



City of Nashua
Conservation Commission
229 Main Street
Nashua NH 03061-2019

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EXPANDED DRAFT MEETING SUMMARY

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NASHUA CONSERVATION COMMISSION

Tuesday, August 4, 2020

A. Call to order

A regular meeting of the Nashua Conservation Commission was called to order on Tuesday, August 4, 2020 at 7:00 PM, via WebEx virtual meeting.

B. Roll call

Members present: Sherry Dutzy, Chair
Gene Porter, Vice Chair
Richard Gillespie, Clerk
Brandon Pierotti, Treasurer
Michael Reinke
Joel Ackerman
Gloria McCarthy, Alt.
Carol Sarno, Alt.
Josh Hauser, Alt.

Also in Attendance: Linda McGhee, Deputy Planning Manager
Chris Webber, Department Coordinator
Ald. Ernest Jette

COVID-19 Address

Chairman Dutzy addressed the COVID-19 pandemic as follows: Due to the State of Emergency declared by Governor Sununu as a result of COVID-19 pandemic and in accordance with the Governor's Emergency Order #12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically until further notice.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized to meet electronically pursuant to the Governor's order. However, in accordance with the Emergency Order, this is to confirm that we are:

1. Access

The Commission is providing public access to the meeting by telephone, with additional access possibilities by video or other electronic access means.

The Commission is video conferencing utilizing WebEx for this electronic meeting. All members of the Conservation Commission have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to listen to this meeting by dialing 1-408)418-9388, with password 129-316-5521.

Public access to this meeting is also provided via WebEx. The link to this meeting is contained in the meeting agenda, available on the city website.

2. Public Notice

The Commission previously gave public notice to the meeting and the necessary information for accessing the meeting through public postings, and where applicable notice to abutters. Instructions have also been posted to the city website, and publicly noticed at City Hall.

3. Public Alert

The Commission is providing a mechanism for the public to alert the Commission during the meeting if there are problems with access. If anybody has a problem accessing the meeting, please call (603)-589-3115, and they will help you connect.

4. Adjourning the Meeting

In the event that the public is unable to access the meeting via the methods above, the meeting will be adjourned and rescheduled.

5. Procedures

The Chair is in control of the meeting, and to the extent practicable and advisable the Commission will follow the procedures identified in the Bylaws. The applicant will present the applicant's case, followed by questions by the Commission. The Chair will then allow testimony from persons wishing to

Speak in favor, or with questions or opposition, before the Commission deliberates and determines an outcome.

Applicants and their representatives, and individuals required to appear before the Commission are appearing remotely, and are not required to be physically present. These individuals may contact the Planning Department to arrange an alternative means of real time participation if they are unable to use WebEx. Documentary exhibits and/or visual presentations must be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Real-time public comment can be addressed to the Commission utilizing WebEx virtual meeting software for remote access. Real-time public comments via audio will be addressed at the conclusion of the public hearing. This application will allow users to view the meeting, and submit questions or comments to the Commission utilizing the WebEx software.

The public is also encouraged to submit their comments via email to the Department email at planningdepartment@nashuanh.gov or by mail. Please be sure to include your name, address, and comments. Letters should be addressed to Planning Department, P.O. Box 2019, Nashua, NH 03061.

Please note that all votes taken during this meeting will be done by roll call. Conservation Commission meetings will be held electronically until further notice, when it is deemed safe to conduct meetings at City Hall.

The Planning Department and Conservation Commission thank you for your understanding and patience during this difficult time.

C. Approval of minutes

July 7, 2020

MOTION by Commissioner Reinke to approve the minutes of July 7, 2020, as amended

SECONDED by Commissioner Porter

MOTION CARRIED 5-0

July 30, 2020 - Old Harris Rd Site Walk

MOTION by Commissioner Gillespie to approve and place on file the site walk notes of July 30, 2020, for Old Harris Rd

