

**NORWELL CONSERVATION COMMISSION**  
345 Main Street / Norwell, MA  
**January 5, 2016 @ 7:00 PM - Room 112**  
**Meeting Minutes Final**

The meeting was called to order at 7pm by Chair Marynel Wahl. She stated that the meeting was being recorded for the purpose of creating meeting minutes.

**Present:** Marynel Wahl, Dave Osborne, Lori Hillstrand, Ron Mott, Bob Woodhill, Stacy Minihane, Bruce Humphrey, Agent Nancy Hemingway

**Guests:** various Town residents signed in on the Guest sheet in the Conservation Office, including Selectmen Ellen Allen and Alison Demong, and representatives of Toll Brothers and their counsel.

**Motion:** made by R. Mott, seconded by D. Osborne, to cancel the January 19<sup>th</sup> meeting due to no new filings. Unanimously voted, motion passes.

The next regular meeting will be held on February 5<sup>th</sup>. An Executive Session with Atty Galvin will be held on January 20<sup>th</sup> (Wednesday) if he is available.

**AGENDA ACCEPTANCE**

**Motion:** made by B. Humphrey, seconded by R. Mott, to accept the agenda as written. Unanimously voted, motion passes.

**Main Street (Rt. 123) / SE52-1085 & NCC# 18(15) / Road Improvements (review of potential wetland impacts from sidewalk/pathwalk, paving and intersection improvements)**  
**NoI/OoC (cont.)** Applicant: Paul Foulsham, Hwy. Dept. / Representative: Ziad Kary  
Environmental Partners

- EPG and the applicant had requested a continuation to the next meeting to allow additional time to complete the stormwater report per the Chessia peer review letter.

**Motion:** made by Mott, seconded by Dave, to continue this hearing to February 5<sup>th</sup>. Unanimously voted, motion passes

**COMMISSION BUSINESS**

**Norwell Farms**

N. Hemingway reviewed the violations at Jacobs Fields, all of which have been resolved as requested by the Commission.

Nikki Bartley and Jessica Chase discussed that they would like to keep the Barstow field under the old agreement. This issue will be revisited and clarified when the license is renewed. They would also like all communications between the farm and the Conservation Commission in writing. They believe that communications will be more effective if they flow through a designated representative(s). Discussion of the license agreement and allowable sales for this farm and other farms in Town ensued. J. Chase and N. Bartley gave a summary of the for-profit and nonprofit pieces of the CSA. N. Hemingway read the license to clarify allowable activities,

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which include sales that are not limited to the Jacobs Farm location. The legal issue of the two farm entities will be referred to the Board of Selectmen and Town Counsel if needed. There is no change in the farm plan from the prior year.

**Motion:** made by B. Humphrey, seconded by D. Osborne, to approve the Barstow Field farm plan for 2016 without rolling the license forward for one year. Unanimously voted, motion passes.

**Motion:** made by R. Mott, seconded by L. Hillstrand, to accept the farm plan for Jacobs Field and roll the license forward one year. Unanimously voted, motion passes.

### **Town Meeting Discussion and Capital Budget Requests**

The board discussed the open land hunting rules and a proposed bylaw as indicated in the Agent's notes attached. The suggestion was made to invite residents to a meeting to discuss this issue.

Next Steps: Mr. Osborne will write this up and get a meeting advertised.

**No other Article or Capitol Budget** suggestions were made by the Commission at this time.

### **Cuffee's Lane**

N. Hemingway stated that a property boundary site plan including the stone wall and the 10 foot easement were submitted by the abutter. Based on that, the critical need to identify the property boundary has been resolved. However, the Commission was responsible for monitoring and identifying property corners and boundaries. The board agreed that there should be property boundaries on all Town-owned land.

### **Policy Discussion**

The board briefly discussed the issue of misinformation being used by applicants to obtain permits. They decided to move this discussion to Executive Session.

## **COMMITTEE UPDATES**

### **Open Space & Recreation**

M. Wahl reported - The OSRIC committee is developing a maintenance plan for all of the pathways throughout the Town. There will be a list of the specific areas that are affected. Alison Demong stated that Town resident Becky Freed has agreed to start a Friends of the Pathways group to assist with the maintenance and support, including communication. A grant to fund an AmeriCorps volunteer was submitted and obtained. The grant is being used to start a friends group. Ms. Demong will ask Ms. Freed to contact Agent Hemingway. The upcoming maintenance plan would be for the entire Town, and is close to ready and will hopefully be ready in draft form before Town Meeting.

