

CONSERVATION COMMISSION

REGULAR MEETING SEPTEMBER 17, 2013

CONFERENCE ROOM L 101

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotapes on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Chairman Block called the roll call at 7:50 p.m. and noted Commissioners Clark, Igielski, Sadil, Shapiro and Zelek were present. Also present were Alternates Krawiec and Paskewich, Chris Greenlaw, Town Engineer and Attorney Peter M. Boorman, Town Attorney.

Chairman Block noted that Alternate Paskewich would vote for the Commissioner Ancona (vacant position).

TEM III

ACCEPTANCE OF MINUTES

Regular Meeting of August 20, 2013

Commissioner Igielski noted the corrections:

- A. Page 2---2nd paragraph from the top of the page, line 2 should read “Application 2013-03 (2013-04), 40 Commerce Court”
- B. Page 3---2nd paragraph from the top of the page, line 1 should read “Mr. Bomgiovanni noted that he was in receipt of a letter from Mr. Greenlaw (Greenwall) that included new”
- C. Page 3---3rd Paragraph from the top of the page, line 2 should read “revisions requested by Mr. Greenlaw (Greenwall) in his letter (for the lot under discussion) to Commission”
- D. Page 5---2nd paragraph from the bottom of the page, line 2 should read “the application by waiving the 14 day filing period? Mr. Greenlaw (Greenwall) responded the public still had the”
- E. Page 6---7th paragraph from the bottom of the page, line 4 should read “finding of fact that a public hearing for Application 2013-10 (21013-10) because the proposed”
- F. Page 8---5th paragraph from the top of the page, line 1 should read “Mr. Greenlaw noted that a permit was granted to install a shed and fence in the (in the) northeast”

Alternate Krawiec noted the following corrections:

- A. Page 2---1st paragraph from the top of the page, line 2 should read “kind of really thought about it, meant (means) saying an abstention was fair”.
- B. Page 2---2nd paragraph from the top of the page, line 3 should read “here with an abstention in mind, and that it is not fair to the Commissioners to vote. (because) I can speak for”

ITEM IV

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

NOTE: Attorney Boorman left the meeting.

ITEM VA

PRESENTATION---“Trust for Public Land”

Chairman Block noted that the purpose of the presentation was to see if the “Trust” could serve as a vehicle that could be recommended to another Town agency that might be able to use its services at a future date.

Commissioner Zelek noted that the public could contact Ms. Brown on its own.

Ms. Kate Brown, project manager for the “Trust for Public Land” whose office is in New Haven. She is a former real estate attorney and has been doing this work on land conservation projects for 11 years and entered the following remarks into the record:

- A. The “Trust” is a national non-profit agency that was founded in 1972 and was formed out from the “Nature Conservatory”.
- B. The purpose of the “Trust” is to facilitate conservation transactions. The “Trust” works with other trusts and towns to acquire land for conservation. They are also involved with park restoration projects.
- C. The “Trust” over the past 40 years on the national level has been involved in 4,000 projects involving 3,000,000 acres.
- D. In Connecticut, the “Trust” since 1986 has been involved in 76 projects affecting 40 municipalities and 6,000 acres of land.
- E. The “Trust” also helps states and municipalities to pass referendums for funding of proposed projects and initiatives. This operation of the “Trust” for this activity works out of Austin Texas.
- F. The “Trust’s” effort starts with a “vision” of what the client wants to preserve. It then helps to create a funding program to finance the effort. Assistance is provided in the actual

transaction and participation in a determination on how the land to be turned over to the client would be managed over time.

Ms. Brown proceeded to review a number of projects that were done by the "Trust" in Connecticut and are noted below:

- A. Griswold Airport, Madison---\$11 million dollar purchase of land to transform the airport into a park.
- B. Coogan Farm, Mystic---The purchase of 34 acres of land for \$2.8 million dollars which would be added to existing open space that would result in a 300 acre of open space that would include a nature preserve.
- C. The Preserve, Old Saybrook, Essex and Westbrook---This is an active project that would result in the purchase of 1,000 acres of coastal forest that would connect with 500 acres of existing open space land. The estimated cost would be between \$10 and \$11 million dollars.

NOTE: Listen to audio tape for the details of each project.

