

**Town of Foxborough
Conservation Commission Minutes
December 17, 2012**

Members Present: Robert Boette (Chair), Allan Curtis (Vice Chair), Eric Nelson (Clerk),
Judith Johnson, James Marsh and Valerie Marshall

Members Absent: Douglas Davis

Staff Present: Jane Sears Pierce, Conservation Manager, and Lee Ann Tavares,
Secretary

Others Present: See attached sign-in sheet

Meeting Opened

Bob Boette opened the meeting, held in the Andrew A. Gala Jr. Meeting Room, at 7:00 p.m.

Continued NOI, Crackrock Pond Dam DEP #157-507

Information Reviewed:

- Letter of response to Commission's comments dated November 30, 2012 from Pare

The applicant, Robert Kimball of NRC, and his representative, Matt Bellisle of Pare Corp., were both present.

Bob asked the representative if they could address the road run-off at the base of the asphalt swale. Mr. Bellisle offered to add rip-rap at the base to help with stabilization. Mr. Bellisle stated that the work will not change the flow and that there would not be any impact to the road bed at all nor would they be rebuilding the abutments. Mr. Bellisle stated that he hoped for a "satisfactory" rating from the Office of Dam Safety after work was completed. More work will be needed in the future on the auxiliary spillway. The final construction plans, showing the rip rap swale and the Dam Safety comments will be submitted to the Commission once they are completed, signed and stamped.

Motion was made by Allan Curtis close the hearing for the Crackrock Pond Dam; seconded by Eric Nelson. **Vote: 6:0:0**

East Belcher Road Compost Facility Operation

The Compost Facility operator, Andy Felix of Tree-Tech, was present. Bob began by disclosing the fact that he uses the compost area and has hired Tree-Tech for work on his property, but has not asked for or received discounts. Jim and Judi disclosed that they, too, have hired Tree-Tech.

Mr. Felix apologized for forgetting to bring his As-Built plan, per the Commission's request. Jane presented a copy of the As-Built plan that Town Planner Sharon Wason had given to her after two copies were submitted to the Planning Board. Mr. Felix admitted that they didn't go by a survey; they assumed that they could use the disturbed area, so they just cleared what was cleared before, following the tree line. Judi explained that, man-made or not, it was a wetland under the Wetland Protection Act.

Mr. Bill Grieder of the Planning Board stated that they had received the As-Built plan but the discussion was not added to the Planning Board's agenda. The Board was waiting for the Commission's review and decision first. He explained that a six-month permit was originally issued, but it expired, so Mr. Felix is currently running the operation without a permit. The Board will have to use the As-Built to compare what was permitted with what has been done to the site. They told the DPW that they want to make sure that this is squared away before the solar project is done.

Mr. Felix stated that he misunderstood the beginning of the six-month period as he received the permit in November, but thought the clock started when he opened for business in April. Mr.

Gordon Greene, Planning Board member, stated that he, too, uses the compost area. He explained that the Planning Board is waiting for the Commission's decision, and once the Commission makes its decision, the Planning Board will move forward.

Before the Commission's Determination was issued, Bob and Jane had walked the site and observed wetland indicators in the locations marked on the Planning Board's plan. Jane had not observed evidence of vernal pool species in the site's pond, so did not consider it a potential vernal pool. The Commission's Determination had approved the size and approximate location of the compost area footprint. The Commission did not review or approve the wetland delineation shown on the plan that was submitted to the Planning Board. Jane recalled that while assisting Bob Swanson with his Request for Determination filing, she had asked him if the requested size of the compost area footprint (150 feet by 250feet) would be sufficiently large; Bob stated that it would be.

During the Planning Board's project review, the Commission had responded to its request for comments, stating that the area beyond their Determination's approved footprint was a probable wetland and that if future expansion was proposed, a new wetland filing would be required. Judi stated that a wetland was filled and replication is required. Mr. Felix stated that he will not do the replication work and will walk away from the project. He had put \$100,000 into this project and cannot recover it in three years (RFP's term). Judi asked how his approved plan had turned into what was shown on the As-Built plan.

Jim wanted to hear what Bob Swanson had to say about the site and would like to know more about the site's preexisting conditions. The Commission explained they were in a tough position, but the wetlands needed to be restored or replicated. They could not let a wetland be filled without requiring replication, but if the Town filled it in, then it should take care of the replication.

Mr. Felix believed that he was going to save the Town \$60,000 per year by handling the compost, adding that he really does care and wants to "make it right." He said that they had been taking a lot of material out of the site, but now realizes that it needs to be managed for compost.

To summarize, Val stated that Mr. Felix was concerned about the cost of replicating the wetlands, and the Commission definitely needed to hear from the town (Highway Department). Judi added that the Commission needed to tie up the paperwork. Bob suggested asking Bob Swanson to file an after-the-fact replication plan.

The Commission asked Mr. Felix to come to the January 14th meeting. Jane was asked to invite Bob Swanson to the meeting via Roger Hill, and to give Mr. Hill a copy of the compost area RFD and the Commission's Determination.

Mr. Grieder pointed out that the compost area had received a permit from the DEP, but there is a huge discrepancy in what exists and what was approved. The site is currently open for commercial material and Christmas trees.

