

**CONSERVATION COMMISSION  
MINUTES of MEETING  
Tuesday, May 12, 2020  
TOWN HALL ANNEX, 39 CENTRAL STREET  
APPROVED: June 2, 2020**

Present: Chair Daniel Shinnick, Vice Chair Sam Streiff, Robert Garner, Jena Haag,  
Howard Terrien and Howard Vogel  
Absent: Judy Kehs  
Attending: Brent Baeslack, Conservation Agent

**Opening Statement:** Authorized by Wetlands Protection Act, Town of Rowley Wetlands Protection Bylaw, and the Stormwater Management and Erosion Control Bylaw. Meeting convened 7:30 PM (all Legal ads were read to open new agenda items at time noticed).

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning gatherings of more than 10 people due to the COVID-19 pandemic, this meeting was conducted by remote participation to the greatest extent possible. The Commission and the public did not physically attend this meeting, but every effort was made to allow the public to view the meeting in real time. Persons who wished to do so were invited to watch the meeting on Rowley Community Media TV or to join the meeting from a computer, tablet or smartphone by using a link for GoToMeeting or dialing in by phone.

**Administrative:** Commissioners reviewed and authorized the reimbursement of a Vendor Bill request.

**Acceptance of Minutes:** After the Commission reviewed the minutes, Garner moved to accept the Minutes of April 21, 2020. Streiff seconded and the motion passed unanimously by roll call vote.

**Acceptance of Minutes:** After the Commission reviewed the minutes, Terrien moved to accept the Minutes of August 4, 2009. Garner seconded and the motion passed unanimously by roll call vote.

**Discussion(s):**

**Open Meeting Law Complaint filed by Timothy Toomey** – The Commissioners having received and reviewed the OML complaint filed by Mr. Timothy Toomey prior to the public meeting, discussed the proposed response drafted by Town Counsel. Chairman Shinnick confirmed that all the Commissioners had received and read the OML complaint and Town Counsel's draft response letter. Agent Baeslack requested that the Commission authorize the Agent and Town Counsel to finalize and issue the response letter. The Commission asked if the final response letter would be issued by Town Counsel on behalf of the Conservation Commission. Agent Baeslack confirmed that this was correct.

Vogel moved to have the Agent and Town Counsel finalize the response letter to the Open Meeting Law Complaint filed by Mr. Timothy Toomey. Haag seconded and the motion passed unanimously by roll call vote.

Mr. Timothy Toomey was unmuted at the start of the discussion on 11 Rivers Edge Drive. The discussion of the Open Meeting Law Complaint had been finalized and the Agent muted Mr. Toomey's call. Mr. Toomey called again to bypass the muting of his call and was advised by the Chairman that the Administrative items on the agenda were not open for public comment. Mr. Toomey continued to try and interrupt the meeting with a threat to contact the State Attorney General. Chairman Shinnick asked Mr. Toomey to stop calling the access number for the meeting with the intent of interrupting the proceedings.

**Notice of Violation 11 Rivers Edge Drive (Map 10, Parcel 3, Lot 5-3) John & Lauryn Deluise** – The Commission attempted to ascertain if the property owner, Mr. John Deluise was participating in the remote meeting at this point in time. The Agent presented a violation which had been reported at this location and advised that a Notice of Violation had been issued requesting that activities cease and desist. He gave a brief overview of the deed restriction (covenant) that had been placed on the property at the time it was developed (1995) and noted that this was now 200' Riverfront Area. The Agent outlined the current conditions which were not in compliance with the restrictions. The Agent recommended that an Enforcement Order be issued with a request to have the property owner attend the next meeting to discuss the violations and the steps to regain compliance with possible restoration of the impacted areas.

Streiff moved to issue an Enforcement Order with conditions as discussed. Garner seconded and the motion passed unanimously by roll call vote.

At the opening of the following item, a caller, who the Commission thought might be a representative for the project but did not identify himself, asked why the Commission would not let Mr. Toomey speak. This call was muted by the Agent.

**New Request to Amend an Order of Conditions DEP #63-688 for 600 Wethersfield Street (Map 11, Parcel 6 Lot 10) Christopher Cronin of 602-604 Wethersfield St Rowley Realty Trust** – proposed amendment to construct an approximate 8' x 25' drainage swale possibly in the 100' Buffer Zone to Bordering Vegetated Wetlands. There did not appear to be a representative available for this project. Agent Baeslack gave a brief overview of the project. He explained that the swale was designed to alleviate seasonal ponding which was being experienced on the lot. The swale would allow the water to drain towards the wetland area but would not affect the No Cut/No Disturb area. The abutter had authorized the work since it would be partially on the neighboring lot. Agent Baeslack advised that the only amendment would be the acceptance of the new plan and all other conditions and stipulations would remain in place. He did recommend that a condition be added that the property owner's at 600 Wethersfield Street be granted an easement or other means to maintain the swale on the abutting property.

