

DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- SELECTMEN'S MEETING ROOM 304 – 7:00 P.M.
AGENDA – TUESDAY, JULY 30, 2013

Next scheduled Dartmouth Conservation Commission meeting:
Tuesday, August 13, 2013 at 7 p.m. – in Room 103

APPROVAL of the minutes of June 18, 2013 meeting

RECEIVE the minutes of July 02, 2013 meeting

APPROVAL of the field trip report of the July 02, 2013 meeting

BILL Gustavo Raposo, P.E. stormwater consultant review for Summit Smith Healthcare \$2,480

FIELD TRIP REPORTS

1. A Request for Determination of Applicability from Margaret J Reichenbach re: Map 94, Lot 25 on 29 Mattarest (drain lines, irrigation pump chamber, transformer pad, A/C condenser, recirculation tanks for pool, and drain through southerly retaining wall) (Site Design)

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1. **CONTINUED PUBLIC HEARING** - Cecelia Roberts re: Map 171 Lot 41 on 5 Lakewood Drive **File 15-2204** (Raze and reconstruct single family home) (Existing Grade) (**Continuance until August 13, 2013 requested**)
 2. **PUBLIC HEARING**- DPM Development re: Map 143 Lot 214-216 on Kraseman Street **File 15-2206** (single family home) (Sitec, Inc) (**Continuance until August 13, 2013 requested**)
 3. **CONTINUED PUBLIC HEARING**- Mary Robinson re: Map 67 Lot 8 on Hixville Road **File 15-2197** (subdivision road for two lots) (Sitec, Inc.) **Continuance until August 13, 2013 requested**
 4. **PUBLIC HEARING**- The 2006 Nancy Coykendall Family Revocable Trust re: Map 29 Lots 13, 26, 26-2, 26-3, 26-4, 26-5 on Bakers Brook Road **File 15-2205** (single family home) (Ewing Engineering)
 5. **CONTINUED PUBLIC HEARING** - Summit Smith Healthcare Facilities Inc. re: Map 68, Lot 29-1, 29-2, 31 & 32 **File 15-2203** (medical office) (Sitec, Inc)
 6. **CONTINUED PUBLIC HEARING**- Boston Environmental Corporation re: Map 72 Lot 6 & 9 on 452 Old Fall River Rd **File 15-2186** (Capping and Final Closure of the Former Cecil Smith Landfill) (Sitec Environmental Inc)

ITEMS FOR DISCUSSION:

- A) Alteration violation - Victor Reis - Map 62, Lot 13 on Hixville Road
- B) **New Business** – This time is being reserved for topics that the chair did not reasonably anticipate would be discussed.

(Please be advised this agenda is subject to change. We advise you to call that afternoon of the schedule meeting for any updates to this agenda.)

DARTMOUTH TOWN CLERK

2013 SEP -6 A 11:07

RECEIVED

DARTMOUTH CONSERVATION COMMISSION
DARTMOUTH TOWN HALL- SELECTMEN'S MEETING ROOM 304 - 7:00 P.M.
MINUTES - TUESDAY, JULY 30, 2013

Present Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice-chair, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk

ABSENT: Patricia SweriduK

Mr. Kehoe, Chair convened the meeting at 7:02 PM.

Approval of the minutes of June 18, 2013 was unanimously accepted by those Commissioners present.

Minutes of the July 02, 2013 meeting received for reading.

Approval of the field trip report of the July 02, 2013 meeting was unanimously accepted by those Commissioners present.

Approval of the bill for Gustavo Raposo, P.E. stormwater consultant review for Summit Smith Healthcare \$2,480.

Discussion regarding alteration violation - Victor Reis - Map 62, Lot 13 on Hixville Road - Mr. O'Reilly updated the Commission that he has initiated legal action for the alteration violation on Hixville Road. Mr. Goddard the applicant's representative is currently doing additional evaluation work, but nothing has been turned into the office. Mr. O'Reilly spoke with MA Natural Heritage this afternoon and they will not be included in the legal action. They explained the Attorney General needs to have a violator who isn't cooperating. Mr. O'Reilly isn't sure if Mr. Reis realizes the seriousness. Mr. O'Reilly doesn't want to see another growing season go by.

