the roundtable was to communicate with peers. Representative from 7 different commissions attended. He stated that it was nice to meet peers and discuss issues and that the meeting was empowering and eye opening. They hope to hold the meetings quarterly.
2. Sagamore Land Committee – update – Ms. Tanner provided an update. The Committee met today. They created a vision statement. At the meeting, Ms. Tanner suggested that the character of the property be retained and said that installing ball fields would change the character. This was supported by the Committee. As a result, this option was eliminated as a possibility. She said that a solar array would also change the character but the parking lot at the school may be a possibility for the solar option. The Committee discussed having “passive” open recreation. Maintaining the cross country trail and the outdoor classrooms met with approval. There was uncertainty however about the level of mountain biking that would be allowed. Too much would damage the trails and ephemeral pools. Dogs would need to be leashed if allowed at all. Disc golf was an option that was discussed, but this use was too intensive for keeping the character of this parcel intact. A public meeting will be held on Wednesday, April 22nd, 2015 (Earth Day). The Conservation Commission will write a letter in support of maintaining the character of the parcel. The subjects that will be addressed in the letter include; importance of vernal pools, mature forest, vernal pool complex, wildlife habitat and corridors, water quality, sensitivity of the understory plants, birding, no more active use than what is current.

Ms. Tanner asked for a reminder about the April 29th, 2015 special Conservation Commission meeting.

Chairman Miller stated that there are 3 applicants for membership on the Commission. Kate Semarky is a candidate that attended the last meeting.

V. ADJOURNMENT

At 5:48pm, it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully Submitted,

Toni McLellan
Conservation Commission Recording Secretary

These minutes were approved at the Conservation Commission meeting on June 10, 2015.