

Approved: April 1, 2014

NEW CASTLE CONSERVATION COMMISSION

February 6, 2014,

4:00 PM

**Members Present:** Chair Bill Stewart, Darcy Horgan, Lynn McCarthy, Beth Hume, Brian Mack, Jim Rini, Sharon Houston

**Not Present:** Alternate Curt Gillespie

**Also Present:** Dr. James Zuckerman, New Castle Health Officer

**Call the Meeting to order:**

Chair Stewart called the February 6, 2014 meeting of the New Castle Conservation Commission to order at 4:00 pm.

**Approve December 2013 minutes:**

Members noted editorial changes to the December 2013 minutes.

*Nancy Gulley MOVED to approve the December 2013 minutes as amended on February 6, 2014; this was SECONDED by Beth Hume and APPROVED unanimously.*

**Approve January 2014 minutes:**

*Nancy Gulley MOVED to accept the January 2014 minutes as written; this was SECONDED by Brian Mack and APPROVED unanimously.\**

The following members abstained from voting since they were not present at the January meeting: Jim Rini, Bill Stewart and Beth Hume

**New Business:**

James Zuckerman introduced himself as the Health Officer for New Castle. He said there have been some concerns raised by residents of New Castle regarding the spraying of "roundup". Dr. Zuckerman said in response to these concerns he sought out Dr. Page, who is a former chief toxicologist for the World Health Organization and has dealt with this type of issue for many years. Dr. Zuckerman reported that the product known as "roundup" was initially banned in France and Germany and now is banned in the entire European Union due to concerns of secondary affects. Dr. Zuckerman said some residents have become concerned about its use on the Island. He said he has reviewed the literature regarding "roundup" to see what issues there may be and he said he has concluded there could potentially be significant issues. Dr. Zuckerman said there was a consensus to convene a committee to discuss this

issue. He said he wished to see if the Commission had any questions or suggestions about proceeding with this deliberation. Dr. Zuckerman said at the moment there is no mechanism that would prohibit citizens from using the product, but the Town should think carefully about its use. He urged the members to consider the issue of water quality, saying it will be a major problem in the future as the population grows and the water supply becomes insufficient to meet the needs of the population. Dr. Zuckerman said New England has one of the largest untapped fresh water supplies in the world and it is an irreplaceable resource. He asked the members to think in the broadest terms by thinking about ecology: animals; birds, mammals, and the long term effect on the water. Dr. Zuckerman noted that the product is recommended to not be used during rain events because it gets into the water supply. He urged the members to think about how the Town uses this product and the unintended consequences.

Beth Hume reported that she had done some research on the drastic decrease in the Monarch butterfly, which some feel is exacerbated by the use of "roundup" like chemicals and the killing of the milkweed. She said a good deal of the problem is due to a loss of habitat, which includes the loss of milkweed. Ms. Hume suggested it would be helpful to educate private property owners about this issue.

Dr. Zuckerman noted there are other ways to deal with the invasive species such as pulling the plants, singeing the plants and the use of vinegar. He noted that "roundup" is an effective means to deter the invasive plants but said there may be problems associated with its use. He asked the members for their opinion on how the discussion on this topic should proceed.

Jim Rini said the issue should be evaluated by a committee that looks at the evidence and then provides guidance.

Dr. Zuckerman said that Dr. Page will return in the spring, noting that he is a resource that few communities have access to.

Ms. Hume asked if Dr. Page could participate in the discussion long distance.

Dr. Rini said the Committee could send questions to Dr. Page by email.

Sharon Houston asked if the committee would be a part of the Conservation Commission.

Dr. Rini said the committee does not necessarily need to be a part of the Commission.

Chair Stewart reminded the members that the Commission had scheduled a spraying for this past September which did not occur after two selectmen suggested holding off on that work.

Dr. Zuckerman noted that the New Castle Board of Health met and voted on postponing the spraying by a vote of 3-1.

Chair Stewart said the question arose if the chemicals to be used were safe even though they have been approved by the EPA. He said research was done and it was discovered that the chemical is not used in the European Union and it was decided that the topic should be further investigated. Chair Stewart agreed that there are more labor intensive means of treating invasive species and said it may be worth looking at the alternatives.

Jim Rini said it will be a significant decision since if it is decided to not use the chemical, it may result in additional costs to the Town to continue their maintenance programs.

Chair Stewart said a discussion of the Commission's budget needs to occur and will later in the meeting.

Ms. Hume asked if the companies that apply the chemicals have been asked about the findings.

Chair Stewart said that has not been done.