With nothing further to be discussed, Mr. Kehoe entertained a motion to adjourn the public meeting. Ms. McDonald motioned to adjourn the public hearing at 9:40PM with Mr. Mallen seconding. It was an unanimous decision of those present.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
CECELIA ROBERTS
15-2204

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Cecelia Roberts who wishes to construct a single family home on land located at Map 171 Lot 41 on 5 Lakewood Road in Dartmouth. The hearing was held on Tuesday, July 30, 2013 in Room 304 of the Dartmouth Town Hall Selectmen's meeting room at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, Chair convened the hearing at 7:07 p.m. It was voted to waive the reading of the public hearing notice.

A request from the applicant's representative requested a continuance until Tuesday, August 13, 2013.

With nothing further to be added, Ms. McDonald motioned to continue the public until Tuesday, August 13, 2013 at 7 PM with Ms. Brindisi seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
DPM DEVELOPMENT
15-2206

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of DPM Development who wishes to construct a single family home on land located at Map 143 Lot 214-216 on Kraseman Street in Dartmouth. The hearing was held on Tuesday, July 30, 2013 in Room 304 of the Dartmouth Town Hall Selectmen's meeting room at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, Chair convened the hearing at 7:08 p.m. It was voted to waive the reading of the public hearing notice.

A request from the applicant's representative requested a continuance until Tuesday, August 13, 2013.

With nothing further to be added, Ms. McDonald motioned to continue the public until Tuesday, August 13, 2013 at 7 PM with Ms. Brindisi seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
MARY ROBINSON
15-2197

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Mary Robinson who wishes to construct a subdivision road for two lots on land located at Map 67 Lot 8 on Hixville Road in Dartmouth. The hearing was held on Tuesday, July 30, 2013 Room 304 of the Dartmouth Town Hall Selectmen's meeting room at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:09 p.m. It was voted to waive the reading of the public hearing notice.

A request from the applicant's representative asking for a two week continuance has been received.

With nothing further to be added, Ms. McDonald motioned to continue the public until Tuesday, August 13, 2013 at 7 PM with Ms. Brindisi seconding the motion.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
THE 2006 NANCY COYKENDALL FAMILY REVOCABLE TRUST
15-2205

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of The 2006 Nancy Coykendall Family Revocable Trust who wishes to construct a subdivision road for two lots on land located at Map 29 Lots 13, 26, 26-2, 26-3, 26-4, 26-5 on bakers Brook Road in Dartmouth. The hearing was held on Tuesday, July 30, 2013 in Room 304 of the Dartmouth Town Hall Selectmen's meeting room at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:10 p.m. It was voted to waive the reading of the public hearing notice. Plan Subsurface Sewage Disposal System dated June 24, 2013 of site were displayed. Certified mail receipts showing proof of abutter notification were submitted for the file.

Alan Ewing from Alan Ewing Engineering, Inc was present to represent the applicant. Mr. Ewing explained this is a 45 acre parcel off of Bakerville Road. The owner would like to construct a single family home with a sewage disposal system and Town water. They will be using an existing cart path off the end of the driveway and proposing to widen the cart path. They plan on leaving a buffer zone around the work space. There will be an installation of small dry wells for

Mr. O'Reilly asked about the wetland delineation on the last sheet which is extensive. However if the last sheet is included all the wetlands become verified. Mr. O'Reilly asked if the intention was to get all the wetlands verified? Mr. Ewing stated it was just for a single family home at this point. Mr. O'Reilly suggested removing the last sheet or making a comment on that sheet. Mr. O'Reilly stated so the remainder of the wetlands will not have to be verified. Mr. O'Reilly asked about the widening of the driveway and having a point scale of the driveway. Mr. O'Reilly mention on the south side it looks like a vernal pool, so if wetlands become impacted it could be significant issue. Mr. O'Reilly would like to see a blow up of the driveway. Mr. O'Reilly also suggested a copy of the plan be submitted to the Fire Chief at District 1 because of the driveway access for fire protection

With nothing further, Mr. Golen motioned to continue the public hearing until Tuesday, August 13, 2013, at 7:00 PM with Mr. Mallen seconding the motion.

Respectfully submitted

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
PUBLIC HEARING MINUTES OF
SUMMIT SMITH HEALTHCARE FACILITIES INC
15-2203

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Summit Smith Healthcare Facilities Inc who wishes to construct a medical office on land located at Map 68 Lots 29-1, 29-2, 31, and 32 on Faunce Corner Road in Dartmouth. The hearing was held on Tuesday, July 30, 2013 in Room 304 of the Dartmouth Town Hall Selectmen's meeting room at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:16 p.m. It was voted to waive the reading of the public hearing notice. Plan file number 10-4656 dated July 09, 2013 of site were displayed.