Ms. Brown summarized the role of the "Trust" in a project that includes acting as the buyer in any transaction; does all related work related to the purchase of the property, applies for federal and state grants and look for possible grants from private foundations.

Ms. Brown reviewed the "vision plan" that was prepared by the "Trust" for the Coogan Farm (Listen to audio tape for the details of her remarks).

Commissioner Zelek asked if a property is in litigation, would it be a good time to contact the owner? Ms. Brown responded that the "Trust" works only with a willing partner.

Commissioner Zelek asked if there was a consensus to protect something (within a town) but there is a lack of traction, would the "Trust" come in and work things out? Ms. Brown responded that a request must originate from a consensus (of support) from the governing body of the town before the "Trust" would come in.

Commissioner Zelek noted that the Town of Newington has a Town Manager, a Mayor and a Town Council. Who would the "Trust" deal with? Ms. Brown responded in the Town of Old Saybrook, the "Trust" dealt with the selectmen and the Board of finance.

Commissioner Clark asked who would normally approach the "Trust" from the Town? Ms. Brown responded that it could start with a Conservation Commission and percolate upwards to the governing body of the town (for a decision).

Commissioner Zelek asked if there was a minimum or maximum size of a property to be preserved? Ms. Brown responded that a small parcel of land should be handled on the local level. Large projects are more cost effective.

Alternate Paskewich asked what would be best method to protect newly acquired land? Ms. Brown responded probably through a conservation easement because the zoning could be changed down the road.

ITEM VB

Application 2013-14, 119 Deming Street

The Commission went into recess at 8:12 p.m.

The Commission came out of recess at 8:19 p.m.

Mr. Chris Greenlaw, Town Engineer, asked Commission members if they had received copies of the environmental assessment report, soil scientist report and a set of plans for the application?

Commission members responded yes.

Mr. Greenlaw noted that this is not the first application for this parcel of land. The original permit expired when the permit holder did not complete the approved scope of work within two (2) years, once work was initiated on the site.

Mr. Greenlaw noted that the applicant's consultant, REMA Ecological Services LLC, will review improvements completed to date under the original permit. The aspect that would be most important to the Commission would be the status of the environmental assessment; namely, what has been completed to date and what remains to be done

Mr. George Logan, Principal, REMA Ecological Services LLC, and representing the applicant entered the following remarks into the record:

NOTE: Mr. Logan referred to a number of photographs during the presentation (listen to audio tape for a full detail of his remarks for each photograph).

- A. The property was an old farm in 2006 when a (wetland) permit was issued to conduct designated regulated activities on the property.
- B. An existing watercourse traverses the property (westerly) along the southerly property line from Deming Street to the westerly property line, an existing wetland.
- C. The rough grading plan (where homes would be built) is in place per the plan.
- D. A six (6) foot to eight (8) foot high retaining wall has been installed at the northwest corner of the property.
- E. Two (2) homes have been built (a model house and an occupied one).
- F. The storm water management plan is basically in place. Some enhancement work remains to be done.

G. A 9,000 square foot meadow wetland has been filled in.

H. The existing occupied residential structure is still in place.

I. The approved plan called for the construction of two (2) (wetland) mitigation areas. No work has been done on the southern area. The northern area has been excavated to rough grade.

J. Referring to a photograph, he noted that the existing sedimentation control basin would be made into a water quality control basin with a rip rap controlled outlet.

Commissioner Sadil asked what is the source of water for the watercourse? Mr. Logan responded there is an artesian condition that exists at a pond approximately 800 feet upstream of the site.

Mr. Logan referred to a second set of photographs (listen to audio tape for a full detail of his remarks for each photograph).

Commissioner Zelek referring to Plan sheet 5 asked if the wetland mitigation area was in the vicinity of the pile of dirt? Mr. Logan responded yes and no. It is in the vicinity of unit 11.

Mr. Logan proceeded to locate the sediment control basin on the plan and that it would turned into an oversized plunge pool at a later date.

Commissioner Zelek noted that the mitigation areas have not been constructed; yet there is a newly constructed occupied house without a certificate of occupancy (c.o.) on the site.

Mr. Greenlaw noted that the issue of the c.o. is not a concern of the Commission. Commission members should concern themselves with what has been built, what is proposed to be built, what is the time line for the creation of the mitigation areas and what would the Commission require of the applicant to see that the work will be done.

