

1 FINAL APPROVED MINUTES

2
3 New Castle Planning Board
4 Monday, April 4, 2016
5 6pm Macomber Room
6
7

8 Members Present: Chair Darcy Horgan, Lorn Buxton, Margaret Sofio, Kate
9 Murray, Dave McArdle, Tom Hammer, Rich Landry

10
11 Others Present: Lynn McCarthy, Conni White, Beth Barnhorst, Ron
12 Pascale, Brian Mack, Bill Stewart, Tracy Degnan, Abby Gronberg, David
13 Borden, Ann McAndrew, Mike McAndrew, Dave Godfrey, Tom Smith,
14 Carol White, Liane Phillips, Marion Clough, Wendy Poulin, Gene Doherty,
15 Will Connell, Scott Holloway

16
17 Chair Horgan called the Monday, April 4, 2016 meeting of the New Castle
18 Planning Board to order at 6:09 and noted that the voting members tonight
19 would be herself, Lorn Buxton, Margaret Sofio, Kate Murray and Tom
20 Hammer.

21
22 Chair Horgan announced that this was a continuation of the Public Hearings
23 from March 21st on the two proposed ordinance changes both involving
24 wetlands. Each ordinance would be discussed in a separate Public Hearing
25 followed by a vote for that specific ordinance change. She explained that
26 tonight, when the Planning Board votes, the voting is to take the ordinance
27 as it is written or as amended and put it on the ballot for a vote at the town
28 meeting in May. The first public hearing is for designation of Lavenger
29 Creek saltmarsh as a Prime Wetland. The second hearing is for increasing
30 the 50' buffer to 100' buffer of four separate wetlands.

31
32 Two homeowners questioned whether this was a legal public hearing since
33 they had knowledge of an abutter(s) who did not get a letter in the mail.
34 Chair Horgan explained that the meeting was legal since notice of the first
35 meeting was in the newspaper and posted in town, and to the best of her
36 knowledge, all abutters were sent letters.

37
38 Lynn McCarthy, Chair of the Conservation Commission did a presentation
39 on efforts that have been underway to preserve the integrity of Lavenger
40 Creek. Scientists have confirmed Lavenger Creek possesses the

1 characteristics necessary to be designated as a Prime Wetland. It reduces
2 erosion, helps with pollution, controls flooding and benefits property
3 owners. In the past few years it has started to fill in due to development and
4 other causes. Three workshops are scheduled this Spring to educate
5 homeowners on the importance of protecting our wetlands in town. She
6 highly supports designating Lavenger Creek as a Prime Wetland. With this
7 designation there is a greater chance of keeping the Creek healthy and
8 improve our chances of receiving future grants.

9
10 Ron Pascale, Conservation Commission member reported on his experience
11 as a homeowner dealing with DES. Said it did require some time, but
12 overall it was a good experience.

13
14 Conni White, Conservation Commission member showed a photo of
15 Lavenger Creek and pointed out how the wetlands surrounding it, at one
16 time, probably formed one large wetland. Over time, various sections have
17 been filled in. She spoke on the problem with phragmite growth in the
18 wetlands; they are a sign of an unhealthy environment. They starve the
19 oxygen from surrounding life, and they are highly invasive with large roots
20 that can travel for 30 feet. They result from development and erosion and
21 negatively impact the biodiversity of the marsh.

22
23 Chair Horgan opened the Public Hearing on the following proposed
24 ordinance change:

25
26 **EXISTING ORDINANCE:**

27 **9.2.3 Areas of Jurisdiction:**

28 The Wetlands Conservation District shall include all wetlands, tidal lands,
29 Class A wetland buffers, Class B wetland buffers and Tidal Land buffers as
30 defined herein.

31 **PROPOSED CHANGES (In Italics):**

32 The Wetlands Conservation District shall include all wetlands, *Prime*
33 *wetlands*, tidal lands, Class A wetland buffers, Class B wetland buffers,
34 *Prime wetland buffers* and Tidal Land buffers as defined herein.

35 **1. Definition of Wetlands:**

36 **PROPOSED NEW SECTION:**

37 **d. Prime Wetlands:** *In conjunction with the definition of wetlands in*
38 *Section 1. , the Town of New Castle has also delineated a special*
39 *classification of wetlands referred to as Prime Wetlands, in accordance with*
40 *the requirements of RSA 482-A:15 and Chapter Env-Wt 700 of the NHDES*

1 Wetlands Bureau Administrative Rules authorizing such designation. The
2 boundaries of the Prime Wetland located in New Castle are illustrated on
3 an aerial photograph with Tax Map 2a & 2b overlaid (RCCD, 2015), along
4 with an accompanying report entitled Prime Wetland Report for Lavenger
5 Creek Saltmarsh, February 2016, which identifies the important values and
6 critical functions that are provided by the Lavenger Creek saltmarsh. The
7 Prime Wetland map and report are on file at the New Castle Town Office.

