

**MINUTES
CONSERVATION COMMISSION
1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
CONFERENCE ROOM "A"**

3:30 p.m.

May 08, 2019

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman MaryAnn Blanchard; Members; Barbara McMillan and Nathalie Morison, Allison Tanner, Samantha Collins; Alternate Jessica Blasko

MEMBERS ABSENT: Adrienne Harrison

ALSO PRESENT: Peter Britz, Environmental Planner/Sustainability Coordinator

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I. APPROVAL OF MINUTES

1. April 10, 2019

Ms. Tanner commented that the statement about beavers at the bottom of page 2 needed to be clarified. The statement in the third paragraph needed to say, "if the curbing was eliminated." The statement about restoration on the bottom of page 10 needed to be clarified.

Ms. McMillan commented that "it" should be removed from the second paragraph on page 5. Ms. McMillan questioned if the school property was accessible to the public after hours. Mr. Britz confirmed that was correct.

Ms. Tanner moved to accept the amended minutes from the April 10, 2019 Conservation Commission Meeting, seconded by Vice Chairman Blanchard. The motion passed unanimously by a 7-0 vote.

II. STATE WETLANDS BUREAU PERMIT APPLICATIONS

A. Standard, Dredge, and Fill Application
New Castle Avenue
Town of New Castle, owner

Ransom Horner-Richardson from Underwood Engineers, Marc Jacobs, Certified Wetland Scientist, and Bill Stewart, New Castle Select Boardman spoke to the application. Mr. Horner-Richardson showed an overview of the project, which included New Castle Island, Goat Island and Pierce Island. The purpose of the project is to replace the water main pipeline from New Castle to Portsmouth. There was a concern a few years ago about the fire flow availability. A study determined that there was not sufficient capacity. The study looked at solutions and

determined that the pipe needed to upsize to a 12-inch pipe. Mr. Horner-Richardson presented a slide that showed the limits of the project. The new pipe will follow the route of the existing one. Mr. Horner-Richardson presented a slide that showed the wetland impacts. A lot of the impacts will be in previously developed upland areas within the 100-foot tidal wetland zone. The goal was to keep the pipe away from wetland areas as much as possible. Mr. Horner-Richardson showed the impact area in previously developed uplands. There will be silt fence along the roadway. The pipe was moved up into the road to be out of the wetlands. The original pipe is in the wetlands more today. The existing water main runs through a grassy wetland. The new one will follow the roadway. It will cross the tidal section over Pierce Island. That is one area where the wetland impact was unavoidable. The proposal follows the existing pipe's route, so it will be in previously disturbed areas. They looked at alternate options in the design phase. Some of the options included trenchless options or pulling the new pipe through the existing one. Those were not feasible. There is limited access in the easements and they can't get too close to the sewer main. Pulling pipe that is two sizes greater would be too much. There are some bends in the pipe now where it would need to be excavated anyway. The plan is to use an HDPE plastic pipe for the new one. That pipe could be fused ahead of time and it is flexible. The excavation does not need to be as dry or deep. It can be done in a couple of tide cycles. Mr. Horner-Richardson showed pictures of the tidal crossing and the route of the new pipe.

Vice Chairman Blanchard questioned how deep the pipe would be. Mr. Horner-Richardson responded that it would be 4 feet to the crown of the pipe. Vice Chairman Blanchard questioned if that would be ok in the winter. Mr. Horner-Richardson confirmed that it would. The plastic pipe is less likely to freeze.

Ms. Tanner questioned what would happen to the old pipe. Mr. Horner-Richardson responded that it would be removed and disposed of. Ms. McMillan questioned what the lifespan of the new pipe would be. Mr. Horner-Richardson responded that it had a 50-year design life. That is the same design life as the existing pipe material. Ms. McMillan questioned if they could do the pipe sleeve next time it needed to be replaced. Mr. Horner-Richardson responded that they probably could if they were sticking to the same pipe size.

Ms. Blasko questioned if they would excavate the old pipe in the areas where the route was changed. Mr. Horner-Richardson responded that they would not. That pipe would be capped and abandoned in place.

Ms. Collins questioned if there was any reason the pipe would need to upgrade in size in the future. Mr. Horner-Richardson responded that it was hard to forecast the future. New Castle Island is developed as much as it will be. If there were a more dense population or a change in the type of buildings there, then there is a chance it would be needed.

Vice Chairman Blanchard clarified that this would be for drinking water and fire suppression. Mr. Horner-Richardson confirmed that was correct.

