



TOWN OF NORWELL
TOWN CLERK

NORWELL CONSERVATION COMMISSION 2018 JUL 18 AM 9:46
Room 112 / 345 Main Street / Norwell, MA
April 3, 2018 @ 6:30PM
Minutes

RECEIVED

Present: Marynel Wahl, Chair, Dave Osborne, Ron Mott, Bob Woodill, Stacy Minihane, Administrative Assistant Nicole Pelletier, and Recording Clerk C. Sullivan
Bob McMackin and Justin Ivas were absent. Stacy Minihane arrived at 7:00 PM.

6:30PM: CALL TO ORDER & AGENDA ACCEPTANCE

The meeting was called to order at **6:35 pm** by Chair Marynel Wahl. The meeting was recorded.

AGENDA ACCEPTANCE

The Commission reviewed the proposed agenda and discussed changes and additions. Mr. Osborne added a discussion on a trail management plan.

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

COMMISSION BUSINESS

New Business

Eagle Scout Project

Salem Adda-Berkane, Boy Scout Troop 192, presented a proposal for an Eagle Scout project on Commission property. He noted that parts of the Fogg Forest Trail were subject to flooding issues, and suggested building movable walking platforms elevated four feet above the ground, as well as the addition of two picnic tables. Mr. Osborne advised that the Commission needed a map of where the work would be, as well as information on materials used and design.

Mr. Mott advised they were trying to open up the main trails on Commission property so a Gator can navigate them if needed to transport out injured hikers; this would preclude the placement of a raised platform on these trails. Ms. Wahl suggested that Mr. Mott or Mr. Osborne walk the property with Mr. Adda-Berkane to determine feasibility and identify possible alternative projects; one possibility might be cleaning out the old wading pool. Mr. Adda-Berkane will make a new plan after the walk and e-mail it to Ms. Pelletier.

Tiffany Hill Update

Brian O'Leary, Stonebridge Homes; Kevin Sealund, Sealund Construction; and consulting engineer John Chessia present.

Ms. Wahl advised she had noticed a large trench behind lots 6, 7, and 8. Mr. Sealund advised that the trench was temporary and meant to divert stormwater.

Mr. Chessia thought the trench would present problems if there were heavy rain. He suggested that they cover as much of the site as they could until a lawn could be planted, and reach out to

the project engineer for solutions. Mr. O'Leary advised they would continue to monitor the site, and the matter was added to the May 1 agenda for an update.

Damon Farm Update

Ms. Wahl and Messrs. Osborne and Mott walked the site and observed no wetland flags or limits of work. Mr. Mott took pictures and noted one house with white pipes going into the wetland.

Ms. Wahl noted that a lot sign-off was pending, and asked Ms. Pelletier to put the matter on the May 1 agenda; the developers have been told they need to have the site flagged and staked. Administrative Assistant Meredith Schmid will find the original OoC and minor modifications, and compare the old and new plans. A commissioner will walk the site with Mr. Chessia and take additional photos.

Site Walks - Tara Drive, Old Oaken Bucket Road

Ms. Wahl advised that applications were pending for 44 Tara Drive and 245 Old Oaken Bucket Road, and asked Commissioners to visit these sites in advance of the May 1 meeting. Ms. Pelletier will coordinate scheduling.

August Meeting

Ms. Wahl advised she would not be available on August 7, and the Commissioners agreed to move the August meeting to the 21st. Ms. Pelletier will update the Web site and calendar.

Trail Management Plan

Mr. Osborne offered to organize a simple trail clean-up plan and contact the trail workers. Ms. Wahl asked that he check with Town Accountant Donna Mangan to make sure the budget line item is still available and ask about the process for COA payments.

Office Protocols / New Information Request Form

Ms. Wahl advised that Ms. Pelletier had drafted a form to allow them to capture statistics on office visits and timelines for information requests. She requested that the form be shown to Town Administrator Peter Morin before posting; he is already aware of this initiative.

