

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

**3:30 p.m.**

**February 12, 2020**

**MEMBERS PRESENT:** Chairman Steve Miller; Vice Chairman MaryAnn Blanchard; Members; Allison Tanner, Barbara McMillan, Samantha Collins, Jessica Blasko, and Alternate Joseph O'Neil

**MEMBERS ABSENT:** Adrienne Harrison

**ALSO PRESENT:** Peter Britz, Environmental Planner/Sustainability Coordinator

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**I. APPROVAL OF MINUTES**

A. January 08, 2020

Ms. Tanner noted that her comment about additional exits should be clarified that the exits would be off I-95.

Ms. Collins commented that the second paragraph should say Ms. Collins feels differently for commercial vessels. It should be 24/7 tidal access in the 4<sup>th</sup> paragraph. Also, clarify that Mr. Ricci said it would be good to pave the site

Vice Chairman Blanchard moved to approve the January 08, 2020 Conservation Commission Minutes as amended, seconded by Ms. Tanner. The motion passed unanimously by a 6-0 vote.

Chairman Miller welcomed new member Joseph O'Neil and commented that Mr. O'Neil should just observe and ask questions today and vote at the next meeting.

**II. STATE WETLAND BUREAU APPLICATIONS**

1. Banfield Road Improvements- Update  
City of Portsmouth, owner

Mr. Britz provided an update on the City project. The Commission saw the application a long time ago. It was finally submitted because it took a long time to iron out the easements. Mitigation is required because of the culverts and that plan has been submitted as well. This will be sent out when they get final approval.

2. Standard, Dredge, and Fill Application  
113 Mechanic Street

City of Portsmouth, owner  
Assessor Map 103, Lot 30

Duncan Miller from Tighe and Bond spoke to the application. The lot is adjacent to Gate St. and Mechanic St. There was a timber wharf on the adjacent property. That was permitted for an in-kind replacement of the floats. Right now, the City cannot access those floats. DES is fine with providing a different access point to the floats. This proposal is for a small timber platform on timber piles that will be bolted to the sea wall. There will be an aluminum gangway access to the floats and two new floats for a total of 5 floats. They are requesting permanent year-round floats. Charles Lawson approved the lease agreement for slip access to get to his home on Round Island. The remaining floats would be for public access. The type of public access is yet to be defined. They could be paddle boards, kayaks or small boats. The pile construction will be less than 12 feet apart, but the goal is to minimize the platform. There will be a minor modification to the railways out there. There will be a steel gate that can provide access. It is not specifically ADA compliant. The gangway would have to be double the length to be compliant. The intent is to make it accessible, but it won't be a fully ADA compliant slope. DES requires a ¾ inch gap, but they are asking for that to be waived because it doesn't comply with ADA.

Chairman Miller questioned how much space there was between the gangway and the wall. Mr. Miller responded that it would be a couple feet. It will get closer as it goes down.

Mr. O'Neil questioned if this would be open to the public 24 hours a day. Mr. Miller responded that there would be a gate, but the intent is to not lock it. The access will be determined as part of the master planning process.

Ms. McMillan requested details on the construction method. Mr. Miller responded that they will use a vibratory hammer. Two pilings are dry, so they could be driven in at low tide. Ms. McMillan questioned if there would be disturbance to the seaweed on the wall below the landing and gangway. Mr. Miller responded that should not be impacted. They should not be blocking the sunlight. Ms. McMillan requested clarification on the public access conditions. Mr. Britz responded that this was part of a larger plan that would be subject to permitting to activate the space. That would help inform how they use the pier and dock. Mr. Britz confirmed that he would follow up with DPW to see if timing was restricted or needed to be. Ms. McMillan commented that the lease with Round Island was a little concerning. Mr. Britz responded that the lease would only include a slip for one boat there would be more public opportunity.

Vice Chairman Blanchard questioned when the construction would happen. Mr. Miller responded as soon as possible.

Ms. Tanner moved to recommend approval to the State Wetlands Bureau, seconded by Ms. Collins with one recommendation:

1. That the two dry piles will be installed at low tide.

The motion passed unanimously by a 6-0 vote.

