

**MINUTES
REGULAR MEETING
CONSERVATION COMMISSION**

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

3:30 P.M.

June 10, 2009

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman James Horrigan; Members, Allison Tanner, Barbara McMillan, Brian Wazlaw, Mary Ann Blanchard

MEMBERS ABSENT:

ALSO PRESENT: Peter Britz, Environmental Planner

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I. OLD BUSINESS

A. Approval of minutes – May 13, 2009

Chairman Miller stated that he wanted to hold off on the approval of the minutes until later in the meeting.

II. STATE WETLAND BUREAU PERMIT APPLICATIONS

1. Standard Dredge and Fill Application
2 Moebus Terrace
Stephen J. Little, owner
Assessor Map 207, Lot 25

Mr. Stephen Little, owner of the property, stated the he would like to replace an outhaul system line with a 10' x 20' float with a 30' aluminum gangway. He explained that the design was hampered by the Department of Environmental Services setbacks. The requirement was to be 20 feet away from an abutter's property line. The only way to do that was to design something that went straight out off the end of the dock. Mr. Little explained that the float itself would be built to current standards with float stops underneath it. He added that he did not see any issues with the flora and fauna.

Mr. Little explained that he owned an abutting property as well. He said that the DES regulations require a 20' setback from abutting property lines unless a waiver is granted from that property owner so he gave himself a waiver. That allowed him to have a 10' wide float.

Chairman Miller asked if he was planning to change the existing dock structure. Mr. Little replied no.

Ms. McMillan asked how long the existing dock was. Mr. Little explained that it was 130 feet in length which was the length necessary to get out to the mud flats. Ms. McMillan asked why it was necessary to extend further out past the neighbor's dock. Mr. Little said that it really did not extend much further out than the neighbors. She wondered if it was because of a safety concern or an access concern. Mr. Little answered that it was both.

At this point in the meeting, Mr. Little introduced Ms. Judy Matthews who he said helped him with some of the environmental work for the application.

Ms. McMillan asked about the Lavigne float and wondered if it was something that was put in every year. Mr. Little said that it changes. He pointed out that they are permitted for that float.

Chairman Miller asked what the difference was between the hand drawn figure 1 and figure 2 in the plans. Mr. Little replied that there was not much difference. One was a little more three dimensional. Chairman Miller pointed out that the shape of the existing pier was totally different from what was in the plans. Mr. Little said that there would be no changes to the existing dock.

Ms. Blanchard asked about the dock on his other property and wondered why he did not use that dock which had a gangplank and was safer. Mr. Little explained that he rented that property and the proposed dock would be for his own personal residence.

Ms. McMillan said that the height at the end of the existing dock showed that it was eight feet high. Mr. Little replied that it was about 8 feet off of the mud flats in that area. She asked if the end of that pier was 10 feet wide. Mr. Little yes, it was approximately the same. Ms. McMillan said that it was her understanding of the rules that the pier would need to be as high as it was wide. Mr. Little did not know whether that was true or not but he pointed out that the pier was already permitted. Ms. McMillan stated that she understood that but he would be making a change and it would need to be conforming. Chairman Miller commented that he thought the rule had to do with structures over marsh and was based on giving the grasses underneath them enough sunlight to grow.

Chairman Miller pointed out that the applicant had submitted numerous drawings that were different from each other. He also pointed out that there were approximations and not exact dimensions so he felt Ms. McMillan's question was legitimate.

Mr. Little told the Commission that if they looked at the permit he submitted for the existing dock, it indicated an 8' high x 8' wide section. He felt the plan was a drawing error on his part. Chairman Miller asked if the existing dock met the specifications as stated in the permit. Mr. Little replied yes.

Hearing no other discussion, Chairman Miller asked for a motion.

Vice Chairman Horrigan made a motion to recommend approval to the State Wetlands Bureau. The motion was seconded by Ms. Tanner. Chairman Miller asked for discussion.

Vice Chairman Horrigan stated that he has had experience with this site when serving on another board and that the property lines were complicated. He said that he could understand why the

docks are so close to each other and configured in this fashion. He felt that this seemed to be the best spot to put a new extension with a float from the standpoint of the vegetation and the bottom life that was present there. Vice Chairman commented that he did not like the current arraignment as it looked dangerous. There was quite a long drop to the float and he was not even sure how they got to it except at high tide. He concluded by saying that he saw this proposal as an improvement to everybody concerned. Ms. Tanner stated that she agreed with Vice Chairman Horrigan.

Ms. McMillan asked if the current float was sitting on the ground. Vice Chairman Horrigan said that it did not sit on the mud flats. He added that what was there was not safe, especially if there were children using it. He also said it stated in the application that the applicant has to trudge through mud flats and that was the last thing the Commission would want them doing. Vice Chairman Horrigan said that if it were his dock he would want to replace the float.