Garner moved to amend the Order of Conditions to update the plan for #63-688 with the conditions regarding a possible easement and maintenance. Vogel seconded and the motion passed unanimously by roll call vote.

The previous hearing was interrupted by an unknown caller who asked if the agenda was being followed and if attendees would be allowed to speak. The citizen was asked to state his name for the record but the transmission was not clear to capture the name. The citizen hung up before the Agent could get the caller to clearly identify himself and indicate the subject of his interest.

Haag **recused** herself from the next two items.

**New Request to Amend an Order of Conditions DEP #63-693 for 430 Wethersfield St. (Map 12, Parcel/Lot 3 & 4) Moran & Simon, Taylor Ln. (Map 12, Parcel/Lot 2) Seaside Realty Trust, and Daniels Rd. (Map 9, Parcel/Lot 23) Tompkins-Desjardins Trust filed by Robert Nixon of Taylor Lane LLC** – proposed demolition of existing structures (farmhouse and garage) and construction of additional 960 feet subdivision roadway, utilities, grading, and stormwater facilities possibly within 36,124 square feet of 200' Riverfront Area and 173,630 square feet of 100' Buffer Zone to Bordering Vegetated Wetlands. Attorney Jill Mann of Mann & Mann, Robert Nixon of Taylor Lane LLC and Maureen Herald of Norse Environmental Engineering were all available to address this matter with the Commission. Ms. Mann explained that this amended plan was being reviewed by the Planning Board's peer review engineering firm, VHB and asked if the Commission would like an overview of the plan. The Chairman requested a brief overview of the plan. Ms. Mann advised that the Commission had previously approved the stream crossing and the amendment would be for the stormwater management, roadway and subdivision. She summarized the wetland resource area impacts that would be part of this amendment which were minimal. Ms. Mann also advised that the peer review comments to the applicant's responses were anticipated in approximately two weeks. Ms. Herald believed that any comments from the peer review could be addressed in time for the next meeting of the Commission. Agent Baeslack gave a verbal report of his review of the plan and initial comments from the peer review. He expressed concerns about protection of vernal pool area by restricting the use of salt on the roadways and about the lack of use of the NOAA Atlas 14 standards for the stormwater. Ms. Mann advised that the calculations were not based on the NOAA Atlas 14 standards because they had not been advised that the Commission required the use of these standards. To do recalculations would be time consuming and expensive. Agent Baeslack expressed the opinion that this standard had been addressed when the stream crossing had been reviewed and approved. Ms. Mann stated that this standard was not in writing and asked Agent Baeslack to provide the documentation since she had been unable to locate it. Ms. Herald advised that the current calculations conformed to the State's stormwater standards and all of the basins and culverts would most likely have to be enlarged. Agent Baeslack expressed concerns that the changes would affect the open space that was part of the project. Ms. Mann expressed that she would like to see the documentation for the guideline to use the NOAA data. Ms. Herald advised that she believed this had been addressed at the time of the approval of the stream crossing. Agent Baeslack asked for the status of the Water Certification. Ms. Herald advised that it was still pending.

The Commission requested that the hearing be continued pending receipt of comments from the peer reviewer to the applicant's response to comments of VHB and to allow the Commission time review the stormwater data that should be used.

Vogel moved to continue the public hearing, with the applicant's approval, to the meeting of June 2, 2020. Streiff seconded and the motion passed with five yea votes by roll call vote and one recusal.

**New Request to Amend a Stormwater Management Permit #36-2109 for 430 Wethersfield Street (Map 12, Parcel/Lot 3 and 4), owned by Cheryl J. Moran and Patricia A. Simon, at land off Wethersfield Street and Taylor Lane (Map 12, Parcel/Lot 2), owned by Seaside Realty Trust and at Daniels Road (Map 9, Parcel Lot 23), owned by Tompkins Desjardins Trust Taylor Lane, LLC** - proposed construction of additional 960 feet OSRD subdivision roadway, stormwater facilities, utilities and associated grading. Total site disturbance is approximately 10.8 +/- acres. Agent Baeslack advised that a Stormwater Pollution Prevention Plan draft (SWPP) had not been received. The Commission requested a continuance pending receipt of the report from the peer review and SWPP.

Vogel moved to continue the public hearing, with the applicant's approval, to the meeting of June 2, 2020. Streiff seconded and the motion passed with five yea votes by roll call vote and one recusal.

Haag **returned** to the meeting.

Certificate of Compliance Request(s):

**Continued Request for a Certificate of Compliance 305 Newburyport Turnpike (Map 17, Parcel 20, Lot 47) Ed Surette, Trustee of Prime Realty Trust** – Agent Baeslack requested that this matter be continued.

Shinnick moved to continue the request to the next meeting. Garner seconded and the motion passed unanimously by roll call vote.

**Adjournment:**

Accomplished at 8:46 PM by a motion made by Haag. Streiff seconded and the motion passed unanimously by roll call vote.

Submitted by Brent Baeslack, Conservation Agent