

**TOWN OF NEWINGTON
CONSERVATION COMMISSION**

**SPECIAL MEETING
Tuesday, March 17, 2015
Town Hall, Helen Nelson Room
7:00 p.m.**

AGENDA

I. CALL TO ORDER

Chairman Zelek called this meeting to order at 7:03 p.m. in the Helen Nelson Room of the Newington Town Hall.

II. ROLL CALL

Commissioners Present

Jeffrey Zelek (Chairman)
Philip Block (Vice-Chairman)
John Igielski (Secretary)
Kathleen-Marie Clark
John Casasanta
Andreas Sadil
Tim Manke (Alternate)
Alan Paskewich (Alternate)

Also Present

Chris Greenlaw, Town Engineer
Susan Gibbon, Recording Secretary

*(*These minutes are a brief overview of the meeting held on February 17, 2015. Please refer to tapes for full transcript.)*

**I. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS
(EACH SPEAKER LIMITED TO 2 MINUTES)**

1. Gail Bridrayko, 21 ___ Terrace. I know that his is old news, but I publically want to give a shout out to this Commission for their role in saving Cedar Mountain. Some of the paid officials in town are taking credit, I don't want to really go there, but I know that if it were up to them, more than 70 houses would already be built up on that mountain. A lot of other people credit the residents, which is true because residents played a very big role. They were passionate, tenacious, determined, researching issues, attending meetings and giving testimony. But in my mind, the real credit should go to this Commission for several reasons. First of all you listened to the public, you didn't discount our input, you might not have liked to see us there all the time, but you didn't show it and you respected our right to participate, which is always the case with other bodies in town so that was appreciated. You did your homework and you knew the facts. As much as in your hearts I know you wall wanted to saved the mountain anyway, you really had to do your job and you had to let the regs and you had to let the facts drive your decision and not emotion and we all know that if the facts wouldn't have supported denying the application, you would have do to your job and approve it. But you did your homework,

the facts supported the decision and this body acted with integrity as it always does. You made a decision that was popular with a lot of people and unpopular with others but it didn't matter because you acted autonomously and didn't let pressure or agendas from either side sway you and what you had to do. So as members of this Commission carrying out your responsibilities in a matter that Newington residents expect, but don't always get from their elected and appointed officials. I just want to thank you.

2. John Bachand, 56 Maple Hill Avenue. I wanted to agree with Gail, of course I always agree with Gail. Just a brief caveat of what she eluded to that you didn't set out with an agenda to save Cedar Mountain, that's the way it came. The science was there. You were basically lied to, I can say that now. So many times I came up here and I wanted to speak about Cedar Mountain, I wanted to talk about Toll Brothers, but it was always no it is an agenda item, no it's in litigation we can't talk about it. So I handed out here just something you could hold in your hand. On one side it is the Court document of Toll withdrawing their lawsuit against the Town of Newington. I think that is significant. Something you can actually hold and say "see what we accomplished". On the other side is an interesting piece of the puzzle which involves the surplus Cedar Crest property where the DEEP recommends to the Office of Policy and Management to actually give a significant portion of their property to the Town of Newington. So, this is about a year old, it is still pending, they're not a quick moving department there OPM, but I did speak with a gentlemen whose name is on here somewhere. It is pending and they are weighing all their options, but this is their own recommendation, so it is a pretty strong case towards it. If you read the reasoning about the trap rock ridge and the resources and all that. Gail says it is old news, it's not old news. I think this is the first meeting that you have had since you got the news and Toll has withdrawn. I just want to thank you and thank you for sticking to the evidence. Obviously Toll was kind of playing poker to see if you guys would bluff and you didn't and that proves that you, I think the most significant thing, that it proves is that the evidence was on your side and they did not have a case. It is that simple. There are known to be a company that never lost a case in court, so they must not have wanted to tarnish their reputation by going to court. So I am going to come before the various commissions going forward and strongly recommend from the Mayor that he wants to negotiate for the Balf parcel which is right in the middle of what we already own and that Cedar Crest land that their recommending be given to the Town of Newington so that we can have a continuous open space of over 150 acres and if you consider just 8 years ago we had 2 or 3 acres which was the old highway that was all we owned on Cedar Mountain. Now we have about 30 acres or a little bit more, 35 maybe if you consider a couple of pieces that we own. I think we own 3 different parcels there now. That is what I am going to be working for and I encourage everyone in Town and as well as this commission to strive for that. No one lives on Cedar Mountain now and I am going to keep fighting for that. Thank you.