Ms. Morison requested clarification on the BMP's. Mr. Horner-Richardson responded that they would be using silt fence and hay bales when necessary. The tidal areas will have silt fence and

erosion control. The tidal area would be a quick construction. The silt fence would be put up as far as the construction went. It will be staged the same as the construction is staged.

Ms. McMillan requested clarification on why they would use silt fence instead of silt socks. Mr. Horner-Richardson responded that a fence makes sense for linear work on the roadway. It is typically used on a roadway. Ms. McMillan commented that the silt fence was becoming more obsolete than silt socks. Mr. Horner-Richardson responded that could be a possibility. As it stands right now the plan is calling for a silt fence, but it can be reevaluated if there was concern.

Chairman Miller questioned what the construction timeline would be. Mr. Horner-Richardson responded that the plan would be to bid it this summer and perform construction through the fall and the next construction season. The Portsmouth portion would happen in the next year or year and a half. Ms. McMillan questioned what would be put in after the excavation. Mr. Horner-Richardson responded that idea is to restore to the areas to the original conditions of grade and soil. The soil would be stock piled when it was taken out and then put back in. There would be restoration after for erosion control. Mr. Jacobs added the area already has water and sewer soils, so it is pretty homogenized. The normal protocol for returning soil is to do it in reverse order. That may not be as critical here, but that would be addressed when the excavation starts.

Mr. Jacobs delineated the highest observable tide line and resources last summer. The areas of interest would be the 100-foot tidal buffer zone and the tidal influenced area between Shapleigh Island and Pierce Island. Mr. Jacobs presented a slide that showed the area. The area on the far right without color represented the salt marsh. The blue area is a combination of exposed mud flats, sand bar and some salt marsh patches. All of it has been previously disturbed by the installation of water and sewer. The salt marsh overall is in pretty poor conditions. It is sparsely vegetated. Most of the tidal buffer zone that is impacted by this project was previously developed. It seems like a large number in the application, but they have done a good job of trying to remove as much work as possible from the most sensitive areas. It will be kept more to the roadway.

Vice Chairman Blanchard commented that there was already a traffic light on the bridge because there is construction there. Mr. Jacobs confirmed that was correct.

Ms. Morison commented that note 7 on the keynote talks about a temporary water connection, and questioned if there would be a temporary water main. Mr. Horner-Richardson responded that there would be a temporary water main and it would follow the main line. This tidal crossing zone goes from Pierce Island to Shapleigh Island. There will be a temporary plastic pipe placed above grade and staked down. It will run for the duration of the construction. Mr. Jacobs added that that there was a similar temporary sewer pipe on 101 toward Hampton Beach.

Ms. McMillan commented that the application mentioned this would be done in stages because they couldn't get access to other properties, and questioned if those would also be in the buffer. Mr. Horner-Richardson confirmed that was correct. When this was first looked at another piece was proposed to add loops in town. That would be Part B of the project. This piece is Part A. The application is only for Part A. There will be a separate permit for Part B. That will be in New Castle.

Mr. Stewart commented that he was the sponsor of the project and New Castle approved a 5 million dollar bond to replace the waterline. The Select Board wanted to come and show support. The Conservation Commission in New Castle is looking at the impacts as well. They are all trying to get the project done together, and Mr. Stewart wanted to come and show support.

Discussion and Decision of the board

Vice Chairman Blanchard moved to **approve** the application to the State Wetlands Bureau as presented, seconded by Ms. Collins.

Chairman Miller commented that it would be nice to look for opportunities to do salt marsh restoration after everything is done. Ms. Tanner noted that she hoped it would be completed before this time next year, so the construction would not impact the birds. Chairman Miller agreed and noted that there was a new osprey platform in the area.

The motion passed unanimously by a 7-0 vote.

III. CONSERVATION / OPEN SPACE

1. Lois Street Conservation Protection

Deputy City Attorney Suzanne Woodland spoke to the proposal. The City has entered into a purchase and sale agreement for the property at the end of Lois St. The total purchase price is \$60,000. The City is requesting that half of that amount come from conservation funds. This property has potential to serve other municipal purposes. For example, creating a turnaround at the end of street and providing better water treatment. That is why the City is only asking for half.

Ms. Tanner commented that this property has been in front of the Conservation Commission before. Deputy City Attorney Woodland confirmed that was correct.

