

**Town of Foxborough
Conservation Commission Minutes
December 21, 2009**

Members present: Bob Boette, Chairman, Allan Curtis, Harold Blomberg, Judi Johnson, Doug Davis and Jim Marsh

Members absent: Eric Nelson

Also present: Jane Sears Pierce, Conservation Manager
Bill Hocking, Temporary Conservation Manager

Meeting Opened - Bob Boette opened the meeting at 7:05 PM, which was held in the McGinty Room, Public Safety Building at 8 Chestnut Street.

Notice of Intent, DEP #157-484, North Street

Bob Boette read the legal notice. Briscoe Lang, PARE Corp. (representing Neponset Reservoir Co.) and Bob Kimball, Hollingsworth & Vose (a principal of the Neponset Reservoir Company) were present. Mr. Lang provided Proof of Notice to Abutters and a check for \$47.13 payable to the Foxboro Reporter for the legal notice posting.

Mr. Lang reviewed the Neponset Reservoir Dam repair project's proposed wetland replication area, to be located at the bottom of the hill in the Lane Conservation Area's hayfield, within 30 feet of Crackrock Pond. The replication area would be approximately 1,100 square feet in an area with ten to 14 inches of loam soils, underlain by 14 to 16 inches of soils showing evidence of seasonal high groundwater. They plan to excavate the top two feet of soil, stockpile the loam and then backfill the replication area with one foot of loam.

Once completed, they will be monitoring plant growth and removing invasive species, as per note #3 on the plan details. When asked who perform the monitoring, Briscoe said that they had not indicated who would perform the monitoring, adding that he would do the monitoring if the Commission wished. He thought that the Commission might want their Agent to do this work.

Motion by Judi Johnson was made to close the hearing for DEP #157-484, North Street.
Seconded by Doug Davis. **Vote: 6:0:0**

Mr. Kimball asked the Commission to send him the original copy of the project's Order.

DEP #147-449, Neponset Reservoir Dam Repair - Muskrat Burrow Problems

Bob Kimball then discussed Allen Orsi's (Pare Corp) memo to the Commission dated December 17, 2009, regarding proposed methods of repair for the muskrat burrows at the base of the dam. Mr. Kimball wanted to review the ongoing problems and possible corrective actions to be taken. He told the Commission that traps had already been set, one muskrat had been captured and no further evidence of muskrat activity had been observed since the one animal was trapped.

As described in Allen's memo, the burrows could be filled with grout to prevent future problems (i.e. depressions/cave-ins), but there might be a slight potential for a cave in if the grout did not fill all of the space, leaving a void. If a cave-in were to occur, he indicated that remedial work would probably take only a day to fix.

Bob assured the Commission that if future cave-ins or depressions were to occur, the Neponset Reservoir Company would remediate the problem, even if they occurred after the dam's transfer of ownership to the Commission. The Commission then agreed that the burrow holes should be filled with grout.

When asked about the dam's boards, Bob indicated that all boards will be put back in by January 1.

Vouchers – 3 vouchers were signed.

Review of Mail

A letter from National Grid dated December 11, 2009 was reviewed. It informed the Commission of their intent to selectively apply herbicides along their power line rights of way. The two treatment areas are located on the transmission line that crosses East Street in East Foxborough and the transmission line that runs from the Foxboro Company on Neponset Avenue and then in a southeasterly direction into Mansfield. Initially the Commission wanted to ask National Grid to attend a meeting prior to performing the proposed work, but they decided to ask Jane to investigate herbicide application laws and report her findings to the Commission.

December 7, 2009 Minutes

Motion by Doug Davis was made to accept December 7, 2009 minutes as distributed.

Seconded by Jim Marsh. **Vote: 6:0:0.**

Gillette Stadium, DEP #157-336, #157-440 and #157-446

Gillette's representative, Amy Green, had submitted a request for Certificates of Compliance for several Gillette projects in a cover letter dated December 7, 2009. In response to her request, Bill had conducted a preliminary inspection of the sites. He reported that he discovered that the applicant had allowed unacceptable conditions to exist at the Expedition parking lot and areas adjacent to the parking lot, and then reviewed his site visit report aloud, including the following:

DEP #157-336 – 67 Patriots Stadium

- Siltation into an uncertified vernal pool has been ongoing for a considerable time and still continues.
- Stockpiles of various materials are eroding, sending to silt into wetlands.
- Various activities are being conducted within the jurisdiction of the Wetlands Protection Act without a valid Order of Conditions.
- Salt or some type of ice control material is being stockpiled/stored without a cover, causing runoff into a stream.
- Generally, activity is being conducted within the 200 foot riverfront area without a valid Order of Conditions.

