



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

Wednesday, November 4, 2020

A. Call to order

A regular meeting of the Nashua Conservation Commission was called to order on Wednesday, November 4, 2020 at 6:30 PM, via Webex virtual meeting.

B. Roll call

Members present: Sherry Dutzy, Chair
Gene Porter, Vice Chair
Richard Gillespie, Clerk
Brandon Pierotti, Treasurer
Josh Hauser
Carol Sarno, Alt.

Also in Attendance: Matt Sullivan, Planning Manager
Linda McGhee, Planner I
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

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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 Zoom 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 Zoom. The link to this meeting is contained in the meeting agenda, available on the city website. The meeting can be streamed thru the city's website on Nashua Community Link and also on Channel 16 on Comcast.

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 via phone or channel 16, 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 Zoom. 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 Zoom 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 Zoom 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

October 6, 2020

Due to an electronic failure, the minutes are unavailable. Staff is working with IT to retrieve them.

D. Treasurer's Report

None

E. New Business

- **Hartwell Brook's Condos (Owner) PSNH, c/o Eversource Energy (Applicant) Requesting review on proposed electrical line maintenance within "Other" wetland buffer. Property is located at Hartwell Brook Dr. Sheet A, Lot 323. Zoned A-Urban Residence "RA". Ward 7.**

Tom Tetreau, Stantec Consulting

Mr. Tetreau introduced himself as representative for Eversource Energy. They are proposing to replace the optical ground wire on their transmission line that runs through Hudson and Nashua. He explained how the lines are replaced. At the target location they have to cross a wetland and an intermittent stream to access the lines. They will be using temporary timber matting and working with bucket trucks.

Commissioner Porter said he doesn't understand why they need such a long access from Main St. He asked why they haven't considered going in from Daniel Webster Highway and removing a section of guardrails. It seems simpler than laying a long timber strip across the wetlands.

Mr. Tetreau deferred to Eversource.

Jeni Menendez, Eversource

Ms. Menendez introduced herself as the Environmental Licensing and Permitting Specialist. She said the reason they didn't want to come in from DW Highway is because the embankment slope was not good for their construction equipment, and wasn't as feasible as coming in from Main St.

Commissioner Porter said he doesn't understand the lack of feasibility. He asked for greater detail.

Ms. Menendez said it has to do with getting the equipment down the embankment, and that it was not safe.

Commissioner Porter asked for the elevation change.

Mr. Tetreau said it is quite steep. It's easier to traverse from Main St.

Chairman Dutzy said she is not familiar with a timber mat, and asked for a description.

Mr. Tetreau explained the appearance, function, and purpose of timber matting.

Chairman Dutzy asked if it would be installed using heavy machinery.

Mr. Tetreau said they would use a small excavator.

Commissioner Porter asked how long the project would take.

Mr. Tetreau said about a week overall.

Commissioner Gillespie asked if the timber mats would span the wetlands and stream entirely.

Mr. Tetreau said the mats will go onto the wetland directly. The mats will span the stream.

Commissioner Gillespie asked if there would be soil compression.

Mr. Tetreau said with a bucket truck, no. Larger equipment will sometimes compress the ground.

Commissioner Gillespie asked them to indicate the power line location.

Mr. Tetreau indicated the mat area on the plan.

Commissioner Gillespie asked if there were two separate areas.

Mr. Tetreau said yes.

Commissioner Gillespie asked for the location on the GIS.

Mr. Tetreau explained the map.

Chairman Dutzy asked for further clarification of where the project area is.

Mr. Tetreau shared an aerial of the area. A discussion of the area ensued.

Chairman Dutzy asked if the spring spans the entire right of way.

Mr. Tetreau said yes, and indicated it on the plan.

Chairman Dutzy asked for the extent of the timber matting.

Mr. Tetreau said it's about 1500-sqft, and 580-ft in length.

Chairman Dutzy asked if this is work they can do in the winter.