3. Gary Bowles, 28 Jordan Lane, Newington. Commissioners, I also want to thank you for your diligence and hard work on the Cedar Mountain situation. I know that it was very cold out some nights, these meetings went past midnight. Thank you, God bless you for that. We also were there, so I think we deserve some credit too, but it is this body that held fast and I think, I don't have any proof, but I can pretty much think that you held fast when the Town of Attorney came to speak to you and maybe tried to tell you that you need to go another way, I think and I hope and I pray that you also held fast your beliefs and that is what it is all about, so thank you.

4. Wayne Alexander, 28 Jordan Lane. I remember sitting here and I remember watching all you commissioners and I remember noting that one expert that Toll kept putting up there and he always looked like he was talking down to you and to us as the Town, and you know it was incredible arrogance about Toll Brothers and it just seems fitting now that you guys should just smile and just say

that was a good win. I am just saying you guys did one heck of a job and it just seems to me that every time I sit here and think about what I saw from that mountain, when I saw the beauty in it for the very first time, I just said man, this is so worth saving and it is good, it is really great to have people like this and I really appreciate it. Now there is one other thing, I don't know I'm going to ask you right now if this is appropriate to talk about, you probably heard about, it's on your agenda, it is the House Bill 6851. I wanted to ask you first before I made any remarks about it.

III. ACCEPTANCE OF MINUTES

A. Regular Meeting of February 17, 2015

Commissioner Clark: Page 4, 3rd paragraph - "plan" should be "plant". Page 5, Item D - "Dot" Ellis should be "Donna" Ellis.

Commissioner Block: Page 5, in two locations where comments are, both sentences left off "I".

Motion to accept minutes as amended by Commissioner Sadil, second by Commissioner Clark. Unanimous vote.

IV. PUBLIC HEARING

a. Inland Wetlands Regulation Changes – L.I.D. (Low Impact Development)

Chris Greenlaw: Status of L.I.D.

Chairman Zelek: Prior to this meeting Chris [Greenlaw] and I spoke about moving forward with L.I.D. and he spoke with the Town Manager. Quite a bit on plate, not able to concentrate on L.I.D. at this time. Update on storm water manual.

Chris Greenlaw: The L.I.D. regulations supplement the Storm Water manual that we have used here in Town. Need more time, 4-6 weeks.

1. John Bachand, 56 Maple Hill. I just offer my one area in life that I have a little more expertise probably than most people, that is ground water and storm water management since I am in the waterproofing business, so if you ever want to utilize me for that, questions or if I can help in any way, I would be glad to.

Motion to table L.I.D. by Commissioner Block, second by Commissioner Casasanta. Unanimous vote.

V. NEW BUSINESS

a. Application 2015-06, Main Street – Town Landfill, grading and drainage work in upland review and wetland areas for mandated closure plan.

Chris Greenlaw: Map amendment as it relates to the wetlands and site activities as they relate to the closure of the landfill. Here tonight is Highway Superintendent Tom Malloy, Assistant Superintendent Rob Hillman, along with consultants to give history of Town Landfill, background and DEEP process.

Tom Malloy, Superintendent of Highways along with Rob Hillman, Assistant Superintendent of Highways, George Andrews and Sal _____ from Loureiro Engineering. A few years back we received a letter from the DEP wanting to know the capacity of landfill, need to have property surveyed. Not a request, a mandate. Property was surveyed, report was sent to DEEP and it was determined that landfill had reached capacity and it needed to be capped and converted over to a transfer station. Process took a while, closure plan accepted by DEEP. Process was stated in 2008.

Sal _____. Senior Project Manager with Loureiro Engineering, aka LEA or Loureiro. 40 years experience. Involved with a lot of landfill closures. The landfill in Newington is a landfill referred to as bulky waste, didn't take that much attention from DEEP. Landfill opened and permit approved in 1975, amended in 1989, 1990 and in 2003 permit issued as transfer station. 2008 landfill deemed to have met capacity by DEEP. 2010 submitted plans to DEEP for closure, ok with plans and specs, other conditions. DEEP requested that a Stewardship Permit [only used for hazardous waste sites] be completed for closure; tried to get waiver of permit from DEEP, not granted, but made easier and permit fee waived. Grant received from the State of CT in 2014 for \$460,000. Additional permits required prior to closing landfill.