### **Land Protection**

Mr. Osborne reported - He directed the board to review the memo from the Water Dept. in the packet. Joint custody with the Water Dept. is proposed for the Simon Hill property. If a well needs to be dug on Con Com land, the Water Dept. must own a perimeter of 400 feet around the proposed well. The Commission read the memo, discussed the issue and agreed that joint stewardship of the land was agreed to and continues to be the direction the Commission would like to take.

**Motion:** made by R. Mott, seconded by B. Humphrey, to sign the agreement with the Water Department. Unanimously voted, motion passes.

**Pathways** - R. Woodill reported - The feasibility study application will be reviewed by the CPC on January 14<sup>th</sup>.

**Trail/Signage** - R. Woodill reported. He is waiting for all of the bids to come in. Second requests will go out on Friday.

**CPC** - D. Osborne reported - No updates

**Farming** - L. Hillstrand reported - No further updates refer to the farm plan approval minutes for this meeting.

**Grants** - N. Hemingway reported - No updates

**Zoning Bylaw** - B. Humphrey reported - The Commission will need to appoint a new representative for this committee as Mr. Humphrey is leaving. The Town is going to recodify the bylaws into a more readable format, and are also contemplating several bylaw changes. They are meeting this coming week. This committee meets twice a month on Thursdays. A Commissioner will attend the meetings temporarily until a new representative is appointed.

## MISCELLANEOUS

### Bills:

- i. Harbor Mooring \$13,383.00, from the TM Article for boardwalk repair.
- ii. Chessia \$1,622.00 for Sidewalk/Pathwalk Peer Review
- iii. Chessia \$1,352.50 for Wildcat Peer Review
- iv. AMWS \$45 for 2016 annual membership

### Bill Payments

**Motion:** made by Mott, seconded by Osborne, to accept and pay bills as named. Unanimously voted, motion passes.

### Approval of Meeting Minutes

**Motion:** made by Mott, seconded by Hillstrand, to accept the November 3<sup>rd</sup> minutes with changes made by Chair Wahl as noted on the signature copy. Unanimously voted, motion passes

8:00PM:

### PUBLIC HEARINGS LEGAL DOCUMENTS/VOTES

- \*\*\*Legal Documents/Votes
- \*\*\*Minor Amendments, Reviews, CoC's
- \*\*\*Requests for Determination
- \*\*\*Notices of Intent
- \*\*\*Enforcements/ Violations

235 Bowker Street / SE52-xxxx & NCC# 27(15) / Addition  
NoI / OoC (cont.) Applicant: Gerry O'Neill / Representative: N/A

N. Hemingway reported that there was a request for continuation by the applicant. He had not submitted the application or filing fee to DEP. This was mailed to DEP on 12/31.

**Motion:** made by D. Osborne, seconded by L. Hillstrand, to continue to February 2 at 8pm. unanimously voted, motion passes

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**50 Turner's Way / SE52-734 / Construction of a Community Dock**

CoC Applicant: David Turner / Representative: Cavanaro Consulting, both present at meeting

N. Hemingway reported that a final site plan showing cross section details as built and electronic plan was submitted 1/5. Brendan Sullivan is including a list of differences and photos. Based on information received, it appears the dock was constructed in substantial compliance, smaller than what was allowed.

R. Mott also had photos as Harbor Master and agreed with the summary.

Mr. Turner stated that he gave an easement to build this dock to serve 6 houses and eliminate multiple walkways on the river.

*Motion: made by D. Osborne, seconded by R. Mott, to grant the CoC for 50 Turner's Way, with conditions 24 and 32 continuing in perpetuity. Unanimously voted, motion passes.*

**44 Upper Ferry Lane / NCC# 29(15) / Septic System Repair**

RDA / DoA (cont.) Applicant: Bayard & Wendy Livingston / Representative: B. Sullivan, Cavanaro Consulting

B. Sullivan summarized the project and changes as shown on the final plan. He noted the locations of changes in the wetland delineation and the location of the 2 abutting wells.

