

**Town of Foxborough  
Conservation Commission Minutes  
February 28, 2011**

**Members present:** Allan Curtis (Vice Chair), Doug Davis, Judith Johnson, Eric Nelson (Clerk) and James Marsh

**Absent:** Robert Boette and Harold Blomberg

**Also present:** Jane Sears Pierce, Conservation Manager

**Meeting Opened**

Allan Curtis, acting Chairman, opened the meeting, held in the Andrew A. Gala Jr. Meeting Room, Town Hall, at 7:00 p.m.

**Sallie Conservation Property, Foxborough Garden Club**

Foxborough Garden Club members Betty Ekstrom and Maureen Loible came to discuss their interest in creating a memorial to Bill Hocking at the Sallie conservation property located on Main Street. They are planning to revitalize a garden on the property and would like to work collaboratively with the Commission and also share in the cost of a memorial.

A preliminary plan was presented to the Commission. Since they won't have a lot of time to dedicate to maintaining the garden, they are planning to create a low maintenance garden with perennial plants and bulbs and a covering of mulch. The garden was rototilled last fall and they are hoping to start working on their project on April 15. The Commission was interested in working with the Garden Club and encouraged them to use low-maintenance native plants in the garden. It was agreed that the Commission would contact the Garden Club in the Spring.

**Continued Hearing, NOI, DEP #157-498, Lamson Road Water Treatment Facility**

The Water and Sewer Department's (WSD) representative, Bill Buckley from Bay Colony Group, attended the meeting. He explained that since the proposed project was located in the habitat of a rare butterfly, they were waiting for the Mass Natural Heritage and Endangered Species' (NHESP) review under the Mass Endangered Species Act (MESA). In their letter dated 2/10/11, NHESP indicated that the proposed plan met the Wetlands Protection Act's performance standards for state-listed species.

The WSD plans to put their treatment plant in the same location, but will need to perform mitigation work for the project's impact to the butterfly's habitat in a larger habitat area, just north of this site. They will need to create a conservation management plan for the mitigation work, and are currently getting price quotes for this work from consultants.

Jim Marsh asked if anything would change as a result of NHESP's involvement. Bill replied that their project met the WPA's performance standards, so there would be no changes relating to the WPA, but the Commission would be required to sign the Conservation Restriction that will be required by NHESP in the northern habitat area.

Eric asked when the management plan would be finalized and Bill replied that it should be completed in April, stating that he would come to another meeting in the summer to review it.

**Motion** was made by Doug Davis to close the hearing for DEP #157-498, Lamson Road Water Treatment Facility. Seconded by Eric Nelson. **Vote: 5:0:0**

### **Continued ANRAD, DEP #157-496, 369 Central Street, Big Y Foods**

The applicant's representative, Bill Buckley of the Bay Colony Group, attended the meeting to say that the Applicant was requesting that the Commission continue the hearing until their next public hearing on March 14. He hoped that rain events causing decent flooding would happen before that time to determine whether the river's MAHWL, as currently proposed, was accurate.

### **Conservation Commission/Manager Work Plan/Goals and Objectives**

Jane explained that during the last Town Hall Dept. Head meeting, Kevin P. had asked department heads for a department goals and objectives list. After submitting the list to Kevin, he will include it (and other department lists) in his work plan binder, then at the end of the year, he will check to see whether the projected work has been completed. Department head performance evaluations would also be based on these lists.

Jane reviewed the draft Goals and Objectives list that she prepared which had been reviewed and revised by Judi. Draft goals included finishing the OSRP, increasing filing fees, researching other revenue creating opportunities, defining the Commission's responsibilities relative to their conservation properties (resulting from the Dog Park decision), and others. The Commission agreed with her list; she told them that she would submit it to Kevin.

### **Order of Conditions, DEP 157-493, Nadia Estates**

Mohammad Itani, the project's applicant, had called Jane earlier in the day to discuss his Order of Conditions (OoC) which was issued during the previous meeting. After speaking to Mr. Itani about his concerns, Jane asked him to come to the meeting to discuss his concerns with the Commission. He wanted to ensure that their (his and the Commission's) interpretations of certain conditions were the same. Mr. Itani reviewed a letter, not yet submitted, that had been drafted by his attorney.

The draft letter's first item stated that on page two of the OoC, some 20 plans and other documents were listed in connection with the OoC approval. He explained that he didn't have an issue with the list, but just thought that the list might imply that there was more weight in the Commission's decision to the listed items than those that were not.

Jane explained that she had included so many documents, including the vernal pool certification, 40B project decision, and other documents (which had been referred to during the hearing), for administrative purposes because there had been many revisions to some of the referenced documents. She wanted to make it easy to follow the project's "paper trail" if/when needed.

Jane indicated that she had called the DEP Circuit Rider, Christine Odiaga, earlier in the day to ask for her opinion on how the Commission might address Mr. Itani's concerns. Ms. Odiaga suggested that the Commission could discuss Mr. Itani's concerns with him during the meeting, create an accurate record of their discussions in the minutes, and then give Mr. Itani a copy of the final minutes for his records. She also suggested assuring Mr. Itani that the OoC's list of documents on page 2 was not intended to be a complete list of all documents submitted during the hearing.

