

**Town of Foxborough
Conservation Commission Minutes
May 3, 2010**

Members present: Bob Boette (Chairman), Alan Curtis (Vice Chairman), Doug Davis and Eric Nelson

Absent: Harold Blomberg, Judi Johnson and Jim Marsh

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

Meeting Opened

Bob Boette opened the meeting, which was held in the Selectmen’s Meeting Room in Town Hall, at 7:05 p.m.

Foxborough Water & Sewer, Review of Article 17 Home Rule Petition Sewer District

Phillip Henderson and Leo Potter from the Foxborough Water & Sewer Commission came before the Commission to provide details related to Town Meeting Article 17.

This article is seeking Town Meeting approval to petition the State House to enact special legislation that would give Foxborough home rule powers to create sewer districts and establish the rules and regulations with regard to those districts. It does not require the Town to create sewer districts if it chooses not to; it does empower the Town, through Town Meeting, to take control of its own destiny with regard to sewer.

An affirmative vote for this article will give the Town voters power to create bylaws governing the creation of sewer districts in Foxborough. With the revision to this bylaw, voters will be able to direct the water and sewer commissioners with standards to pursue sewerage in Foxborough.

Approval of this article is necessary to move ahead with both the Interbasin Agreement and the Regional Wastewater Treatment Plant, changing our current situation of renting sewage treatment capacity from the Town of Mansfield. Shared ownership in a treatment facility will give the Town a better position going forward in controlling the costs of treating the sewage that is already hooked up to the existing system, even if Town Meeting never chooses to go forward to create a single district in Town beyond what is already hooked up to the current system.

Bob questioned the likelihood of the State House allowing this petition; Phillip reported that Nantucket has done this and therefore has set a precedent.

Doug questioned if this would affect the money the Town receives from the State; Leo responded that it would not. Doug asked who would pay sewer fees; Phillip replied only those hooked up to the sewer would pay for it.

Bill Hocking stated that having more sewer hookups in Town would take water away and believes sewers should not be forced on residents who don’t need it. Leo responded that this program is not designed to put sewers in areas that don’t need it. Bill replied that he was looking way ahead when water will be a town’s most important commodity. Phillip and Leo thanked the Commission for their time and asked for their support at Town Meeting.

Request for Determination, Lot 4A East Belcher Road, Peter Dangelo

The applicant, Mr. Dangelo, just purchased this lot and is proposing to construct a single family home. Jane reported that she and Bob visited the site and that only a small portion of the proposed project would be within 100 feet of the BVW. She recommended a negative determination.

Motion was made by Allan Curtis for a Negative Determination (#3 and #6) for the RFD for Lot 4A East Belcher Road. Seconded by Doug Davis. **Vote: 4.0.0.**

Notice of Intent, DEP #157-TBD, 204 East Street, Scott Barbato

Bill Buckley (Engineer, Bay Colony Group) and Briscoe Lange (Professional Wetland Scientist, Pare Corp.) were present, representing the applicant, Scott Barbato. This filing is for the restoration of Bordering Vegetated Wetlands and Riverfront Areas, as required by MA DEP's Administrative Consent Order (ACO-SE-09-6W004) between Mr. Barbato and the DEP.

Before Bill and Briscoe began, Bob Boette wanted to disclose, for the public record, a telephone conversation that he had with an East Street resident a few days earlier. Bob indicated that the resident had called him (in his capacity as Conservation Commission Chairman) to discuss the 204 East Street filing. During the course of the conversation, the resident had expressed his opinion that Bay Colony Group would be given preferential treatment by the Town for this filing. In response to his comment, Bob stressed that this simply was not true. He explained that Bay Colony has demonstrated that they understand the Town's rules and regulations, so their filings are quite comprehensive, but they are never given preferential treatment.

Bill Buckley then provided background information about the site's previous filings and activities that culminated in the submission of the current Notice of Intent (NOI). Bill explained that the filing was for wetland restoration work as required by the DEP's Administrative Consent Order (ACO) and that no construction work was being proposed.