Mr. Little pointed out that there was a seasonal swim float there currently but that was not the float system.

Chairman Miller asked Ms. McMillan for clarification concerning the original 2003 dock permit where it stated that "this shall be the only structure on the water frontage and all persons of the dock should be at least 20 feet from abutting property or imaginary extension of those lines." He wondered if they would be at odds with the old permit. Ms. Blanchard explained that this dock was seasonal and not a permanent structure so it would not violate the conditions of the original permit. Chairman Miller stated that he did not want to be in a position to approve something that was contrary to what DES has stated as law or fact. Ms. Blanchard assured him he would not be contradicting the previous approval.

Ms. Blanchard asked where this fell with the shoreland protection act in terms of a permit. Mr. Britz said it did not require a shoreland permit. It needed to comply with the Act and it does.

Chairman Miller stated that he would like to add as a condition that the new float stay off of the mud at low tide. Mr. Britz suggested the use of float stops and pointed out that they were part of the applicant's proposal.

Ms. McMillan pointed out that the existing dock is already 130 feet long and the applicant was proposing to add 57 feet for a total of 177 feet of dock out into the water. Vice Chairman Horrigan confirmed that there was salt marsh grass growing there. Ms. McMillan said it was not growing where the docks and floats were. Mr. Britz felt Ms. McMillan's concern was the square footage of the float over the mud flat and he shared that concern as well.

Vice Chairman Horrigan stated that he was open to any amendments but he did think the dock should be replaced.

Ms. Tanner commented that she would like the dock to be shorter and wondered if there was some way to make it less of an impact.

Ms. Matthews asked if she could address the Commission but Chairman Miller informed her that the Commission was deliberating among themselves and that if they had a question of the applicant they would ask it.

Ms. McMillan asked the applicant what the reasons were for the proposed length of the dock. He explained in detail about needing the length to get out a little bit further to maintain a good clearance. Ms. Matthews also pointed out that the length of the dock keeps everyone off of the salt marsh.

Chairman Miller asked that a condition be added to the approval to recommend that the proposed float utilizes best management practices to minimize surface area on the mud flats. Mr. Wazlaw pointed out that in the past, they have made that recommendation.

Mr. Wazlaw asked what the width between the boards was on the old part of the dock. Chairman Miller said it was 3/4" over the salt marsh.

Ms. McMillan pointed out that Pickering Marine had recently been sold and that was who the applicant had listed as the contractor.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval to the State Wetlands Bureau with the following stipulation passed by a unanimous (6-0) vote:

- 1) The Commission further recommends that the proposed float uses best management practices to minimize surface area on the mud flats.

Approval of minutes – May 13, 2009

Vice Chairman Horrigan asked that the last line of the last paragraph on Page 9 be removed.

Mr. Wazlaw made a motion to approve the minutes as amended. The motion was seconded by Ms. McMillan.

The motion to approve the minutes as amended passed by a unanimous (6-0) vote.

III. OTHER BUSINESS

A. Update on PULA contract and possible support roles by Commissioners

Chairman Miller informed the Commission that he and Mr. Britz attended the last City Council meeting and the Council voted to approve the funds for the Public Undeveloped Lands Assessment (PULA).

Mr. Britz stated that at that meeting, Councilor Dwyer asked that the assessment look at Pease as part of this project as well. He said that he had a call into the Pease Development Authority to discuss it. He also said that the contract had been signed by Mark West and the final City

signatures would be obtained soon. Once all signatures were secured, then he would give Mark West the go ahead to start the work.

Ms. Tanner asked if the original time line would be met. Mr. Britz said that they would still get it done within the year but they would probably start later than anticipated.

Chairman Miller informed the Commission of a recreation meeting scheduled for June 16 from 6:30 – 8:30 p.m. at Portsmouth High School.

Chairman Miller also stated that there were probably some Commissioners who would like to serve in a support capacity for the project but they would probably have to wait for Mr. West's direction. He said he would let Mr. West know of the Commission's willingness to assist.

Ms. Blanchard shared her concern that there would be two studies in the works, the PULA project and the Recreation Board study and she pointed out that there has not been any communication between the two boards. She suggested sending someone from the Commission to the upcoming Recreation Board meeting to let them know what the Commission was doing. Chairman Miller thought that was a good idea. Vice Chairman Horrigan agreed but pointed out that the way the meeting was set up would make it difficult to do that. He said they planned to have presentations and then break out into groups so it would be difficult to address the entire audience. Ms. Blanchard agreed that was a problem. Mr. Britz stated that he thought the focus of this meeting was to center on active recreation. He felt the Commission was not at a point where they needed to be concerned about that yet. He did feel it would be valuable to let the Recreation Board know what the Commission was doing though.

