

**NORWELL CONSERVATION COMMISSION**  
Room 112 / 345 Main Street / Norwell, MA  
**February 6, 2018 @ 6:30 PM**  
**Minutes**

**Present:** Marynel Wahl, Chair, Dave Osborne, Bob McMackin, Ron Mott, Bob Woodill, Justin Ivas, Stacy Minihane, Administrative Assistant Nicole Pelletier, and Recording Clerk Christopher Sullivan. Mr. McMackin left at 10:51 PM.

**CALL TO ORDER**

The meeting was called to order at **6:30 pm** by Chair Marynel Wahl. The meeting was recorded.

**AGENDA ACCEPTANCE**

Ms. Wahl added discussions regarding the 2017 Annual Report and additional Conservation office support to the agenda.

*Motion by Mr. Mott to approve the agenda as amended. Seconded by Mr. Woodill and unanimously voted.*

**Whiting Fields**

Alison Demong and Ellen Allen present from the Board of Selectmen. Ms. Demong briefly discussed the history of the proposed purchase of the Whiting Fields, from the initial contact with the Dolan family through their acceptance of the Town's offer. The warrant article for funding the purchase will establish a Master Planning Committee to develop specific use proposals to be considered at a future town meeting. Some trail possibilities include one the north side of the stone wall, which would eliminate the need for a stretch of the proposed Main Street sidewalk, as well as connections to adjoining Conservation properties. The article will also include funding for stone wall clearing and restoration, the development of a small parking area, and the establishment of a conservation restriction. CPC has been discussing financing options but has not made its final recommendation. If the article is approved, the closing is slated for July 15 of this year.

Mr. Woodill asked whether the town was bound to the three use categories of conservation, recreation, and affordable housing if the purchase is funded by a bond issue; Ms. Demong indicated that it was. Ms. Minihane asked whether the budget for the conservation restriction included funds for survey work; Ms. Demong wasn't sure. Ms. Minihane pointed out that establishing the restriction was a big expense and asked why one was needed if the town will own the land; Ms. Demong advised this was required under the Community Preservation Act.

Ms. Demong advised that a draft article was being reviewed by Town Administrator Peter Morin and Town Counsel Bob Galvin. She did not think the Commission would need to take any specific action until the Master Planning Committee is formed and puts forward its plan.



## COMMISSION BUSINESS

### New

#### **Capital Budget Request**

Ms. Wahl advised that Ms. Hemingway had researched options for the purchase of a Smart Board or Smart TV for the Conservation/Planning office, and found the prices to be roughly equivalent. After a brief discussion regarding features and upkeep required, Commissioners decided to request funding for a Smart TV.

*Motion by Mr. Osborne to request \$15,000 from the Capital Budget Committee for the purchase of a Smart TV and accoutrements. Seconded by Mr. Ivas and unanimously voted.*

#### **Norwell Farms - Revised Farm Plan**

DeeDee Tobias present for Norwell Farms (NF), along with Ellen Allen from the Board of Selectmen and Nikki Bartley of NF and Cross Street Flower Farm.