Ms. Menendez said the work is dependent on an outage and a PUC license. They think it will be in April, and they still have to coordinate the outages. There are a lot of things behind the scenes.

Chairman Dutzy asked if it would be late spring and summer.

Ms. Menendez said before April.

Commissioner Porter said there are several abutters. Have they been notified and given an opportunity to comment, and what did they say.

Roy Fruit, Eversource

Mr. Fruit introduced himself as the Siting and Construction Services Specialist. He said the abutters have received project introduction and work notification. They will have a chance to work closely with the abutters closer to the work date, but they haven't seen any concerns.

Commissioner Gillespie is concerned about the impact on invertebrate hatching. Will the matting damage habitat?

Mr. Tetreau said there isn't enough standing water for invertebrate habitat. It's not an ideal habitat except for birds. Once they remove the matting, everything will spring back up.

Chairman Dutzy asked for invasives mitigation, such as bittersweet and glossy buckthorn.

Mr. Tetreau said it is widespread and very established in that area. They do vegetative maintenance for the lines, but to undertake that would be difficult. He said they would clean their mats before they left the site.

Ms. Menendez agreed. She doesn't believe additional cutting will help, as there are root systems. They don't have a lot of ability to engage in management in a way that would be effective.

Commissioner Porter requested a site visit and inspection of the DW Hwy embankment. He expressed disappointment at the lack of information regarding this.

The Commission agreed to perform a site walk Wednesday, November 11th, at 4PM.

F. Old Business

- ***Timothy & Jeanette Donaghy (Owners) Atty. Gerald Prunier (Applicant) Requesting review of after-the-fact tree removal with the 75-ft "Prime" wetland buffer. Property is located at 2 White Oak Dr. Sheet H, Lot 582. Zoned C-Suburban Residence "R9" and B-Suburban Residence "R18". Ward 2.***

Atty. Prunier, Prunier & Prolman PA

Atty. Prunier introduced himself as representative for the property owners.

Chairman Dutzy referred to a letter and maps sent to the Commission by the Homeowner's Association and asked if any of the commissioners have questions about it.

Commissioner Gillespie said he was originally under the assumption that the trees were cut on her land, not a neighboring open space parcel. It seemed to indicate that Mike Tancreti gave them permission to cut the trees. He doesn't know what his authority was at that point.

Atty. Prunier said Mr. Tancreti was the owner of the trust at the time. He provided the executed deed, and said it was provided to the city in 2010 when the development took place. That parcel was supposed to be open space and should be owned by the homeowner association. He addressed the second question, whether environmental specialist Jim Gove was aware of the trees that were cut, and said yes.

Atty. Prunier said Mr. Tancreti had no authority to give the Donaghy's permission to cut the trees, because it was supposed to be open space.

Commissioner Gillespie said he noticed pine trees missing in the 2019 aerial, and asked when they were cut.

Timothy Donaghy, 2 White Oak Dr

Mr. Donaghy said the work was done in February 2019.

Commissioner Gillespie said in repairing this area, tree for tree replacement isn't feasible. They were supplied with a replanting plan, and he thinks they should consider it instead of arguing about how many trees should be planted.

Chairman Dutzy said she thinks one of the concerns with the plan is that the homeowner association wanted it to be put back in its original form. What is being proposed is a replanting with low shrubs and other habitat. That doesn't meet the requirements of what the association wants. She asked if there is a formula for the square footage cut to figure out how many trees should be replanted.

Hassan Jafri, 7 Owls Head Dr

Mr. Jafri introduced himself as part of the homeowner association. He explained the letter. They are open to the hiring of a wetland scientist to estimate the amount of trees removed from the wetland area. Based on that, they could move forward.

Chairman Dutzy said the applicants have hired Gove Environmental, who has marked off the area. If they brought Mr. Gove back and gave him the direction to replant the area with trees, the association would be open to that?

Mr. Jafri said ideally they would like to hire their own licensed wetland scientist.