Dr. Zuckerman said it is a complicated issue. He said the EPA has a long history of making decisions on a political basis and suggested the Town should not rely on the EPA to help make decisions. Dr. Zuckerman said he has some apprehension about coming to a conclusion based on the scientific evidence. He said the final decision is up to the Select Board and noted they felt strongly about having input from the Conservation Commission and their support for whatever decision they may need to take. Dr. Zuckerman said he hoped the Commission and Town can take a broader view and look at the broader issue of ecology. He noted that this Commission looks after many long term issues of the community and he is sharing the apprehension of a few people in town about this issue.

Chair Stewart agreed that the issue should be looked at and discussed.

Dr. Zuckerman said he would appreciate the Commission suggesting a few members from the Commission for the Committee. He suggested also having a member or two from the general community that feels strongly about this issue.

Dr. Rini asked if the absence of the milkweed has been linked to the use of "roundup".

Dr. Zuckerman said that the Town needs to work hard to ensure that the milkweed stays.

Chair Stewart assured Dr. Zuckerman that the members would discuss the issue and said they are interested in determining the best approach. He said they would discuss who wants to be part of the Committee. Chair Stewart suggested that it would be helpful to have a resolution on the issue by April or May so the Commission would be in a position to move forward.

Dr. Zuckerman said the impact on finances should be minor since the spraying was only planned for specific locations.

Chair Stewart said that spraying was planned for 40 acres or so of land.

Lynn McCarthy asked if Dr. Zuckerman would be the person to contact regarding the Committee.

Dr. Zuckerman said he would be the person to contact and asked Chair Stewart to have people email him who are interested in participating.

**Old Business:**

1. Budget

Chair Stewart distributed copies of the budget for the last two years and what was spent as well as the proposed budget for the coming year. He explained the proposed budget has been approved but suggested the members think about a couple of minor modifications that were discussed with the Select Board.

Chair Stewart reviewed the 2014-2015 budget with the members and said one change would be to increase by \$500 the budget in the Open Space line by reducing a couple of other line items. He said these funds would be used to research easements, access points, review deeds and put together a

document of what is in place and what will be needed and decide how the Town should move forward. Chair Stewart explained the \$500 would be used for a research position of about 25-30 hours to perform the needed duties.

Chair Stewart said the second possible change would be to add \$1000 for new systems to deal with invasive species. He said currently \$3500 is budgeted for invasive control (this consists of \$750 for spraying at Bull Toad Pond, \$1800 for spraying at The Commons, \$200 for the Historic Society, \$250 for maintenance at Quarterdeck and River Road and \$500 for special projects not anticipated).

Chair Stewart said that the Commission has historically spent approximately \$3000 a year for invasive controls. He asked if the members would like to add the additional \$1000 to the budget or if they would prefer to keep the budget level.

Brian Mack asked how much of the cost of the budget is used for the application of "roundup".

Chair Stewart said that approximately two thirds of the cost is for the application of "roundup" because all of the spraying for plant control is a "roundup" based product. He noted the use of pesticide is approximately a third of the budget.

Beth Hume asked if there is an organic substitute that is just as effective.

Jim Rini noted that some believe vinegar is effective and is cheaper. He said it is not known how effective it is. Dr. Rini suggested asking one of the vendors about the concept of using vinegar.

Chair Stewart said the question could be put to them. He said the budget is past due and asked the members if they would like to see \$1000 added.

Ms. Hume said the Pitch Pines have flourished and they need to be taken care of.

Chair Stewart said he is on the Budget Committee and is concerned about the budget. He said while he would like to keep the Commission's budget request level he is also fine with increasing it by \$1000 if that is what the other members wish. Chair Stewart said the change to the budget may further the question of spraying being allowed.

Chair Stewart said since there are so many unknowns, his original thought was to add the \$1000 to the budget request. He said the Select Board suggested submitting the budget with the additional \$1000.

Dr. Rini said it would be best to go with the recommendation of the Select Board.

*Chair Stewart MOVED to amend the budget to include \$500 in Open Space by decreasing other lines and add an additional \$1000 in Invasive Control for a net increase to the operating budget of \$1000; this was SECONDED by Jim Rini and APPROVED unanimously.*

## 2. Fertilizer ordinance status

Darcy Horgan announced that a Public Hearing would be held on the ordinance changes and asked if she had been sent the final wording for the Fertilizer ordinance change. She noted that the wording for the

proposed change will be printed in the Portsmouth Herald as notification of the Public Hearing and said Monday the final wording of the proposed changes will be posted in Town Hall. Ms. Horgan said the Public Hearing has been scheduled for the next Planning Board meeting on Wednesday February 19<sup>th</sup> at 7 pm.