Steven Gioiosa from Sitec, Inc was present to represent the applicant. Mr. Gioiosa explained they have completed a drainage analysis to determine the extent of the vernal pond. Work will not impact the vernal pond which is shown on the plan; the extreme limit of the potential habitat area does not extend to within 225 feet of the wetland area. The replication area is the closest activity to this habitat area. The replication area has been modified by their wetland specialist to provide good habitat value and berries as a wildlife food source. The planting plan has been submitted. The intermittent stream was evaluated by Dr. John Jahoda, Wildlife Biologist who made some recommendations. Some of the modifications were to meander the stream layout; use seed mix to improve habitat value, vernal pool will have transitions, additional plantings and down gradient drainage system. The drainage consultant's comments have also been address in the revised plans.

Mr. O'Reilly stated the Commission has received a letter from the stormwater consultant stating he had no further comments. Mr. O'Reilly stated this was what the Commission had asked for at the last meeting. In Mr. O'Reilly's opinion this meets the performance standards.

Ms. McDonald motioned to close the public hearing with Mr. Golen seconding the motion.

With nothing further to be added, Ms. McDonald motioned to issue a Standard Order of Conditions according to the plan dated July 9, 2013 with Ms. Brindisi seconding the motion. It was an unanimous decision of those present.

Respectfully submitted,

Donna Farias
Administrative Clerk

DARTMOUTH CONSERVATION COMMISSION
CONTINUED PUBLIC HEARING MINUTES OF
BOSTON ENVIRONMENTAL CORPORATION

15-2186

There was a Conservation Commission hearing held in accordance with the provisions of the Dartmouth Wetlands Protection Bylaw and M.G.L., 131, § 40, the Wetlands Protection Act, on the Notice of Intent of Boston Environmental Corporation who wishes to construct a cap and final closure of the former Cecil Smith Landfill on land located at Map 72 Lots 6 & 9 on 452 Old Fall River Road in Dartmouth. The hearing was held on Tuesday, July 30, 2013 in Room 304 of the Dartmouth Town Hall Selectmen's meeting room at 400 Slocum Road in Dartmouth.

Present were Michael Kehoe, Chairperson, Jacquelyn McDonald, Vice Chairperson, Richard Mallen, Jennifer Brindisi, Richard Golen, Kyle Ross, Michael O'Reilly, Environmental Affairs Coordinator, and Donna Farias, Administrative Clerk.

ABSENT: Patricia Sweriduk

Mr. Kehoe, chair convened the hearing at 7:23 p.m. It was voted to waive the reading of the public hearing notice. Plan file number SE11-920 dated July 9, 2013 of site were displayed.

Robert Golledge consultant for Boston Environmental introduced Michael Quatromoni from Sitec, Andrew Daniels counsel, Michael Toomey Vice President of Boston Environmental, and David Howe, President of Boston Environmental. Mr. Golledge wanted to give an update for the Commission since the last meeting. Mr. Golledge stated the main issue was the flood plain. Since the last meeting the Environmental Notification Form has been issued and Natural Heritage and Endangered Species signed off conditionally on the habitat assistant and mitigation for endangered species. The Department of Environmental Protection (DEP) has held two public meetings here in Dartmouth. Mr. Golledge explained Sitec had evaluated the entire watershed upgradient because the exact location of the flood plain had not been determined on the flood plan maps. Sitec had found the flood plain elevation to be at 72.5 feet then met with Mr. O'Reilly to discuss this elevation. Mr. O'Reilly had conducted his own analysis and found it to be at 73 feet, so BEC has adopted the elevation at 73 foot elevation. This was to essentially avoid any impact to the 100 year flood elevation. The wetland alteration being proposed is essentially to pull back waste in the wetlands and have the wetlands restored. There will be several hundred feet of wetland impacted to upgrade the access road all other impact is to remove waste. They have applied for a 401 water quality certification with DEP. DEP usually waits for the Order of Conditions to be issued before issuing a final decision. BEC has already prepared the filing of a 404 with the Army Corps, and once they receive 401 certification BEC can file this application. The reason they need to file with the Army Corp of Engineers is because they are removing in access of 5,000 square feet of alteration.

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Mr. Golledge feels they have met the Performance Standards, asks the Commission to close the public hearing and render a decision within the 21 days.