The submitted Wetland Restoration Planting Plan was prepared by Briscoe Lang, in support of Phoenix Environmental Group's NOI submission, dated April 1, 2010 (as required by the ACO). The DEP has not yet issued their file number for the NOI.

Briscoe then reviewed the Restoration Plan, which included planting native wetland vegetation, only. The selected plantings were chosen to be consistent with the existing native vegetation in the adjacent (undisturbed) wetland. Their intent is to establish a minimum of 75% cover by indigenous vegetation within two growing seasons, as required by the WPA.

The restoration area, totaling 1,380 square feet in size, was previously graded and is currently stabilized with herbaceous vegetation (mostly grass). The restoration planting of trees and shrubs is required to be completed by May 31, 2010 (per the ACO). Three plant species are proposed: Red Maple (four trees, spaced 20 feet \pm apart), Red Osier Dogwood (18 bushes spaced 8 feet \pm apart) and Arrowwood (eight bushes, spaced 8 feet \pm apart). The spacing of the plants is generally in accordance with the MA DEP Wetland Replication Guidelines. There will be a two year monitoring plan, involving two site visits per year (in the spring and fall) to examine growth, ensure the plants' health, and determine whether other species (native or invasive) are growing in the area.

Briscoe explained that the applicant had (unintentionally) created excellent turtle nesting habitat along the northern edge (south-facing slope) of the excavated area, located adjacent to the proposed restoration area. The slope is currently covered with a thick layer of wood chips, which should be suitable for burrowing and nest establishment. To facilitate turtle access to this area, they proposed the removal of the existing steps (built into the new stone wall), with the exception of the bottom "stair," a large rock that could not be easily moved, and will create a gentle slope in their place.

Both Doug and Jane expressed their concerns that turtles would be unable to climb over this rock, advising Briscoe that he would need to create a ramp that would allow the turtles to access to the south facing slope. Doug asked for a revised plan with the ramp's details, including dimensions.

A man from the audience asked why this work was being proposed. Bob explained that the State had mandated this restoration work because the Applicant had modified the area without a wetlands

permit. Another man indicated that he was confused and did not understand why replacing the gravel that had been removed was not part of the restoration work. Briscoe Lange responded that DEP considered their proposal to be a complete restoration of the riverfront area and wetlands.

Because the ACO stipulates that the plantings must be in place by May 31, the Applicant will need the Order of Conditions for this work as soon as possible. The DEP has not issued a file number for this NOI, which is needed in order to complete the OoC.

Motion by Doug Davis was made to close the hearing and to issue an Order of Conditions, subject to the receipt of the revised plan, as discussed, and a DEP file number. Seconded by Eric Nelson. **Vote: 4:0:0**

The Commission planned to discuss the filing's Order of Conditions later on in the meeting.

Notice of Intent, DEP #157-488, 78 Cocasset Street, Chris Colby

Bill Buckley from The Bay Colony Group was present, representing the Applicant, Chris Colby. The proposed project includes the reconstruction of a single family home and the construction of a septic system and water line within 100 feet of a wetland. Resource areas include bordering vegetated wetlands, riverfront just off-site to the west and borderline land subject to flooding, shown as 268.2 feet (based on a letter of map revision for the nearby Fuller Road condos); all resource areas have been flagged.

The plan calls for using the existing foundation to build a new three-bedroom dwelling. In addition, the applicant proposes to add a one-car garage on the east side, and expand the existing driveway to add a turn-around so that cars will not have to back out onto Cocasset Street. The existing cesspool, in the backyard, will be pumped, crushed and filled. A new septic system will be built in the front yard, which is over 100 feet from the wetlands. The Commission all agreed that this is a good plan.

Motion was made by Doug Davis to close the hearing. Allan Curtis seconded. **Vote: 4:0:0**

Notice of Intent DEP #157-489, 67 Mechanic Street, Hockomock Area YMCA

John Metcalf (Director of Facilities for the YMCA) and Bill Buckley (Bay Colony Group) were present. They had originally requested a modification to an existing Order of Conditions (DEP #157-358) issued by the Commission, which they had kept open until all phases were completed, but the DEP assigned a new number to this filing.