Old Business

Land Management Discussion

Ms. Pelletier advised that she had spoken with Fire Department Chief Reardon about Vin Bucca's land management proposals; he advised that the Fire Department had already been working with Ms. Hemingway and the trail crews on these issues. Mr. Bucca continues to send materials in to the Conservation Office.

Mr. Mott noted that most of the trees in town were pine and not good for firewood. If fallen trees were removed from the trailsides, what is the Commission going to do with the wood?

Norwell Farms

Nikki Bartley was present for Norwell Farms (NF) to discuss their latest Land Use Proposal form. The plan calls for cultivating the front field and about 0.5 acres of the middle field with a mixture of flowers and vegetables. They are planting a series of cover crops in the remaining

2018 JUL 18 AM 9:47

fields, starting with peas and oats in the spring, buckwheat in June, and a combination of rye and vetch in late summer.

Mr. Osborne asked why they were planting a cover crop so late in the year, and why they weren't planting something sustainable such as hay. Ms. Bartley advised that the spring crop would be dependent on the weather; they decided against hay, as they hope to have a new farmer hired by the late fall and want to give the new farmer a head start for the following spring, with quality organic matter in the soil. In response to a follow-up query from Mr. Osborne, Ms. Bartley advised that they have help lined up for the cover-cropping.

Mr. Mott advised that just one out of the four fallen trees remained in the field, and there were some leftover branches to be burned. The mulch pile would probably be tilled into the soil. Ms. Bartley advised that NF would be having a volunteer work day that would address these tasks and clean up the pallets in the field. She added they were hoping to start plowing next week, and asked that the Commission re-flag the leaching field; Mr. Osborne will handle.

At this point, Ms. Wahl asked the Commission for final changes or additions. Mr. Osborne suggested that NF relinquish fields 2 and 3 until they have hired a farmer or, alternatively, plant a sustainable crop in these fields. Ms. Bartley stated they were following the recommendation of most cooperative extensions in the area to prepare these fields for the new farmer. Messrs. Mott and Woodill indicated they were willing to accept the cover cropping of the fields provided that they find and hire a farmer sometime this year.

At this point, Ms. Wahl suggested that NF reappear before the Commission on September 18 to provide an update on their operations and farmer search.

Motion by Mr. Woodill to accept the 2018 Land Use Proposal presented by Norwell Farms dated 3/30/18. Seconded by Mr. Mott and approved by a 2-1 vote, Mr. Osborne having voted no.

After Ms. Bartley left, Mike McDonough, 53 Main Street, commented on NF events where he observed trucks and bounce houses in the middle of the fields. He expressed concern that this might harm the fields, and also felt the fields should not be laying fallow, as the town should be receiving some benefit from NF's use of the fields.

Ms. Wahl advised that the Commission was giving NF a chance to reorganize and hire a new farmer, and that they will be back before the Commission in September. She asked that he contact the Commission if he noticed any other issues.

Order of Conditions Boilerplate Review

Ms. Wahl asked Commissioners to read through past OoCs and be prepared to discuss possible changes on May 1.

Agent Update

Ms. Wahl advised that the interim Conservation Agent position had been posted, and responses were coming in. She asked that Ms. Hemingway's name be removed from the Commission web site and replaced with Mr. Woodill's number for now.

Ms. Wahl will talk to Ms. Hemingway about writing up the finding on the Rodriguez RDA and the associated logistics.

SUB-COMMITTEE UPDATES (OLD & NEW BUSINESS)

Open Space and Recreation	S. Minihane	Ms. Minihane advised that the committee was considering RFPs for either a complete update of the Open Space Plan or a more focused update with maps and some additional data. They talked about possible new members and may do a survey for public outreach. Mr. Osborne will ask Town Accountant Donna Mangan whether the Commission can vote to take \$25K out of Conservation or other funds to update the plan.
Farming	R. Mott	Mr. Mott advised that the trees in Jacobs Field 3 had been cut; he needs Trees and Grounds to remove the big pine that had been cut. John Hornstra cleaned up walls along his portion of Jacobs Field, and took a dead tree down to be chipped; he may be getting the field ready to bring in livestock.
Grants	B. McMackin	Ms. Wahl advised that Vin Bucca had forwarded information on several available grants.