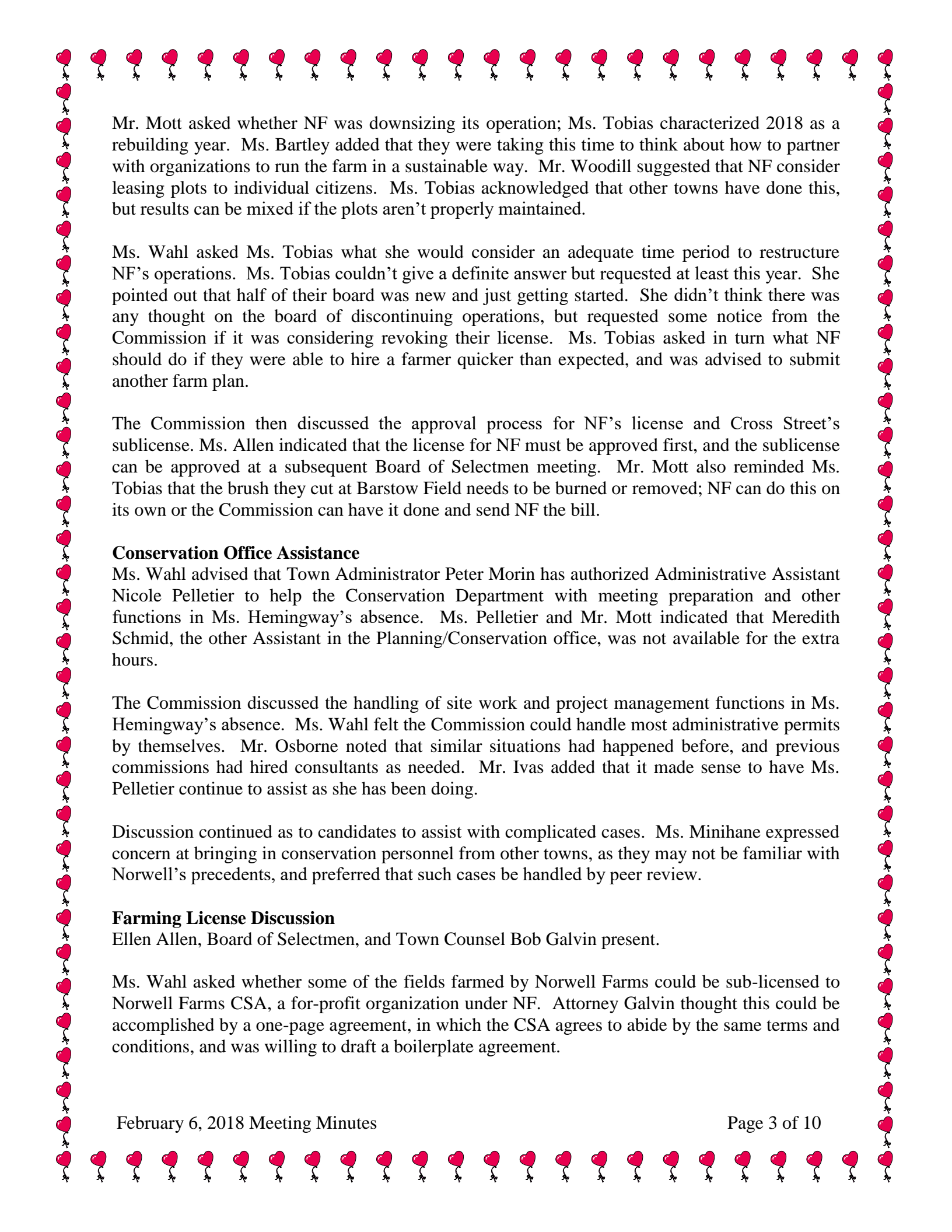
The Commission reviewed the updated Land Use proposal submitted by NF. Ms. Tobias advised that the previous plan assumed that a new farmer would be in place for 2018. As they have been unable to hire one so far, they are proposing to cover-crop Fields 2 and 3, but have Cross Street Flower Farm maintain the Learning Garden and Flower Farm. Ms. Tobias indicated this will allow them to maintain their core programs while they continue their search. In response to a question from Mr. Ivas, she advised that their application for organic certification is on hold.

Ms. Allen advised she had talked with NF and Cross Street about setting up a formal sublicensing arrangement, which she felt was necessary due to IRS requirements. She also talked to Town Counsel Bob Galvin, who thought this could be done by having the sub-licensee agree to the same terms and conditions as the licensee.

Mr. Woodill asked whether the sub-licensees would be required to submit their own farm plans; Ms. Allen indicated they would not, as they would be covered under the original license provided they agreed to the same terms. Mr. Ivas asked whether other community farms used sublicenses; Ms. Tobias indicated she knew of several. Vincent Buecker, 232 Main St., advised that that the NES Farm Institute had similar sub-leasing arrangements and the organization Land for Good had sample leases available.