Deputy City Attorney Woodland commented that she had a complete set of exhibits, which include the past actions of the Board and the abutting parcels. The subdivision plans may be familiar to the Conservation Commission members who were here couple years ago. That plan has been recorded and signed off. The parcel in question is at the bottom of Lois St. and is a little over 2 acres. It has wetlands on the property. In 2016 the owners of the property were hoping to subdivide and put a single-family home on the parcel. They came before the Conservation Commission in October 2016 requesting a CUP. This Commission recommended a denial of the request. Deputy City Attorney Woodland included the minutes from that Conservation Commission meeting in the packet. The Planning Board followed the Commission's recommendation and denied the CUP in October 2016. The lot was deemed not buildable. The Legal Department has had contact with the owner of the property for several years. The original offer the owner made was that the City could purchase it for \$375,000. The City said no. Time passed, but the price was always too high. In the beginning of this year the owner proposed \$220,000, but it was still too high. They began to have a discussion. The owner

said they would take a smaller amount in cash if they could recognize the remainder as a gift. The City Council has done that before. They settled on the number of \$60,000 in cash and if it goes forward that would be the purchase price. The City Council can agree on a gift. The City did see multiple uses for the parcel. Lois St. is narrow, so it is hard for municipal vehicles to turn around. They have to back up the whole street. It's not an ideal situation. There are no plans at this point, but this parcel does give the opportunity for the City to consider whether or not to install a small turnaround. The intent is to balance the interest. There is a new sewer line going through the area and this would allow maintenance access. The packet includes information about the catch basin in the area. 150 Greenleaf Ave. had a case before the Superior Court that involved looking at the flow of storm water that goes across the parcel. Deputy City Attorney Woodland showed an exhibit that showed the catchment area and all the water going across 150 Greenleaf Ave. Acquiring this parcel would allow better water treatment for the area. A lot of the water in the catchment system hits the Lois St. parcel.

Ms. Tanner questioned how the catchment system exhibit was determined. Deputy City Attorney Woodland responded that DPW and consultants worked to put it together. Ms. Tanner questioned if there was a low spot. Deputy City Attorney Woodland confirmed that was correct. Mr. Britz commented that this was above the head of tide and flows into Sagamore Creek. Deputy City Attorney Woodland commented that Mark West worked with DPW to show how much water goes through there. The City worked with data they already had to see what hit the Lois St. parcel. All of it comes on the parcel except for one little section. There are a lot of opportunities from a storm water perspective. That is why the City is balancing asking the Conservation Commission to protect the wetlands, but also looking for opportunities to do water quality improvement work at a later date.

Chairman Miller questioned where the runoff went once it hit the parcel. Deputy City Attorney Woodland responded that it runs onto the 150 Greenleaf Ave. parcel. Then it travels through the Comcast parcel, through the Chase Home, then underneath the Greenleaf culverts, and into Sagamore Creek. Mr. Britz added that it is a perennial stream. Deputy City Attorney Woodland commented that the City is putting in a big effort into Sagamore Creek to understand the water quality. The City is putting effort into the water shed the goal is to make a sewer available along the Golden Egg area by 2022. There are a lot of projects going in along Sagamore Creek. The goal is to measure the water quality now and then retest it after the projects. The cover sheet lists the resources and Sagamore Creek water sampling report that was performed last year. That is the baseline document that will be published within the next month. It looks at the history of the creek, the development in the area, and the goals for the creek. There will be another full round of sampling this year. The Lois St. parcel looked interesting to the City and this presentation was to see what the Conservation Commission thought. The City owns 4.6 acres in a parcel nearby. Mark West has been out there as part of litigation and knows its connectivity and thinks it's an important piece of puzzle. It is a wildlife corridor. Ms. Tanner commented that the Chase Home property very valuable for that. Deputy City Attorney Woodland agreed and noted that this could be a positive change. Mark West did a functions and values report. It is impaired since there has been disturbance, but it had 5 out of 7 functions. There is a thick muck in the area. It has been a wetland for a really long time.