MISCELLANEOUS

No bills or minutes.

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.

7:00 PM: PUBLIC HEARINGS LEGAL DOCUMENTS/VOTES

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

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

7:00PM: Mount Blue Street (Bl. 5, Lot 17) / NCC# 4(18) / Construction of a farm Pond & Biomass Drying Shed in wetlands RDA / DoA (cont.) Applicant: James Rodriguez / Representative: N/A

James Rodriguez and Town Counsel Bob Galvin present.

Ms. Wahl asked in opening where the resource area delineations were on his plan. Mr. Rodriguez indicated that Brad Holmes had only provided a delineation memo and a sketch. Ms. Wahl also noted that the Massachusetts DEP had ruled on June 10, 2015 that the subject property was not in agricultural use and asked what had changed since then. Mr. Rodriguez advised that DEP declined to recognize the unmarked forest stands, and he didn't think their decision was correct.

Ms. Minihane noted that the issue at the previous Commission hearing was whether the property qualified for an exemption from the WPA due to its being in agricultural use; based on DEP's findings, it was very clear to her that the property did not qualify for this exemption. Mr. Rodriguez indicated he disagreed with that finding, as he believed agriculture was a function of growth and harvest, and there was a designated forest stand in the area on an approved cutting plan.

Ms. Minihane pointed out that all that had been approved in the cutting plan was the harvesting of two acres on upland away from the wetland and, by her read of the decision, the Commission could not approve the RDA because DEP had ruled the land was not in agricultural use. Attorney Galvin concurred, and advised that the only matter before the Commission was whether the land was subject to the WPA. He also indicated the Commission should not confirm the boundary lines of the wetland resource areas, as this was not requested by the applicant.

In response to questions from Attorney Galvin, Mr. Rodriguez indicated that the farm pond was for irrigation and fire suppression. He characterized his crop as tree seedlings, and he intended to wait until he closed on the property before starting work. He was in the process of implementing the forest cutting plan, and had cut down some upland trees but not removed them yet, as he had to open up the entrance to the property. He would not be widening the access road to do so.

Attorney Galvin advised he had talked with property owner Donald Shute, who advised that the purchase agreement between him and Mr. Rodriguez may not last due to some contingencies that may not be met. He also looked at all the submitted documentation, as well as the applicable rules and regulations. He pointed out that the original approved cutting plan didn't label the tree stand in resource area, whereas the plan before the Commission did. In his opinion, Mr. Rodriguez was trying to convert BVW into farmland, on land not currently in agricultural use.

Attorney Galvin noted that the plan he had said "no harvesting" of the stand in the wetland, whereas the plan filed with the Commission did not, and contended that the "no harvesting" label had been added to get the cutting plan approved by the forester. Mr. Rodriguez replied that the label had been removed from the Commission's plan to limit clutter; there was no deceptive intent, and he was happy to update the RDA paperwork if needed.

Attorney Galvin advised the Commission that this was not a project that complied with the WPA, and the proposed activities would require the filing of NoI. He recommended that the Commission find that the proposed work was subject to the WPA and a NoI was required, and that it not affirm the delineation provided.

Mr. Rodriguez took exception to Attorney Galvin's characterization of his intentions, and felt the process didn't need to be adversarial. He asserted he was not trying to drain the wetland, just create a pond for fire protection and nurture the land. Mr. Rodriguez felt that filing a NoI for this project would be laborious and cost-prohibitive, and suggested that the hearing be closed if the Commission did not agree with his representations.

Mr. Rodriguez cited a case in which DEP had allowed him to thin and prune on land in Hanover. However, Attorney Galvin pointed out that the land in Hanover had been proven to be in agricultural use, whereas DEP had determined otherwise for the land in this filing.

Attorney Galvin added in closing that DEP's decision has a preclusive effect if not appealed to Superior Court. As Mr. Rodriguez elected not to appeal the decision, DEP's finding that this parcel of land was not in agricultural use was conclusive.