George Andrews, Vice President of Loureiro Engineering, professional engineer, licensed environmental professional in the State of Connecticut. Discuss the development to landfill closure plan, existing conditions, proposed improvements, uses of the facility and discuss final build out and impacts. Project objective: the first objective is to close the landfill in accordance with [DEEP] regulations that require a cap on the landfill with a certain type of material, very specific, not a lot of flexibility with material used for capping. Maintain existing footprint and cap with material very special in nature that doesn't enhance infiltration. Counter to LID regulations, create more runoff, infiltration is enemy to landfill. Second objective is redevelopment of the landfill with transfer station, leaf processing facility and brush compositing/processing. Discussion of landfill design. Limited in LID capability. Adding pavement along with vegetation. Emphasize importance of maintaining existing footprint, DEEP doesn't want relocation of materials, want to cap from existing surface.

LEA Project Manager. Basically providing soil erosion and sediment both during the construction and after construction. Permit very specific during construction. Need to provide samples to DEEP, inspection logs. Reports send to DEEP on a regular basis to monitor activity during construction, monitor after construction as well. Feel that this is ready to go out to bid. Get contractor to do all initial erosion and sediment controls, stripping of top soil, etc. DEEP requires a final inspection prior to closure after construction. Continuation of water quality monitoring program.

Zelek: Questions re 0.4 acres of wetlands disturbed, will that be a loss.

George Andrews: Yes that will be a loss of wetlands. Actual wetlands, not watercourse.

Commissioner Paskewich: On C1, 2 proposed wells. How were these chosen?

LEA Project Manager. David Keegan of DEEP. Upgradient wells, will monitor things away from landfill.

Commissioner Block: Have you been provided with well samples from past years? Do you have results?

LEA Project Manager. Results sporadic.

Tom Malloy: Sampling by Central Connecticut Health District (UConn) done on quarterly basis. Samples provided to DEEP, no issues or complaints. Process has been followed, no negative light on sampling.

Chris Greenlaw: Important to note why they [LEA] are here tonight. They have explained history of time, number of permits that they have. The Stewardship Permit, the DEEP Permit, Storm Water Control Permit (one during construction) and another General Permit for Municipal Transfer Station.

Commissioner Block: Want depth of fill and details on capping. Monitoring schedule, who is responsible from the Town for monitoring.

Commissioner Clark: Concerned that the plant covering contains an invasive species. Any other plant covering available?

George Andrews: Seed mix has been consistent seed mixture. Historic seed mix used for landfills. Will check and identify and get other recommendations.

Chairman Zelek: Why use grass?

George Andrews: Rooting, mitigate rooting as much as possible to maintain the integrity of the cap material. Ability for inspection.

Commissioner Clark: Is landfill cover sterile or does cover support local wildlife?

George Andrews: Depends on what Town maintenance crew wants.

Commissioner Sadil: Question re monitoring. How long after construction?

George Andrews: Believe quarterly.

Commissioner Casasanta: Upland review area for Schoolhouse brook or pond to south of parcel?

Chris Greenlaw: Intent and objective. DEEP requires soil stabilization with cover. Maintain slopes and footprint.

Chairman Zelek: Thank you.

[Voices inaudible - folding of maps]

VI. OLD BUSINESS

- a. Inland Wetlands Regulations Changes – L.I.D. (Low Impact Development)
- b. Application 2015-03, Mill Pond Park, soil removal and remediation in upland review area.

Chairman Zelek: Changed application signatory from Mr. Webb to Town Manager.

Clinton Webb: Identify area, ordered medallion name plates as requested. Ensure that invasive don't get into this area. Maintenance required by Parks & Rec.

Chairman Zelek: Mr. Greenlaw is application complete? Any conditions?

Chris Greenlaw: Yes Mr. Chair.

Chairman Zelek: Mr. Secretary [Igielski], if I could ask you present the motion for this application.

