

# Conservation Commission Public Meeting – MAY 10, 2017 Minutes

**TIME:** 7:32PM

**LOCATION:** Police Headquarters

**Members Present:** T. Ruskin, T. Bandrowicz, M. Laguerquist, J. Simon

**Absent:** R. Salter, A. Andler, M. Tamborini

**Others Present:** Dave Crispin (Engineer), Sherry Albert (Applicant), George Hernandez (Aggregate Operations Manager), Peter Kane (Director of Community Development), Andrew Levin (Assistant Town Planner)

Chairman of the Commission T. Ruskin called the meeting to order at 7:32 PM.

T. Ruskin explained the mission of the Conservation Commission to the audience and explained the Commissions commitment to protecting Towns conservation lands and natural resources.

T. Ruskin then confirmed that there is a quorum, and asked audience members present to sign in.

T. Bandrowicz welcomed new Commissioner, Monica Laguerquist to the Commission.

The Commission then reviewed the minutes from the previous Commission meeting.

On a motion by T. Ruskin, seconded by T. Bandrowicz, the April 20<sup>th</sup> meeting minutes were approved.

T. Ruskin then explained that the Notice of Intent, filed by the Board of Selectmen, which was heard at last month's (April 20<sup>th</sup>) meeting, and was continued to the May meeting, was requested by the Board of Selectmen to be continued again.

MOTION : by T. Bandrowicz to continue to the Notice of Intent to the June meeting, seconded by M. Tamborini, unanimously approved.

approved.

## **30 DANVERS ROAD – (Property Location Map: 12 Lot: 99) – Request for Determination of Applicability**

T. Ruskin opened up the Request for Determination of Applicability (RDA) filed by Aggregate Industries in regards to proposed maintenance and repair work on their property.

Sherry Albert, Environmental manager for Aggregate Industries, George Henandez, Operations manager, and Dave Crispin, the projects engineer was also present.

Ms. Albert began the presentation by showing the Commission photos of the area. T. Bandrowicz asked for a detailed plan of the area, and mentioned a plan similar to one presented

last time Aggregate was in front of the Commission. Ms. Albert explained that one was filed with the RDA. Mr. Crispin began his presentation by stating, that two years ago, there was a valid negative determination, and he explained that part of what he will describe falls under that. Mr. Crispin then showed a discharge pipe that goes on top of a mound of rocks. Mr. Crispin explained they need to make the mound higher, and are going to add rocks to it, and that it is taking place outside of the buffer zone.

T. Ruskin clarified that this was the same location that received a negative determination previously. Mr. Crispin showed a photo of the original grate, and says that he designed a weir, and that the control point was not where he wanted, so he used wood to heighten the weir. Mr. Crispin explained the purpose of the weir is to make the water come through clear. T. Bandrowicz asked for clarification on the location, T. Ruskin clarified the location for T. Bandrowicz.

Mr. Crispin mentioned that currently weir was made higher using wood, and that this has worked for a year, but now they wish to make it out of steel. Mr. Crispin explained that at the end of the pond there is a concrete dam, but that the dam is leaking on the left side. Mr. Crispin explained the plan is to dig out certain area and add more concrete. Mr. Crispin mentioned it will not be a lot of removal or addition, and stated "maybe a half a yard of concrete" and explained the project will be done in a timely manner.

T. Bandrowicz asked for clarification on the location of the pond and the work, Mr. Crispin explained it is in the disturbed buffer-zone. T. Ruskin asked what precautions the applicants are going to take, Mr. Crispin explained that during excavation, the backhoe will be on the backside of the dam and pull away, and then add concrete. T. Ruskin and Mr. Crispin briefly discussed the type of work that is going to be done, and helped clarify some points of the project for T. Ruskin. T. Ruskin stated that he had no problems with the project.

T. Ruskin asked if there were any questions.

T. Bandrowicz asked about some of the project impact mitigation Aggregate Industries stated they will doing, specifically in regards to the "best management practices" the applicants stated in their RDA filed with the Commission. Ms. Albert mentioned that they will have haybales in place, and wattles for sediment and erosion control, T. Ruskin mentioned that Aggregate has been doing this for a while and that it seems to be working.