The members discussed if the term “reference line” is defined in the Town ordinances.

Beth Hume noted that a reference to the definition is made under Z59.23 (1 b).

Chair Stewart said a change in the proposed wording needs to be made...”shall not contain more than 2% phosphorous.” The members agreed upon this wording change.

The members discussed the definition of “turf” as quoted in the ordinance.

Jim Rini asked if the ordinance applies to golf courses.

Chair Stewart said per the definition of “turf” it does not.

The members discussed that the definition of “turf” excludes gardens, golf courses, parks and athletic fields from needing to adhere to the ordinance.

Chair Stewart noted that the park is Town owned and the Town will most assuredly follow the ordinance and he suggested the Town also work with the school to see that they follow the ordinance as well.

Ms. Horgan explained that it is necessary for a public hearing to publish what will be discussed during the public hearing. She said the deadline for publication of that in the newspaper was today. Ms. Horgan said the sections of the ordinance being changed were submitted to the paper. She noted that the full and final wording needs to be available by Monday, February 10<sup>th</sup> for the public to view at Town Hall. Ms. Horgan asked Chair Stewart to submit the final wording to her.

### 3. Homeowner’s guide

Sharon Houston displayed the guide and said she would like the members to read and proof it.

Jim Rini asked Ms. Houston to make a few hard copies to have the members proof.

Ms. Houston said it is also available as a Word document and a PDF document. She said she would also like to have it available on PDF format on the Town’s website.

Lynn McCarthy told Ms. Houston that the format looks great.

Chair Stewart noted that the woodland buffer section is not complete and encouraged members to all read the PDF version. He thanked Ms. Houston for all her work.

Dr. Rini congratulated Ms. Houston and said it was a job well done.

Chair Stewart encouraged the members to provide comments quickly to Ms. Houston.

#### 4. Islander – fertilizer ordinance article

Lynn McCarthy said she would like to write an article on the ordinance change for the April issue. She asked if the wording for the ordinance change should be put in the article.

Sharon Houston said she felt that would be helpful.

Jim Rini said the change will need to be voted on so it would be helpful to have the suggested wording in the article.

Ms. McCarthy asked if it would be helpful to have both the old and new wording.

Ms. Houston said she felt it would be helpful since part of the reason for the change is to clarify the ordinance. She said having the old wording and the proposed wording would provide evidence of the clarification being made in the proposed change.

Chair Stewart noted that the proposed changes need to be heard in a Public Hearing before it can be scheduled for a vote at the Town meeting.

Jim Rini said the Public Hearing would provide a sense of how the public feels about the proposed changes.

Chair Stewart suggested that the members should be ready to discuss the proposed changes at the public hearing.

Brian Mack noted that if the changes make it through the public hearing it will most likely get voted in at the Town meeting.

Chair Stewart encouraged Ms. McCarthy to write an article on fertilizer for the April issue.

#### 5. Conservation Plan - culvert maintenance

Brian Mack said he spoke with the DPW about culvert maintenance and they are willing to provide this service. He suggested making a list of the culverts to be cleaned at their convenience and sharing it with the DPW. Mr. Mack suggested asking the DPW to inform the Commission when the cleaning will occur so that the members can provide some assistance if needed.

6. Identify possible projects for grant opportunities funding possibilities – this issue will be discussed at the March meeting.

#### 7. Membership

Lynn McCarthy said she spoke to a potential member, Rebecca Audette who lives on Oliver Street, and was enthusiastic about joining. Ms. McCarthy noted that Ms. Audette was on the energy committee in Exeter.

Chair Stewart explained that a new member would come on as an alternate to learn the role then become a regular member after a period of time.

Chair Stewart noted that the current alternates are Bill Marshall, Curt Gillespie and Jim Rini. He said Bill Marshall has expressed his wish to leave the Commission if a replacement is found. Chair Stewart also noted that Jim Rini would become a regular member for the period of time that a new member is “learning the ropes” and is an alternate member; he would then go back to being an alternate member when the new member is ready to become a regular member.

Dr. Rini asked if Maggie Kennedy had been approached about becoming a member of the Commission.

Chair Stewart said he spoke with Ms. Kennedy about the Commission but has not scheduled her to attend a meeting yet.

Dr. Rini encouraged Chair Stewart to have the two prospective members attend a meeting.

### **Other Business**

#### *Discussion with Don Graves*

Chair Stewart noted that the question if a particular lot is considered altered or unaltered has come about and said he would like to discuss this with Don Graves. He noted that Town regulations stipulate that if land is in an unaltered state, a certain percentage needs to remain unaltered.