SECONDED by Commissioner Reinke

MOTION CARRIED 5-0

D. Treasurer's Report

None

E. New Business

None

F. Old Business

- **Pennichuck Water Works & Pennichuck Water Works, Inc. (Owners) GSSG New Hampshire, LLC (Applicant) Requesting review on minor road/utility improvements along Old Harris Road, and tree clearing within a portion of the Conservation Zone for a proposed solar array project. Property is located at "L" Ferry Road, "L" Westland Avenue, "L" Stanwood Drive, "L" Appledore Street, "L" Marlboro Street, "L" Independence Avenue, "L" Claredon Street, and 206 Concord Street (Sheet 52 Lots 1, 7, 14, 23, 24, 28, 39, 49, 61, 65, 81, 82, 85, 96, 97, 104 and 118). R18 Zone, Ward 3.**

Tom Zajac, Civil Engineer, Hayner/Swanson Inc.

Mr. Zajac introduced himself to the Commission. He introduced Clay Mitchell from GSSG and Don Ware from Pennichuck Water Works.

Mr. Zajac gave a brief recap of the project history. He outlined the work proposed in the site's Conservation Zone, and summarized of the site walk. He described the changes that will be made to the site's forest management plan.

Mr. Zajac said they will be proceeding with a Planning Board site plan review, which includes a stormwater assessment and Pennichuck Water. The Dept. of Environmental Services (DES) will also review this plan for erosion, stormwater management, and project impact.

Commissioner Sarno said the current forest management plan calls for selective cutting. She said she hasn't found any

evidence on the internet that a field would do as good of a job at watershed protection as a forest. She is concerned about water quality degradation and the potential for introducing invasive plant species.

Mr. Zajac said this project is going to be required to demonstrate and address those concerns to several organizations.

Mr. Zajac regards to impacts to the Conservation Zone, the area will be cleared and not stumped, with low growing vegetation allowed to grow back. The DES considers that the same in terms of runoff coefficient to a wooded area in their analysis. They expect that area to contribute the same amount of runoff, which is likely zero due to the flat topography, well-drained soils, and vegetation. They will have to demonstrate this was they go through the process.

Mr. Zajac referred to stormwater within the solar array and said there are specific guidelines for solar array projects. There will likely need to be stormwater management improvements within the stormwater array, most likely in the western section. This has been supported by Don Ware and Pennichuck, who are the stewards of the Conservation Zone.

Chairman Dutzy asked if they will be receiving a copy of the updated plan.

Mr. Zajac said yes. They would also be amenable to incorporating best management practices for invasive species in the plan.

Commissioner Porter said they were told during the site walk that the cut area would be primarily to keep trees from falling on the array. He said that buffer is 100-ft wide, and asked how many trees in the area they plan to cut are over 70-ft tall.

Mr. Zajac said they haven't done an inventory of specific trees they plan to cut. As they said in the site walk, they are planning to cut a 75-ft wide area on the westerly side and 50-ft on the northerly side.

Commissioner Gillespie said they mentioned well drained, sandy soils. Have they performed any percolation tests?

Mr. Zajac said no. They will be required to perform one for their DES Alteration of Terrain permit. They have done a detailed site soil survey, performed by a certified soil scientist, so he can confirm they are well draining soils.

Ald. Jette if the reason for cutting trees is to allow the sun to reach the solar array, why cut trees on the north and west sides?

Mr. Zajac said it is to both maximize sun exposure and protect the arrays from falling trees.

MOTION by Chairman Dutzy to favorably recommend the proposal with the following stipulations:

1. Stumps shall remain
2. Best Management Practices shall be used for onsite invasive species
3. Steps shall be taken to improve wildlife, flora and fauna

SECONDED by Commissioner Reinke

MOTION CARRIED 6-0

Chairman Dutzy thanked the applicants for their efforts and cooperation.

- **Energy North Natural Gas, c/o Liberty Utilities (Owner) Lindsey White (Applicant) Requesting review on proposed installation of an impermeable cap and changes to onsite parking within the 75-ft "Prime" wetland buffer. Property is located at 25 Van Buren St & 38 Bridge St. Sheet 42, Lot 11, and Sheet 39, Lot 26. Zoned General Industrial "GI". Ward 7.**

Steve D'Ambrosio, GZA GeoEnvironmental Inc, 5 Commerce Park N #201, Bedford, NH

Mr. D'Ambrosio introduced himself and colleague Lindsey White to the Commission, along with Doug Dorn from Liberty Utilities.