T. Ruskin asked for any more questions.

T. Bandrowicz asked where the monitoring for the NDPES permit is done. T. Ruskin helped explain the location to T. Bandrowicz. Ms. Albert clarified and explained the type of samples collected. Mr. Hernandez mentioned that he monitors on a daily basis. Ms. Albert explained that part of the reason the dam was built was to have a point source to monitor discharge, but because it is leaking, the results are distorted. Mr. Crispin mentioned "Stokes Law" and explained that as particles move through the pond they get smaller, and the grate at the end catches these particles. Mr. Crispin mentioned that usually the facility is pumping clean water, which is due to the settling effect. Ms. Albert mentioned that the facility has not exceeded the permit limits. M. Laguerquist asked if the facility has exceeded any limits, Ms. Albert replied that they had currently, not. M. Laguerquist asked what the facility monitors for, Ms. Albert explained the different elements that the facility monitors for, and also explained that PH testing is done as well. M. Laguerquist asked the PH limit for the permit, Ms. Albert explained that she believed it

was 6.5. Ms. Albert also mentioned the facility had recently started to monitor for aluminum. T. Bandrowicz asked if this was due to the blasting, Ms. Albert agreed, and mentioned that according to EPA the facility has 3 years to monitor, before the limit is in effect.

T. Ruskin asked for more questions from the audience or the Commission, there was none.

MOTION : by T. Bandrowicz that there be a negative determination for the project as specified in the plans, J. Simon seconded, unanimously approved.

## **267-269 HUMPHREY STREET – (Map: 2 Lot: 198) – Request for Certificate of Compliance**

T. Ruskin then moved on to the Request for Certificate of Compliance filed for a project located at 267-269 Humphrey Street, T. Ruskin asked if there was anyone present, there was none. T. Ruskin mentioned that the only change from the approved plans was that the applicants did less not more.

MOTION : by J. Simon to approve the Certificate of Compliance, seconded by T. Bandrowicz, the Certificate of Compliance was unanimously approved.

## **REVIEW EWING WOODS LAND SURVEY**

T. Bandrowicz then moved on to a land survey completed for Ewing Woods. T. Bandrowicz explained that Ewing Woods was surveyed and that the surveyor found some areas where abutters encroached on the land.

T. Bandrowicz explained and clarified the location of the woods to the Commission and the audience. T. Bandrowicz mentioned that it looks like the Church that abuts the woods, has a section of mulch that encroaches into Ewing Woods. T. Ruskin and T. Bandrowicz briefly discussed what the survey is showing and the different properties that abut the land and what specifically the survey stated is encroaching over the line (i.e., fences and yard areas). T. Bandrowicz mentioned that there is one abutter that has gone quite over the line into Ewing Woods.

T. Ruskin asked what happens now that the encroachment has been identified, T. Bandrowicz explained that she can arrange with the Director of Community Development, Peter Kane, to send letters to the abutters that are encroaching.

T. Bandrowicz explained that she did not think that this requires a vote, and T. Ruskin mentioned that the Commission would just like it cleaned up. An audience member asked for clarification on what the Commission was looking at. T. Ruskin explained. T. Bandrowicz mentioned some characteristics of Ewing Woods to the Commission. An audience member asked who deals with evasive plant species. T. Bandrowicz mentioned that the Commission does. T. Bandrowicz mentioned that there is hope that a group, such as “Friends of Marblehead”, who are volunteers, and go on trips and take care of the different lands would be created. T. Bandrowicz mentioned that she had spoken with a gentleman about invasive

species control, and that she (T. Bandrowicz) would like to start a “Friends of Swampscott Conservation Land” to help get out to the different conservation areas and help clean them up.

T. Bandrowicz explained that she knows in Ewing Woods there is a lot of “burning bush”. An audience member asked who did the Ewing Woods survey, T. Ruskin explained that the Commission wanted a survey and used their funds to have the survey done, to confirm which properties were encroaching.

