

Department of Planning and Community Development

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Mayor Joseph C. Sullivan

Braintree Conservation Commission

Donald Murphy, Vice-Chair
Kevin Bears
Heather Charles Lis
Diane Francis
Gail Poliner-Feldman
Alan Weinberg

Staff: Kelly Phelan

CONSERVATION COMMISSION MINUTES THURSDAY, AUGUST 4, 2016 7PM TOWN HALL- JOHNSON CHAMBERS

Present: Donald (Gus) Murphy, Vice Chair; Kevin Bears, Diane Francis, Alan Weinberg & Kelly Phelan, Staff

Absent: Gail Feldman, Heather Charles Lis

APPROVED

Public Hearings

Notice of Intent

8-640 Great Pond Dam/Tri Town Board of Water Commissioners

Maggie Lofstedt, wetland scientist from CDM Associates was present. Staff said that some members had done a site visit on July 9th and that Ms. Lis had generated a list of questions/concerns from that visit to which Ms. Lofstedt had responded. Mr. Murphy went over the items raised by Ms. Lis.

Mr. Murphy asked if the wetlands had been reflagged. Ms. Lofstedt recommended conditioning this. She said they don't know how long it will be before the project is done and the flags may be gone by that time. Staff said it is very unusual to review a project of this size without the wetlands being flagged. She said if there is a discrepancy when they are flagged prior to the start of work that would significantly delay the project as the application would have to be amended and the replication plan potentially amended. Mr. Weinberg said they would have to come back if there were a discrepancy but that he didn't have a problem with that.

Mr. Murphy asked about marking the trees to be removed prior to removal. Ms. Lofstedt suggested adding that as a special condition.

Mr. Murphy asked about the comment regarding tree removal be done by hand or by bucket from the access road to minimize disturbance to the wetland and if that is not possible that

swamp mats be used. Ms. Lofstedt suggested the Commission condition that a work plan be provided by the contractor to address these details.

Mr. Weinberg asked about the time frame of the project. Ms. Lofstedt said it should take about 3-4 months and added that the Commission could include sequencing be addressed in the work plan from the contractor. Mr. Weinberg suggested that it be added to the bid documents. Ms. Lofstedt said she would check to see if could still be added.

Mr. Murphy asked about the comment regarding the feasibility of doing the wetland replication to the northeast of the dam. Ms. Lofstedt said that it came up during the site visit and was possible but that it would take part of the access area the Water Department needs near the spillway and it would be less than a 2:1 replication ratio. Mr. Bears said there was also discussion about replicating in the area near the other access road to the west. Ms. Lofstedt said that was an option but it requires clearing mature trees. Staff said her preference is to go with the original replication plan since that does not require disturbing additional areas. Mr. Murphy agreed with staff.

Mr. Murphy asked about the comment that the access road be gravel instead of asphalt. Ms. Lofstedt said the request for asphalt came from the Water Department so they can plow during the winter months. Mr. Weinberg said it is important for the water to percolate into the ground. He said gravel roads can be plowed and that asphalt is not cost effective. Mr. Bears agreed that gravel surface is better for percolation. Ms. Lofstedt said it is a request of the Town. Mr. Weinberg said it would be helpful if someone from the Tri Town water board attend the next meeting to discuss this. Mr. Bears said it seems like it is about a convenience factor rather than protecting wetlands. Ms. Lofstedt will ask that Lou Dutton from the Water Department attend the next meeting.

Mr. Murphy moved on to the comment regarding the potential for mitigation/restoration of the area which is an old access road north of the dam between two ponds. Ms. Lofstedt said that it is needed as an emergency access point and there is a 24 inch diameter water main under the road. Mr. Bears said he was satisfied with that.

Mr. Murphy asked about seeding the articulated concrete block with an erosion control or milkweed seed mix. Ms. Lofstedt said she spoke with the dam design engineer who clarified that it is not an open cell articulate concrete mat; it has only 10% open surfaces and cracks greater than 2 inches need to be grouted. It is designed for overflow protection and the Office of Dam Safety is not in favor seeding it as they don't want vegetation on the dam.

Motion by Mr. Weinberg, second by Mr. Bears, to have staff draft conditions for 8-640 for the next meeting. Vote: 4-0.

Motion by Mr. Weinberg, second by Ms. Francis, to continue the hearing to the September 1 meeting. Vote: 4-0.

Request for Determination of Applicability 80 Hannah Niles Way/Kendrick

Staff said that Mr. Kendrick was not able to attend the meeting. She said the proposal was to change a former koi pond into a small in-ground swimming pool. The dimensions are 12' x 10' x 4' deep. The area is existing lawn area and empty koi pond and it is approximately 35 feet from the wetland. Mr. Weinberg asked if they are putting asphalt around the pool. Staff said they are not. He suggested they check with the Health Dept. regarding their requirements for fencing and storage of pool chemicals. Staff suggested adding a condition for compliance with Health Department regulations on pools.

Motion by Mr. Weinberg, second by Ms. Francis, to issue a negative Determination of Applicability with conditions including a condition to comply with Health Department pool regulations. Vote: 4-0.