Don Graves said he was just reviewing the proposed structure for that lot with the builder.

Chair Stewart said he is concerned about the cutting of trees on the lot. He said he views the lot as an unaltered lot, noting it has been reclaimed by woods and there is no driveway on the property other than where there is an easement for the neighbor. He added there is no plumbing on the lot. Chair Stewart did note there is a boat house located by the water.

Chair Stewart said he is concerned about the woodland buffer between 150 and 50 feet. He said in his opinion 50% of the trees in that area need to be maintained. Chair Stewart noted that for lots larger than half an acre 50% must be left in an unaltered state between the 50 and 150 foot buffer unless it has been altered.

Brian Mack asked if the area being discussed is all wooded or if it is in a grass state.

Chair Stewart said there is no grass state and noted that the underbrush was cut down to sell the lot.

Mr. Graves said he does not believe trees within the 100 foot buffer will be removed, but they do plan to cut between the 100-150 foot buffers. He said he believes they plan to build the house up on the common driveway end of the property because it is the highest and driest point of the lot.

Jim Rini asked what the length of the property along Portsmouth Avenue is.

Mr. Graves said it is approximately 320 feet.

Chair Stewart asked Mr. Graves if, in his opinion, they need to maintain 50% of the property in an unaltered state between the 50-150 feet buffer.

The members discussed the issue of lots predating the ordinance. Chair Stewart noted the lot is not developed and asked if it therefore needs to abide by current zoning ordinances.

Darcy Horgan suggested it would need to abide by the current zoning ordinances.

Chair Stewart said there is room to build without cutting all the trees.

Mr. Graves suggested that Chair Stewart speak with the builder, noting he has site plans that show the proposed layout.

Chair Stewart said he is meeting with the builder and the engineer tomorrow (Friday February 7<sup>th</sup>). He said he believes they will ask him if he views the lot as being an undisturbed lot; so he is looking for some insight on that issue.

Dr. Rini asked if the boathouse is in the woodland buffer.

Chair Stewart said he does not believe the boathouse is located within the woodland buffer.

Dr. Rini said he views the woodland buffer as being unaltered.

Chair Stewart said if that is the case, then 50% of the lot (which is over ½ acre) needs to be left unaltered.

The members discussed how the cutting of the trees could occur, noting that 50% of the trees need to be left standing within the buffer (not 400 feet away from the water).

Mr. Graves suggested that the builder could clear cut the trees in the center and leave trees to the left and right. He said you would want a good balance of trees.

Chair Stewart said some underbrush has already been removed, so some of the 50% has already been removed.

Dr. Rini asked if the cutting from last year should count toward the 50%.

Chair Stewart said it should, saying if some has already been cut, it decreases the amount that can be cut now.

Dr. Rini noted that the regulations existed before the cutting took place last year so he does not see why it should not hold true in this instance.

The members and Mr. Graves reviewed the definition of altered and unaltered as it is stated in zoning.

The members came to a consensus that the lot is unaltered and that they have an obligation to leave 50% of it unaltered.

Mr. Graves noted that cutting can occur for tree “health” reasons.



Chair Stewart said if that claim is being made, they will need to get the opinions of arborists. He said the trees on the lot are fine; if there are dead trees, they can come down since they can take down 50% of the trees.

Mr. Graves said there has been selective cutting done and asked if there is a record of the history of that on the lot.

Chair Stewart wondered if there were photos available.

Dr. Rini asked how much of the house will be in the 150 foot buffer.

Mr. Graves said his best guess would be approximately 15 feet would be within the 150 foot buffer.

Chair Stewart reiterated that they have the flexibility to remove 50% of the trees.

Chair Stewart said that any member or Mr. Graves are welcome to come to the meeting tomorrow.

Brian Mack noted that the Commission does not review plans that occur outside the 100 foot buffer, noting that the Commission would then not get a chance to review this plan.

Chair Stewart said we normally would not, but the question of cutting arose. He noted the trees need to be left to protect runoff.

Mr. Graves said he would be able to attend the meeting if it was in the afternoon.

Chair Stewart said he would attempt to reschedule the meeting for later in the day and would email Mr. Graves.

### **Adjourn**

*Chair Stewart MOVED to adjourn the February 6, 2014 meeting of the New Castle Conservation Commission at 5:50 pm; this was SECONDED by Lynn McCarthy and APPROVED unanimously.*

Respectfully submitted by,

Sue Lucius, Secretary to the New Castle Conservation Commission