Chairman Dutzy asked if the association would pay for it.

Mr. Jafri said yes.

Chairman Dutzy asked if this was acceptable to the applicants.

Atty. Prunier said they have hired one of the best wetland scientists in the state. He came up with the plan and supplied a letter saying he knew about the trees when he prepared his

plan. If the association wants to make a plan, there's nothing they can do about it. Their concern is that they're going with their own professional.

Chairman Dutzy said she is part of a homeowners association, with two acres of land. It's the same situation, that each of the owners owns an equal share of the space. It would be unthinkable for any one member to cut down a tree because they feared it would fall. Any time anything is done, it is always through an email consensus or at the annual meeting.

Chairman Dutzy said when she looks at this, she sees a situation where it was clearly outlined in the documents that each owner owned 1/39th of every blade of grass in the common area, and Mr. and Mrs. Donaghy took it upon themselves, without going to the association and getting their approval, to have these trees cut down. She doesn't think it's unreasonable at all that the association would want the land to be restored to the way it was over a period of time. She also doesn't think Mr. Gove was knowledgeable and understood what the association wanted. She would not be in favor of making a motion to approve the plan as they see, and thinks the applicants and association need to work together.

Commissioner Porter agreed. He doesn't believe they should move forward.

MOTION by Chairman Dutzy to unfavorably recommend the restoration plan as proposed by Gove Environmental

SECOND by Commissioner Porter

MOTION CARRIED 3-1 (Gillespie opposed, Hauser & Pierotti recused)

G. NCC Correspondence and Communications

None

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

Nonpublic session was not required.

I. Commissioners Discussion

- **Planning Manager:** The Commission welcomed Matt Sullivan as the new Planning Manager
- **Jackson Mill Dam Project:** Waterways Manager Deb Chisholm led a detailed discussion regarding turbine repair at the hydroelectric dam.

Planning Manager Matt Sullivan led a discussion regarding easements and the dam at 141 Burke St.

➤ **NRPC Technical Assistance Contract:**

Planning Manager Matt Sullivan provided an introduction to this initiative. He advised the Commission make a motion to petition the Board of Alderman for \$10,000 to start.

Andrew Smeltz introduced himself to the Commission. A detailed discussion ensued regarding specific Commission goals and needs.

MOTION by Chairman Dutzy to make a \$10,000 appropriation request to the Board of Aldermen to provide technical assistance to the Conservation Commission through the Nashua Regional Planning Commission, for a scope of work to be defined, but limited to the work of the Commission as prescribed under RSA 36-A.

SECONDED by Commissioner Porter

Chairman Dutzy said it's her understanding that the Board of Aldermen or Finance Committee recently raised the minimum that the Mayor could approve so they don't have to go through the Board of Alderman. Is it raised to \$25,000?

Ald. Jette said it sounds close. He imagines that Community Director Sarah Marchant would discuss this with the Mayor. If it requires legislation he would be happy to sponsor it.

Mr. Smeltz provided links to the Commission of his portfolio.

Mr. Sullivan said once they define a contract, the Commission will have a chance to review it.

Commissioner Porter briefly discussed the Commission's other responsibilities regarding natural resources.

MOTION CARRIED 4-0

- **Wetland Disclosure:** Chairman Dutzy led a discussion regarding including wetland information into deeds. She would like to hire a legal professional with expertise in environmental law to research other communities in the state. Community Development recommends going back to Corporate Counsel to discuss this. Ald. Jette advised the Commission on what state law allows.

- **Subcommittee Reports:**
 - Commissioner Gillespie gave an update on Monitoring at the northwest properties.

 - Commissioner Hauser gave an update on increasing the online presence of the Commission.

 - Commissioner Sarno gave an update on Trails and Land Management.

*****Audio recording cuts off at this point*****

J. Adjournment

MOTION to adjourn by [Unknown] at [Unknown] PM.

SECONDED by Commissioner [Unknown]

MOTION [Unknown]

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