Motion by Mr. Weinberg, second by Mr. Bears, to close the public hearing for 80 Hannah Niles Way. Vote: 4-0.

Other Business

Enforcement- 505 Commercial St.

Krish Patel, owner of 505 Commercial St. was present. Staff gave the background to the Commission.

Staff said there are wetlands at the rear of the property which were flagged in October of 2015. The wetlands appear to be jurisdictional only under the local wetland bylaw. She advised the owner several times that any work within 100 feet of the wetland would have to be reviewed and approved by the Conservation Commission. As he has been clearing trees from the property she followed up with him and his tree contractor to be sure they understood to stay out of the 100 foot buffer. They both stated that they understood this. Once the tree contractor finished removal outside of the 100 buffer, staff received calls from abutters stating that Mr. Patel had subsequently removed trees on his own from within the buffer. She visited the abutters property and viewed the stumps from the property line. Staff sent an enforcement order to Mr. Patel (dated July 27, 2016) directing him to attend the August 4 Commission meeting, develop a replanting plan based on the tree policy by August 15 and replant the trees by September 15.

Mr. Patel said there were so many bad trees and he wanted to remove them. He said neighboring kids throw trash, drink and have started fires on the lot so he wanted to clear it out.

Mr. Murphy told Mr. Patel he has to stay out of the 100 foot buffer zone and staff had made that clear. He clarified that Mr. Patel has no further intentions of cutting trees. Mr. Patel said not until he comes back and files with the Commission.

Mr. Weinberg said if there is an issue with the kids trespassing it is a police matter and he has the right to put up signs.

Mr. Bears asked how many trees within the buffer zone were removed. Staff said she saw about 5 or 6 stumps but will verify this. She suggested Mr. Patel return to the September 1 meeting with the replanting plan.

Pearse McDermott, an abutter, said he understands it is Mr. Patel's land but he has been told numerous times not to go over the 100 foot buffer and he keeps doing it.

Ken Maydoney, also an abutter, said Mr. Patel misunderstood. He said the report from the wetland scientist said there were no wetlands jurisdictional under the Massachusetts Wetlands Protection Act. Staff said the report goes on to say that there are wetlands jurisdictional under the local bylaw and she had told him several times that he could not remove trees in the buffer without approval.

Mr. McDermott said Mr. Patel had removed mature trees, up to 60 feet tall. Replacing them with small trees will not make up for the loss. Staff said the tree policy requires replacement at a 2:1 ratio in an effort to address that problem.

Mr. Maydoney said Mr. Patel wants to put a fence around the property. Mr. Murphy said he should file a Notice of Intent.

Staff said in the meantime Mr. Patel has to address the enforcement order and provide a plan for replanting. Mr. Murphy agreed and told Mr. Patel the Commission will issue fines if does anything else in the buffer zone. Mr. Murphy said the matter will be discussed again at the next meeting.

William McDonald, abutter, asked about the difference between the state and local wetlands and if he could get a copy of the wetland report. Mr. Maydoney said Mr. Patel would give him a copy.

Motion by Mr. Weinberg, second by Mr. Bears, to continue the matter to the September 1 meeting. Vote:4-0.

Fish Passage Work - Division of Marine Fisheries

Brad Chase, Division of Marine Fisheries (DMF), sent a memo to the Commission (dated August 1, 2016) regarding DMF plans to manually move rocks or cobble from the "natural falls" area of the Monaquot River. River herring are currently not able to make it past the rock falls though they have been known historically to make it past this obstacle. Work includes removing loose cobble by hand. The amount of cobble moved and the before and after crest elevation of the falls will be measured. Because water levels are so low this is a good time to investigate the falls.

Mr. Bears asked if this is a work around instead of needing a fish ladder in this location. Staff said there has been consideration of a bypass channel in this spot rather than a fish ladder.

Mr. Weinberg wondered about the flood control implications of removing the Armstrong Dam which is part of the overall fish passage restoration goals. Staff said the 2009 Feasibility Study included that analysis and found there would not be a significant effect on downstream flooding.

Motion by Mr. Weinberg, second by Ms. Francis, to approve the manual removal of rocks by Division of Marine Fisheries. Vote: 4-0.

Open Space Guide

Staff gave members copies of the draft Open Space Guide including a dedication to recently passed Commission Chair, Pat Flynn. The guide needs to be finalized and exact printing costs determined. Mr. Murphy will ask an acquaintance who is a printer if he would consider donating printing services.

Mr. Weinberg suggested adding sections on Cedar Swamp and the South St. conservation land. Mr. Bears suggested they might be appropriate in a separate section such as "Other Points of Interests", particularly since Cedar Swamp does not have a trail system.

Approval of Minutes – June 30, 2016

Motion by Mr. Bears, second by Ms. Francis, to approve the minutes of June 30. Vote: 4-0.

Adjourn

Motion by Mr. Weinberg, second by Mr. Bears, to adjourn the meeting at 8:15 pm. Vote: 4-0.