Bill reviewed the project, proposed for the YMCA site, a 20.99 acre parcel of land with an existing 50,000+/- square foot wellness center/building. The property lies within the Robinson Brook riverfront area. The original design, presented to the Commission in 2001, included two phases of construction. The first phase's addition was 17,000 square feet; the second phase's addition was 33,000 square feet, creating the facility that exists today.

In this filing they are proposing to construct an outdoor pool, changing rooms, bathrooms (with town sewer) and a two story mechanical building to house the pool's systems, in the location of the tennis courts. All of the proposed work within the riverfront area will occur on existing impervious surfaces, except for around 3,500 square feet of concrete deck/walk and maintenance building, proposed for the south side of the basketball court, in the outer edge of the inner riparian zone. Bill reported that the proposed project's impact on the river will result in decreased stormwater runoff (and volume) into the river.

Bill explained the proposed pool's system will be different from the indoor pool's system, a sand system which is flushed into the detention basin. There will be no backwashing of the new pool's filtration system, since a sand filtration system is not being proposed. At the end of the season,

they will allow the chlorine to dissipate from the water, and would then drain the pool into the detention basin.

The Commission, after hearing about the indoor pool's flushing practices (to the detention basin), indicated that they did not recall this having been discussed and asked for additional details. Bill explained that the water in the indoor pool is regularly flushed out, and eventually ends up in the detention basin, adding that they had discussed this practice with the Commission. The Commission decided to review the project's older files and then revisit the subject at a later date.

Bill indicated that the parking area, located between the river and the current tennis courts will be used as a staging area, due to the high volume of cars, with children, coming in and out of the site. Silt fencing would be installed around its perimeter. They don't plan to begin the project until school opens in the fall. Seventy-one additional parking spaces will also be added as part of this plan, to be located outside the river and wetland resource areas.

Doug asked Bill for the exact square footage (size) of inner or outer riparian area alterations in writing for the pool, splash park, changing rooms, mechanical building, paved areas and sidewalks.

Bob asked that extra effort be made to control any oils that might leak from construction vehicles. Bill Hocking indicated that a chemical spill and safeguard plan, relative to pool chemical storage, should be added to the proposal.

Jane commented on the poor condition of the riverfront, suggesting that improving the area with native shrubs, as mitigation for the additional work within the riverfront area, would be looked upon favorably. Bill Buckley offered to meet on site with Jane and Bob to review their areas of concern.

Bill B. indicated that he would write a memo, detailing the following requests and revisions:

1. close Order of Conditions for DEP #157-358,
2. requested square footage calculations,
3. spill prevention plan
4. chemical storage information
5. barrier around parking lot
6. catch basins (double), address and protect,
7. additional planting of native shrubs,
8. location of stockpile area,
9. pool system specifics, and
10. revised splash park location.

The hearing for DEP #157-489 was continued to June 14, 2010.

Requests for Determination (3), MA Department of Transportation (DOT)

Tom Maguire and Mike Clemens from the DOT were present to review each of the three filings.

1. Tree Maintenance – The work involves the trimming or removal of all dead, dying or unsafe trees within the State Highway Layout that present a hazard to the roadways, pedestrians and/or nearby residences. The proposed tree work would be performed on the following roadways: Routes 1, I-95, 140, I 459, Central Street, Copeland Drive, Main Street and Pierce Street.

As mitigating measures within wetland areas, trees to be removed will be flush cut at ground level, with no grubbing or stumping, and all slash, chips and other materials will be removed from the site. Tom reported that a tremendous problem has been created by winter and gypsy moths, which have killed many hardwood trees; predictions indicate that this will be another bad year. Bob asked if this work included pruning branches that block street signs and Tom said that it did. Outside contractors are used for this work.

