

**CONSERVATION
COMMISSION**
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Robert Materne, Chairman
David Evans, Vice Chair
Thomas Nicholson
Krisna Prachanronarong
Stephen Choquette
Matthew Habershaw
Scott Pennoyer
Matt Kershaw, Assoc. Mem.

REHOBOTH CONSERVATION COMMISSION
Meeting Minutes – January 3, 2017

Present: Robert Materne, David Evans, Thomas Nicholson, Krisna Prachanronarong, Matt Habershaw, Scott Pennoyer, Stephen Choquette, Matt Kershaw-Associate Member

Leeann Bradley, Conservation Agent

Absent:

CALL TO ORDER

Mr. Materne called the meeting to order at 7:01 PM. Pledge of Allegiance recited at 7:02 PM.

CONCERNS AND COMPLAINTS

CURRENT ISSUES

1. Manitook Estates – Administrative Consent Order - No new information.
2. One Linden Lane – Martel – No new information
3. Map 63, Lot 12 Fairview Avenue – Reuter – clearing within BVW and/or buffer zone. No new information and there has been no activity.
4. 12 Martin Street – tree clearing within buffer/BVW - Mr. Materne recalled that the applicant was to install a better barrier at the entrance. The commission suggested a 1/2" chain at the entrance. The applicant has until the next two meetings to complete the barrier as suggested by the commission.

PUBLIC HEARINGS & MEETINGS

1. Behind 237 Pine Street – R. DuVally – ANRAD – SE60-1063 – Mr. Materne stated that he asked Mr. Brad Holmes to attend the meeting. He is the commission's consultant. Mr. Materne received an email from Mr. Holmes regarding intermittent and perennial streams regulations. He added it has changed the way the commission thinks about streams. He noted that since the Conservation Commission is made up of volunteer's they really don't know all the regulations. Mr. Materne asked Mr. Holmes to come forward to discuss stream stats. Mr. Holmes began his presentation by noting that in 2002 DEP made amendments to the regulations reviewing perennial and intermittent streams. He passed out the section of the regulations that determines perennial or intermittent streams. He stated that determining perennial and intermittent streams is set per the regulations. It's basically a methodology and following steps. He noted the first thing to do is look at the USGS topographic map.

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This will show streams located on a map and what the stream type is. The second step is use the stream stats program to find your location and site. When you click on that the program will compute the watershed area. Mr. Holmes continued an overview of determining perennial versus intermittent streams in a half square mile and square mile area. He added that any perennial stream status can be overturned using the 4 day observation. However, this can't work backwards. An intermittent stream using the stream stats program can't be used. You can only use the stream stats program for an intermittent stream to determine if it's perennial or confirmed intermittent. Mr. Holmes answered a few questions from the commission regarding some examples on determining perennial and intermittent streams. Mr. Materne then recused himself from the meeting. Mr. Rob Davis from Insite Engineering was present on behalf of the applicant Ryan DuVally. He thanks Mr. Holmes for his input. Mr. Davis began by stating that the BVW flagging is correct. The stream status was evaluated multiple times in 2005. It was dry and multiple photographs were submitted. Mr. Davis added that our area has been in drought conditions for 6 months. His hands are tied and cannot do anything. Mr. Davis repeated Mr. Holmes statement saying the only way they can challenge the status of the perennial stream is with the photographic evidence. He submitted the photographic evidence before. Due to the drought he cannot submit the photographs per the Wetlands Protection Act. It has to be done during non-drought conditions. Mr. Davis added he's been to the property several times and that the stream was dry except right after a rain event. The only reason he is before the commission is that we are in a drought and he cannot bring the photo to you. Mr. Davis stated he is skeptical about the flow chart that the Mass Association of Conservation Commissions gave them for determination. He feels it is poorly worded in the Wetlands Protection Act and therefore the flow chart is built on a poorly worded document that says this is the only way it can be challenged. He wonders why you can use the stream stats method to prove an intermittent stream is perennial but not the other way around. It does not make sense. The only way to challenge it is with a photograph. Mr. Holmes informed Mr. Davis that he developed the flow chart to make the regulations a little easier to understand. Mr. Evans asked the commission on how they should respond to this issue. He asked Mr. Davis to read the portion of the regulation he feels is poorly written in the Wetlands Protection Act. He then read regulation 10.58 1.b. Mr. Davis stated that based on this regulation he is not even close to being a candidate for a perennial stream. He wonders why USGS would provide this method for a blue line stream if it can't be used to calculate its flow. Mr. Davis stressed again this would not be an issue if it weren't for the drought of the last 6 months. This would be an unfair burden for property owners if the drought persists for a year, or longer. Ms. Bradley stated they will have to wait to hear from DEP on this matter. They are meeting on Thursday, January 5, 2017 to look at the information. Mr. Davis read another regulation which proved he has met the criteria of the regulation. Mr. Holmes clarified to the commission some of the regulations that were a bit confusing. Ms. Bradley asked about the stream flow. Mr. Pennoyer stated it is flowing well even during the drought. Mr. Davis noted that they have recently done an identical evaluation in Seekonk and they provided the stream stats analysis which proved the stream was intermittent. It was accepted by the Conservation Commission in Seekonk. Mr. Evans sees Mr. Davis' point. He welcomed any thoughts from the commission. Mr. Davis again requested a little leeway from the commission. The commission is concerned about setting a precedent regarding using expired data to determine stream status and current drought conditions. It was determined by the commission that they can use data submitted by Mr. Davis from 2005 for the intermittent stream. Mr. Nicholson motioned to accept the previously submitted data for presumption of perennial stream being intermittent on the entire site.

Mr. Habershaw seconded the motion. Motion passed.

Mr. Nicholson motioned to close the public hearing.

Mr. Pennoyer seconded the motion. Motion passed.

Mr. Nicholson motioned to issue the ORAD.

Mr. Habershaw seconded the motion. Motion passed.

Mr. Materne rejoined the meeting.

GENERAL BUSINESS

1. Brad Holmes – Perennial/Intermittent stream discussion – Mr. Holmes made his presentation to the commission during the public hearing for “Behind 237 Pine Street”.
2. Mosquito Control Project – 60 Fairfield Street - No discussion needed. This is just notification to the commission of the upcoming project.
3. Open Space and Recreation Plan – discussion - Ms. Bradley explained that the Open Space Plan will help to identify areas in town that the Conservation Commission would want to conserve as open space. Ms. Bradley also noted there are a lot of grants but you never know when they are coming up. She can contact the state but they don’t tell her what grants are coming up. They can be for up to \$200,000.00. The Master Plan cannot be used to apply for a grant for Open Space Plans. The grants are to purchase land and trails. The commission agreed that they should create an Open Space Plan. Mr. Evans motioned to move forward and hire a professional to write an Open Space and Recreation Plan. Mr. Nicholson seconded the motion. Motion passed.

MINUTES

1.


INVOICES

1. ECR, LLC – Pine Street ANRAD – 1,800.00
Mr. Evans motioned to submit payment for \$1,800.00 to ECR, LLC
Mr. Nicholson seconded the motion. Motion passed.

ADJOURNMENT

Mr. Evans motioned to adjourn the meeting at 8:15pm.
Mr. Nicholson seconded the motion. Motion passed.

For the Conservation Commission,


Robert Materne, Chairman