

REHOBOTH CONSERVATION COMMISSION
Meeting Minutes – September 21, 2010

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

Absent: Associate Member: Karl Drown.

CALL TO ORDER

Ch. Pennoyer called the meeting to order at 7:01 PM

CONCERNS & COMPLAINTS

1. 112 Davis Street – Cutting Vegetation within Riverfront

Ms. Skinner recused herself.

Mr. Prachanronarong recused himself.

Mr. Pennoyer stated that there was activity in the resource area.

Mr. John Skinner of 108 Davis Street was present.

Mr. Skinner stated that he made the complaint. Then explained his reasons for the complaint.

Mr. Materne gave a description of what he saw on the property. He viewed the property in question from the Skinner's property. The area was to stay a hayfield or natural vegetative state. A lawn mower has cut it.

Mr. Skinner stated a clear resolution needs to come out of this.

Mr. Materne stated to send the land owner a copy of the plan and the minutes so they know what can and can't be done.

Mr. Perry stated this is new activity. We can't tie them to an old RDA.

Mr. Materne stated that there is a riparian zone there.

Mr. Perry stated that there is nothing saying they can't do it. They are not breaking any rules. There is no NOI on this property. They have not infringed on the protected area.

Mr. Materne stated that if they want to turn this into a lawn, they have to file a NOI.

Ms. Bradley stated that a letter had been sent and she had not heard back from them.

Mr. Gosselin asked how long have they been there?

Mr. Materne stated 1 year.

Ms. Skinner of 108 Davis Street was present.

Ms. Skinner asked why wasn't a new filing done? They are working off an old plan that shows the resource area.

The commission discussed how to handle the situation.

Mr. Pennoyer stated to send another letter. Ask them to come into the next meeting with their intentions.

There is Riverfront, BVW, and buffer zones. An Enforcement Order could be issued if not complied with.

2. Old Fall River Road – Follow Up to Lifted Enforcement Order Request/Site Visit

Mr. Pennoyer stated that the commission had visited the site.

Mr. Materne stated that the property owner had been requested to put haybales around the concrete pile.

The haybales are there. There is a pile of dirt on the wetland edge. It is being removed. There is no siltation control around it. Wetland flags were moved when the pile was pushed back. It needs haybales.

Mr. Pennoyer asked what about the stuff that falls under the agricultural exemption?

Mr. Perry stated that the pipes are still there.

Mr. Materne stated that it's a commercial concrete facility.

Mr. Pennoyer stated we lifted the EO. We wanted them to remove anything that wasn't under agriculture. It's been 90 days and the materials have not been removed. Another letter needs to be sent.

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Mr. Materne stated that they are intending to do something. There is metal in the buffer zone and dirt work. It has to have siltation control.

Mr. Pennoyer stated it's an intermittent stream. The letter stating there is work being done. The office has not been contacted. Haybales are needed around the dirt pile and to contact the office.

Ms. Skinner recused herself.

Mr. Prachanronarong recused himself.

Mr. Nicholson made a motion to send the two letters, one for 112 Davis Street & one to Old Fall River Road.

Mr. Materne seconded the motion. Motion passes.

PUBLIC HEARINGS & MEETINGS

1. Lillie Mae Realty Trust – 367 Anawan St. – NOI – SE60-906

Mr. Otis Dyer requested a continuance until October 5, 2010.

Mr. Pennoyer asked the audience if there were any questions, there were none.

Ms. Skinner made a motion to grant a continuance until October 5, 2010.

Mr. Materne seconded the motion. Motion passes.

2. Lambe – 230 Perryville Road – NOI – SE60-920

Mr. Otis Dyer Jr. was present.

Mr. Dyer presented a letter from Natural Heritage. Requested a continuance until October 5, 2010.

Mr. Pennoyer asked if the audience had any questions.

Mr. Don Swanson of 228 Perryville Road was present.

Mr. Swanson read a statement into the record.

Mr. Pennoyer stated that information can be given to him one week prior to the meeting, once the commission receives it.

Mr. Steve Cabral of Horsemen Engineering was present.

Mr. Pennoyer asked if he was licensed in MA?

Mr. Cabral stated that he was licensed in both MA and RI. He was hired by Mr. Swanson. He explained his clients concerns regarding drainage and the amount of flow of water. The potential for downstream flooding.

Mr. Pennoyer stated that the commission have the same goals. We should come to that agreement. We will make sure you receive any new information we get.

Mr. Gosselin made a motion to grant a continuance until October 5, 2010.

Mr. Nicholson seconded the motion. Motion passes.

3. DeRosa – 246 Winthrop Street – NOI – SE60-921

The public hearing was tabled until later in the meeting.

GENERAL BUSINESS

1. Holstein – 14 Meadowlark Dr. – Request for COC – SE60-850

Ms. Bradley recommended issuing the COC.

Ms. Skinner recused herself.

Mr. Gosselin made a motion to issue the Certificate of Compliance.

Mr. Nicholson seconded the motion. Motion passes.

2. Coyne – 17 Sassafras Rd. – Request for COC – SE60-844

Ms. Skinner recused herself.

Ms. Bradley recommended issuing the COC.

Mr. Materne made a motion to issue the Certificate of Compliance.