Motion by Ms. Minihane to issue a pos 1, pos 2b, pos 3 determination. Seconded by Mr. Woodill and unanimously voted.

After Mr. Rodriguez left, Attorney Galvin requested that the Commission's decision be issued immediately by certified mail. Ms. Hemingway will write up the decision for his review tomorrow.

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

ENFORCEMENT HEARINGS/MEETINGS

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

VIOLATION DISCUSSIONS

164 Old Oaken Bucket Rd (cont.)

Ms. Wahl requested that this matter be removed from future agendas.

23 Farrar Farm Road (cont.)

The matter will be removed from future agendas, as a CoC has been issued.

61 Accord Park Drive (cont.)

Mr. Mott advised that the owners had opened a chop shop at the property, but now are just parking vehicles there. He asked that the matter be kept on future agendas until he can check up on the site.

134 Main Street – Encroachment to wetlands / parking lot paving (cont.)

Ms. Wahl noted that the owner had been asked to attend but was not present. Ms. Minihane felt the site seemed much cleaner from when she first walked it, but they seemed to be encroaching little by little on the wetlands. There was a need to establish a line in the field that could be used to limit further disturbance.

After some further discussion as to parking lot expansion, discharge from the culvert going into the adjacent wetland, and possible previous use pre-dating the WPA, Ms. Wahl asked Ms. Pelletier to draft a letter (1) noting the lack of attendance at this meeting; (2) asking who had worked in the adjacent wetland, as Trees and Grounds Commissioner Glenn Ferguson had had no crews in the area for at least the past year; and (3) requesting a boundary survey of the rear property line abutting the high school property no later than the May 15 meeting.

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PUBLIC MEETINGS / ADMINISTRATIVE REQUESTS

15 Black Thorn Lane

Mr. Osborne visited the property and identified seven trees that presented a danger to the house and two others that were rotting. He had no issue with permitting the removal of these nine trees by letter.

2018 JUL 19 AM 10:17
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Mr. Osborne also advised he observed fallen trees in the marsh, and the Commission discussed whether to ask for remediation or removal. Ms. Minihane noted that a fallen tree could serve as wildlife habitat, and more damage might be caused by hauling it out. Mr. Mott suggested that the Commission permit, but not mandate, the removal of these trees. Mr. Osborne will draft the letter with Administrative Assistant Meredith Schmid.

Motion by Mr. Woodill to issue an administrative permit for 15 Black Thorn Lane allowing removal of 9 trees as marked, and allow marsh cleanup if they desire. Seconded by Mr. Mott and approved by a 3-0 vote, Ms. Minihane having abstained.

70 Kings Landing

Mr. Osborne advised that property owner Chip Servant had requested permission to remove three fallen and one dead tree in addition to the two trees whose removal was approved at the Commission's March 6 meeting. The Commissioners agreed to the request, and Mr. Osborne will ask Meredith to update the original administrative letter.

9 Highfield Lane

Mr. Mott visited the site and observed a dead tree with no limbs stuck on a stone wall on the property owner's yard. The Commissioners agreed to issue a letter permitting the removal of this tree plus a small dead tree in back.

22 Highfield Lane

Mr. Mott advised that the property owner would be appearing before the Commission on May 1. The trees at issue had all come down and there was no further danger to the home.

The Commission briefly discussed responsibility for maintenance in conservation-restricted open space areas in OSRDs, and the applicability of the recent DEP guidance allowing for emergency storm repairs.

AGENTS REPORT

**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.

Next Meeting	May 1, 2018
NEW filing applications due date/deadline	April 17, 2018 @ noon
Legal Notice publication date-Patriot Ledger	April 23, 2018
Revised Information submittal deadline	April 24, 2018 @ noon

<i>Peer Review Supplemental Info Deadline, CoC Requests, Minor Modification & LP Requests</i>	<i>April 24, 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. Woodill to adjourn at 9:47 PM. Seconded by Mr. Mott and unanimously voted.

I hereby certify that the above minutes were presented and approved by a majority vote by the Norwell Conservation Commission on July 17, 2018.



 Marynel Wahl, Chairperson