An audience member asked how the idea of the survey came before the Commission, T. Ruskin explained that the Open Space plan called for the conservation lands to be surveyed. T. Bandrowicz reiterated that it would be nice to have a “Friends of Ewing Woods” group, and mentioned that at the last Commission meeting an Ewing Woods management plan was just approved. T. Ruskin mentioned that in the past the Boy and Girl scout’s troops had helped out. An audience member asked if the Schools, specifically the science classes do anything to help. T. Bandrowicz mentioned that she has been trying to get the school involved with Foster Pond, T. Ruskin mentioned in the past some school classes had visited the conservation lands near the ocean or the pond, but that they have not participated in projects, such as clean ups.

An audience member asked if there was a penalty for the properties that had encroached on the Ewing Woods land, T. Ruskin explained the Town or Commission will likely ask the abutters to remove the encroachments. T. Bandrowicz mentioned that in the past, medallions have been placed on the conservation lands, delineating where the boundaries are. T. Bandrowicz continued that when the lands are made to look nicer, users will take more pride in the areas and help take care of them. T. Bandrowicz mentioned that she hopes this will be done with all the conservation areas, and that this can help cut down on vandalism.

## **VOTE ON SUPPORT OF THE RAIL TRAIL TOWN MEETING WARRANT ARTICLE**

T. Ruskin then moved to the agenda item regarding a vote on sending a letter of support for Article 18 (Rail Trail) going before Town Meeting. T. Ruskin explained that there is a letter that has been drafted, T. Bandrowicz mentioned that at the last Commission meeting there was also a drafted letter of support, but that abutters and opponents of the trail raised issues, including the question regarding why the Commission would choose to support the article. T. Bandrowicz stated that she rewrote the letter, and then read the newly drafted letter aloud to the audience. T. Bandrowicz finished reading the letter and stated that this is the letter the Commission wished to send, if the Commission votes in favor. T. Bandrowicz then asked if there were any questions.

An audience member mentioned that there was lots of discussion about a green corridor, and then mentioned that the Rail Trail plan calls for the Town to take land by eminent domain, land (that the audience member) stated is used as backyards and been built on by the Town. The audience member continued that there is going to be an easement placed on these lands, and taken by eminent domain. The audience member mentioned that there is dispute over who owns the land, and mentioned that this is dense land that the path would be going through.

An Audience member then asked who wrote the letter and what the background of the Commission members were. T. Ruskin mentioned that he has been on the Commission for 20+

years, and T. Bandrowicz mentioned that she is an attorney. T. Ruskin stated to the audience that the Commission understands the neighbor's issues, and that some members of the Commission walked the corridor, and that they have seen the issues first hand.

T. Ruskin mentioned an example where applicants come before the Commission with plans to build projects near the ocean and how abutters to these projects come before the Commission and voice their complaints and concerns. T. Ruskin stated, that it is not the purview of the Commission to protect views, and then mentioned that he does understand the concerns that many of the Rail Trail abutters have voiced. T. Ruskin stated that as long as a person or project does not affect the Commissions purview, then they are able to grant permits, if the project meets regulations set forth in the Wetland Protection Act.

T. Ruskin stated that the Commission does not deal with eminent domain, and mentioned that the Commission is concerned with wetlands. T. Ruskin mentioned that if the project is proposing to go through wetlands, then they would have to come before the Commission, and the Commission would have the last word on the decision. T. Ruskin then mentioned the level of restrictions and conditions that that the Commission could place on the decision. T. Ruskin explained that the Commission usually does not become involved with projects this early, and that they usually wait for plans to be filed.

T. Ruskin mentioned that at this point all the Commission is doing is telling the Town that they are in favor of protecting the wetlands, and allowing people to enjoy these areas. T. Ruskin continued, that if the Town can do this, within the Commissions purview and can satisfy the Commission, then the Commission is in favor. T. Ruskin stated that the Commission is not making any feelings toward the eminent domain issue.