3. Standard, Dredge, and Fill Application  
363 New Castle Avenue  
Sarah J. Mason Living Trust, Sarah J. Mason Trustee, owner  
Assessor Map 207, Lot 3

Steve Riker and John Chagnon from Ambit Engineering spoke to the application. Mr. Riker commented that this was their first application under the new DES rules, so they are still trying to learn the process. This is a DES application for a tidal docking structure and shoreline stabilization. There is a wooden deck along the shoreline with a set of stairs there today. The stairs provide foot access to the water below. The Commission may recall they were here 4-5 years ago for shoreline stabilization work. There were questions then to the methodology of what was proposed. This application is a better proposal. They walked the site with DES. Sheet C2 shows the dock plan for a tidal dock, accessway, gangway and float. The existing deck would be removed. Sheet D1 shows the dock in profile view on tidal datum. The docking structure is short and will sit on mud at low tide. There will be float stops. It will be anchored by moorings. The other component of the application is the stabilization. The new stone revetment will be installed with a living shoreline buffer. The bottom of the existing revetment is pretty well vegetated and those rocks will be reused in the construction of the new one. There will be some cutting into the slope to accommodate the rip rap and buffer planting. They provided the predicted sea level rise in 2070. The derived number is from an intermediate scenario. DES may want to use a different year or scenario and the can be provided if needed.

Mr. Chagnon noted that this was a unique area of the shore. There is a hard turn so it does not go straight across. The slope is steeper on one end than the other. A strip of vegetation was integrated, and they are cutting back the lawn. The revetment face is getting pulled back in some areas. The revetment was designed to the determined sea level rise. This is a river flood hazard so there is not a wave energy per se.

Ms. Tanner questioned how much grass area they were cutting back into. Mr. Chagnon responded that it was a 6-foot planting bed, so 4 to 5 feet would be cut into the lawn. Ms. Tanner questioned if there was a plan to prevent the grass from coming back in. Mr. Riker responded that there was not a specific plan, but there was a buffer planting schedule. Ms. Tanner commented that she was concerned about erosion in that area. Mr. Chagnon responded that they used a 3 to 1 slope with a maintainable bushy area. The owners would have to maintain the buffer. They were open to an edge treatment that would help if the Commission had a preference.

Chairman Miller questioned if there would be any mowing in that area. Mr. Riker confirmed that it would not be mowed. Chairman Miller noted that it would be good to put in salt tolerant grasses. Mr. Riker confirmed that they have chosen sea tolerant plans like seaside golden rod and aster. Chairman Miller requested clarification on the revetment construction process. Mr. Riker responded that the area with rockweed would be set aside and used again in new construction. The revetment detail shows 12-18 inch stones for the rip rap. The gaps will be filled with smaller stones. They would key into the bottom and go up from there to prevent sliding. Some individual rocks have fallen out of the current revetment. This will be more uniform. Mr. Chagnon added that it will not look as rag tag as it does now.

Vice Chairman Blanchard clarified that the purpose of this project was to secure the shoreline. Mr. Chagnon confirmed that was correct.

Ms. Collins questioned if they had any data on how much has eroded. Mr. Riker responded both properties have new owners, and both had prior owners who experienced issues because the HOTL is close to the top. The lawn is curling at the edge. Both new owners want to fix it. Mr. Chagnon responded that there was no historical evidence, so they can't tell the history of the shoreline.

Ms. Collins questioned what the top of the rockweed elevation was. Mr. Riker responded that it was at elevation 2 maybe 3.

Mr. O'Neil questioned how the buffer plantings would hold at high tide before they were fully established. Mr. Riker responded that they would be 2-3-gallon plantings. They may need to use some silt sock until they are established. There would be construction monitoring and a 3-year monitoring.

Vice Chairman Blanchard commented that the plan would have close to 2,000 feet of permanent impact to the tidal wetland. Vice Chairman Blanchard commented that she was not seeing the erosion issue justified for the amount of proposed impact. Mr. Chagnon responded that the revetment is there already. It seems like a lot of impact, but they are going into the area of the revetment to rebuild it. Mr. Riker added that the planting areas were included in that number.

Mr. Britz questioned if the tow of the proposed revetment was the same as the existing. Mr. Riker confirmed that it was. Mr. Chagnon added that the keyed in base stone was essential to holding the rip rap up.

Vice Chairman Blanchard questioned if the dock could be built without shoreline reconstruction. Mr. Riker responded that they were independent of each other.

Ms. McMillan requested more clarification on Mr. Britz's question about the tow. Mr. Britz responded that he couldn't tell where the tow of the property was in relation to the revetment today. They aren't going toward water at all. Mr. Riker added that they are cutting into the slope. The cutting would be back into the site.

Ms. Collins questioned if there would be more erosion where the property meets the abutting parcels. Mr. Chagnon responded that they matched the slope with the adjacent properties.