December 19, 2011 Minutes

Motion was made by Eric Nelson to accept the December 19, 2011 meeting minutes as distributed; seconded by Jim Marsh. **Vote: 6-0-0.**

December 10, 2012 Minutes

Motion was made by Eric Nelson to accept the December 10, 2012 meeting minutes as amended by Jane Sears Pierce and Judi Johnson; seconded by Judi Johnson. **Vote: 6-0-0.**

Conservation Rental Properties Discussion

Town Manager Kevin Paicos came to the meeting at this point. After the Commission updated him on their previous compost area discussions, he stated that he would look into what happened and get it fixed.

Regarding the rental properties, Mr. Paicos stated that he wanted to issue RFPs for the two leases. He asked the Commission about possibly selling the Spring Street property. Judi gave a brief history of the property, noting her concern about the existing tenants and the cash and sweat equity that they had put into the home. Also, both tenants were told that there would be a phased approach to increasing their rent to the required fair market value. Mr. Paicos explained that according to the Attorney General the 30B process requires RFPs for municipal rental properties.

Jane stated that she had located digital copies of the two properties' RFPs. Mr. Paicos stated that if RFPs were done in 2008 they may be OK, depending on the terms. He said that he would review the 2008 RFPs and if they were not valid a new one will have to be posted for each property's lease.

Regarding insurance, he informed the Commission that the Town insures the buildings and land but it is up to the tenants to get insurance for the contents of the home. Mr. Paicos stated that he would handle notification to the tenants. He explained that if the properties go out to bid the tenants can bid the minimum but warned that they could be outbid. He will come back to the Commission in a couple of weeks with more information; a plan could be developed at that time.

Regarding the 10 Fairbanks Road house, a new septic system is required as well as a new heating system. The property can be fixed and rented or, if left alone, it will fall apart. Val was in favor of having the Vocational school look at the property and see if they would be willing to work on the property. Mr. Paicos said an RFP could go out for the repair and rent at a reduced rate. He was not sure if lead paint was present, but Jane reported that Dave Risch had told her that the property was lead-free. Mr. Paicos recommended that Bob should call Selectman Mark Sullivan for advice, since he is a contractor, and to call the Vocational school to discuss what was needed at the property. A capital budget request could be made for funding for the septic system's repair.

For a controlled burn at the North Street house, any asbestos or lead would need to be removed first and tests would need to be done. Mr. Paicos stated that the town would cover the costs. He recommended contacting Bill Casberra for names of asbestos inspectors and contractors. Costs of more than \$5,000 would require quotes. He added that the funeral home also needed inspecting and possibly both could be done at same time.

The Commission asked about setting up a revolving account for the property rental money. Mr. Paicos stated that the difference between what the Town Finance Director had included in the budget and the new rents received would go into the revolving fund. It would have to be approved at Town Meeting. He would need an estimate of the amount of money to be received and its use. He will take care of putting a revolving fund warrant article in for the May meeting. He also agreed to cover the cost to secure the Fairbanks property. Jane will send Roger Hill's previously submitted estimate to secure the property to Mr. Paicos.

Regarding the Lincoln Hill, Oak Street property, an email from Town Selectman Lorraine Brue was reviewed, which indicated that Jane had found 36 acres of town land for a possible land swap. It was pointed out that Jane did not find the land, but rather located the areas in town that might be appropriate. Mr. Paicos asked for a cooperative effort from the Commission regarding this possible property swap.

Crackrock Pond Order of Conditions

The Commission reviewed the draft Order and added a condition that required the submission of a final stamped and signed construction plan, prior to starting work.

Motion was made by Jim Marsh to sign the Order of Conditions for Crackrock Pond DEP #157-507 as amended; seconded by Allan Curtis. **Vote: 6-0-0.**

Lincoln Hill /Oak Street Discussion

An email from Lorraine Brue regarding the property swap was discussed. Not all of the Commissioners are in favor of the swap. Al suggested selling the frontage lots and keeping a road open to the remaining property in back for conservation use. Also, the funds from the sale of one lot should be given to the Commission to repair the Fairbanks property.

Judi noted her concern about selling the lots, reminding the Commission of the lesson learned from the dog park project. She added that selling the lots for houses would diminish the recreational value of the property. Jane stated that she was concerned about the property behind the dump and hoped to have it preserved, since it contained vernal pools and endangered species. Judi stated that the vernal pools on that site needed to be certified with Natural Heritage.

Val stated concern about putting septic systems close to the best aquifer in town. She would also like to visit the property behind the dump. The Commission previously voted 6-0 not to sell the property.

New Filings Distributed to Commissioners

- ANRAD – 207-209 Oak Street

Meeting Adjourned

Motion was made by Val Marshall to adjourn; seconded by Jim Marsh. **Vote: 6-0-0**

The meeting adjourned at 9:57 p.m.

Respectfully submitted,

Eric Nelson, Clerk

Draft minutes submitted by Lee Ann Tavares: 1/2/13

Review and Comments by Judi Johnson, Jane Pierce: 1/9/13

Approved by Commission: 1/28/13

Documents, Not Referenced Above, Reviewed During Meeting

Attached Documents:

1. Agenda, December 17, 2012
2. Meeting Sign In Sheet
3. Email from Lorraine Brue

Location of Other Documents:

4. Manager's Report, filed in Manager's Report binder in Conservation Commission's office.
5. Referenced projects' documents: please see Conservation Commission's project file