Mr. O'Reilly explained both he and Sitec have done extensive analysis and submitted this data. They have come to an agreement of 73 feet for an elevation. The toe of the landfill has been moved inward as a result no compensatory storage is need because no work is being done in the flood plain. A letter from the stormwater consultant stating the work does comply with DEP policy at this point. Mr. O'Reilly had concerns the berm couldn't contain a 100 year storm event during the three phases of construction. Additional analyses have been done and new plans show the amended berm elevations and stormwater storage. We have received updated replication and restoration details on July 12, 2013, and are now compliant. The stream crossing has been updated and now complies with the stream crossing standards. One issue the Commission had discussed was the Alternative analysis which ties into the limited project. This has been filed as a limited project. Capping of a landfill does fall under 301 CMR 15.53 (e) which Mr. O'Reilly read for the record. Mr. O'Reilly went through all four alternatives and he had mentioned an intermediate alternative which was not adequately discussed but he leaves that up to the Commission.

Mr. Kehoe commented that at the last hearing alternative 2 would satisfy the requirements from an environmental stand point but not an economic standpoint and alternative 3 has the same goal but they need to generate the revenue. Mr. Golledge commented that the alternatives options would not significantly change the amount of wetlands to be altered. Mr. Kehoe stated he understood but when they come under a limited project they still have an opportunity to review those analyses. Mr. Kehoe asked if the Commission had received the financial information to support that the 3rd option was the feasible economic stand point.

Mr. O'Reilly stated no. Mr. O'Reilly asked about the bonding and financial assurance mechanism. Will it cover monitoring and most importantly cover mitigation should a problem arise.

Mr. Golledge had presented the financial to the general public. Mr. Kehoe asked if it could be presented to the Commission. Mr. Golledge explained the financial assurance mechanism under DEP Solid Waste regulations they have to put up a bond for construction and a 30 year post closure. The project is supposed to take 3 years and they would like to before the Commission asking for a Certificate of Compliance before then.

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Mr. O'Reilly asked if the monitoring shows that we have a problem is remediation built in to the financial mechanism.

Mr. Golledge stated yes. Mr. Golledge if the Commission had follow up question about what DEP is going to require for assurance mechanism the Commission could contact them directly or BEC could provide this.

Ms. McDonald stated that BEC should provide this to the Commission. Ms. McDonald doesn't feel the Town of Dartmouth has to come up with the money to fix this. The Commission needs to know how much BEC is going to supply if we need to remediate. Mr. Golledge stated there are two issues.

One is the cost of the wetland restoration and the cost of the rest of the project. The cost of the wetland restoration is a fraction of the whole bond and assurance mechanism associated with the entire project. Mr. O'Reilly spoke on the process. Mr. O'Reilly spoke on the limited groundwater sampling that was done. Existing wells were sampled and additional new wells were installed and sampled. The results of the sampling were pretty good. Mr. O'Reilly further explained that this type of sampling isn't usually done until after the project begins as part of the Comprehensive Site Assessment (CSA). Mr. O'Reilly restated his earlier concerns that the sequencing of the CSA is illogical. Mr. O'Reilly feels the assessment should be more complete at this point so the Commission can get a better look at the current condition, the effects that the current conditions are having on the wetlands and what effects the proposal would have on wetlands. Ms. McDonald asked if a full CSA has been done. Mr. O'Reilly said that it had not been done at this point; it is required through the DEP process at a later time. Ms. McDonald stated that before the Conservation can make any kind of a decision the CSA should be done before any work commences so that the Commission can make an informed decision. Mr. Golledge explained DEP policy and solid waste regulations that the CSA happens at a later stage. Ms. McDonald asked why wait?

John George Selectmen - CSA - it makes no sense to do it after the fact - ask DEP to do it before - wants a breakdown of project- ask no work to be done wait to do it right.