T. Ruskin mentioned that he walked the proposed path area and mentioned that there are issues that are not in the Commissions purview. T. Bandrowicz mentioned that the people hired by the Town to do the plans will have the appropriate background to make the plans. T. Bandrowicz then added that if the Commission has a problem with the firm hired for the plans or surveying, the Commission could hire someone.

T. Bandrowicz mentioned that the Commission will look at the Wetland Protection Act regulations which have performance standards and that the project will be bound to these. T. Bandrowicz mentioned that once the proposed path has been delineated, then the Commission will look at it. T. Ruskin and T. Bandrowicz mentioned that once the proposed path is delineated, Commission members will probably go back out and re-look at the land. T. Ruskin explained that the Commission could hire a third-party engineer to look at the land as well. T. Ruskin also stated that the Commissions main concern is with protecting wetlands.

T. Ruskin explained why the Commission is sending the letter before anything has happened. T. Ruskin mentioned that he had been weighing the decision over to send the letter or to wait. But then, explained a hypothetical possibility that could arise, (regarding the land being used for something harmful to the environment) and mentioned that this is why he believes the Commission should send the letter now. T. Ruskin explained that he is in favor of protecting this "jewel" and having the public space. T. Ruskin explained that the Commission is in support, as long as the plan that is provided is able to be regulated by the Commission and in their purview. T. Ruskin explained that the letter being sent has been revised, and has taken into account the comments received at the previous meeting. T. Ruskin stated that the letter written to the Town explains that the Town will need to come back before them with the plans.

T. Bandrowicz mentioned that the Commission wanted to go on record to let the Town and Town Meeting members know the process that these plans would have to go through, in respect to the Commission. T. Bandrowicz continued to stated that she wanted the Town to understand the Commissions role, and that the Commission does more than just issue permits, and that the Commission has a mandate to try and protect and promote open space and the Town's natural resources whenever possible. J. Simon stated that this letter is not a binding document.

An audience member mentioned that at Town Meeting it will be said that the Commission supports the article. The abutter continued, and stated that part of the letter mentions a green corridor system, and mentioned that where the trail will be possibly go, that there are wetlands in that area. The abutter continued to state that the Town has already been penalized in that area, Director of Community Development, Peter Kane stated that was incorrect. The audience member mentioned the Greenwood Ave area and that the Town had been penalized. P. Kane clarified the Greenwood Ave situation, and stated that it was not an intentional breach.

An audience member asked the Commission if they had walked the proposed trail area, and then mentioned that she is not in favor of the trail because of the cut-throughs. The audience member mentioned she is concerned about an area where there are vernal pools. The audience member also mentioned that the area where she lives, the knotwood is creeping up and that it needs to be dealt with. The audience member asked who would be maintaining the trail, and that whoever is was would need to know what they are doing. P. Kane mentioned that at the moment National Grid is doing the upkeep and they could also possibly not mitigating the knotweed appropriately, to which the audience member agreed.

T. Ruskin mentioned that if the trail comes before the Commission, then they will have much more leverage about issuing conditions, if Orders of Conditions are granted. T. Ruskin explained the Orders of Conditions tells the applicants what they can and can't do. T. Ruskin explained that species control will be in the Orders of Conditions if it is agreed upon that it needs to be done.

An audience member, who abuts the proposed trail, stated that she will put up a fence on her property, and mentioned there is lots of wildlife behind her home, and that the fence she will construct will impede their movement. T. Ruskin mentioned that if the project comes before the Commission these are the items that will be discussed. P. Kane mentioned if this specific abutter constructs a fence, but that her neighbors do not, the wildlife will still be able to travel. The audience member and P. Kane briefly discussed this. T. Ruskin reiterated that these concerns and points are what will be discussed by the Commission and in detail, if the project is to come before them. T. Ruskin then explained some potential questions to ask the projects engineers, along with potential conditions to order the project to follow. T. Ruskin stated that the Commission will not be able to deal with view easements, to which an audience member stated was not their concern. T. Ruskin mentioned that there will be some points in the proposed plan that is not part of the Commissions purview, and mentioned parking for example. T. Bandrowicz mentioned one of the general conditions that gets packaged into the Orders of Conditions is landscaping, and that regulations on mitigating evasive species of plants will be conditioned, and the condition can be expanded on.