Ms. McMillan requested clarification on the statement in the letter that said it would be part of the mitigation for the playing fields. Deputy City Attorney Woodland responded that when they wrote the memo they thought that was more of an opportunity than it is. The City is reaching out to various conservation organizations to do the monitoring. It is a high cost for those organizations to accept the obligations. It may not be used as mitigations. Mr. Britz added that they were working with Lori Summer to come up with a way to do the mitigation locally. This project would represent a small part of it, so they would still pay into the ARM Fund. That way it could still be attractive to DES. It is hard to get a mitigation project in place in time for a permit. They are still working on the Ferrari property for Banfield Rd. That cost \$55,000 and the land trust wanted \$15-25,000 for monitoring. That is almost half the purchase cost. They have to come up with a monitoring protocol and have state review and police it, but not provide staff on a regular basis. They are supportive of it, but hasn't seen it work in real life. Ms. McMillan questioned if they had been doing priority lists with the Conservation Commission. Mr. Britz responded that they were not, but it would be good to get a priority list with projects.

Ms. Morison questioned if land conservation would help with compliance. Mr. Britz confirmed that it would especially within the watershed. Ms. Morison questioned what the status of the Conservation Commission Fund was. Mr. Britz responded that it had \$878,208.14 in a trust. Vice Chairman Blanchard questioned if it earned interest. Mr. Britz responded that it does earn interest.

Ms. Morison questioned if the purchase and sales would fall through if the Conservation Commission did not support it. Deputy City Attorney Woodland responded that right now the City Manager has reserved \$30,000 from the Open Space Fund, so it could.

Ms. Tanner questioned if the City was looking to do some watershed evaluation throughout the City and find properties that have similar values. Deputy City Attorney Woodland responded that they were working on a Sagamore Creek watershed plan. A lot of acquisitions tend to be when there is an opportunity. This corridor has been on the radar. There is a study looking at the habitat in the corridor. Mr. Britz added that there was an open space plan looking at the open space in the City. Chairman Miller commented that it was a balance throughout the City for uses. Deputy City Attorney Woodland noted that one thing came up during the course of litigation was that this was a large catchment area. A lot of the other edges of Sagamore Creek are heavily developed with a lot of pavement. This is a good area to concentrate on.

Vice Chairman Blanchard commented that she wasn't here for the initial property presentation, but has seen it in front of the Commission before. It is worthwhile because it's a very wet area and has a number of functions. It would be a good partnership. Mr. Britz noted that the parcel there is a mucky soil wetland. That's been around a long time and there are also fill piles. It would be easier to do restoration if the City owned it.

Ms. McMillan questioned if there would be opportunity for best management practices in the uplands of the property. Deputy City Attorney Woodland responded that if they were going to actually construct a turn around, then there would be an opportunity to put infrastructure into the ground. That would improve the water quality before it even reaches the wetland. There would

be water quality sampling to see what is coming through the culvert. It may influence if they should do something there before it enters the Creek.

Ms. McMillan questioned if this moved forward would it be City land or in a Conservation Easement. Ms. McMillan was worried that the City's priorities may be different than the Conservation Commission's priorities. Ms. McMillan was glad that it would not be used as mitigation. Vice Chairman Blanchard shared Ms. McMillan's concerns about the different priorities. Vice Chairman Blanchard questioned if there was an opportunity to modify the language, so that it recognizes the Conservation Commission's interest. Deputy City Attorney Woodland responded that it could be put in the ordinance, but recognize that there are opportunities for the City too. Vice Chairman Blanchard commented that it would be similar to the Banfield Rd. project. Deputy City Attorney Woodland commented that they would be coming back to the Conservation Commission before any project. It is a fair question and Deputy City Attorney Woodland was sure there was a way to work that language in. Deputy City Attorney Woodland offered to come back next month with a remedy, but the landowner is looking to close by the end of June. The language can be memorialized in June, but it would be good to know there is enough interest for the Commission to contribute.

Ms. Tanner questioned if the lot were subdivided then could part of it be rezoned to conservation. Deputy City Attorney Woodland responded that once the lot was acquired it would become municipal land. Mr. Britz added that they could put it in the Conservation Ordinance and add language about the possibility for doing work in a specific area. Then they would need a 2/3 vote of the City Council to change things in the future.

Vice Chairman Blanchard questioned what the language of the motion should be if they wanted to move forward with contributing and putting it in the Ordinance. Mr. Britz responded that it should be for the conservation of the property subject to place within the Conservation Ordinance with the understanding that a small portion could be used for limited municipal purposes. Vice Chairman Blanchard clarified that the City would have to come back before a project. Deputy City Attorney Woodland confirmed that was correct.

Vice Chairman Blanchard moved to **approve** the request for a 50% contribution in the amount of \$30,000.00 towards the acquisition of land on Lois Street Map 232, Lot 8-1. The Deputy City Attorney will report back on how long-term conservation protection of the parcel will be ensured, seconded by Ms. Morison.