Secretary Igielski: I make a motion that based on the evidence before it, the Commission make a finding of fact that a public hearing is not necessary for Application 2015-03 because the proposed activities do not have a major impact or significant effect on the regulated area.

Chairman Zelek: Can I have a second? Second by Commissioner Manke. Unanimous vote.

Secretary Igielski: I make a motion, that the Commission issue a permit by summary ruling for Application 2015-03 and subject to the following conditions. Motion details.

Chairman Zelek: Can I have a second? Second by Commissioner Clark. Unanimous vote.

c. Application 2015-04, 846 Willard Avenue (NU site), LID measures in upland review area.

Clinton Webb: Only comment is to replace with the Mock Orange with a native species, Winterberry. Everything else remains the same.

Chairman Zelek: Mr. Greenlaw is application complete? Any conditions?

Chris Greenlaw: Yes Mr. Chair.

Chairman Zelek: Mr. Secretary [Igielski], if I could ask you present the motion for this application.

Secretary Igielski: I make a motion that based on the evidence before it, the Commission make a finding of fact that a public hearing is not necessary for Application 2015-04 because the proposed activities do not have a major impact or significant effect on the regulated area.

Chairman Zelek: Can I have a second? Second by Commissioner Block. Unanimous vote.

Secretary Igielski: I make a motion, that the Commission issue a permit by summary ruling for Application 2015-04 and subject to the following conditions. Motion details.

Chairman Zelek: Can I have a second? Second by Commissioner Clark. Unanimous vote.

Chairman Zelek: Application should have come before Inland Wetlands after approval from TPZ because change in use proposed.

Chairman Zelek: All in favor? Unanimous motion.

d. Community Litter Pick-Up

Commission Clark: Nothing to report.

e. New Initiative – Vernal Pools

Commission Paskewich: Nothing current to report, looking into further research of individuals and peer groups that have been working on research regarding vernal pools.

f. Invasive Plants

Commissioner Clark: Chris [Greenlaw] sent me information on Nicole Gabelman, instructor on invasive plants. Will reach out to her to discuss forum or seminar type gathering. Will contact her instead of Donna Ellis.

VII. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS
(EACH SPEAKER LIMITED TO 2 MINUTES)

1. John Bachand, 56 Maple Hill. Wanted to touch on something else on Cedar Mountain, I can't tell what subject is on agenda, but it is about the Amara and Hunter sites there. At the last TPZ meeting, the planner stated that he was seeking a legal opinion to bypass Wetlands, bypass this commission, if a new application came before the TPZ. I think it is time to write a letter to question that. I mention the Toll application for the Balf property. The lesson learned there is that these paid consultants that come before you are being paid by the developer to get an application passed. Need to be highly suspicious of them because they outright lie and you have no way of following up on that you have to accept professional [opinion]. Did hire George & Seagram. At their mercy, have trouble proving right or wrong. In that case you were lied to. You proved them wrong, George & Seagram proved them wrong on a couple of different occasions. Going forward you have to look at that, they are paid to sway your opinion and sometimes it can go either way. The used very bad science and you actually proved them wrong. I heard one thing regarding the Hunter site that I wanted to address, and it was brought up by their applicant that was just sitting here, and I like him and I think he is great for the Town, but then he puts a different hat on and he is going to be representing them it does come back here to begin with but he did represent them once and stated that there was no ground water component to the wetlands on that site. There is no way to prove that first of all, he may be right but there is certainly no way to prove that. There is a very robust ground water component to Cedar Mountain, there is absolutely no question about it. It is a resource actually that we might need in the future for water. It was used by the first people in this town, they used that water to build this Town. The Children's Hospital used the water, there was water lines that went halfway through town from that mountain. There is a very robust water resource on that mountain and it defies logic because it is mostly a big solid rock, but definitely ground water component there and a robust one to be sure.

2. Rose Lyons, 46 Elton Drive. First of all I wasn't here earlier, otherwise I would have said it, but I wanted to compliment you all around this table for standing your ground on Cedar Mountain and Toll Brothers. Not all of you were here when the fight was fought, which if you were not at the table you might have been in the audience with the Save Cedar Mountain group and stuff. I really want to commend you all on what you have done and what you have done and what you continue to do. I know I can't speak to what is on the agenda, but thanks for being proactive rather than reactive and having something on the agenda tonight that I think needs to be addressed. Thank you.