An audience member asked about rules on the allowed fence heights. J. Simon stated that this is a zoning issue, P. Kane quickly clarified for the audience member, and mentioned if the fence is 6ft or higher, the Zoning Board of Appeals (ZBA) needs to approve it. T. Ruskin mentioned

possible things that would need to get approved by the ZBA, and that the Commission does not deal with those.

T. Ruskin again reiterated that the Commission is in favor of the next steps regarding the proposed path being taken. T. Ruskin stated the Commission is in favor because the area is beautiful and should be used and protected, but that the Town needs to have appropriate engineering plans before any construction is to begin. T. Ruskin then reiterated that some Commission members had walked the area of the proposed trail and that they understand the concerns. T. Bandrowicz mentioned that she was shocked by the amount of invasive species.

T. Ruskin mentioned that he was shocked by the non-commission related things that he saw, and he mentioned that he can understand the opponent's feelings towards the project. T. Ruskin then reiterated again, that many of these concerns are not under the Commissions purview.

An audience member asked if the trees in the back of her property are cut down, then the owls there will be gone. T. Ruskin mentioned that, this would be part of the Commissions purview, and then T. Ruskin mentioned that his past experience includes being the Town tree warden, and has saved trees in the past.

An audience member and P. Kane briefly discussed the bylaws regarding fences, as well as fences seen by the audience member on the Marblehead trail that abut the Marblehead path.

An audience member asked if there would be a path from Bradley and Humphrey Street, P. Kane clarified where the access points will go, including all street crossings, and the beginning points of the path on either end.

An audience member asked how emergency vehicles will travel on the path. P. Kane clarified that the Fire Chief had discussed this previously, and that the Police Department will use bikes.

T. Ruskin brought the conversation back to concerns under the Commissions purview.

An audience member asked about the Notice of Intent filed by the Board of Selectmen regarding the allowance of fires on Phillips Beach. T. Ruskin stated that the Board of Selectmen had asked for a continuance.

MOTION : by T. Bandrowicz to send the letter, seconded by J. Simon, unanimously approved.

T. Ruskin mentioned that if the article is to pass at Town Meeting then he would like to continue to hear comments on it.

An audience member asked if the article does not pass, is there an idea to make the area a natural sanctuary, P. Kane clarified that the audience member could try and do that if they wanted to. P. Kane and T. Ruskin both mentioned that National Grid would need to be involved and P. Kane briefly explained the land owners are, and the audience, Commission and P. Kane briefly discussed this.

An audience member asked if permission is needed to eradicate knotweed, P. Kane stated yes.

T. Ruskin stated that this article will help prevent certain things from happening on the land, such as National Grid potentially putting an ugly piece of equipment in their backyard, and mentioned in a way this is almost protecting the area.

T. Ruskin then stated to those present that he does not live on the trail, but that he wanted to let the abutters and opponents know that he understands their concerns and issues. M. Laguerquist and P. Kane briefly discussed a hypothetical next step.

## **OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE COMMISSION**

T. Bandrowicz then brought up other items of business for the Commission.

P. Kane mentioned that trail markers for the Boy Scouts project in Harold King Forest came in, and that Danielle Strauss, the Director of Parks and Recreation has them. P. Kane mentioned that not all the medallions are going to be needed for Harold King Forest, and that some are will be used in the Ewing Woods. P. Kane explained the Scout is going to get D. Strauss the exact number of medallions that he will need.

T. Bandrowicz mentioned that the engineering firm for 51 Lincoln House Ave never filed an amended Notice of Intent for work they are doing on an existing fieldstone wall.

T. Bandrowicz explained that she had heard nothing further about the Bytheswood property, P. Kane agreed.

T. Ruskin asked about concrete stairs on Northstone Beach, and asked to add it as an agenda item for the next meeting.

MOTION : by T. Ruskin to end the meeting, seconded by M. Laguerquist, meeting adjourned at 8:50 PM

Andrew Levin

Assistant Town Planner