

## REHOBOTH CONSERVATION COMMISSION

### Meeting Minutes – July 20, 2010

**Present:** Chairman Scott Pennoyer, Vice Chairman Wendy Skinner, Thomas Nicholson, Robert Materne, Alan Gosling, Krishna Prachanronarong, James Payon, Dave Perry and; Conservation Agent Leeann Bradley.

**Absent:** Associate Member: Karl Drown and Stormwater Officer Michael Costello

### CALL TO ORDER

**Ch. Pennoyer** called the meeting to order at 7:02 PM

### NEW BUSINESS

#### 1. Welcoming of New Members

Mr. Pennoyer welcomed the three new members, Alan Gosling, James Payon, and Dave Perry. Thanked Matt Habershaw, Bruce Andrews and Donna Choate for their time and service on the Conservation Commission, they will be missed.

### INVOICES

1. MACC Annual Dues - \$583.00

2. MACC Handbooks (2) - \$110.50

3. Bristol County Print Shop - \$37.36 - Envelopes

Mr. Materne made a motion to pay the above-named invoices.

Mr. Nicholson seconded the motion. Motion passes

### GENERAL BUSINESS

#### 1. Reorganization of the Commission

Mr. Pennoyer open the floor for nomination for Chairman.

Mr. Nicholson nominate Scott Pennoyer for Chairman

Mr. Materne seconded the motion

Mr. Payon nominated Wendy Skinner for Chairman.

Mr. Gosling seconded the motion.

Ms. Skinner declined the nomination.

Mr. Payon withdrew his motion.

Mr. Payon nominated Mr. Alan Gosling for Chairman.

Mr. Prachanronarong seconded the motion.

Mr. Pennoyer asked if there were any other nominations. There were none.

Mr. Nicholson made a motion to close nomination for Chairman.

Mr. Payon seconded the motion. Motion passes.

Mr. Pennoyer asked all in favor for Alan Gosling for Chairman. Mr. Payon, Mr. Gosling – Aye, Mr. Materne, Mr. Nicholson – Nay and Mr. Prachanronarong abstained. Mr. Pennoyer - nay. Motion failed.

Mr. Pennoyer asked all in favor for Scott Pennoyer for Chairman. Mr. Materne, Mr. Nicholson, and Mr. Pennoyer – Aye, Mr. Payon, Mr. Gosling – Nay, Mr. Prachanronarong – abstained. Motion passes.

Mr. Pennoyer asked for nominations for Vice-Chairman.

Mr. Nicholson nominated Wendy Skinner for Vice-Chairman.

Mr. Materne seconded the motion.

Mr. Payon nominated Alan Gosling for Vice-Chairman.

Mr. Prachanronarong seconded the motion.

Mr. Pennoyer asked for all in favor of Wendy Skinner for Vice-Chairman. Mr. Nicholson, Mr. Materne, Ms. Skinner, and Mr. Pennoyer – Aye. Mr. Payon and Mr. Gosling – Nay, Mr. Prachanronarong – abstained. Motion passes.

RECEIVED  
20 SEP 10 PM 1:50  
OFFICE OF THE TOWN CLERK  
REHOBOTH, MA

Mr. Pennoyer asked for all in favor for Alan Gosling for Vice-Chairman. Mr. Nicholson, Mr. Materne, Ms. Skinner, and Mr. Pennoyer – Nay. Mr. Gosling, Mr. Payon, and Mr. Prachanronarong – Aye. Motion failed.

Mr. Pennoyer asked for nomination for Gravel Committee. Then asked commissioners what boards and committees they were already on.

All the commissioners told what boards and committees they were already on.

Mr. Nicholson made a motion to nominate Wendy Skinner to Agricultural Resources, and CPC, Mr. Nicholson as the Liaison to Stormwater Committee, Mr. Materne to Open Space Committee and the liaison to Land Trust, David Perry as the liaison to the Planning Board.

Mr. Materne seconded the motion. Motion passes.

Mr. Nicholson made a motion to have Alan Gosling as the appointed member to the Gravel Committee.

Mr. Materne seconded the motion. Motion passes.

## 2. Mills – 280 Fairview Ave. – Request for OC Extension

Ms. Bradley stated the applicant has requested a 1-year extension to their Order of Conditions. She recommended to grant the extension.

Mr. Nicholson made a motion to grant the 1-year extension.

Mr. Materne seconded the motion, Mr. Payon abstained. Motion passes.

## 3. Angell – 218 Perryville Road – Request for COC

Ms. Bradley stated this request was before the commission in April, the applicant was missing information. We have received the information needed.

Mr. Nicholson made a motion to issue a Certificate of Compliance.

Mr. Materne seconded the motion. Mr. Prachanronarong and Mr. Payon abstained. Motion passes.

## 4. Light Board

Mr. Pennoyer explained what a light board is and what it is used for. There are two choices.