In response to a question from Mr. Mott, Ms. Tobias advised that NF did not oversee Cross Street's finances and did not receive any share of their profits or any rent for use of the field. Cross Street contributed to NF's operations by operating the flower farm and learning garden, and provided extra help after Mr. Franklin's departure.

Mr. Osborne asked why they hadn't cover-cropped their fields before the winter, and Ms. Tobias indicated they had originally hoped to hire a farmer this year and farm these fields. He suggested that they cover-crop with hay or something they could utilize. Ms. Bartley indicated they were consulting with the UMass and UMaine cooperative extensions as to their options. Ms. Wahl requested that they provide the Commission with their choice of cover crop by the end of February so their farm plan can be voted on at the March 6 meeting.



Mr. Mott asked whether NF was downsizing its operation; Ms. Tobias characterized 2018 as a rebuilding year. Ms. Bartley added that they were taking this time to think about how to partner with organizations to run the farm in a sustainable way. Mr. Woodill suggested that NF consider leasing plots to individual citizens. Ms. Tobias acknowledged that other towns have done this, but results can be mixed if the plots aren't properly maintained.

Ms. Wahl asked Ms. Tobias what she would consider an adequate time period to restructure NF's operations. Ms. Tobias couldn't give a definite answer but requested at least this year. She pointed out that half of their board was new and just getting started. She didn't think there was any thought on the board of discontinuing operations, but requested some notice from the Commission if it was considering revoking their license. Ms. Tobias asked in turn what NF should do if they were able to hire a farmer quicker than expected, and was advised to submit another farm plan.

The Commission then discussed the approval process for NF's license and Cross Street's sublicense. Ms. Allen indicated that the license for NF must be approved first, and the sublicense can be approved at a subsequent Board of Selectmen meeting. Mr. Mott also reminded Ms. Tobias that the brush they cut at Barstow Field needs to be burned or removed; NF can do this on its own or the Commission can have it done and send NF the bill.

#### **Conservation Office Assistance**

Ms. Wahl advised that Town Administrator Peter Morin has authorized Administrative Assistant Nicole Pelletier to help the Conservation Department with meeting preparation and other functions in Ms. Hemingway's absence. Ms. Pelletier and Mr. Mott indicated that Meredith Schmid, the other Assistant in the Planning/Conservation office, was not available for the extra hours.

The Commission discussed the handling of site work and project management functions in Ms. Hemingway's absence. Ms. Wahl felt the Commission could handle most administrative permits by themselves. Mr. Osborne noted that similar situations had happened before, and previous commissions had hired consultants as needed. Mr. Ivas added that it made sense to have Ms. Pelletier continue to assist as she has been doing.

Discussion continued as to candidates to assist with complicated cases. Ms. Minihane expressed concern at bringing in conservation personnel from other towns, as they may not be familiar with Norwell's precedents, and preferred that such cases be handled by peer review.

#### **Farming License Discussion**

Ellen Allen, Board of Selectmen, and Town Counsel Bob Galvin present.

Ms. Wahl asked whether some of the fields farmed by Norwell Farms could be sub-licensed to Norwell Farms CSA, a for-profit organization under NF. Attorney Galvin thought this could be accomplished by a one-page agreement, in which the CSA agrees to abide by the same terms and conditions, and was willing to draft a boilerplate agreement.

Ms. Allen advised that Cross Street Flower Farm would be an additional sub-licensee under NF. Mr. Galvin suggested that the Commission consent to any proposed sublicenses provided they knew who the sub-licensees were and they agreed to abide by the terms of the master license.

In response to questions from Mr. Woodill, Mr. Galvin indicated that the sub-licensees did not need their own insurance because the fields were still licensed to NF, and that the Town could hold both licensee and sub-licensee responsible in the event of violations.