Betsy White lives near Lake Noquochoke - Advocacy Director for the Westport Watershed Alliance its watershed issue affects Westport, Dartmouth, and New Bedford

Arthur Thibodeau - Old Fall River Rd - 3 threats to watershed over last 50 years - superfund site, resolve, now landfill

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Gloria Bancroft - Collins Corner Road - Aquifer 3 - DEP doesn't recognize it but the residents do - EPA 2005 report identified 11 wells within a 4 miles radius to this project- testing is key - South Coast Alliance Group have been advocating to stop this project and test what is there - the Board of Health Director spoke on this for more testing at one of the DEP meetings - technology exist and we should utilize this - Alternative analysis - South Dartmouth signatures were given to Ms. Bancroft -

Ms. Bancroft commented on the application process- Ms. Bancroft felt insulted because BEC chose RDA - where abutters weren't notified until they filed a Notice of Intent - Ms. Bancroft commented on the application being inaccurate and false that they filed with Conservation and the ENF-

Judith Arsenault Scuito - comment about Go Big Green

Robert Michaud - Alice Street - how hard to get rid of debris - should know what costs are

Mr. Kehoe - Commission hasn't received any financial

Claire Miller -Massachusetts Director of Toxic Action Center - handout given drinking water limits- met with Dartmouth residents since May- shared other experiences from other Towns

Susan Dias Wilbur Ave - one solution got to stop this as soon as the Town can

Kate Ouellette - Town meeting member - should demand CSA

Joseph Toomey - Planning Board - Soil Board - flood plain issues -feels there will be some flushing action - should evaluate all 94 acres - cost to Town and remove slowly and get inventory of what is there - pallet business - more dumping presently - 21 E for the rest of site - why not apply for a 21 E

Mr. Kehoe - can be a request; don't have jurisdiction

Theresa Brum - Hixville Rd - commented on wells - don't want to pay for sewer hookup -

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John George - Selectmen - will suggest to Select Board to write a letter to DEP demand a CSA be done - go to Town meeting asking for support - this will affect other towns and have other Towns way in on this- stop wait take our time

Matt Parson - N Dartmouth - feels right questions are being asked - testing - aerial infra-red/electromagnetic testing - independent assessment

Ms. McDonald - commented the High School was to be over 35 feet; why is the Town allowing this to be 65 feet - complained about the 94 acres and needed to see what was underneath - assessment done before anything happens - BEC/DEP are bullying the Town

Mr. Mallen - There is no contingency plan if something goes wrong. BEC should have a contingency plan if something does go wrong. Without a contingency plan it's built in litigation for the Town and everyone in the room. Therefore with a contingency plan if something goes wrong we come back we find out exactly what can be done to stop it and then you can get an insurance policy. This insurance should exist forever. Mr. Mallen feels if it goes into the water supply the people shouldn't incur the cost. This should be in the contingency plan and presented to Commission along with the CSA.

Mr. Golledge commented on the amount of data generated on this site than any other site of this type. They have done additional wells on this site and the water quality data showed secondary impact but no violation to any drinking water standards. The financial information submitted confidential business information to DEP and understands they haven't submitted to the Conservation Commission. DEP has accepted under the confidential business information and to avoid a competitive edge. DEP has hired an outside independent firm to evaluation this financial information. BEC has been in contact with the Town Manager and the Town's LSP. Mr. Golledge feels a lot of the issues brought up tonight are outside the Commission purview. Mr. Golledge feels the information submitted all the necessary documentation and has been fully evaluated and requests the Commission to close the hearing and render their decision within 21 days.

John George - Selectmen - takes acceptance with this comment - share financial with DEP but not with the Commission

Mr. Kehoe - doesn't feel the Commission hasn't been given the data it needs

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Mr. Golledge asked if Mr. Kehoe could clarify the exact information and how it's relevant to make a determination

Mr. Kehoe - the alternative analysis was presented in April - you made a determination concluded one alternative will work there was no data to support this but just a conclusion. Now the Commission is being told the data was given to DEP.

Mr. Golledge wanted clarification the reason why Mr. Kehoe wanted this information was because it was eligible to be a limited project.

Mr. Kehoe agreed. Mr. Kehoe made a request in April because otherwise he can't make decision that can be favorable.

Mr. Golledge clarified the height of the landfill doesn't affect the impacts on the wetlands.

Mr. Kehoe commented the alternatives analysis is driven by finances.

Mr. Golledge explained the alternative analysis is usually proposed to avoid, minimize, or mitigate impacts to wetlands and there is no difference in the wetland impact between two or three.

Mr. Kehoe stated if he can go with something less intrusive and get the same result that the way he would go. Mr. Kehoe commented this is benefitting someone who should be held accountable and violated the law.

Ms. McDonald only one who benefits is BEC

Mr. Golledge take an objective view.

Mr. Golen would like to see in front of him the data, so he can be sure option 3 is the best. Mr. Golen disagrees if you don't have the data you can't make an informed decision.

Mr. Golledge all the data in terms of soils, EPA and water quality the Commission has. They haven't submitted the financial data to the Commission.

