

## West Newbury Conservation Commission Meeting Minutes

**Meeting date & place: 7:34 pm, June 3, 2020, Remote Participation via GoToMeeting.**

**Members Present:** Via remote participation Dawne Fusco, Wendy Reed, Margaret Hawkins, Tom Atwood. Conservation Agent Bert Comins and Judy Mizner (acting as Chair) present in Town Offices and participating remotely.

At the outset, the Chair read the following statement: “Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the West Newbury Conservation Commission will be conducted via remote participation to the greatest extent possible.”

### **Continued Public Hearing --- Notice of Intent DEP File # 078-0704 --- James Leclaire – 6 Waterside Lane – For construction of a dock system**

At the beginning of this hearing, Ms. Mizner re-read the statement set forth above. The Commission had received both the letter from the state’s Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program (Natural Heritage) and the revised plan submitted on May 27, 2020. Consultant George Zambouras said the applicant made two minor changes based on the site walk: moving the end of the walkway to avoid a little mound and moving the pad a foot so that cutting of tree roots could be minimized. Mr. Zambouras said that with regard to the Department of Environmental Protection’s (DEP’s) comments concerning loss of Merrimack River flood storage space, the net 46 cubic feet potentially lost are an immeasurable amount compared to the capacity of the river.

*By unanimous roll call vote, the Commission determined to issue an Order of Conditions with standard conditions and additional requirements requiring among other things that the applicant 1) install silt sock and silt fencing erosion controls to be inspected and approved by the Conservation Agent, 2) obtain Commission approval before undertaking any cutting of vegetation, 3) refrain from using insecticides, pesticides, herbicides, and other specified chemicals in the resource area, 4) refrain from the storage of materials in the riverfront resource area, 5) install moorings consistent with DEP specifications, 6) dispose of debris (including logs currently present) outside of the resource area, and 7) submit a construction schedule to the Commission 72 hours before commencement of work.*

### **Discussion: West Newbury DPW Tree removal**

Department of Public Works (DPW) Director Wayne Amaral joined the meeting to discuss planned tree removal along the Town’s roadways. He provided a draft and suggested use of a Memorandum of Understanding (MOU) between DPW and the Commission in lieu of using the Notice of Intent (NOI) process because of concerns about a need for repeated notices to multiple potential abutters to tree removal work. Commission members had not had a chance to review the June 3 draft, which was put on the computer screen. Criteria for tree removal have been spelled out and include such factors as insect damage and potential for damage from tree fall. Stumps will be left unless they present a hazard, such as proximity to the roadside, potentially posing problems for snowplows or traffic.

Mr. Amaral clarified that tree removal is a matter for the Tree Warden—not the new Town Tree

Committee. The Tree Committee could, however, contribute to the replanting of trees after removal. The major cost of tree replacement is the two years of watering that is needed. Mr. Atwood stressed the desirability of planting replacement trees.

*The Commission generally agreed that a blanket NOI for general tree work for the maximum 3-year period is the process that should be used. One notification for the NOI's public hearing will satisfy notice requirements. Trees proposed to be cut have already been marked, so this is already known. Mr. Amaral's draft MOU can be the basis for the NOI Order of Conditions. At the end of the three-year period, DPW can file to extend or file for a new authorization.*

### **Discussion: Riverbend trail repair**

Ms. Reed reported that a bread truck went down the Riverbend hiking trail very close to the river, resulting in significant damage with very large ruts running hundreds of feet. Evidently because the Rocks Village Bridge has been out, the driver was relying on navigational services which misdirected him.

Mr. Amaral stated that the DPW plans to use a backhoe blade to smooth out the trail with minimal impact in terms of soil disruption. Ms. Reed and Mr. Amaral said that this should be done as soon as possible to prevent additional damage.

*It was agreed that this work could proceed as an emergency action, with the Conservation Agent present as the work takes place. It was also decided that "No Vehicular Entrance" signs should be erected at the entrances to inactive roads, including the River Road/ Way to the River trail, the end of Crane Neck Road, and Georgetown Road heading to Groveland.*

### **Discussion: ECTA Trail Management Plan**

Ms. Mizner said that the Essex County Trail Association (ECTA) Trail Management Order has expired without a request for an extension. Carol Lloyd of ECTA said that they thought this happened last fall and would like to renew it. She added that the Trail Management Plan could include West Newbury Town departments, but ECTA is reluctant to open this to a large number of organizations at this time. Ms. Reed noted that Conservation Agent Comins, who is taking on trail management, could be a central contact for the Town. Ms. Reed noted that a new section describing the installation of bog bridges would be relevant given the work currently being planned for the Dunn property.