N. Hemingway reported the following:

- A revised site plan showing amended delineation was submitted and confirmed. There are hydric soils within the lawn which are hydrologically significant to protection of down gradient resources. Also present on or adjacent to the site are RRA, salt marsh, small areas of coastal bank among other resources all within the BVW extent.
- The septic system has been shifted outside the 50 foot buffer.
- Due to well locations and other site features, there is no other location further from resource areas or wells.
- Agent recommended approval under Positive 2A for hydric soil extent, bvw and stream location, Pos 2B for all other resources. Pos 5 subject to local jurisdiction, and Negative 3 within buffer but will not adversely impact adjacent resource areas.

The board discussed the plan details and compared the old system with the new design. They discussed the resource area limits, location of the existing system, whether or not there were possible alternatives, the well locations, and the overburden setback for the 2 wells (150 feet).

*Motion: made by D. Osborne, seconded by R. Mott, to approve this plan as recommended, with a Positive 2A accepting hydric soil extent, bvw and stream location, Pos 2B not accepting the delineation for all other resources. Pos 5 subject to local jurisdiction, and Negative 3 within buffer but will not adversely impact adjacent resource areas. Unanimously voted, motion passes.*

225 River Street / SE52-1089 & NCC# 32(15) / Pier & Float Construction

NoI / OoC Applicant: Nancy P. Ferguson / Representative: Kevin McGuire for NE Engineering Consultants.

Mr. Woodill read the legal notice. This is the third plan revision;

Kevin Maguire summarized the project as shown on the site plan and in the NoI filing.

N. Hemingway said she was in agreement with this plan and reported the following.

- Resource areas include Perennial River (North), RRA, Salt Marsh, Bank, and unidentified likely BVW occur within the lower lawn (that is not impacted by this project as proposed). The revised site plan has been submitted, shows the 2 foot shift upland of the salt marsh and an increase of the base of the dock off the salt marsh to 4 feet, 18 inches at the closest point of the crossbars.
- She took a site visit on 12/28, the elevation off the marsh was the only concern. The project proponent was raising the elevation of the lowest cross member to be compliant with the small dock and pier guidelines of 4 feet. Other changes including a conversion to one datum for all identified resource elevations.
- The footings and deck above the coastal bank are within existing maintained lawn area. Please see photos.
- There was no TOY or materials restriction stated in the DMF response.
- Due to the slope off the driveway, it is expected that the majority of the installation will need to occur from the River at high tide. Any construction on the lawn/shore will likely have to be done by carrying materials down the back lawn slope. I recommend conditioning this in. If this is not the case, and equipment will be brought down the lawn, then careful review and conditioning of the construction zone will need to be conducted to avoid a high potential for impact to resource areas.
- She recommended approval with the condition that construction must occur from the river during high tide or by hand with no vehicles driving down the yard/slope. As this is a small dock project, I do not anticipate this will impose an undue hardship.

The Commission discussed the elevation of the pier in relation to protection of the salt marsh, the use of pressure treated posts as opposed to non-toxic alternatives which are more costly. The issue of protection from ice buildup was discussed as were the tidal impacts. The use of pressure treated will not be in tidal areas subject to constant water flow. The use of steel grates was discussed. No steel grates will be utilized due to salt and other impacts, however slats will be spaced 1 Inch over the salt marsh with a height of 4 feet to ensure sunlight and air flow.

**Motion:** made by R. Mott, seconded by D. Osborne, to approve the plan as detailed above, with the condition that the stone steps be removed as shown on the plan, deck spacing be at least 1 Inch, and as otherwise stipulated in the Agents recommendations. Unanimously voted, motion passes.

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**145 Main Street / NCC# 28(15) / Fill, Construction of Retaining wall & Stone patio**  
**After-the-Fact RDA / DoA (cont.) Applicant: Mark O'Neill / Representative: N/A**

The Agent reported that;

- She had spoken w/ Mark O'Neill this week. The conservation disks were put on stakes and the landowner had requested to be allowed to put the bounds with disks at ground level in May when the ground thaws. At this point, limits of the 50 foot buffer have been marked in the field and agreed on with the landowner.

S. Minihane said she and N. Hemingway visited the property and measured the 50 foot buffer from BVW approximately. The homeowner was to stake the property. D. Osborne said he would like permanent posts. The Commission discussed the lack of compliance from the landowner, noted the ground was not frozen and there was no reason to not have installed the bounds. They said they wanted them to be installed by the end of January or the enforcement order and fines would resume. N. Hemingway is to notify the landowner.