Mr. Mallen still haven't answered who will be responsible for repairing it 30 years from now if there is a leak.

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Mr. Golledge stated the Town and the State to enforce local and State rules. In the 30 year post closure there is a pot of money there in the event something goes wrong and finally the property owner.

Mr. Mallen stated he don't buy it. We will have built in litigation.

Ms. Sousa Old Fall River - sister lots their wells with the resolve site

Paul Bancroft - Collins Corner Rd - We've been told what is not there but have been told was is there

Robert Michaud - Alice Street - EPA drinking water testing - Go to Town Meeting

Ms. McDonald - ask if the Commission had to close the hearing

Mr. O'Reilly explained the applicant can request the Commission close the hearing

Mr. Toomey - Soil Board, Planning - recommend continuing

Mr. Kehoe - asked about DEP having a 3rd party review

Mr. Golledge stated they did the Parsons Group

Mr. Kehoe this is an important piece of information

Mr. Golledge the financial information has been submitted to DEP under confidential business and to determine whether this project is eligible under a limited project under the wetland regulations that information is not necessary for the Commission to render a decision.

Ms. McDonald stated if DEP did what they were supposed do we wouldn't be here

Mr. Golledge stated DEP addressed that issue at the last meeting. Mr. Golledge formally requests closing the hearing, and don't agree to a continuance.

Andrew Daniel - Counsel for BEC - spoke on the alternative- stated there is only one proposal before the Commission. As part of the limited project analysis there was

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an alternative analysis. That was analysis the applicant made and performed by an independent Professional Engineer. There aren't several different options. The purpose of the limited project analysis is the impact on the wetlands. There is no difference of the impact of the wetland regardless of the height.

Mr. Kehoe entertained a motion to close the public hearing. Mr. Kehoe polled the commission on closing the hearing. Mr. Mallen - no, Mr. Kehoe - yes, Ms. McDonald - yes, Mr. Ross - yes, Ms. Brindisi - yes, Mr. Golen commented he needs to abstain because he didn't attend and review the recording.

Mr. Toomey asked if the Commission votes to deny the project. Mr. Kehoe and Mr. O'Reilly explained the procedure of appeals.

Ms. Bancroft asked if they have 21 days to make a decision and if this would be listed on the agenda and during a public meeting. Mr. Kehoe stated it would be on the agenda and at the next public meeting. Ms. Bancroft asked if the Commission renders a positive decision with conditions would that be done all at the same time. Mr. Kehoe stated yes. We have to make the decision within 21 days. We won't ... in all likelihood it will be done on August 13, 2013. Ms. Bancroft okay, but if it is not done on August 13, 2013, whichever day it's done of conditions if so placed would it be at the same time. Mr. Kehoe yes, it would be the complete decision. Mr. O'Reilly further explained that the Commission can deliberate among themselves on the conditions.

Respectfully submitted,

Donna Farias
Administrative Clerk

1. A Request for Determination of Applicability from Margaret J Reichenbach re: Map 94, Lot 25 on 29 Mattarest (drain lines, irrigation pump chamber, transformer pad, A/C condenser, recirculation tanks for pool, and drain through southerly retaining wall) (Site Design)

ABSENT: Patricia Sweriduk

Ms. McDonald motioned to waive the reading of the public meeting notice with Ms. Brindisi seconding the motion.

Thomas Hardman and Michael Russell, P.E. from Site Design along with the owners Mr. & Mrs. Reichenbach, Lars Olsen, builder, and Attorney Feingold. Mr. Hardman explained this request to permit transformer and lines located just into the flood plain which was not shown on the original plan, 4 A/C condenser units all within the flood plain, 2 pool recirculation tanks placed within the lawn area, small area between the pool and spa which the builder installed a drain through South Retaining Wall which goes down into the trench area. Lastly, Mr. Hardman mentioned using the rain water from the house by collecting it to water landscaping by installing pump chambers to collect the rain water by going out to some storage tanks which are outside the jurisdiction.

In Mr. O'Reilly's opinion, he doesn't feel there would be any negative impact and would recommend a negative determination. Barbara Moss from Mattarest Lane was told it was a public hearing. Mr. Kehoe explained this was a public meeting and they are just starting the public hearings.

DECISION: Ms. McDonald motion to issue a NEGATIVE 2 determination with Mr. Mallen seconding the motion. It was an unanimous decision of those present.