*Upon further examination of the Order's expiration date and blanket time extensions provided under the COVID 19 emergency orders, it was agreed that ECTA could seek an extension of the Order without having to make a filing for a new notice of intent. ECTA will submit a request for an extension of the existing Order and then request an amendment to cover Town trail work.*

Ms. Reed reviewed requirements under the ECTA plan, which include submission of a form to ConCom prior to work, an annual report, and an annual meeting with ConCom. Ms. Lloyd stated that the submissions are made to the Conservation Agent, and annual meetings had not occurred unless there was something to talk about. *It was agreed that after ECTA submits its annual report each year, it will schedule a meeting with the Commission.*

### **Discussion: Pentucket School project winter work**

Pentucket School construction consultant Brad Dore said that concern has arisen about the Order of Conditions requirement that before winter, work in wetlands resources must shut down, and the area must be seeded and stabilized in the 100' buffer. He proposed changing that to 25' because they will be putting a road in and doing utility, foundation, and ground improvement work through the entire winter.

In response to Mr. Dore's suggestion that adequate erosion controls already installed should prevent any problems, Ms. Mizner explained that when the growing season has ended, and bare soil is exposed, circumstances can arise where the existing erosion controls become overwhelmed. Depending on the circumstances, matting covers or other measures may be needed.

Mr. Atwood noted that the road seems to be critical and asked if that could be put in place and stabilized earlier in the process to avert potential winter problems.

*The Commission advised that it could not review this matter without a description of the winter work planned. Mr. Dore agreed to provide a description of winter work and return at the next Commission meeting with the work schedule so that the winter work could be identified and considered.*

#### **Discussion: Request to extend Order of Conditions DEP File # 78-674, 72 Ash Street**

Mr. Comins reported that the Commission received a letter requesting a one-year extension of an Order of Conditions set to expire on June 29 concerning new construction on Ash Street. He said that erosion controls are in place, and there are protections for threatened turtles. It was noted that a culvert is supposed to be installed under the driveway. Linda Lucken, the applicant, explained that the contractor was waiting for it to be drier before that is installed. Also, the homeowners will provide the Commission with the letter received from Natural Heritage.

*By unanimous roll call vote, the Commission granted the one-year extension.*

#### **Discussion: Wetlands protection by-law**

Ms. Mizner and Ms. Reed stated that they are working on a draft wetlands protection by-law. Realistically, this will be targeted for a vote at the fall town meeting. In response to Mr. Atwood's inquiry about the specifics of the by-law, they noted that they have begun working on it and it could include such items as more stringent protection of the buffer zone, the inclusion of the 25' natural vegetation area, some limits on structures near wetlands, and enforcement mechanisms. Chair Fusco, Ms. Mizner, and Ms. Reed countered the suggestion that this effort is in response to the proposed 40B development. Ms. Fusco said that she has repeatedly supported by-laws over the years, and Ms. Reed said that West Newbury is in a minority of towns that lack such bylaws. Ms. Reed also noted that establishment of a Wetlands Protection Bylaw was identified as a priority action item in the 2019 Open Space and Recreation Plan as well as the 2020 Municipal Vulnerability Preparedness workshop. Mr. Atwood said that in a town survey (which he will search his files to share with the Commission), the Conservation Commission ranked lowest in satisfaction. He emphasized the need to develop voter support for a by-law revision.

#### **Discussion: Other business**

Administrative Assistant. *By unanimous roll call vote, the Commission appointed Elisa Grammer (an unpaid*

*volunteer) as its administrative assistant and directed that she be listed as such on the website.*

Unsightly National Grid Tree clearing. Jean Lambert requested the Commission get National Grid to replace plantings under the power lines by River Road, where large trees were cut down, leaving an unsightly area. Mr. Atwood suggested planting a shorter evergreen screen. Ms. Mizner said that it would be good to know whether the Commission has the authority to tell National Grid to do this. Mr. Comins will again seek the Federal Energy Regulatory Commission regulations from National Grid, and Ms. Mizner will review them.

### **Discussion: Review of Minutes**

*It was agreed that Ms. Grammer will circulate the pending draft minutes with compiled comments of the members and review of the May minutes will be taken up at the next meeting.*

### **Next Scheduled Meeting**

June 15, 2020

### **Adjournment**

The Commission adjourned at 9:30 p.m.

### **Meeting Documents**

Presentations and records associated with each matter identified, as included in Mr. Comins' files.

Respectfully submitted