3. Grant Alexander, 28 Jordan Lane. Would like to inquire, is it ok to talk about bill that I wanted to talk about before? No, ok want to follow rules.

VIII. COMMUNICATIONS AND REPORTS

a. Internal Rules and Procedures

Chairman Zelek: Not able to be meet because of schedules, need to start exchanging emails.

b. Update on TPZ petition(s) – Site plan application Amara development

Chairman Zelek: No discussion on this matter per advice from Town attorney. Want to inform you that this was an item on the TPZ agenda. During the meeting it was brought up that the applicants had not gotten Wetlands approval for permit. Contacted Chris Greenlaw concerned why before TPZ without permit from Wetlands Commission. Contacted Town Attorney. Town Attorney responded March 16, 2015.

- c. Update on TPZ discussion of HB 6851 – titled “An Act Establishing The Connecticut Transit Corridor Development Authority”

Chairman Zelek: Carol Anest brought this up at the last TPZ meeting. This bill, sponsored by Governor Molloy, currently establishes a transit corridor authority that would have the ability to have jurisdiction of a ½ mile radius [from the station] area of any transit site. They would have authority over the buildings within these areas and property by eminent domain. Wording is very vague, concerns that towns are going to loose the ability to determine what they want developed around sites.

Commissioner Block: State already has eminent domain, the only thing that this [bill] is doing is creating and administrative agency to exercise eminent domain. Eminent domain robs the community and municipality of control. The why is really the bigger question. Urge that we request the Town Attorney respond to the loss of municipal authority of this property and recommend to the manager that he join with other municipalities in mounting an objection to it, if indeed it further adds to their land grab.

Commissioner Clark: Suggestion of Commissioner Krawiec about what other wetlands commissions are concerned by this and if there is any jurisdiction for us to consult with other wetlands commission who might be similarly effected. My concern is that the agency is a quasi public agency which is a form of agency that really slips through the cracks and whether they are subject to FOI issues. Hard to approach and regulate. Government appointees.

Chairman Zelek: Will reach out to other wetland commissions.

Lengthy discussion held on this matter. Special meeting to be held on Tuesday, April 7. Meeting agenda to be limited to HB 6851. Invite legislatures, etc. to attend.

Chairman Zelek: Any closing comments by commissioners?

Chairman Block: Still thrilled and enthralled by decisions on Cedar Mountain and would love to know what the tipping factor was.

Chairman Igielski: For application 2013-04, I know that description in agenda talks about LID measures and its my thought that these LID measures were not required by this commission but instead was offered up by the applicant as a solution to the problem that existed out there. Are they any plans to have closure, by this Commission of the Toll Brothers matter? As it stands right now, it is not closed with respect to this Commission. We heard that the matter has been withdrawn from the court system, read newspaper articles. The newspaper is not official documentation, what was presented to us this evening is a CT Superior Court matter. Something should be in records regarding the application itself. Perhaps an agenda item from the Town Attorney with a brief explanation of what led to this and confirming that this is in fact can be added to files as official documentation of the status of the matter and the communications can be via email rather than in person. Still feel it is an open matter until something is presented detailing official closure by the Town Attorney.

Chairman Zelek: I would like to make some final comments regarding this work this Commission did with the Toll Brothers/Cedar Mountain case. I have received many communications from people wanting to express their gratitude to this Commission for all the hard work that they did. We've heard from the public, I've been hearing it at other meetings, other commissions are encouraged

by the stand that we took. One of the most touching conversations was with Joe Klett, former chair of the TPZ, he called to express his gratitude of this Commission and he told me that this was one of the most dynamic and positive events that has occurred in Newington.

Chairman Block: One more step, reason to secure Cedar Mountain. The Town has finally said that they are going to attempt it. Let's keep ears and eyes on the mountain until it is accomplished. When that becomes Town property, that is when a pat on the back can occur.

IX. ADJOURNMENT

Chairman Zelek moved to adjourn the meeting at 9:51 p.m., motion by Commissioner Casasanta, seconded by Commissioner Block; it was unanimously voted to adjourn.

Respectfully submitted,



Mrs. Susan Gibbon

Recording Secretary - Conservation Commission