8
9 Lavenger Creek Saltmarsh 9.35+/- acres (as delineated in the 2005
10 Wetlands Study, Town of New Castle,
11 10/2005, Oak Hill Environmental
12 Services)

13 Plus amendment to Sections 9.2.3.2 of the New Castle Zoning Ordinance
14 relating to the definition of Wetland Buffers as follows:

15
16 A. Add subsection d. as follows:

17
18 d. Prime Wetland Buffer: A Buffer of 100 feet is established from the
19 reference line of wetlands comprised of Lavenger Creek Saltmarsh.

20
21 Plus adding the words "Prime Wetland" or "Prime Wetland Buffers" in
22 section 9.2.5 and 9.2.8 as outline in attached Exhibit E dated March 22,
23 2016

24
25 David Borden presented the Planning Board with a draft report of the
26 Coastal Risks and Hazards Commission: Preparing NH for Projected Storm
27 Surge, Sea-Level Rise, and Extreme Precipitation. Some major findings: A
28 category 3 hurricane could increase the water levels close to 6'. Sea levels
29 have risen 8 inches since 1920 and are now rising at an accelerated rate. Not
30 caused by melting ice, but by a warming ocean. Explained longer draughts
31 and higher rain levels will cause flooding. He encourages voting for both
32 changes to the ordinances that are under discussion tonight.

33
34 Tracy Degan from Rockingham County Conservation District explained a
35 handout that depicted the impact of getting a hypothetical proposed new
36 deck constructed within the 100' setback from Lavenger Creek. It compared
37 the current procedure vs if Lavenger Creek was designated as a Prime
38 Wetland. Major difference is the time it would take to get the application
39 through the DES process.
40

1 A resident expressed her skepticism that property values would not be
2 impacted negatively.

3
4 Chair Horgan read a letter from Frank Richardson of DES in support of the
5 Prime Wetland designation. In his professional opinion, property values
6 would increase.

7
8 An abutter to the wetland stated that he believed that the new ordinance
9 would decrease his property value. He quoted a study by the Federal Bank
10 of Boston suggesting that designation of a wetland would reduce property
11 values in a city in MA.

12
13 Lorn Buxton stated a total assessment of the town will be done in summer of
14 2016. Lorn asked the principal of Avatar, the town assessor, for his
15 assessment of the impact on the proposed ordinance changes on the
16 approximate 60 properties identified as abutters to the wetlands. In general,
17 a majority of the properties would have none to a minor impact. 10% of
18 properties, one in Lavenger Creek and 5 in the freshwater area would have
19 an impact on property value because of the restrictions. Total impact on the
20 market value in the Lavenger Creek area would approximate \$300,000.
21 Freshwater impact would be about \$900,000 decrease in property value.
22 There is a philosophical consideration that recognized that while some
23 properties may be reduced in value, the greater good for the community
24 should be taken into consideration. The economic loss would occur if the
25 subsequent owner wanted to build on the property.

26
27 A property owner suggested that if assessments go down, ratables go down
28 and everyone else will have to pay taxes to make up the difference.

29
30 A property owner expressed concern over property values and the ability to
31 put a dock in Lavenger Creek. The mouth of the Creek is caving in and trees
32 have been removed. Who is responsible?

33
34 Bill Stewart responded to the concern of the Creek caving in. When he was
35 Chair of the Conservation Commission, there was a lot of activity to
36 preserve Lavenger Creek. Approximately 5 years ago there was a
37 conservation trust fund established for restoration work in Lavenger Creek.
38 There has been an ongoing effort to accumulate funds from grants to provide
39 a financial resource for improvements. There has been an effort to engage
40 DES to work with the homeowners to review the permit application.