2. Rte I-95 Herbicide Application under an approved Vegetation Management Plan and
3. Rte 1 Herbicide Application under an approved Vegetation Management Plan – Both of these RDA’s proposed the same work specifications, involving the application of herbicides under approved Vegetation Management Plans in accordance with Department of Agricultural Resources (DAR) “Rights of Way Management” regulations.

The application of herbicides, approved for use in sensitive areas, would be performed at low pressure (below 60 psi) at spot locations, including areas beneath median, roadside and ramp guardrails, within crevices between pavement and curbing, on poison ivy, and within joints between and under Jersey barriers. Spray/no spray sketches and locus maps were provided.

The majority (94%) of the vegetation management will be performed using mechanical methods such as mowing, hand cutting and selective trimming. A few small areas would require control by chemicals or herbicides (1%). Two methods of herbicide application would be used: cut stump surface treatment or foliar treatment. Outside contractors, licensed by the DAR, will be performing the work.

Motion was made by Eric Nelson for a Negative Determination (#3 and #6) for all three of the DOT’s RDA submissions. Seconded by Allan Curtis. **Vote: 4.0.0.**

Request for Determination, 30 Creighton Avenue, James Scott

The homeowner/applicant, Mr. James Scott, was present to review his proposed installation of a non-permanent dock on the Neponset Reservoir. His property is located on the northerly side of Creighton Avenue. The proposed floating dock system is comprised of two 10’ long by 40” wide sections, with a 10 foot “T” on the end (extending 23’4” into the Reservoir). The sections are made of rotomolded low-linear density polyethylene by EZ Dock, Inc.; all dock components are environmentally friendly.

Doug thought that the dock seemed long and questioned whether the proposed project should require the filing of a Notice of Intent. James stated that most of the docks on the lake are larger than his proposed dock.

Jane reminded the Commission that the dock was not a permanent structure, adding that she would recommend a negative determination for such a filing. She believed in making non-permanent projects such as this, easier for residents to complete by allowing them to file RFDs. Allan stated that he did not believe this required an NOI.

The Commission discussed previous filings and the precedents that they had set, citing an Alice Bradley Lane resident’s dock. They wanted to ensure that everyone that wanted to install docks was treated in a consistent manner. After discussing previous filings, Eric felt that the filing of a NOI should be required.

Bob asked for the applicant’s consent to continue the RDA meeting so that more research could be performed in order to make an informed decision during the Commission’s next meeting. Mr. Scott agreed to continue the discussion to May 24th.

Order of Conditions Discussion, DEP #157-TBD, 204 East Street

Ms. Pierce told the Commission that she had been working on a draft Order of Conditions for tonight’s meeting, but it was still incomplete. She read sections of the draft OoC aloud, including the findings section, outlined additional recommendations and asked for the Commission’s input. The Commission determined that the OoC should include the following additional information:

1. the south facing slope/turtle nesting area should remain as is, and should not be seeded with grass as required by the DEP’s ACO;

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2. add findings regarding the SORAD's delineation, vs. the Bylaw delineation;
3. include a condition/requirement regarding "no mow boundaries" for the restoration area;
4. require a revised wetland restoration plan, including the restored slope's dimensions as well as side views (located where the stairs will be removed); and
5. indicate that the NOI's square footage calculations are inaccurate.

The Commission asked Jane to make the OoC modifications, as discussed, and then inform the four attending Commissioners that the OoC is ready to be signed after the DEP filing number has been issued. They will then stop by the office to sign the document, before Judy processes it. In order to meet the WPA's 21 day requirement, this will need to be completed by May 21.

Conservation Commission Minutes

Motion was made by Allan Curtis was made to accept the March 29, 2010, April 5, 2010 and April 12, 2010 meeting minutes as distributed. Seconded by Doug Davis. **Vote:** 4:0:0

Motion was made by Allan Curtis was made to adjourn the meeting. Seconded by Doug Davis.
Vote: 4:0:0

The meeting adjourned at 11:00 p.m.

Draft minutes submitted by: Judy Leahy on 5/24/10
Approved by Commission: