

**Town of Foxborough
Conservation Commission Minutes
July 8, 2013**

Members Present: Robert Boette (Chair), Douglas Davis, Allan Curtis (Vice Chair), Valerie Marshall and James Marsh

Absent: Eric Nelson (Clerk) and Judith Johnson

Staff Present: Jane Sears Pierce, Conservation Manager

Meeting Opened

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

Neponset Reservoir and Crackrock Pond, Request for Determination

Information Reviewed:

- Request for Determination dated 6/20/13

Bob opened the hearing by reading the legal notice, as posted in the Sun Chronicle and the Foxboro Reporter. The Applicant's (Invensys) representatives, Lisa McIntosh and R. Duff Collins of Woodard & Curran, were present to review the proposed project.

Ms. McIntosh explained that the first component of the proposed project is a bathymetry study of the thickness of sediments and pond depths for all of the Neponset Reservoir, as well as upper and middle Crackrock Pond. The second component (approved by the DEP) will be to collect sediment samples from the pond from 16 monitoring locations (four of which are in Crackrock Pond). She reviewed a couple of sampling devices that could be used to collect sediment samples (distributing photos of the two samplers), namely a Petite Ponar Bottom Dredge or a Hand Corer. Samples will be sent to a lab to test for various constituents, including cadmium, to establish a new base line. They will be comparing older data to the newer data.

Ms. McIntosh reviewed a map with the sampling locations, explaining that some samples will be taken in the same locations as previous tests (not performed by Woodard & Curran), but some have been moved over a bit to better spatially represent samples. Sediment samples will be taken from the upper six inches of sediments. Previous data shows contamination in the upper levels of sediment only, but they will take deeper samples in a couple of areas where contamination was deeper in the past.

One monitoring well (estimated to be around 30' deep) is scheduled to be installed this week on town land on Ridge Road, more than 100 feet from the shore line. While working with Foxborough's Water Department to select the monitoring well's location, they were asked to take samples at three of the Water Department's drinking water monitoring wells along the Reservoir, which they agreed to do.

Rick Lewis, NRRC (also in attendance), asked how deep water samples would be taken. Ms. McIntosh stated that they would be taken in the lower half of the water column (probably in the bottom third, depending on water depth). Mr. Lewis asked whether they had reviewed the NRRC's data. Ms. McIntosh responded that the NRRC's data was not germane to this filing.

Ms. McIntosh stated that they hoped to start sampling on the weekend of July 22nd. Jim asked whether copies of their data would be given to the Commission and was told that they would send update reports to the Commission, but not necessarily all of the data. Bob asked whether the Commission would be informed if data extremes were discovered. Mr. Collins, project LSP, talked about what might be shared after studying the data (page 5-1 describes how they will look at the data).

Ms. McIntosh explained that after the summer's sampling event, they will continue to monitor the area a couple of times per year. They've chosen time periods that would be consistent with sampling that

was performed in the past. Doug indicated that the RFD did not reference any past testing data and was told that reports with this information are downloadable from the DEP.

Motion was made by Allan Curtis to close the meeting and to issue a Negative Determination (#2 and #6) for the RFD for Neponset Reservoir and Crackrock Pond; seconded by Doug Davis.

Vote: 5-0-0

Fishing Derby

Tom Spognardi attended the meeting to formally ask to hold a cub scout fishing derby on Saturday, August 10, between 10:00 and 11:30 at Cocasset River Park, as they have for the last four years. He said that they would clean up first and leave no trace after.

46 Neponset Heights Avenue, DEP #157-512, Notice of Intent

Information Reviewed:

- NOI received 6/20/2013
- Resource Area Plan, 46 Neponset Heights Avenue, dated 5/29/2013, rev. 7/5/2013, stamped/signed by Scott P. Miccile, PE #46680, Landmark Site Design, received 7/8/2013

Bob opened the hearing by reading the legal notice, as posted in the Sun Chronicle and the Foxboro Reporter. The applicants, Maria Capone and Warren Goodwin, and their representatives, Peter Lavoie of Landmark Site Design, and John Michelmore, Esq., were present.

Attorney Michelmore introduced the applicants and their consultant and then gave a quick background/overview. The lot currently has a small house at the water's edge, with a cesspool located directly behind the house that is only 22 feet from the water. The applicants are proposing to raze the current house and build a larger house, which would be set further back from the water with a Title V septic system located farther away from the water. He admitted that the project posed a lot of challenges, stating that one challenge was the fact that the roadway (Neponset Heights Avenue) is approximately 30 feet away from the (road side) lot line.

Attorney Michelmore explained that the applicants, their builder, Mr. Lavoie and he had met with the Conservation Manager on the previous Tuesday to go over NOI filing's plan. At this point, Jane gave Attorney Michelmore a copy of her Manager's Report, which included a list of the items that they had discussed during their meeting.

Mr. Lavoie then reviewed the proposed project's engineering calculations. He explained that the lot's upland area was approximately 6,000 sq. ft. in size, with a cement block wall running along the water line. The current structure is 721 sq. ft. in size, with a total impervious area of 724 sq. ft. At its closest point, the structure is roughly seven feet from the water. The lot slopes towards water and is wooded, with a gravel driveway and a small amount of grass/lawn around the structure.

The proposed structure, including the garage, would be 24' by 80' (1,920 sq. ft.) with a 10' by 24' deck along the water side of the structure with crushed stone underneath. Roof water would be collected and discharged into two dry wells, which would overflow into a rain garden, on the waterfront side of the structure. Along the waterfront, a 450 sq. ft. area would be restored with native vegetation and a rain garden for the drywell overflow.

The plan's water elevation (266.5') was taken during May; the floodplain is located at the 268.97' topographic line. No fill of the floodplain is proposed and the grade will remain the same on the lot's waterfront. Doug stated that the Commission hasn't referred to it as a "floodplain;" it is the level of the Reservoir. Jane explained that she had asked Mr. Lavoie to refer to it as "floodplain" for Wetland Protection Act purposes.

Mr. Lavoie continued, stating that the new Title V septic system will be 70 feet from the water line (cesspool is now 22 feet from the water). Bob asked about Title V, believing systems couldn't be

built for only one bedroom. Mr. Lavoie explained that the minimum you could design for is a two bedroom system with a deed restriction. This system will be for a one bedroom home with a deed restriction, specifying it will remain a one bedroom home and could only be sold as such.

Val asked about the amount of proposed fill. Mr. Lavoie responded that there would only be around 1-1½ feet by 22 feet of fill, taken from another part of the lot. The foundation will be dug and the dirt put to the sides, adding that a construction sequence has been added to the plan. They plan to start at the water line and work toward the street. They will first remove the concrete block wall, take down the house and construct the restoration area (see construction sequence for details). The restoration area's plantings will keep the shoreline stable and prevent erosion. The bottom of the restoration area will be at 269.5' and there will also be an underdrain along the high (east) side of the house. The driveway will slope to a depression along its west side.

Doug stated that it would set a bad precedent to allow work below the 269' line, since the Commission has never allowed any alterations along Neponset Reservoir below this level. Mr. Lavoie explained that they would be removing grass from the area and restoring it with native plants, adding that the homeowners will have to walk through the plantings to get to the water. The bottom of the foundation is proposed to be at 272'; it will be a walk out basement.

Bob stated that if the bottom of the restoration/garden area is at 270', rather than 269.5', it would not set a precedent. Mr. Lavoie stated that he would revise the plans to set the bottom at 270'.

Val opined that the proposed design would be better for the lake, since it would catch runoff from a point source discharge. She explained that the Commission needed to address the merits of a proposed lakefront project's plans on a case by case basis (i.e. the characteristics that are unique to each case) and assess whether the proposed plan would improve water quality. Bob opined that the septic system alone would be a tremendous improvement to the lot.

Attorney Michelmore reviewed and responded to the Conservation Manager's report's project comments list:

1. Floodplain level – *done*.
2. Retaining wall details – *not yet done*; Attorney Michelmore suggested that this could be included in the Order of Conditions, i.e. to be submitted for the Commission's approval.
3. Larger plans - *done*.
4. 25' No Activity Zone (NAZ) on plan; remove 50' buffer from plan – *done*.
5. 25' NAZ Restoration – *details are on revised plan*.
6. Rain garden details, including cross section views and plant species – *done*.

Val asked whether there was any way to move the house back a bit from the water. Mr. Lavoie stated that the house was located at the required 35 foot zoning setback from the street. Attorney Michelmore explained that when they went before the Zoning Board, they had not asked for a "variance," they had asked for a "finding."

7. Relocate rain garden to street side of house – *not done*. Mr. Lavoie explained that they have talked to the DPW about putting a rain garden on the town's property, but haven't received final approval from them. He stated that he doesn't want to have any street runoff going to the site.
8. Proposed fill – Mr. Lavoie stated that no fill will be brought in or taken off the site.
9. Proposed impervious areas; pre- vs. post construction impervious areas' coverage. Mr. Lavoie explained that 1,920 sq. ft. (21%) would be the maximum amount of impervious area on the lot, since the driveway and walkways will be pervious (crushed stone). Currently, there is 721 sq. ft. (9%) of impervious area on the lot.
10. Larger plans - *done*.

Mr. Lavoie stated that the proposed deck would have stairs that go to the side, but the deck's footprint (10' x 24') would not increase in size and the stairs would be incorporated into the footprint.

Doug asked what the drywell's depth would be. Mr. Lavoie responded that the bottom would be two feet deep (i.e. it won't go into ground water level). The final grade at the top of the drywell would be 271.5.' Roger Hill (DPW Director), who also attended the meeting, was asked if the roadway (Neponset Heights Avenue) would ever be expanded. Mr. Hill replied that he did not envision that ever happening.

Bob asked for (and received) the applicants' permission to continue the hearing to July 22, 2013 to allow all of the Commissioners to visit the site. Mr. Lavoie explained the site's flagging, as follows: orange flags for house footprint; yellow for septic system's location and pink for property's boundaries. The trees that were slated for removal were spray painted orange.

Motion was made by Allan Curtis to continue the hearing for DEP #157-512 to July 22, 2013 at 7:15 p.m.; seconded by Jim Marsh. **Vote: 5-0-0**

Route 1, DEP #157-513, Notice of Intent

Information Reviewed:

- NOI received 6/24/2013

Bob opened the hearing by reading the legal notice, as posted in the Sun Chronicle and the Foxboro Reporter. The applicant (not present) had submitted a formal request for continuance to July 22.

Motion by Allan Curtis to continue the hearing for DEP #157-513 to July 22, 2013 at 7:35 p.m.; seconded by Valerie Marshall. **Vote: 5-0-0**

Neponset Reservoir Water Level Issues

NRRC members Sheila Warner, Kim Mellen and Rick Lewis attended the meeting to discuss the Reservoir's high water levels with the Commission. Bob asked what the current water elevation was and Mr. Lewis said that they would get the measurements. James Robblee, 36 Neponset Heights Avenue, stated that he had lived on the lake for 45 years. He informed the Commission that the water level had been up 12" but was now down 8", which is still 4" higher than usual.

Mr. Lewis advised that they had been measuring the water levels from a mark on the dam where a spot had been chipped out of a rock; their spreadsheet calculates the actual elevations. He had heard through Judi about residents' concerns about the high water level.

Mr. Lewis stated that the NRRC has hired PARE (who worked on the recent dam repairs) to perform a water management plan study, including options for mechanizing the spillway gate. They hope find an easier way to manage the spillway's boards and want to automate water levels, to avoid future flooding problems. Ms. Warner added that they were gathering historical water level data to give to PARE, including records from Hollingsworth & Vose and Bill Hocking.

Regarding the Reservoir's aquatic weed treatments, Mr. Lewis explained that this year they did the original treatment and a supplemental treatment, concentrating on two northern coves. Other optional treatments were not necessary, since other aquatic weeds were sparse in those areas.

Mr. Robblee complained that water treatment notices, posted on telephone poles, were confusing. He said that the first notification looked like the second one, so he was unaware of the second one.

Bob asked NRRC members to post public service announcements in the Reporter to better notify the public of future water treatments, also suggesting that they ask Frank Mortimer to write a nice article about the benefits of eradicating the invasive weeds.

Mr. Lewis admitted that their timing had been bad. They had pulled the board prior to the weed treatment, and then the board was replaced (to keep the herbicides in the reservoir). Nobody anticipated that there would be so many rain storms, so the water became higher than expected.

Mrs. Warner explained that the goal is to keep the reservoir as high as possible, since this keeps the water temperatures down, which keeps the weeds down. She was looking forward to what PARE's study would show and after further discussion, posed the question: "how high is too high?" The study should show how high water levels can rise without causing flooding problems.

Mr. Lewis informed the Commission that the dam needed to be mowed (weed wacked) at least two times per summer. Mr. Hill advised the Commission to call the DPW's office manager, about mowing the dam, indicating that they would put it on their routine maintenance list.

Mr. Lewis informed the Commission that they have done a freedom of information inquiry with the EPA and DEP regarding the Invensys NPDES permit for both the drainage to Gudgeon Brook and Robinson Brook. This was brought up by the EPA in 2002 and 2010, but the permit still hasn't been issued. Mr. Lewis said that the NRRC would talk to the Board of Selectmen (BoS) about it during their meeting the following evening. They will also be informing the BoS of an executive summary of the survey of sediment samples they did from the bottom of the Reservoir to look at cadmium and metals, which hadn't been done in 14 years. He explained that levels were the same or higher for cadmium and they found that under aerobic conditions, you got the highest transfer from sediment to water. They will give a copy of the Executive Summary (to be given to BoS) to the Commission.

Morse Street, DPW Request for Reconsideration for Emergency Overflow Culvert

DPW members, Bob Swanson and Roger Hill, attended the meeting to discuss their request. They explained that on June 7 and 10, the river crested over Morse Street again. Mr. Swanson wanted to reissue their request to install a 24" culvert under Morse Street, as an overflow only. He explained that from a safety standpoint, the roadway flooding it is dangerous since public safety vehicles' response time becomes much longer since they have to go around the flooded area. From an environmental standpoint, if the overflow culvert was installed, floodwaters would no longer crest over the road and put silt into the system.

Mr. Swanson said that he felt strongly that wetland law allows these projects. They've changed the type of pipe proposed and are planning to use an arch with a flat bottom, per Judi's recommendations.

Mr. Hill explained the proposed installation, saying that the 24" pipe would be installed 18" below the road, 18" below that would be the gas main and the wetland would be below that. They would excavate the road from the downstream side with a big excavator, and the pipe would be laid almost level without a pitch. It would be an easy job to do and would eliminate the flooding issues.

The Commission and Jane reviewed the requirements for an emergency certification, believing that it would be best to do the work during dry weather, which was counterintuitive to the emergency certification's 30 day requirement (i.e. doing the work when floodwaters created an emergency).

Val told Mr. Hill that in order for the Commission to issue an Emergency Certification, they would need a statement of work, work locations and diagram. Mr. Hill stated that he would put this information together and give it to Jane, adding that he definitely thinks it's an emergency situation. He's worried about what would happen if the upstream dam breaks.

Motion was made by Valerie Marshall to issue a WPA Emergency Certification, based on a statement of work, location and diagram from Roger Hill, for the installation of an emergency overflow culvert on Morse Street. Work is to be performed for public safety reasons; the permit to run for 30 days from date of certification; seconded by Allan Curtis. **Vote: 5-0-0**

120 Spring Street, Conservation Property

Jane was asked to speak to the Acting Town Manager, Bob Cutler, about whether the Commission should send a Letter of Disinvite to the Zielinskis, and also put up no trespassing signs.

Meeting Adjourned

Motion was made by Valerie Marshall to adjourn; seconded by Allan Curtis. **Vote: 5-0-0**

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Eric Nelson, Clerk

Draft minutes submitted by Jane Pierce: 1/8/14

Approved by Commission: 1/27/14

Documents, Not Referenced Above

Attached Documents:

1. Agenda, July 8, 2013
2. Meeting Sign In Sheet

Location of Other Documents:

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