Ms. Bradley recommended the larger light board.

Mr. Nicholson made a motion to authorize Leann Bradley to purchase a Porto Trace oak light box 1824-3WC in the amount of \$343.99.

Mr. Materne seconded the motion. Motion passes.

## CONCERNS & COMPLAINTS

### 1. 62 Blanding Road – manure/mulch pile.

Mr. Pennoyer stated the commission had gone out on Sunday during site walks.

Mr. Nicholson stated that the property owner was amenable to moving the pile.

Mr. Perry stated that property owner requested 2 weeks to move it because it was wet.

Ms. Skinner stated the commission would be going out again on their next site walk to check on it.

Mr. Pennoyer stated that the Enforcement Order will remain in place until the pile has been removed.

## PUBLIC HEARINGS & MEETINGS

### 1. Faneuf – Salisbury Street - RDA

Mr. Materne recused himself.

Mr. Pennoyer opened the public meeting.

Mr. Paul Carlson from InSite Engineering was present on behalf of the applicant.

Mr. Carlson presented plans.

Mr. Pennoyer asked if the land was in agricultural use?

Mr. Carlson replied no.

Mr. Pennoyer stated that if it is not in agricultural use then the applicant will need to file a Notice of Intent. It has been farmed, so it is in agricultural use. This is normal maintenance of land and this

application is a courtesy to the commission. The commission could allow this to go through under and agricultural exemption.

The commission discussed the pipes and the potential water issues.

Mr. Nicholson asked if the commission needed proof that the land is in agricultural use?

Ms. Bradley stated it should be part of the file.

Mr. Nicholson made a motion to issue a Negative 5 determination with the following conditions, the land is exempt, the pipes need to be staked out with the agent or a member of the commission present, and proof that the land is in agricultural use.

Ms. Skinner seconded the motion. Motion passes.

## 2. Conway – 62 Maple Street – NOI – SE60-914

Mr. Pennoyer open the public hearing.

Mr. Ray Gagnon of Outback Engineering was present on behalf of the applicant.

Mr. Gagnon presented plans.

Mr. Pennoyer stated that he is good friend with Mr. Conway. Asked if anyone feels I should abstain I will. I have no monetary gain; I do not work for him.

Mr. Pennoyer asked if the septic system was 50' closer to the resource area?

Mr. Gagnon replied yes.

Mr. Pennoyer explained that the Conservation Commission does not have the authority to issue a variance for the septic system and can not issue a NOI. The Board of Health by-laws state that the septic system has to be 60' from the wetlands. The BOH has to grant a variance.

The commission discussed possibly having the applicant move the septic system and well.

Mr. Gagnon requested a continuance until August 17, 2010.

Mr. Nicholson made a motion to grant a continuance until August 17, 2010.

Mr. Materne seconded the motion. Motion passes.

## 3. Prachanronarong – Agricultural Ave – NOI – SE60-915

Mr. Prachanronarong recused himself.

Mr. Pennoyer opened the public hearing.

Mr. Otis Dyer of Otis Dyer's office was present on behalf of the applicant.

Mr. Dyer presented plans.

Mr. Pennoyer stated that there is over 600' of wetland line an ANRAD will need to be filed.

Mr. Materne stated that the wetland line has moved.

Mr. Perry stated that there was some scouring near flag A5 & A3, that will need to be addressed when the driveway is installed.

Mr. Dyer requested a continuance until August 17, 2010.

Mr. Nicholson made a motion to grant a continuance until August 17, 2010.

Mr. Materne seconded the motion. Motion passes.

## 4. Bushell – 17 Victoria Lane – RDA

Mr. Pennoyer opened the public meeting.

Mr. Pennoyer stated that this is clearly a Negative 3. The wetland line will not be approved.

Mr. Nicholson made a motion to issue a Negative 3 determination.

Mr. Materne seconded the motion. Motion passes.

## 5. Kennedy – 216 Homestead Avenue – RDA

Mr. Pennoyer opened the public meeting.

Mr. Manny Mello of M.G. Mello Associated was present on behalf of the applicant.

Mr. Mello presented plans.

The commission discussed how the wetlands were flagged.

The commission discussed how the septic system could be moved.

Mr. Mello stated that he would need to revise the plans and requested a continuance until August 17, 2010.

Mr. Pennoyer stated that the wetland line would need to be revised.

Mr. Nicholson made a motion to grant a continuance until August 17, 2010.

Mr. Materne seconded the motion. Motion passes.

6. Cordeiro – 97 Salisbury Street – NOI – SE60-908

Mr. Pennoyer reopened the public hearing; it was continued from a previous public hearing.

Mr. Gioiosa presented revised plans.

Ms. Skinner asked why the wetland line had changed.

Mr. Gioiosa replied that a few meetings ago the commission requested it be changed based on wetland soils.