Ms. Wahl also asked whether main and sub-licensees were required to farm their fields. Mr. Galvin indicated that not farming the fields would legally be considered abandonment and cause for revocation. He suggested that the Commission send letters as necessary, advising licensees of the risk of termination if their fields sat idle for more than a year.

### **Office Protocols**

Ms. Hemingway and support staff will write up protocols for discussion on March 6.

### **Reappointment to Pathways Committee**

*Motion by Mr. Ivas to reappoint Mr. Woodill as the Conservation Commission Liaison to the Pathways Committee. Seconded by Mr. Mott and unanimously voted.*

### **Old**

#### **Jacobs Island Fire Ring & Benches**

Samantha Troiano distributed a revised plan for her proposed fire ring and benches on Jacob's Island, which made the fire pit larger. She also talked with Boy Scout Troop 192 and got their support for the project. She will start fund-raising once she gets final approval from the Venturing Program. The Commission asked that she contact them before the start of work. Ms. Pelletier will send her a formal acceptance letter.

*Motion by Mr. Ivas to approve the project as proposed. Seconded by Mr. Woodill and unanimously voted.*

### **MISCELLANEOUS**

1. Bills
  - a. WB Mason \$10.22
  - b. Chris Sullivan \$150
  - c.
2. Minutes: **12/5/17 & 12/19/17** – already resent to you Friday.
  - a. We also have the draft minutes from Jan 16, which will be forwarded to you for the meeting.
  - b. Please recall that Open Meeting Law now requires issuance of a set of minutes within three meetings.

### **Bills**

Ms. Wahl read off the list of bills to be paid.

*Motion by Mr. Woodill to pay the listed bills. Seconded by Mr. Ivas and unanimously voted.*

**Minutes**

The minutes for the December 5, December 19, and January 16 meetings were distributed. Commissioners reviewed and discussed corrections and changes for December 5 and 19. The review of the January 16 minutes was tabled.

*Motion by Mr. Ivas to approve the minutes of December 5, 2017 as submitted. Seconded by Mr. Woodill and unanimously voted.*

*Motion by Mr. Osborne to approve the minutes of December 19, 2017 as amended. Seconded by Mr. Ivas and unanimously voted.*

**EXECUTIVE SESSION** Discussion of issues and/or land offers/land of interest, disclosure of which will impact negotiating position of the Commission and/or Town.

**8:00PM: PUBLIC HEARINGS LEGAL DOCUMENTS/VOTES**

**\*\*\*Legal Documents/Votes \*\*\*Minor Amendments, Reviews, CoC's**

**\*\*\*Requests for Determination \*\*\*Notices of Intent \*\*\*Enforcements/ Violations**

**Wildcat Hill / SE52-943 & NCC# 7(10) / OSRD Subdivision**

**CoC (cont.)** Applicant: Wildcat Hill, LLC/Casa Develop. / Representative: Brad McKenzie, McKenzie Eng.

*Motion by Ms. Minihane to continue the matter to March 6 at 8 PM. Seconded by Mr. Woodill and unanimously voted.*

**Green Street, Lot 1 / SE52-1129 & NCC# 42(17) / Single-Family Home**

**NoI / OoC (cont.)** Applicant: Sean Donovan, EMET Holdings, Inc. / Rep: Paul Seaberg, Grady

Applicant Sean Donovan advised that an ANR was approved last month by the Planning Board, dividing his land into three record lots and a non-buildable parcel. He stated that state stormwater study requirements won't apply as it will not be possible to build more than four houses with the existing lots.

In response to Highway Commissioner Glenn Ferguson's concerns about stormwater running into Green Street, Mr. Donovan advised that the land on the lot would be contoured to direct water into the stormwater depression. With regards to Mr. Ferguson's request for the installation of 12-inch drainage pipes, they are recommending the installation of larger pipes.

Mr. Donovan also responded to comments from the Commission's consulting engineer, John Chessia, noting that they had made multiple plan revisions to provide the information requested, and also re-ran their stormwater calculations using the Northeast Regional Climate Center rainfall data. He added that they were not taking infiltration credit for their basins in the stormwater calculations. A written response to Chessia's comments from Grady, bearing an engineer's stamp, was also provided to the Commission.

Dave DeGhetto, 303 River Street, suggested that the Commission allow Mr. Donovan to build on one of his lots, and then delay permitting on the others until the stormwater system's performance could be evaluated. Ms. Wahl advised that the Commission could not mandate this kind of staging. Mr. DeGhetto also expressed concern that stormwater would not get absorbed as planned when the ground was frozen, but Mr. Ivas pointed out that the system appeared to rely more on retention than infiltration.

At this point, Ms. Wahl asked Commissioners if there was anything additional Mr. Donovan needed to provide. Ms. Minihane pointed out that Highway Commissioner Glenn Ferguson wanted to review the revised plan, but that she was otherwise satisfied by the engineer-stamped materials. Commissioners Mott, Ivas, and Woodill likewise indicated they were satisfied.

Ms. Pelletier advised that Ms. Hemingway had recommended a continuation to allow the revised plan to be reviewed by the public and Mr. Ferguson. She will forward Grady's response to Chessia's comments to Mr. Ferguson, asking him to reply before the March 6 meeting. Mr. Donovan assented to a continuation prior to the Commission's vote.

*Motion by Mr. Woodill to continue the matter to March 6 at 8 PM. Seconded by Mr. Ivas and unanimously voted.*

**65 Farrar Farm Rd. / SE52-1130 & NCC# 46(17) / Retaining Wall, Patio, Sports Court & Grading**

**NoI / OoC (cont.)** Applicant: Brian Flynn / Representative: Bob Rego, River Hawk Environmental

Bob Rego present for applicant. Mr. Osborne asked why the applicant wished to take down the existing berm at the corner of Norwell Woods and Farrar Farm Road. Mr. Rego stated this was for aesthetic reasons and ease of maintenance.

Mr. Mott indicated he would like a planting plan for removal of the berm. Mr. Rego pointed out that the grades in the area are such the water would flow away from wetlands, but Mr. Osborne felt the berm was a significant help to the wetlands. Ms. Minihane suggested that enhancement plantings be added to the area, as opposed to grass, and pointed out these could be tapered in.

Mr. Mott requested details regarding the wall around the pool, and Mr. McMackin asked why the court was located in the 50 foot buffer. Mr. Rego indicated the court's location was for privacy and client preference, but Mr. Mott pointed out that the court would be visible to neighbors even at its current location. Mr. Rego reiterated that the court was located according to client preference, and suggested adding a perimeter drain around the sports court to ensure that water doesn't flow into the wetland.

After some further discussion, Mr. Rego consented to a continuation to revise the plan as to plantings on the hill and discuss the location of the sports court with his client.

*Motion by Mr. Ivas to continue the matter to March 6 at 8 PM. Seconded by Ms. Minihane and unanimously voted.*

**10 Mount Hope Street / SE52-1131 & NCC# 47(17) / Landscape work in Resource Area & 50' Buffer**

**NoI / OoC (cont.)** Applicant: Robert Fortier / Representative: N/A

Applicant Robert Fortier provided revised plans along with proof of abutter notifications. Mr. Ivas asked how long the demolition process would take. Mr. Fortier felt the front structures could be taken down quickly but the back structures may take longer.

Commissioners briefly discussed erosion control methods and materials, and requested an extension of 21-day signing period as there is no second meeting this month. Mr. Fortier agreed to the request and will confirm in writing or e-mail.

*Motion by Mr. Mott to approve the NoI with a long-form OoC. Seconded by Mr. Woodill and unanimously voted.*

**Curtis Farm Road, Lot 7 / SE52-1132 & NCC# 48(17) / Single-Family Home**

**NoI / OoC (cont.)** Applicant: Bob Burwick / Representative: Greg Morse, Morse Engineering

Greg Morse present for applicant. Mr. Morse advised he had revised his plan to move the driveway and house out of the 100 foot buffer, shifted the position of the garage, and reduced the amount of fill. He also added stormwater drainage details to address abutter concerns.

The plan calls for an open drainage swale along the line between Lots 7 and 8. Eduardo Fabiano, Lot 8 Curtis Farm Road, asked whether the drainage swale was on his property, and Mr. Morse clarified the swale was on Lot 7.

Ms. Minihane suggested that elevations, additional detail as to swale design, and the existing tree line be added to the plan. Mr. Morse assented to a continuation and will revise the plan accordingly.

*Motion by Mr. Osborne to continue the matter to March 6 at 8 PM. Seconded by Ms. Minihane and unanimously voted.*

**22 Forest Street / SE52-1134 & NCC# 2(18) / Driveway Improvement**

**NoI / OoC** Applicant: Stephen O'Keefe, Trustee / Representative: Darren Grady, Grady Consultants

Mr. Woodill read the notice of public meeting. Darren Grady and applicant Stephen O'Keefe present.

Mr. Grady discussed the proposed stormwater control measures in his plan, including raising the driveway, adding two culverts, and using riprap for infiltration. A silt sock would be used for erosion control at the limit of work.

The Commission reviewed the plan, requesting a construction narrative setting forth sequence of work, and that the plan show the elevation of the proposed driveway in intervals. After further discussion, Mr. O’Keefe consented to a continuation so Commissioners could see the site.

*Motion by Mr. Mott to continue the matter to March 6 at 8 PM. Seconded by Mr. Woodill and unanimously voted.*

**89 King’s Landing / SE52-xxxx & NCC# 3(18) / Driveway Maintenance & Shed Relocation (After-the-Fact) NoI / OoC Applicant: Robert Molla / Representative: Paul Mirabito, Ross Engineering**

Mr. Woodill read the notice of public meeting. Bob and Frances Molla present, along with Paul Mirabito and Attorney Adam Brodsky.

Attorney Brodsky advised that the Mollas had received an OoC in 2005 to raze a pre-existing house on the property and build a new house, and stated that a special condition allowed them to maintain but not expand their driveway. A CoC for the work was issued in 2007. He noted that the property was subject to flooding, and stated that the Mollas found it necessary to do work to ensure access to their home. He acknowledged that this work likely exceeded what would be considered ordinary maintenance, and stated they did not anticipate a need for further work.

Mr. Mirabito reviewed the work as outlined on his plan, pointing out where fill and riprap had been added. He stated that the plantings required by the OoC had died off, and had been replaced with crushed stone through which native vegetation was now growing. He added that riprap had been placed where gravel from the driveway tended to wash into the salt marsh and claimed that, since the riprap had been installed, there had been no further migration of gravel into the marsh.

Attorney Brodsky added that J. Richardson’s delineation noted a fringe of coastal wetland around the salt marsh, and stated that all riprap had been placed within the coastal wetland and not the salt marsh. Ms. Minihane asked what the differentiating factor was between coastal wetland and salt marsh as set forth on the plan, and Attorney Brodsky indicated it was different vegetation. Ms. Minihane indicated that it would be helpful to know what plants Brad Holmes had observed in his 2017 delineation.

Ms. Pelletier advised that Ms. Hemingway had strongly recommended contacting Coastal Zone Management to review the site as to the characterization of resources. Attorney Brodsky contended that CZM had no jurisdiction or regulatory experience with wetlands, and did not see how they would have expertise with what he characterized as a vegetated wetland issue.

Both Mr. Mott and Mr. Woodill stated they were very familiar with the property, and that there were never rocks along the riverbank, but Mr. Molla claimed they had been there at least since 1996.



Mr. Mott asked whether they were additionally filing for a Chapter 91 license. Attorney Brodsky contended that Chapter 91 did not apply to this case, as the work did not concern a navigable Federal water, but Mr. Mott and Ms. Minihane felt that it was applicable.

Ms. Minihane asked about onsite mitigation options. Attorney Brodsky felt there was nowhere on site they could do it but indicated they were open to offsite mitigation or contributing to a conservation fund.

At this point, the Commissioners agreed that additional information was needed and discussed peer review options. Attorney Brodsky suggested hiring a Professional Wetland Scientist with coastal experience, and reiterated his opposition to utilizing CZM for the review.

The Commission requested that highest high tide, depth of fill, and additional information regarding delineations and performance standards for resource areas be added to the NoI, and the applicants assented to a continuation. The Commission will ask Ms. Hemingway to research peer review and mitigation options.

*Motion by Mr. Ivas to continue the matter to March 6 at 8 PM. Seconded by Ms. Minihane and unanimously voted.*

**Norwell Conservation Comm. – Regulatory Review & Amendment Hearing (cont.)**

*Motion by Mr. Ivas to continue the matter to March 6 at 8 PM. Seconded by Ms. Minihane and unanimously voted.*

**ENFORCEMENT HEARINGS/MEETINGS**

**358 Mount Blue Street / Enforcement Meeting – Enforcement Order for failure to control site resulting in a direct and significant impact to downgradient wetlands.**

Mr. Osborne advised that a significant amount of mud had run into the street and nearby culverts from a construction site at this address after a recent rainstorm. The site manager cleaned up the area, but the same thing happened again after a subsequent storm.

Ms. Pelletier noted that Ms. Hemingway recommended requiring an after-the-fact NoI. After further discussion, a consensus was reached that an enforcement order was needed. Mr. Osborne will visit the site tomorrow.

*Motion by Mr. Osborne to issue an enforcement order and have it delivered tomorrow. Seconded by Mr. Ivas and unanimously voted.*

**PUBLIC MEETINGS**

**ADMINISTRATIVE REQUESTS**

**VIOLATION DISCUSSIONS**

None

**AGENTS REPORT**

Mr. Mott and Mr. Ivas plan on attending the Massachusetts Association of Conservation Commissions conference on March 3. Ms. Pelletier advised that she will be adjusting copy requirements for filings to five plus an electronic copy.

**Town Meeting**

Ms. Pelletier advised that the Commission’s 2017 Annual Report needed to be reviewed and approved by vote before the next meeting. Ms. Wahl will work with Conservation Office staff to finalize the report.

*Motion by Ms. Minihane to empower Ms. Wahl to work with Conservation Office staff to update and finalize the 2017 Annual Report for Town Meeting, Commissioners to provide feedback as needed. Seconded by Mr. Ivas and unanimously voted.*

**SCIENCE AND REGULATION IN THE NEWS  
EDUCATION AND TRAINING OPPORTUNITIES**

Please refer to the complete Agents Notes available in the Conservation Office. Any notes included in the minutes are partial.

<i>Next Meeting</i>		<b>March 6 2018</b>
<i>NEW filing applications due date/deadline</i>		<i>Feb 20, 2018 @ noon</i>
<i>Legal Notice publication date-Patriot Ledger</i>		<i>February 22, 2018</i>
<i>Revised Information submittal deadline</i>		<i>March 1, 2018 @ noon</i>
<i>Peer Review Supplemental Info Deadline, CoC Requests, Minor Modification &amp;LP Requests</i>		<i>March 1, 2018 @ noon</i>
<i>Public Information Written Comments</i>		<i>No deadline</i>

**ADJOURNMENT**

*There being no further business, a motion was made by Mr. Osborne to adjourn at 11:10 PM. Seconded by Mr. Ivas and unanimously voted.*

I hereby certify that the above minutes were presented and approved by a majority vote by the Norwell Conservation Commission on \_\_\_\_\_.

\_\_\_\_\_  
Marynel Wahl, Chairperson