Alternate Paskewich asked what is the difference between mitigation and restoration? Mr. Logan responded that there is a wetland area behind the house on Deming Street that is currently a lawn area but will be returned back to a wetland. This is an example of a restoration.

Mr. Logan noted that no work has been started on the south mitigation area. The north mitigation area has excavated down to grade.

Commissioner Zelek asked if the mitigation work was not done, is there a violation of the original permit even though the permit had expired?

Mr. Greenwall responded no because the permit has expired.

Chairman Block noted that once the time to do the work has ended, it is all over (listen to audio tape for the full details of the discussion).

Mr. Greenlaw noted that a report should be submitted by REMA (Ecological Services) and the project's professional engineer comparing the current status of the property to the original permit.

Alternate Paskewich noted there is a note on the plan stating that all work to be completed by 2014.

Mr. Greenlaw noted that the date referred to the Town Planning and Zoning Commission.

Chairman Block asked if there was incursion into the wetland? Mr. Logan responded that he has walked the site and found no incursion into the wetland. The only non-compliance areas were the south mitigation area (no work done to date) and the north mitigation area (final work on excavated area remains to be done). Work should be done by mid to late spring of 2014 (listen to audio tape for the details of his remarks).

Mr. Logan noted that the original plans have not been compared to current field conditions.

Commissioner Zelek stated that he wanted to see copies of all prior approvals.

Mr. Greenlaw noted the permits are shown on the submitted plans (2 Letters).

Commissioner Sadil asked what happens to the surface run off from the rear yards of the lots at the end of the cul-de-sac? Mr. Logan responded that the run off is picked up by a swale and is discharged into the watercourse through a stone filter berm.

Mr. Greenlaw noted that in the 2006 report, you (Mr. Logan) stated that you believed that the storm water treatment chain for surface run off would exceed the 80 percent removal of total suspended solids as established by DEEP.

Mr. Greenwall asked if the report is consistent with the plan of development today and are you going to adhere to all of the recommendation in the report as part of the development? Mr. Logan responded yes, yes with some nuances and modifications.

Mr. Greenwall asked Mr. Logan to provide an overview of what exists today to what was approved in 2006? Mr. Logan proceeded to present the overview (listen to audio tape for the details of his remarks).

Chairman Block noted on evasive plants, he is not convinced that a one shot deal would achieve total removal.

Mr. Logan noted that the current thinking would be to remove the existing material and bring in new material. Things have changed and it may be necessary to come up with some modifications (listen to audio tape for the details of his remarks).

Commissioner Zelek noted that in the sequencing of operations getting the evasive plant condition under control should be done first and then proceed with (the construction of) the mitigation areas before any foundation work is done.

Chairman Block noted that he agrees in principle (with Commissioner Zelek). The wetland (mitigation) areas should be done in the early stage.

Commissioner Clark asked Mr. Logan if he was confident of the conclusion that the original plan would remain in effect today? Mr. Logan responded generally yes except for the restriction as to the final outcome of the primary (north and south) mitigation areas.

Mr. Logan noted that the brook and swamp remain the same today. Some loss of function has occurred over the remainder of the site due to degradation over the years. The end result can be accomplished with some additional work (listen to audio tape for the details of his remarks).

Chairman Block noted that he would be looking for the submission of Mr. Logan's recommendation(s) on what would have to be done to control the evasive plant problem

Mr. Greenlaw recommended that Mr. Logan and the project engineer work together to come up with a report that compares existing conditions today to the original approved plan (listen to audio tape for the full details of his remarks).

Mr. Logan reviewed additional photographs of existing conditions (listen to audio tape for the full details of his remarks for each photo).

Commissioner Zelek asked what is being proposed as adequate mitigation for the area under discussion? Mr. Logan responded the original plan is adequate (listen to audio tape for the details of his remarks).

Commissioner Zelek asked Mr. Greenlaw if the mitigation is acceptable? Mr. Greenlaw responded that he would look into it.

Commissioner Clark asked if the area under discussion would be better off upon completion of the project? Mr. Logan responded yes because the area was a pasture for cows and their feces would leach into the wetland.

Mr. Logan noted that the site is also under an Army Corps of Engineers Permit.

Mr. Greenlaw asked if a certificate of occupancy has been issued for the occupied new house? Mr. Wyles, the applicant, responded yes.