1 Designating Lavenger Creek as a Prime Wetland will result in a more
2 consultative and educated approach to projects from DES. Stewart supports
3 the designation of Lavenger Creek as a Prime Wetland.
4

5 An abutter wanted and received clarification that the Prime Wetland
6 designation would not impact the current 100' setback. Questioned whether
7 this would be subject to Federal law. Are we within the Federal guidelines?
8

9 An abutter stated she was absolutely against the wetland becoming a Prime
10 Wetland. Concerned about property devaluation. Concerned with down the
11 road consequences. Wants a dock. Will it be more expensive? Fear of
12 eminent domain. Is this necessary? Why is this being rushed through?
13 Phragmites will grow no matter what you call this creek.
14

15 A letter from an abutter, William Kingston, was read into the record. He is
16 opposed to the designation. See attached.
17

18 Lynn McCarthy responded to abutters that Lavenger Creek is deteriorating.
19 Designating this as a Prime Wetland will benefit the community.
20

21 An abutter noted that the Creek is becoming narrower and thus she supports
22 the protection of Lavenger Creek by naming it a Prime Wetland. She does
23 not believe this will devalue homes.
24

25 An abutter suggested that the best measure was to wait. Invited the public to
26 look at the mouth of the Creek and see that it is deteriorating. Asked if the
27 state would get involved. Asked if machinery will be allowed into the site
28 to improve it. Wanted to postpone the vote.
29

30 Lynn McCarthy stated that the Town, through the Conservation Commission
31 is continuing to restore Lavenger Creek and believes that a Prime
32 designation would allow a better chance of keeping it healthy and
33 functioning well. It might improve the chances of getting grants.
34

35 An abutter expressed concern about property values. If she were to sell her
36 4 acre parcel, fear that the designation would discourage buyers. She wants
37 to protect the marsh but the public should have more time to research and
38 discuss.
39

1 Question as to if Lavenger Creek were designated as a Prime Wetland, could
2 it be reversed? Suggested that the State does the designation so the State
3 would have to declassify it.

4
5 Chair Horgan closed the Public Hearing.

6
7 The Planning Board members discussed the following:

8
9 Rich Landry clarified: the vote tonight is to confirm it will go on the ballot
10 for the Town to apply to the State for Prime designation. Reminded that
11 there are always unintended consequences. Clarified this does not forbid the
12 government from not being involved in our community whether this goes on
13 the ballot or not.

14
15 Margaret Sofio stated raising funds is the most likely way the Creek will be
16 restored. She read from a newsletter that if the property value decreases, it
17 would only be minimal.

18
19 Chair Horgan said she is in favor and doesn't see any reason why this would
20 harm the town. One impact is that an expedited permit will not be allowed
21 for any change within the 100' setback to a Prime wetland, but this isn't
22 onerous. Homeowners would have to use the major permit application, but
23 this would better serve to protect and preserve the wetland. There is no cost
24 increase in the application process under a Prime designation, and it
25 wouldn't take a great deal more time to fill out a full application to the State
26 vs an expedited application. The major impact of a Prime designation is that
27 it would provide an additional tool to the State to help us protect and
28 preserve our wetlands.

29
30 Lorn Buxton stated there is potential for a decrease in property value. He
31 referenced Avatar, the company that does the valuations of property in New
32 Castle, and their cursory look at this issue. Based on their experience in
33 assessing a large number of towns over many years, there may be an impact
34 on property value with the designation of a Prime Wetland.

35
36 Kate Murray said it would provide more specific guidelines to the State
37 when they look at applications on the Creek.

38

1 The Board clarified that the vote does not designate Lavenger Creek as a
2 Prime Wetland. It is a vote to put the issue on the ballot to be voted on May
3 10th.

4
5 *Margaret Sofio MOVED to accept the changes to Section 9.2 of the New*
6 *Castle Zoning Ordinance designating Lavenger Creek as a Prime Wetland*
7 *and all related amendments as depicted on Exhibit E dated March 22, 2016*
8 *and have it appear as a warrant article on the ballot to be voted on at the*
9 *Town Meeting on May 10, 2016. Kate Murray Seconded. The vote was 2 in*
10 *favor and 3 against. The motion did not carry.*

11
12 After a short recess, Chair Horgan called the meeting back to order. Second
13 Public Hearing for the following topic of changing the buffer from 50' to
14 100' for 4 specific wetlands in New Castle:

15
16 **Current Ordinance:**

17
18 Definition of Wetland Buffers: Variable wetland buffers are established
19 for wetlands and tidal lands as follows:

20 a. Class A Wetland Buffers: Buffers of 100 feet are established from
21 the edge of the named wetlands listed below. These wetlands are identified
22 in the 2005 Wetlands Study (“Wetlands Survey – Town of New Castle” and
23 “2005 Wetland Study Map”), and evaluated to be wetlands with the highest
24 functional values and requiring a higher degree of protection:

- 25 Wetlands ID# 23 Lavenger Creek
- 26 Wetlands ID# 22 Secret Pond
- 27 Wetlands ID# 24 Quarterdeck Lane
- 28 Wetlands ID# 16 Pit Lane “A”
- 29 Wetlands ID# 26 River Road

30
31 **PROPOSED CHANGES** (In Italics)

32 2. Definition of Wetland Buffers: Variable wetland buffers are established
33 for wetlands, *Prime wetlands* and tidal lands as follows:

34 a. Class A Wetland Buffers: Buffers of 100 feet are established from
35 the edge of the named wetlands listed below. These wetlands are identified
36 in the 2005 Wetlands Study (“Wetlands Survey – Town of New Castle” and
37 “2005 Wetland Study Map”, *amended 1/15/2007 adding Wetland ID# 28,*
38 *Cranfield Street “A”* and evaluated to be wetlands with the highest
39 functional values and requiring a higher degree of protection:

1 Wetlands ID# 23 Lavenger Creek *Wetlands ID # 17 Pit Lane "B"*
2 Wetlands ID# 22 Secret Pond *Wetlands ID#15Wentworth Road "A"*
3 Wetlands ID# 24 Quarterdeck Lane *Wetlands ID #21 Neal's Lane "B"*
4 Wetlands ID# 16 Pit Lane "A" *Wetlands ID #28 Cranfield Street "A"*
5 Wetlands ID# 26 River Road

6
7 Conni White, member of the Conservation Commission, showed photos that
8 depicted how the wetlands were probably, at one time, one large wetland.
9 Emphasized that the setback changes would protect the homeowner.

10
11 Beth Barnhorst, member of the Conservation Commission, shared her
12 personal story of moving a septic system and adding a rain garden to her
13 property. She is in favor of the new setbacks and believes it will not be a
14 significant detriment to homeowners.

15
16 Chair Horgan opened the Public Hearing.

17
18 A resident read a letter from a neighbor stating they had not received notice
19 of the meeting. They are not sure the set back will protect the land. The
20 cemetery is in question.

21
22 An abutter is concerned because the map shows his driveway as a wetland.
23 Claims the map is inaccurate. Says wetlands are created by run off from
24 Town. His property would be significantly affected, as he believes he would
25 not be able to build.

26
27 Lynn McCarthy clarified that it would only mean you need to fill out a
28 different application.

29
30 Chair Horgan closed the Public Hearing at 9pm and asked the PB members
31 for input.

32
33 Lorn Buxton had the same concerns regarding property values as with the
34 previous Public Hearing. The Town reassessed in 2011 and will again in
35 2016. In 2011 it went up. In 2009, it went down. 2016 is projected to increase
36 by 10%. Difficult to spot the trend or comment on specific properties. There
37 are multiple factors in determining property value.

38
39 Tom Hammer stated that the house he owns was purchased with a 50' setback.
40 He is concerned with the 100' setback as it creates challenges and costs. Tom

1 further noted that there are two new houses that were built on Lavenger Creek
2 that the map doesn't show. It proves you can build a house on a 100' setback.

3
4 Rich Landry and Kate Murray discussed how some properties have minimal
5 impact while others have a significant impact. Both voiced concern of
6 protection against flooding vs potential devaluing of property. Rich also
7 spoke to the fact that the map is computer generated and not mapped by a
8 scientist. Rich thinks there will be significant impact with the change in
9 setback, however, he understands why we want to protect the marshes.

10
11 Chair Horgan agreed that this could cause additional costs to homeowners.
12 Suggested postponing voting on this issue as the impact could be significant.

13
14 The Board discussed what could be learned by postponing a vote for a year.
15 Perhaps the ordinance could be modified to reflect multiple zones that would
16 be subjected to less harsh changes. The intent of the ordinance change was
17 never to diminish the value of properties. New guidelines should be sought.

18
19 *Margaret Sofio MOVED to accept the changes to Section 9.2 of the New*
20 *Castle Zoning Ordinance changing the setback from 50' to 100' for four*
21 *specific wetlands as depicted on Exhibit F dated March 22, 2016 and have it*
22 *appear as a warrant article on the ballot to be voted on at the Town Meeting*
23 *on May 10, 2016. Lorn Buxton Seconded. The vote was 0 in favor and 5*
24 *against. The motion did not carry.*

25
26 Chair Horgan adjourned the meeting at 9:25pm.

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28 Minutes submitted by Susan Shreve
29 Temporary Secretary from the Nagler Group

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