Ms. McMillan supported Deputy City Attorney Woodland coming back with a language solution next month. Deputy City Attorney Woodland confirmed that she would have the language at the next meeting. Vice Chairman Blanchard commented that this property was important for the integrity of the Sagamore Creek water quality management. It is a good idea to move forward with this.

The motion passed unanimously by a 7-0 vote.

2. Sagamore Creek Land Drainage- Follow up

Mr. Britz commented that someone has drained the vernal pools on the land by Jones Ave. There is still a channel below the biggest area, which is the pond closest to the creek. Mr. Britz went to the site with Chairman Miller and filled in some of the trenching. They have gone and redone it a few times. It is 120 feet long. Mr. Britz talked to the coach and Rus Wilson and said not to do anything before talking to the Conservation Commission. The goal is to try to remedy it further and had DPW make up signs. The signs say that this is a sensitive area and cutting vegetation and draining is in violation of the City Ordinance and state law. If they have any questions they can call the City. Corin Hallowell is the new Parks Foreman City Arborist and manages people to do different work in open spaces. He suggested that it would be nice to put up a sign to say what it is. They are putting the DPW sign up to stop the draining, and then down then line an informational sign about the vernal pool. Ms. Tanner suggested that they should add that there is \$1,000 fine associated with draining the pools. Vice Chairman Blanchard commented that it was a good first step. Vice Chairman Blanchard recommended that the Ordinance be reviewed under fees and fines, and questioned how it would be enforced.

Chairman Miller was pleased with the City effort and internal City dialogue about this. It would be good to do one more follow up to fill in the ditch. Mr. Britz confirmed that Public Works would do it when they put the sign up. Chairman Miller commented that he could be out there with them and was willing to help. Mr. Britz noted that they would put leaves and sticks at the outlet and then backfill. It would be good to give guidance.

Ms. Tanner questioned if they could put a wildlife camera out there. Chairman Miller responded that was a great idea, but he worried that it would get stolen. Mr. Britz added that he hoped that the signs would take care of it. Chairman Miller noted that so many people use the property it was surprising that someone hasn't seen them.

IV. OTHER BUSINESS

A. Announcement: Open Space Meeting Dates: June 1, 2019 or June 4, 2019

Vice Chairman Blanchard questioned what time the meetings were. Mr. Britz responded that the June 1, 2019 meeting would run 10 a.m. to 12 p.m. at the Urban Forestry Center. Chairman Miller added that the meeting on June 4, 2019 would run 6 p.m. to 9 p.m. in the evening at the Council Chambers. Ms. McMillan clarified that it would be the same thing but two different opportunities to attend. Mr. Britz confirmed that was correct. Chairman Miller questioned if the document was online. Mr. Britz confirmed that there was a project page for it. At the Riverfront Fest the contractor will be there to provide information about the meetings.

Ms. McMillan commented that an environmental group wanted to do a watershed plan on Sagamore Creek. Mr. Britz confirmed they talked about it. Ms. McMillan noted that they were applying for funds to do the plan and would have to talk to the City. Mr. Britz confirmed that would need to be authorized. The contractors do it a lot and they can apply for it. There is no guarantee they'll get it. The components are there it just needs to be organized better.

Ms. Tanner commented that further downstream there are properties up on the little streets all around her property. Since the new houses have been built, Ms. Tanner has been getting more water. That whole area behind the houses is very wet. Ms. Tanner went in front of Board of Adjustments to speak against a contractor's proposal to put houses in there. There is an issue. The person at Board of Adjustment said everyone who has a lot should be able to build. The water on Ms. Tanner's property has a high salt content. It was tested upstream for the 150 Greenleaf Ave. Something contaminated the water. Mr. Britz commented that the watershed is big. Ms. Tanner agreed that was the concern. Someone needs to look at all the little properties there. Mr. Britz noted that was the problem with Swett Ave. because they weren't in the 100-foot buffer, but it was part of a bigger natural resource issue. If there were a watershed plan, then that would give more substance in the future. Vice Chairman Blanchard commented that it would be a tool that the Commission could use. Water doesn't respect boundaries.

V. ADJOURNMENT

Ms. McMillan moved to adjourn the meeting at 5:05 p.m., seconded by Ms. Tanner. The motion passed unanimously by a 7-0 vote.

Respectfully submitted,

Becky Frey,
Acting Secretary for the Conservation Commission