Ms. Tanner stated that it might be good to let the Recreation Board get further down the line and then have them come back and report on what they need, then the Commission can offer suggestions.

At this point in the meeting there was significant discussion on when to coordinate with the Recreation Board to discuss and recommend various uses for various parcels of land.

Chairman Miller informed the Commission that there was an upcoming meeting of the various board chairmen in September so he thought that might be the better forum to inform the other boards as to what the Conservation Commission is currently doing.

B. Stewardship of Con Comm lands, strategic planning on moving forward

Vice Chairman Horrigan expressed a desire to see all of the properties by going out and viewing every site. He said that he would like to have enough information to start doing this. He invited any Commission members to join him. He added that Eva Powers indicated to him that she would like to continue some tie to the Conservation Commission. She had amazing photography skills that might be useful. He would like to be able to view the sites with her.

Chairman Miller stated that they would need to make sure that having past Conservation Commission members involved would be legal and helpful.

Vice Chairman Horrigan said that Skye Maher had an interest in locating sites for possible victory gardens or community gardens. Mr. Britz pointed out that that was part of the study. Chairman Miller thought it would be a good idea to wait and see what Mr. West's needs were to determine how the Commission could assist him.

Chairman Miller said that the Commission should start thinking about how they want to move forward with stewardship of the conservation lands. He thought they should schedule a meeting in the future to do some strategic planning. He suggested that volunteer stewards could do yearly monitoring and record what they are seeing as well as site clean up. Ms. Blanchard suggested photographs of the status of the site. She thought they should also explore who else is involved in stewardship and partner with them.

There was detailed discussion concerning parcels that required yearly monitoring. Chairman Miller informed the Commission that Mr. Britz completes the monitoring process for the Hett Farm. The Great Bog is monitored by Southeast Land Trust every year.

Mr. Wazlaw asked how the Stetson property was monitored. Mr. Britz said that there was no monitoring requirement but he has gone out and walked it a few times. He added that the family does a good job of watching over it.

Mr. Wazlaw asked about Coach Road. Mr. Britz said that the Elks Club did a big clean up and removed a lot of the trash from the site. Barricades have been placed on the road and that has worked well. He added that there was no documentation on the property.

Vice Chairman Horrigan stated that he liked Ms. Blanchard's idea of photographing each site. Ms. Blanchard said that they would need baseline information. Mr. Britz said that taking photos of the sites was included in Mr. West's contract. Chairman Miller suggested waiting to hear from Mr. West before scheduling a meeting to do strategic planning.

C. Update on ordinance changes

Chairman Miller stated that the draft of the new ordinance was scheduled to be made public soon. He said that public hearings would be scheduled with the Planning Board and would be held throughout the summer. The Planning Board would then move it on to the City Council. He told the Commission that it was their job to review the draft and check it for the Commission's recommendations. Mr. Britz said that he thought Mr. Taintor incorporated all of the changes that the Commission recommended. He added that the Commission needed to understand that they may change from here forward. Chairman Miller pointed out that some of the recommendations got moved around so some of the changes would be found in site review and some in the actual ordinance. He asked the Commission to review the draft ordinance carefully.

Mr. Britz said that the heading in the ordinance would no longer read Inland Wetlands Protection but instead would read Environmental Protection Standards. He also pointed out that the 100 foot setback from tidal waters would be part of the Conditional Use process now.

D. Conservation Commission membership

Chairman Miller said that he did not have any update as to the filling of the Conservation Commission openings. He announced that Ms. Blanchard had been appointed as a full member of the Commission.

E. Possible roles former Con Comm members can serve to support Con Comm

This was discussed under subheading B.

F. Update of Prime Wetland designation

Mr. Britz stated that Mark West has completed all of the mapping and once it was in the computer, he would need to get it the City Council, preferably after the budget was completed. He thought it should be done in July. He said that the process was for the City Council to adopt it and send it to the State for final adoption.

G. Work on Portsmouth Con Comm projects list

The Commission continued to work on the projects list. It was suggested that each project have a narrative associated with it. It was also suggested that once it was finished, it should be put in chronological order and then put on the website.

IV. NEW BUSINESS

The Commission discussed the correspondence received from the Department of Environmental Services concerning 187 Wentworth Road, 150 Greenleaf Avenue, 130 Crescent Way, and 37 Bow Street.

V. ADJOURNMENT

At 5:15 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good
Conservation Commission Recording Secretary

These minutes were approved at the Conservation Commission meeting on August 12, 2009.