Jim assured Mr. Itani that everything that came in front of the Conservation Commission relating to this project was given equal weight and was reviewed by all who signed the OoC, whether listed in the OoC or not. He said that page two of the OoC should not be considered a complete list of all of the items that were reviewed. He said that each item listed on the OoC, as well as the project's other documents, were given equal weight.

Item two, asked for clarification of Condition #9 (on page 9) which requires an independent compliance inspector. He wanted to make sure that the condition was only meant to require the compliance inspector only when there is work within the 25' no touch buffer. Jane stated that this

was correct, but the Compliance Inspector would also be required when work was being performed in the 100 foot buffer zone to the site's bordering vegetated wetland.

Item 3 referred to Condition #26 (on page 11), which required monthly progress reports. Mr. Itani wanted to clarify that condition was only meant to require monthly progress reports when work is being done within the buffer zone. The Commission agreed, adding that there would be no reason for a detailed report; a letter from the Compliance Inspector should be sufficient, and only during the times when the temporary utility work in the vernal pool habitat or the work in the 100 foot buffer zone was occurring.

Item 4 referred to Condition #39 which prohibits washing out of cement trucks. Mr. Itani explained that this would be fine for the truck's drums, but the truck's chutes needed to be washed as it was illegal for them to drive on municipal roads when they were dirty. The Commission indicated that it would be okay for chutes, only, to be washed in a designated area surrounded by silt fencing in a location to be approved by the Commission or its Manager.

### **Dog Issues Near Forest Road Entrance to Conservation Land**

Foxborough's Animal Control Officer told Jane that she had received complaints that people were not picking up after their dogs at the entrance way to the Forest Road conservation land. The Commission suggested putting up signs instructing pet owners to clean up after their animals. Judi wondered whether the State Forest had any signs. Eric expressed his concern about setting a precedent, saying "Where do you stop?" The Commission decided that they just didn't have the time or funding to start posting "pick up after your pets" signs on their conservation properties.

### **Snowmobiles on Lane Property**

Judi told the Commission that she had written a letter to the Foxboro Reporter outlining regulations pertaining to the use of motorized vehicles on conservation land, advising that it was prohibited and encouraging passive recreation. Jane said that she had included it on the Commission's website.

### **Conservation Property Farm Lease/License Discussion**

Jane told the Commission that Jack Authelet had come down to the office to look at the Hersey Farm files. He came to the same conclusion that Judi and Jane had come to: the legislative act that granted the town (through the Conservation Commission) with the use of the land was not for 99 years, but rather 10 years, but it could be extended. Unfortunately, the State's license expired quite a few years ago; the State's representative has told Judy Leahy several times that this wasn't a problem and that she would send her renewal information, but she has not yet done so. Earle Ferguson has been attempting to call her and will continue to work on this issue until it is resolved.

### **Mechanic Street Conservation Land; YMCA Farm License**

Jane told the Commission that when she reviewed some old notes, she realized that the YMCA stood to make quite a profit from their farming project on town conservation land.

Judi wanted to warn them of the Commission's concerns before their license expired in mid-June. She stated that the Commission had understood that the YMCA's intention was that they wouldn't make money from the use of conservation land, but starting in June, a fee will be assessed.

Jane agreed, adding that Article 97 land (conservation land) is for everyone's use and should not be used for one entity's profit. She suggested that the YMCA should submit their accounting projections (profit, costs, etc.) to the Commission for their review.

Eric opined that the YMCA should be asked to come to a meeting to review their financial information. Doug reminded members that he had voiced his concerns about this (their making a

profit) at the onset of the YMCA's discussions with the Commission, adding that it appeared to him that their plans had evolved.

Jim thought that it made sense to have the YMCA come before the Commission before the start of planting season, saying "this is public land, not to be used for a profit." Judi agreed, saying that she understood that they had costs, but if they are making a profit, then the profit should go into the Discretionary Fund, just as the Community Farm Stand runs their business. She wanted them to show how the property would be managed, where their profit was going, etc.

### **Vouchers**

The following vouchers were reviewed and signed:

MACC Conference Attendance, March 5 (4 attendees)  
WB Mason Supplies

### **DEP #157-497, 67 North High Street (Christensen Estates)**

**Motion** was made by Doug Davis to sign the Order of Conditions for DEP 157-497. Seconded by Judi Johnson. **Vote: 5:0:0**

### **DEP #157-495, 52 Neponset Heights Avenue**

**Motion** was made by Doug Davis to sign the Order of Conditions for DEP 157-495. Seconded by Judi Johnson. **Vote: 5:0:0**

### **Meeting Adjourned**

**Motion** was made by Eric Nelson to adjourn. Seconded by Jim Marsh. **Vote: 5:0:0**

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

Eric Nelson, Clerk

### **List of Documents, Reviewed during Meeting**

1. Foxboro Garden Club Sallie Property Plan (hand written) and proposed list of plantings
2. NHESP 2/10/11 Letter, Re: Lamson Road Water Treatment Facility
3. Conservation Manager's Report, 2/28/11
4. Draft Conservation Commission Goals and Objectives for FY11-12 (as of 3/1/11)
5. Draft Letter, DEP 157-493, Nadia Estates, Reviewed by Mohammad Itani at 2/28/11 Meeting
6. Foxboro Reporter article by Judi Johnson about Passive Recreation on Conservation Land

Draft minutes taken by Judy Leahy  
Reviewed by Jane Pierce: 4/5/11  
Approved by Commission: 4/11/11