*Motion: made by R. Mott, seconded by R. Woodill, to continue the hearing to February 2<sup>nd</sup> at 8:00 PM. Unanimously voted, motion passes.*

**26 Blockhouse Lane / NCC# 31(15) / (After-the-Fact) Driveway Extension**  
**RDA / DoA Applicant: Daniel Cimorelli / Representative: N/A**

R. Woodhill read the legal notice.

D. Cimorelli reviewed the project request noting that he was a new landowner and did not realize he needed to obtain a permit to expand the driveway. He and his wife just had a baby. The driveway was too far from the entrance and the ground was wet, muddy and slippery he was trying to create a more stable access. He had installed processed bluestone gravel. He outlined the area that he had conducted work in, including some cleanup of debris in the wetland. He noted that in the areas shown as wetland he already pulled the stone back and would plant a wetland seed mix in the spring. He asked for permission to retain a portion of the stone driveway as shown on the submitted plan closest to the home.

N. Hemingway reported;

- Resources include BVW and RRA. The new owners, expanded the driveway 3x or greater partially into wetland edge. The wetland runs along the right side of the driveway (from the road) under the small shed and partially into the back/side yard.
- The owners stopped work immediately when notified they needed permits to alter wetland and 50 foot buffer, and filed an after the fact RDA asking that part of the expansion be allowed to remain and agreeing to pull back and restore the impact to BVW. The area they had impacted had debris from years of dumping by previous owners that they cleaned out before filling with stone.
- She believe the proposal to pull some stone back and plant with a wetland seed mix is reasonable considering the location of the original and expanded driveways in relation to the home entrance. It will represent a net improvement to the condition of the BVW before they moved in.
- A plan is being considered to add an addition to the home in the future.

- She recommend that conservation bounds be required to be placed at the limit of allowed yard use area (interspersed with shrub plantings of some type) to protect the BVW from further/future encroachment.

The Commission spoke with the landowner explaining the need for permitting, discussed future home renovation plans and the need to consider alternate locations for parking at that time. The Commission discussed stabilizing the disturbed wetland area now, winter rye might grow but it is too far into the winter for much success. A wetland seed mix is to be spread in the spring. The Commission discussed conservation bounds and identified location on the site plan with D. Cimorelli.

*Motion: made by S. Minihane, seconded by R. Mott, to approve the RDA as conditioned including conservation bounds as shown on the plan, restoration of the disturbed bvw with seeds and plantings as noted above, and to issue an after the fact DoA; positive 2b, positive 5 and negative 3. Unanimously voted, motion passes.*

**Wildcat Subdivision (cont.)** re: site stormwater issues, compliance with the issued OoC and measures being utilized to bring/keep the site in compliance

The agent reported that;

- A site visit was taken with the proponents and M. Wahl on 12/22. Several site control improvements had been implemented and the site was in control.
- There were no discharges of sediments into Wildcat Lane or Brook during the recent storms. Runoff down Highfield Lane was clear and the basin at the base of Highfield was handling the flow directed there.
- No continuing issues, she recommend this issue be closed for now.

The board agreed that the site was in compliance and agreed to pull this item from the agenda for the time being. The agent will continue to monitor.

### **ENFORCEMENT HEARINGS**

**Curtis Farm Rd (PKA: Barrell Lane Subdivision)**: Site stormwater issues (ATF) (cont.) NoI required for site-wide stormwater review due to impacts to downgradient resource areas.

Present: Attorney Shea, Mark Manganello, Scott Miccile, Deb Keller, Dave Buckley

S. Minihane recused herself.

The Agent reported as follows;

- There is concern regarding the quality of water discharge and another potential impact to the downgradient stream and pond.
- Based on Toll Brothers implemented site controls and positive response to work to control the site after the EO was issued, the Commission agreed to allow the discharge valve from the permanent basin to be opened in order to release clean water in a controlled manner (only when basin water was completely clear and clean), through the floc log filled silt sack, into the stone lined outfall, through the series of three mulch sock check dams, and into the woods located within the buffer. The buffer contains the BVW

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and streams leading to the pond and vernal pool. The intent was to allow controlled deliberate releases of clear clean water only in order to control the water levels in the basin.