Mr. D'Ambrosio displayed the plan for the Commission. He gave a brief recap of the proposal. He summarized the site walk performed on July 16th. He addressed questions asked during the site walk, including the proposed infiltration system, what storm level would exceed that system, and depth to

groundwater.

Commissioner Gillespie asked if the area that presently has asphalt in poor condition will be scraped down and removed before the new pavement is applied.

Mr. D'Ambrosio said correct.

Commissioner Gillespie asked if that would expose anything.

Mr. D'Ambrosio said no. There currently isn't any pavement where the cap is. It will be paved over to finish capping it.

Commissioner Reinke asked if there was any possibility of semi-permeable pavement to allow water infiltration in that area.

Mr. D'Ambrosio said no. What has been approved by the DES is an impermeable cap.

Chairman Dutzy asked about the other areas that will be paved.

Mr. D'Ambrosio said they are using a subsurface infiltration system to collect and treat stormwater. If they made that section permeable, they would be doing the same thing. This is a more cost effective method of getting the same results.

Commissioner Porter asked to stipulate that the applicant grant an access easement to the Commission in preparation of a public walkway along the Nashua River, with the understanding that some fence may be required due to hazardous materials.

Commissioner Reinke agreed.

Mr. D'Ambrosio said he doesn't think that is going to work. There's not enough room back there, and where they are proposing to bring a trail through is right next to their tank storage. They could have people walking by there and smoking cigarettes, they could start fires. There is enormous concern for public safety at that point, not only for them but also for the Department of Homeland Security.

Commissioner Reinke asked what is in the tanks.

Mr. D'Ambrosio said propane and liquefied natural gas (LNG). Each tank is about 33,000 gallons.

Commissioner Reinke asked why that is so close to the Nashua River.

Mr. D'Ambrosio said that's where they have been.

Commissioner Reinke interrupted and said he didn't care. He expressed concerns for leakage.

Mr. D'Ambrosio said they are not asking to move the tanks. This is where the tanks have been approved for years.

[Unidentified] asked if there are laws and rules about how much space must exist between tanks and public walkways.

Mr. D'Ambrosio said he can't answer that. He said just to the other side of these tanks the slope drops off sharply towards the river.

[Unidentified] said he understands that, but with most public walkways of this type the city indemnifies the grantee against liability. He would like to see this explored more. He hasn't heard a definitive answer on what the rules are for the public walking by LNG tanks.

Chairman Dutzy said if anything was to be done it would most likely be a cantilevered walkway out onto the Nashua River. She asked how far the storage tanks are from the river edge.

Mr. D'Ambrosio indicated on the plan the tank storage area. Directly behind it the land slopes off and drops towards the river.

Chairman Dutzy asked if the dotted line is the fence.

Mr. D'Ambrosio indicated the fence. He showed on the plan the area they walked during the site walk.

Chairman Dutzy said they walked the edge near the cap, and it's quite a drop-off.

Mr. D'Ambrosio said it's about 85-ft from the tank storage area to the river. As they move to the northeast, it gets very close to the edge of the river and drops off pretty sharply.

Chairman Dutzy said they don't know what's going to happen

years from now, and to have an easement granted doesn't mean anything is going to be done. They have easements throughout the city they haven't done anything with because of the terrain. But if they have the easement in place, sometime down the road it would still stand.

Mr. D'Ambrosio said if the city wanted to provide them with some sort of drawing showing what the Commission is asking for, they could have it reviewed by executive management. Without that, he can't say yes. For that to be a condition of this proposal is tying his hands. There are several safety concerns both for the public and Liberty Utilities, as well as any emergency personnel trying to get back there.

Chairman Dutzy said she believes this is out of the purview of what they are here to vote on tonight, but it is something they would want to open up as a possibility. She suggested that they ask Community Development head Sarah Marchant about redevelopment plans for the Nashua River.

Commissioner Reinke said he concerned that they have hazardous materials stored within feet of the Nashua River. He thinks they are setting themselves up for a major disaster.