Mr. Nicholson seconded the motion. Motion passes.

3. Clarewood Homes – 4 Ashlyn Way – Request for COC – SE60-844

Ms. Bradley stated that this request has been denied in February. The plans have been submitted; everything is good.

Mr. Materne made a motion to issue the Certificate of Compliance.

Mr. Gosselin seconded the motion. Motion passes.

4. Proulx – 5 Dean Street – 2-year Extension – SE60-797

Mr. Pennoyer stated that the commission usually only issues a 1-year extension.

Ms. Bradley explained that due to the new law they automatically have a 2-year extension but they wanted to make sure it's in writing.

Ms. Skinner made a motion to send a letter. "As per our policy we give a 1-year extension. Through legislation it is extended for 2-years.

Mr. Gosselin seconded the motion. Motion passes.

MINUTES

Minutes were tabled.

NEW BUSINESS

1. Warrant Article – Revolving Account – ss 53E ½ - Wetland Bylaw Fees

Mr. Pennoyer stated that the wetland bylaw was approved by the Attorney General. They said no to the fees we collect going into a separate account that we can access without approval from the Board of Selectmen. The spirit of the bylaw is to offset the cost of the office. The AG said anytime you collect money from a local bylaw it goes into a General Fund. Unless it's specifically stated that it goes into 53E ½ as part of the article. I'm proposing a warrant article to have a revolving account, 53E ½, for the wetland bylaw fees.

The commission discussed how the money is handled now and how to handle it in the future.

Ms. Bradley stated that this would go to Town Counsel, if approved by the Board of Selectmen, to be placed on the warrant.

Mr. Pennoyer stated this needs to be done as soon as possible to make it on the warrant.

Ms. Skinner made a motion to submit the warrant article with a cap of \$75,000 not to exceed \$75,000.

Mr. Materne seconded the motion. Motion passes.

Mr. Pennoyer asked the audience if there were any questions. There were none.

PUBLIC HEARING & MEETINGS

3. DeRosa – 246 Winthrop Street – NOI – SE60-921

Mr. Peter Lavoie of Landmark Site Design was present.

Mr. Pennoyer stated the septic system was existing on August 7, 1996.

Mr. Lavoie stated yes, the old one.

Mr. Pennoyer asked if the upgrade is in compliance with CMR 310 15.000, title 5?

Mr. Lavoie stated yes, with waivers. The Board of Health just approved the plan.

Mr. Bob Ashton the Board of Health Agent was present.

Mr. Pennoyer asked Mr. Ashton in his professional opinion, as the Board of Health Agent, do you feel this is in compliance with CMR 310 15.000?

Mr. Ashton replied with the approved changes.

Mr. Pennoyer asked if this is in the same foot print?

Mr. Lavoie stated no, the same location.

Mr. Lavoie present plans.

Mr. Pennoyer stated his concerns were siltation control and construction.

Mr. Lavoie explained how the silt fence and retaining wall would be installed.

Mr. Pennoyer asked if the limit of work was the property bounds?

Mr. Lavoie replied correct.

Mr. Pennoyer stated that Ms. Bradley is to be notified within 24 hours of the start of construction. This needs to be monitored closely. Are you proposing versa lock?

Mr. Lavoie stated that it was being proposed.

Mr. Pennoyer asked if it was on the plan?

Mr. Lavoie replied no. He can have the contractor notify the commission of what he is going to install.

Mr. Ashton stated that versa lock is a good means to build the wall. Concrete block is the best.

Mr. Pennoyer asked the audience if there were any questions. There were none.

Mr. Pennoyer explained the appeal period and when this would start. Once you submit revised plans the OOC will be signed at the following meeting.

Ms. Skinner made a motion to close the public hearing.

Mr. Materne seconded the motion. Motion passes.

Mr. Materne made a motion to issue Order of Conditions.

Ms. Skinner seconded the motion. Motion passes.

NEW BUSINESS

2. Procedure Concerning Overcoming the Presumption of a Perennial/Intermittent Stream

The Commission discussed the procedure and how to understand it.

Mr. Pennoyer explained the reason for the policy.

INVOICES

1. RIBP – Large Copier - \$23.74 – Regular Budget

Ms. Skinner made a motion to pay the above-mentioned invoice.

Mr. Materne seconded the motion. Motion passes.

NEW BUSINESS

2. Open Meeting Law

Mr. Pennoyer stated that the Open Meeting Law states that we shouldn't go into Executive Session for litigation unless it gives away our strategy.

3. Grossi – Bliss Street

Mr. Pennoyer stated that this is in regards to the lawsuit filed against us. We were served with information. The question to Town Counsel is; we are being sued personally, as a commission, and individually. Are we afforded the same time as individuals as the commission?

Ms. Skinner asked what, if anything do we have to do?

Mr. Prachanronarong asked what is the roll of a new member?

Mr. Pennoyer stated that new members are not listed. You'll have to participate in a vote out of necessity of a quorum.

Mr. Gosselin asked if we could get clarification from Town Counsel?

Adjournment

Upon a motion made by Ms. Skinner and seconded by Mr. Materne the commission votes unanimously to adjourn at 8:46PM.

For the Conservation Commission,

Robert Materne – Chairman



David Evans – Vice Chairman