- During site visits on 12/28 by the agent and Ron, it was observed that the conditions agreed to by the Commission (while a mandatory stormwater filing is pending in response to the Enforcement Order) had been violated.
  - Clearly dirty water was being pumped through hoses directly past the outfall, over the flocbag located before the outfall basin, and over all the mulch sock check dams and into the buffer zone. The Commission agreed to allow clean water through all the controls, at no point was by pass discussed or allowed in response to the Enforcement Order. According to the site supervisor the basins were too full and another inch of rain was expected, so he was draining the basins (“over the floc logs and over the controls”).
  - The pump was shut off while N. Hemingway was there. I checked the stream and pond and did not observe any new impacts.
  - In addition to the dirty water bypassing all controls, several areas of new oily sheen were observed past the outfall and into the check dam areas as well as the BVW. This is not the same iron rust sheen seen within the site and must be evaluated.
- The temporary basin, berm, on lot 4 contains exposed unstable soils. Lot 4 is the low point before the final basin and the point of discharge from the site. Soils are completely exposed, banks into the temporary basin are failing and all vegetation that had at one point been established in the basin is destroyed. This is not new information and has been the subject of discussion for several weeks.
- In a meeting on 12/23 with Deb Keller, it was agreed that stone control was to be installed along the damaged basin berm and control fabric would be used to stabilize the damaged banks. Nothing has been done to stabilize this area within lot 4 as of this writing. The response from the site supervisor is that he did not have enough time to address the damaged areas. Stone can be delivered within a day or two. Erosion control blankets should already be on site.
- Scott Miccile and Deb Keller were putting together a discharge protocol plan to handle discharges in the future and were to have that to the office by Thursday morning. Scott would also like to schedule a site visit with several Commissioners early next week to do a field demo and get feedback from the Commissioners regarding proposed controls etc.

A lengthy Commission discussion centered on the Agent’s findings in the above notes. The board would like a temporary fix for this weekend when a large amount of rain is expected. The Commission discussed dewatering goals, an evaluation of the stormwater system.

S. Miccile said he acknowledged an error by Toll Bros last September and said that they had been working to prevent problems from happening again. It is an on-going effort. Commissioners noted that they had solved the problem but then destroyed all the vegetation on three key lots, 3, 4 and 5 just before winter set in, including the temporary basin on lot 4. The group discussed the extensive clear cut and exposed soils on site, and that fact that this could have been prevented by not clear-cutting 20+ acres of land at one time leaving the soils completely exposed. S. Miccile outlined the proposed temporary discharge lined with check dams and with floc logs to filter basin water through. The discharge will be pumped at the far,



higher end of the swale behind the permanent basin. He proposed a demo the next morning to test the concept in advance of the rain storm projected for the coming Saturday morning.

Commissioners who are available, will meet at the site tomorrow to observe the conditions and the temporary half pipe flume fix. If it doesn't work, the site will be shut down. The board also reminded the group that an Enforcement order has been issued, which is not negotiable. After additional lengthy discussion the board decided to ask Town Counsel to step in and take lead over this issue. N. Hemingway will schedule a Commission meeting with Attorney Galvin ASAP. The Commission will meet Thursday, January 7<sup>th</sup> at 10:30am if Attorney Galvin can attend. The hearing and discussion is also continued to February 2. An independent legal guidance meeting with Atty Galvin will be scheduled to discuss legal options moving forward.

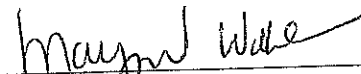
**Motion:** made by B. Humphrey, seconded by R. Woodill, to continue the hearing/meeting until Thursday at 10:30, and also to February 2 at 8:00 PM.

In favor: M. Wahl, D. / Osborne, L. Hillstrand, B. Humphrey, R. Mott, R. Woodill,  
S. Minihane recused.  
The Motion carries

**Adjourn to Executive Session**

**Motion:** made by R. Woodill, seconded by R. Mott, to go into Executive Session at 10:15 PM, for the purpose of discussing possible criminal conduct and/or strategy with respect to potential litigation, and not returning to Open Session. The board was polled by the Chair; M. Wahl voting yes, D. Osborne voting yes, L. Hillstrand voting yes, B. Humphrey voting yes, R. Mott voting yes, R. Woodill voting yes, S. Minihane voting yes.

I hereby certify that the above minutes were presented and voted by a majority vote by the Norwell Conservation Commission on March 15, 2016.

  
Marynel Wahl, Chairperson

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