Mr. D'Ambrosio explained the safeguards they have in place to prevent that.

Commissioner Reinke led a heated discussion in reference to prior tank leak in West Virginia, specific details unknown.

Chairman Dutzy said what is being brought before them tonight is the approval of the capping of an area. She asked if this has come before the DES.

Mr. D'Ambrosio said correct.

Chairman Dutzy said it is within Commissioner Reinke's right to vote against this, but whether or not this facility should have ever been located here is not something the Commission has any jurisdiction over.

Commissioner Reinke said it would be morally wrong to approve something that supports being in a place that could poison literally millions of people.

Mr. D'Ambrosio said they're asking to pave the parking lot.

Nothing more.

Commissioner Reinke said they are asking the Commission to approve that this is the most suitable location for this facility.

Chairman Dutzy said the Commission is an advisory board, so they cannot approve anything. They make a recommendation either for or against to the Zoning Board of Adjustment.

Chairman Dutzy said this is regarding the plan in place for capping an area where contaminants have been leaking, and the DES has a mandate in place that Liberty Utilities does the capping.

Mr. D'Ambrosio said that is correct.

Chairman Dutzy said this is something the State is telling Liberty Utilities to do. It is within the Commission's realm to make an unfavorable recommendation-

Commissioner Reinke interrupted and said he is all for poisons not going into the river. His point is that in approving this, they are approving that this location continue to exist by a major waterway. This has the potential to be an environmental disaster the same way they have seen in other places in the country, and the response of Liberty Utilities is that they have always been there. He had no idea they were so close to the river.

Chairman Dutzy said, so noted.

Commissioner Porter said this is perhaps not the ideal vehicle to do a detailed design of a riverfront walkway. But it is one of the few opportunities to get this issue on the table. He thinks it would be appropriate to stipulate that Liberty Utilities come back to the Commission in the future with a considered set of options for what it would take to create an easement and public walkway.

Chairman Dutzy said they could, depending on the motion. She said they can't label this a public nuisance and disaster site, and at the same time request the applicant come back and help the Commission design a public walkway. Those two ideas are in conflict with each other.

Commissioner Ackerman asked if they are stipulating an access easement this as a requirement or recommendation.

Chairman Dutzy said they are able to advise the applicant, but the decision would be made by the Zoning Board. They are just giving the Board their opinion.

A brief discussion of motions and stipulations ensued.

MOTION made by Commissioner Reinke to favorably recommend this proposal with the following stipulation:

1. Consideration shall be given to granting the Conservation Commission a public access easement.

SECONDED by Commissioner Porter

MOTION CARRIED 6-0

G. NCC Correspondence and Communications

- Email re: site walk requested at Musket Dr for tree removal. This has been scheduled for August 12th, 5PM.

H. Nonpublic Session per RSA 91-A: 3 II (d) concerning land (Roll call vote required).

Nonpublic session was not required.

I. Commissioners Discussion

➤ **Tree Removal within Wetlands:** Chairman Dutzy asked Ald. Jette if it would be possible to make an ordinance requiring realtors advise potential buyers of property abutting wetlands. Ald. Jette said he will talk to Corporation Counsel. Further discussion ensued.

➤ **Subcommittee Reports:**

- Commissioner Ackerman gave an update on file management and a website options. A discussion of Google Drive ensued.
- Commissioner Sarno gave a detailed report on trail stewardship and land management. A detailed discussion ensued. She suggested they name a trail in Terrell Conservation area Stargazer, after former Ald. McCarthy.

➤ **Rules and Regulations:** Ald Jette volunteered to look into

what rules apply to conservation lands and park lands, and whether they can be consistent. A brief discussion of illegal use for ATVs and hunting in the Groton Woods land ensued. He volunteered to contact Community Development Director Sarah Marchant about emergency services being able to access the trails.

J. Adjournment

MOTION to adjourn by Commissioner Reinke at 8:52 PM.

SECONDED by Commissioner Ackerman

MOTION CARRIED 6-0

APPROVED:

Richard Gillespie, Clerk, Nashua Conservation Commission

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE. DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

Prepared by: Kate Poirier