DEP #157-440 – 67 Washington Street

Bill found that the applicant had not satisfactorily addressed the erosion problems in the so-called "middle basin," under the paragraph entitled "*Basin Functioning*" on page 2 of Amy Green's letter. Bill stated that he was not satisfied that the large basin between section 53 and 54 is functioning as shown on the As Built Plan, and requested that the applicant show the Commission that the basin filled from the forebay first. He explained that once the forebay overflowed, it fills the basin and then once it fills to the top of the control structure, it flows into the adjacent wetland stream area.

While inspecting the wetland stream area and photographing the area, Bill followed the water to the edge of the parking lot between post stations 5302 and 5303. His photographs show that an erosion area, where the water from the parking lot (above) has cascaded down into the wetland/stream area below the embankment near 5303. He indicated that there appeared to be a problem with the storm water design in this parking lot.

Bob informed the Commission that after reading Bill's report, he immediately called Amy Green to let her know what Bill had found. She had told Bob that she would immediately call Dan Krantz and then report back to him.

The Commission discussed issuing a Cease and Desist Order for the site's unacceptable conditions, but decided that before doing so, Jane and Bill should visit the sites together and then report their findings to the Commission.

Judy was asked to put Bill's report on Conservation Commission letterhead and then send it to Gillette's representatives (Mr. Piekarski, Mr. Krantz, Ms. Green and Mr. Twohig, Esq.).

Nadia Estates - ZBA Referral and ANRAD Filing - Jane informed the Commission that a Comprehensive Permit Plan (Ch. 40B) for Nadia Estates had been filed with the ZBA and that an ANRAD had been filed for the project (copies of the filing were given to the Commission). Before submitting the ANRAD, Seth Dufort of Outback Engineering had called Jane to ask for her guidance on how to proceed with the filing. She specifically instructed him to include the Bylaw's 25 foot no disturb zone and the 100 foot vernal pool no disturb zone on the plan. She told him that he should use the highest observed level of flooding (rather than engineering calculations) to determine the vernal pool's boundary, which should also be included on the plan. She let him know that the vernal pool certification process had been started and that it would be finalized in the spring.

Bill informed Jane that during a previous wetland delineation of the site, Bay Colony had installed nails in trees along the edge of the vernal pool to mark the high water line.

Additional Meeting in January – The Commission agreed to meet on January 25 in the McGinty Meeting Room, located in the Public Safety Building.

Public Land Preservation Act H3438 – A draft letter in Support of Public Land Preservation Act H3438 was reviewed and approved with minor modifications.

Motion by Doug Davis was made to send the support letter, with the Commission's minor modifications. Seconded by Allan Curtis. **Vote: 6:0:0.**

10 Fairbanks Road, Rent Delinquency – The Commission is in receipt of a request from the tenants at 10 Fairbanks Road to pay their past due rent in the amount of \$1,950.00 on January 22, 2010. After discussion, all members agreed that this delinquency is unacceptable and instructed Jane to send a letter to the tenants informing them that their delinquent rent payments must be paid in full no later than January 1, 2010 to avoid eviction action being taken against them.

Durham Park – Jane had visited Lot #4 in the Durham Park subdivision to review a Board of Health application and had observed standing water within 100 feet of the proposed work. She asked the Commission how to proceed, stating that she was concerned that the Commission might consider the area to be a wetland. After discussion it was agreed that the standing water was a result of the subdivision's incomplete roadway and curb construction and that when construction was completed, there would no longer be a drainage problem; no wetland filing would be needed.

Court Case Update - Bob informed the Commission that a three-judge panel hearing had been scheduled on January 5, 2010 to decide whether Foxborough's Town Manager had the authority to overrule the Conservation Commission's decision to pursue the dog park's litigation.

Open Space and Recreation Plan – Jane is still working on this.

Reminder - The Commissioners were reminded that they need to take State Conflict of Interest test at www.mass.gov/ethics.

New Fillings for Next Meeting - Distributed to the Commissioners: RFD, 33 Hayden Drive; NOI, off East Street, T-Mobile; ANRAD, Morris Street, Nadia Estates.

Motion by Doug Davis to adjourn the meeting at 9:10 PM. Seconded by Allan Curtis. **Vote: 6:0:0**

Draft minute submitted by: Judy Leahy on 12/23/09
Approved by Commission: 1/11/10