Ms. McMillan questioned why there were not more plantings in the lawn. Mr. Chagnon responded that they were providing a 6-foot buffer. The planting area is increasing, and the lawn area is decreasing. It is a suitable strip that the homeowner has agreed to.

Ms. Collins questioned if the plantings would be halfway between the firepit and the water. Mr. Chagnon responded that they did not locate it as a feature, but it was about halfway.

Ms. McMillan noted that the application said the project will improve ground water and storm water. Mr. Riker responded that the intent is they are treating stormwater on the site that will percolate into the soil and that will improve ground water as a result.

Mr. O'Neil questioned what the grade of the lawn behind the planting strip was. Mr. Riker responded that it was very flat.

Ms. McMillan commented that the cross section showed there would be flat stone with smaller stones filled in and questioned if DES required that. Wave action would be deterred more without a flat surface. They note breaking up wave energy with jagged rocks. Mr. Chagnon responded that it would be a flatter surface, but they will be secured rocks to prevent movement in the wave energy. Ms. McMillan commented that she felt reluctant on this application based on the need. One area appears to be eroding. However, where the plantings are it doesn't look like it's been a problem. This proposal seems drastic. Mr. Riker responded that there were plenty of large rocks that have clearly fallen off the slope. Over time the current revetment has experienced some issues. There probably is no geo-tek fabric behind it. The fabric acts like a sock to keep the fine material behind the revetment in place. Mr. Chagnon added that the owner's perception is that it is not stable and needs some revitalization. An owner on the shore wants to maintain their property and be on the proactive side. Ms. McMillan questioned if they looked at where the water was coming off the property. Mr. Chagnon responded that there were no real channels sheeting off.

Ms. Collins moved to recommend approval to the State Wetlands Bureau, seconded by Ms. Tanner.

Ms. Tanner noted that the recommendation should call out that silt socks between the planting and revetment should be added.

Ms. Collins commented that she was fine with the docking structure, however, she was not fine with the hardening of the shoreline. The intensity of the project is not justified with the seeming amount of erosion. It sounds like a lot is coming from sheet flow and higher tides. The area with rockweed should not be disturbed. They should use a larger living shoreline with coconut fiber logs.

Vice Chairman Blanchard commented that she was not convinced the extent of the permanent shoreline impact was warranted due to the erosion on site.

Chairman Miller commented that he was struggling with this. The docking structure is fine. Chairman Miller has been involved in living shoreline work and he did not know a better answer. Chairman Miller did not like disturbing the rockweed, but did not have a better answer.

Ms. Tanner commented that it was only a matter of time before there was an issue and they are trying to be proactive.

Ms. Collins commented that the revetment isn't going to help a whole lot with sea level rise. It helps when it comes to wave action, but that doesn't seem like the issue in this environment.

Chairman Miller commented that it was good that the proposal was coming into the lawn and not going out toward the shore. It is very likely in the future they will need more plantings. Chairman Miller agreed with Ms. McMillan's comment about the surface of the revetment. It would make sense to have it broken up a little bit.

Mr. Chagnon commented that he did not think they were there yet with the design of living shoreline. Coconut logs would not be a solution in this situation. They came up with a good solution with a living shoreline before, but it was not approved by the State. Until then this is how people protect their property.

Ms. Collins clarified that they would be voting on both the dock and shoreline together. Mr. Britz confirmed that was correct.

The motion failed in a tie 3-3 vote. Chairman Miller, Ms. Tanner and Ms. Blasko voted for the recommendation and Ms. McMillan, Ms. Collins and Vice Chairman Blanchard voted against the recommendation.

4. Standard, Dredge, and Fill Application  
379 New Castle Avenue  
Todd & Jan Peters, owners  
Assessor Map 207, Lot 4

Mr. Riker commented that this was a similar application to what was previously presented. There is an existing tidal structure on the lot, a concrete landing pad where the pier begins and a gangway that leads to a wood float. The proposal is for a new tidal docking structure with 4 by 6 accessway and pier, and an 8 by 24 float. The plan includes a dock detail that shows the dock in profile. The structure does not extend to mean or low, low water, so there will be float stops. D2 shows the revetment details. The grades were matched with the last application. There is not much different in this application from the last proposal. The revetment will be pulled back in some areas to make it go straight across. They will cut in the slope to accommodate repairs to the revetment and planting area. The planting schedule has the same plants as the last application. They will plan to reuse the rockweed stone.