Mr. Materne stated the he still had an issue with taking wetlands and creating a lawn. I have no other issues. We have never done it before. I don't think we should start now. Especially given that they have a large lawn already. I don't see why you need to take a wetland to make a lawn.

Mr. Nicholson stated that it is already a lawn. Does it really make a difference?

Mr. Materne stated when people alter a wetland; we allow it to revegetate. It's going to revegetate, give it time.

Ms. Bradley stated that if it was mowed you could see the sedges and cat tails.

Mr. Materne stated that the cat tails are coming through. None of us looked at the Salisbury side of the wetlands because we felt that when this plan came before us it was a no go. There was no need to look at that line. You are contemplating a 1:1 replication. That's usually not acceptable. If they do accept it, taking the lawn, we would have to go out and verify that line. We also don't have a biologist report.

Mr. Gioiosa stated that he understands the concerns. I do agree if left untouched it would come back as wetlands.

Mr. Materne stated that you are proposing of taking 804 sq. ft.

Mr. Gioiosa stated what was being proposed is in compliance with the regulations.

Mr. Gioiosa discussed what the regulations say.

Mr. Materne stated that you are talking about crossing and taking about a lawn are 2 different things.

Mr. Payon asked if this gentleman was prohibited from mowing the lawn he wants to raise?

Mr. Pennoyer replied he should be.

Mr. Payon stated he has been mowing it.

Mr. Pennoyer stated yes.

Mr. Payon asked how long has he been mowing his lawn?

Mr. Pennoyer stated 2 years.

Mr. Payon stated and up to this point there hasn't been an issue.

Mr. Materne stated there is more to it than that.

Ms. Bradley stated that it was an issue.

Mr. Materne stated this piece of property was approved and there were supposed to be concrete bonds put in on the wetland line. Went into the history of this piece of property and the wetlands. The new owner has been mowing his lawn it's not right. Just because he hasn't been caught. It's a wetland no one is supposed to work in the wetland. It's now a verified wetland. Unless the board changes their minds and says it's ok.

Mr. Pennoyer stated that the applicant didn't purposely go in and mow down the wetlands in order to get around the Wetland Protection Act. As long as it's under DEP guidance you could keep that lawn and consider it an upland.

Mr. Perry stated that the lawn has documentation showing where the wetland was and you can't get around that. I don't have an issue with grading near the pool, moving the fence, putting in a pipe and even hand maintaining the flow of the debris from the culvert or building the bulkhead down. The triangle piece is just unnecessary taking of wetlands, alteration of wetlands with no need except ascetics of his own yard.

Ms. Skinner stated that is what we decided earlier.

Mr. Perry restated his concerns. The regulations state that the commission "may allow it" not "shall allow it."

The commission discussed what they felt could and couldn't be done.

Mr. Pennoyer and Mr. Gioiosa discussed the peak flow letter and there was a typo that said 100-year storm and should say 10-year storm, that needs to be corrected and resubmitted to the commission because it was stamped and signed by the engineer.

There was discussion regarding the size of the pipe being installed, the commission agreed that a 12" pipe would work.

Mr. Pennoyer explained to the abutter what was being proposed for the pipe and its size.

Mr. Gioiosa spoke regarding why he felt the application should be approved as presented.

Mr. Materne stated that there is no wetland biologist report for the plantings.

Mr. Perry stated that can be conditioned.

Mr. Pennoyer took an informal poll of the commission on how they felt they would vote at this time.

Each commission member gave their reasons again.

Mr. Nicholson made a motion to close the public hearing.

Mr. Materne seconded the motion. Motion passes.

Mr. Pennoyer stated that the motion to issue Orders of Conditions will be handled on August 17, 2010.

### MINUTES

Mr. Nicholson made a motion to table minutes until a future meeting.

Mr. Materne seconded the motion. Motion passes.

Mr. Pennoyer asked if someone from the commission would be willing to talk to REPAC regarding having the meeting aired live, for minute taking reasons.

Mr. Payon stated he would talk to REPAC.

### GENERAL BUSINESS

#### 5. Rocky Run II

Mr. Pennoyer stated that he had been out to Rocky Run II. They are doing work, there are no haybales and that needs to be addressed. There is also gravel and silt in the road near 81 Cameron Way, could Ms. Bradley send a letter to Peter Richmond and ask him to address it.

#### 6. MACC Handbook

Mr. Pennoyer spoke in regards to MACC handbooks to the new members of the commission.

#### 7. August 3, 2010 Meeting

Mr. Pennoyer stated that the August 3, 2010 meeting would be canceled due to the fact that Ms. Bradley would be on vacation. 21-day waiver will be asked for from the applicants.

### Adjournment

Mr. Nicholson made a motion to adjourn at 9:04PM.

Mr. Materne seconded the motion. Motion passes.

For the Conservation Commission,

  
Robert Materne – Chairman

\_\_\_\_\_  
David Evans – Vice Chairman