Mr. James Cassidy, P.E., project engineer noted that he visited the site and found the storm water conduit system is in place. The mitigation is not in place. An inventory of the site needs to be done.

Motion made by Commissioner Sadil to carry the item over to the October meeting and was seconded by Commissioner Clark. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM VIA

Internal Rules and Procedures

Mr. Greenlaw asked Commission members if they had received an updated hard copy or electronically mailed copy of the "Duly Authorized Agent" section? The consensus of Commission members was yes. He also noted that this section of the "Rules and Procedures" is up for action tonight.

Alternate Krawiec raised the question if the issue of "an abstention vote" would be included in the "Rules and Procedures"? There was a general discussion among Commission members (listen to audio tape for the details of the discussion).

Motion made by Commissioner Clark to table the item over to the October meeting and was seconded by Alternate Paskewich.

Commissioner Igielski asked Mr. Greenlaw what is the plan on the item tonight? Mr. Greenlaw responded to act on it tonight.

Commissioner Igielski noted a list of corrections that needed to be made prior to the taking of a vote (listen to audio tape for the details of his corrections).

Vote was 6 yes, 0 no, 1 abstention (Zelek) and the motion was carried.

ITEM VI B

New Initiative---Vernal Pools

Commissioner Zelek noted that there is nothing new to report on the subject matter.

ITEM VII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Mr. John Bachand, 56 Maple Hill Avenue noted that he would not have asked the question "If there was any information that could be shared with the public emanating from the Executive Session" if he was aware that the Commission was still in Executive Session.

Mr. John Bachand, 56 Maple Hill Avenue asked if there was any information that could be shared with the public emanating from the Executive Session? Mr. Block responded there was nothing to share.

ITEM VIII

COMMUNICATIONS AND REPORTS

Commissioner Zelek asked if there would be any discussion (with the Commission) on the proposed budget for the Commission? Mr. Greenlaw responded that he would be willing to discuss the matter at the appropriate time.

Chairman Block said that any e-mails on the matter should be sent to him and that he would forward them to Mr. Greenlaw.

Mr. Greenlaw noted that he has received a request for the payment of the annual dues to the Connecticut Association of Conservation Commissions.

Commissioner Zelek asked what is the benefit to the Commission in continuing its membership with the "Association"? Commissioner Clark said that she would follow up on the question.

Agent Approval---Application 2013 12AA for 129 Main Street

Mr. Greenlaw noted that the scope of work under the permit included the installation of a driveway and utility trenches (to provide utilities to the proposed house). All work would be done in the upland review area.

Commissioner Zelek asked if this was the same property that the Commission heard? Mr. Greenlaw responded yes.

Mr. Greenlaw noted that the existing curb cut on Main Street is an easement to the State of Connecticut. The proposed driveway would be at grade and bushes would be added as mitigation.

Commissioner Zelek asked why did this matter not come back to the Commission? Mr. Greenlaw responded that the major issue of discussion by the Commission was for the Map Amendment. The actual physical improvements per the existing driveway, utilities, house and grading are outside of the regulated area.

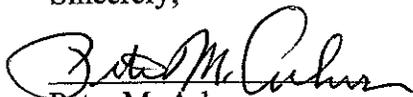
Mr. Greenlaw invited Commissioner Zelek to come to his office to review the matter.

Agent Approval---Application 2013-13AA for West Meadow Cemetery

Mr. Greenlaw noted that the permit allowed Town forces to reset grave stones that has settled within the West Meadow Cemetery. In addition maintenance work was performed at the inlet of the 48 inch pipe that is located on Town of Newington Housing Authority property and runs underground through the West Meadow Cemetery. This work was done under the Town of Newington General Permit No. 1.

Motion made by Commissioner Sidal to adjourn the meeting at 10:30 p.m. and was seconded by Commissioner Shapiro. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Sincerely;


Peter M. Arburr
Recording Secretary

Cc

Tanya Lane, Town Clerk
John Salamone, Town Manager
Town Planner
Councilor Myra Cohen
Councilor David Nagel
Chairperson, Town Plan and Zoning Commission
Peter M. Boorman, esquire, Town attorney
Chris Greenlaw, Town Engineer
Lucy Robbins Wells Library (2)