Mr. O'Neil questioned how long it would take for the new construction to have nature take over and have it stabilized and integrated. Mr. Riker responded that it would soften up visually. They would reuse the rockweed, and it will proliferate from there. Mr. O'Neil questioned if there were any similar jobs they could reference. Mr. Chagnon responded that the Jay's Scuba property was done 7 years ago. There are multiple places on the coast where rip rap was installed up until 3 years ago. It was pretty much the standard of shoreline protection. Chairman Miller agreed it would be good to see how it softens up.

Ms. Collins noted that the dock was on 61 plus or minus feet of shoreline frontage. The rules say you need 75 feet, so the current structure must be grandfathered in. Mr. Riker responded that they requested a waiver for that with DES. There are two waivers one is for the frontage and the other is for modifying an existing structure. Chairman Miller questioned how the concrete pad

would be removed. Mr. Riker responded that there would be a crane barge with an excavator that will remove the pad.

Ms. Blasko clarified that the new dock would be moved to the center of the property. Mr. Riker confirmed that was correct. Mr. Chagnon added that the ledge created hazardous navigation and the new location is further away from that.

Ms. Blasko questioned if it would be sitting on the ledge at low tide. Mr. Chagnon responded it would not.

Ms. Collins questioned what the current length of the dock was. Mr. Chagnon responded that from HOTL to the end of the float was 32 feet.

Vice Chairman Blanchard questioned if they considered less intense alternatives. Mr. Chagnon responded that they were looking for a solution that was robust enough and is not as hard as stone. Other treatments don't have resiliency over long periods of time.

Ms. Collins commented that she was looking for ways to shorten the new docking structure, and questioned if the float could switch orientation to be parallel to the gangway. Mr. Riker responded that then it would sit on the mud for longer time because it would be closer to the shore. Mr. Chagnon added that it would create more hazardous navigation as well. Ms. Collins commented that DES looks at where 3 feet of mean water was because at that point boats have accessibility. Mr. Riker responded that they had a rule that refers to slips and what defines a slip. There is no rule in structure length other than it cannot be longer than 200 feet. The slip definition is that has a depth of 3 feet of water. In the past DES doesn't necessarily apply this to tidal waters. The RSA was geared towards freshwater lakes.

Mr. O'Neil questioned why the dock had to be the length it was. Mr. Riker responded that they want to give enough length for navigation purposes. Mr. Chagnon added that the company building the dock assesses the best place and length to meet owners' need. They are not directly involved in that process but know the rules and can advise.

Ms. McMillan moved to recommend **approval** to the State Wetlands Bureau, seconded by Vice Chairman Blanchard.

Vice Chairman Blanchard commented that this was not as extensive as the last application, but she had the same concerns. Vice Chairman Blanchard voted against the other project because there was a lot of grooming that was not warranted. People buy property knowing what it is and what the challenges are. Maybe down the road the technology will be better to protect the shoreline. They are challenging.

Chairman Miller agreed that he wished the state of science was further long. As it gets better hopefully, they would see a better treatment. Right now, it is very tough.

The motion passed by a 3-2 vote. Ms. McMillan and Ms. Collins voted against the recommendation. Ms. Tanner left the meeting early and did not vote.

### **III. OTHER BUSINESS**

Mr. Britz commented that they were moving along on the North Mill Pond Trail. The first location was the community space on the AC hotel parcel. It will go down Raynes Ave to the left of 3S Artspace. There will be a section along the shoreline of the pond that curves and ties up to Market St. The City has engaged with Halverosn Design who did a preliminary design from Bartlett St. to Market St. They will bring it to the Commission. The concept is to stay back 25 feet from the HOTL wherever possible, then put in a 10-foot-wide trail. Part of it will be more park like and there will be living shorelines along the entire length. Treatment will extend out to the intertidal. They will remove the old shoreline debris and put in marsh plantings. They will come with specific ideas and details at a future meeting. They want to do a public meeting and a meeting with the Commission. The trail will have more plantings and more active areas. There will be overlooks in through the salt marsh.

Chairman Miller questioned how it would connect to Market St. Mr. Britz responded that it would connect near Green St. Details can be found on the City's web site. Chairman Miller noted that depending on the next meeting agenda it may be nice to have a separate meeting to talk through the trails.

### **IV. ADJOURNMENT**

Vice Chairman Blanchard moved to adjourn the meeting at 5:43 p.m., seconded by Ms. McMillan. The motion passed unanimously by a 5-0 vote.

Respectfully Submitted by,  
Becky Frey,  
Acting Recording Secretary