

Kingston Conservation Commission Minutes

November 10, 2009

7:00p.m. The chairman called the meeting to order.
Present: Gary Langenbach (chairman), William Underhill, Sue Chamberlain, Marilyn Kozodoy, Ryan Overholt, William Kavol, Daniel King
Staff: Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary

Agent Updates:

- Budget – need a vote of the Commission to use the Wetlands Protection Fund to fund the deficit caused by the proposed 3% budget cut

William Underhill motioned to use the Wetlands Protection Fund to cover the deficit caused by the proposed 3% budget cut.
Marilyn Kozodoy seconded the motion.

7:12p.m. Discussion regarding the Wetlands Protection Fund
VOTE: 7-0-0

Discussion regarding the use of Town Council for the Tarkiln Road appeal

Sue Chamberlain motioned to explore with the Board of Selectmen the option of using Town Counsel for the Tarkiln Road appeal.
William Underhill seconded the motion.

7:14p.m. **VOTE: 7-0-0**

Boy Scout Troop 105 – request to use Cranberry Watershed Preserve

Sue Chamberlain motioned to approve the request per the letter submitted.
William Underhill seconded the motion.

7:15p.m. **VOTE: 7-0-0**

Agent Updates:

- \$1500 request from the EB Sampson Fund

7:16p.m. Opened a Public Hearing for a Request for Determination of Applicability for Foster Lane, Map 36, Lot 35

Present: Tim Shea – property owner

Tim Shea stated that there was currently a 12' x 16' wooden shed on concrete blocks.

The chairman asked how close the shed was to the swale.

Tim Shea stated that it was probably less than 20' away from the swale.

Maureen Thomas stated that when she performed her site visit, she measured the shed to be within the 25' no disturb zone.

The chairman stated that he would like to perform a site visit to see where the shed was located.

Discussion regarding moving the shed outside of the 25' no disturb zone

The chairman stated that there should be a notation in the Negative Determination of Applicability that 12' x 16' of the riparian zone had been used.

Sue Chamberlain stated that the movement of the shed should be done in a way that was protective of the 25' no disturb zone.

Sue Chamberlain motioned to close the Public Hearing.

William Underhill seconded the motion.

7:27p.m.

VOTE: 7-0-0

Sue Chamberlain motioned to issue a Negative Determination of Applicability with conditions.

William Underhill seconded the motion.

7:29p.m.

VOTE: 7-0-0

7:30p.m.

Continued a Public Hearing for a Request for Determination of Applicability (RDA) for Kingston Bay, Icabods Flat

Present: John Wheble, Thomas Taylor, Greg Barker – Applicants

Maureen Thomas stated that the MESA review indicated that the project would not result in a prohibited take. The Division of Marine Fisheries also approved of the project.

The chairman asked if there were any outstanding issues on the RDA.

The Conservation Agent stated no.

William Underhill motioned to close the Public Hearing.

Marilyn Kozodoy seconded the motion.

7:32p.m.

VOTE: 7-0-0

Sue Chamberlain motioned to issue a Negative Determination of Applicability.

William Underhill seconded the motion.

7:32p.m.

VOTE: 7-0-0

7:33p.m.

Marilyn Kozodoy left to attend the Community Preservation Committee meeting

7:34p.m. Continued a Public Hearing for a Notice of Intent for 9 Tarkiln Road, Map 13, Lot 24

The applicant requested a continuation.

William Underhill motioned to continue the Public Hearing.

Daniel King seconded the motion.

7:37p.m. **VOTE: 6-0-0**

Continued to December 1, 2009 @ 8:30p.m.

7:37p.m. Continued a Public Hearing for a Notice of Intent for 25 Tarkiln Road, Map 13, Lot 31

The applicant requested a continuation.

William Underhill motioned to continue the Public Hearing.

Sue Chamberlain seconded the motion.

7:38p.m. **VOTE: 6-0-0**

Continued to December 1, 2009 @ 7:30p.m.

Reviewed the draft minutes of September 22, 2009

Daniel King motioned to accept the minutes of September 22, 2009 as corrected.

William Underhill seconded the motion.

7:43p.m. **VOTE: 6-0-0**

Reviewed the draft minutes of October 6, 2009

Daniel King motioned to accept the minutes of October 6, 2009 as corrected.

William Underhill seconded the motion.

7:48p.m. **VOTE: 6-0-0**

Agent Updates:

- Pine Brook culvert removal – received letter from Natural Heritage and Endangered Species Program (NHESP) stating that the project was exempt, solicited 3 bids and the one bid received was much higher than the money amount that was reimbursable
- CZM Coastal Pollutant Grant
- Bay Farm vandalism – glass broken on the kiosk, trash barrel vandalized, Mutt Mitts dispenser and signage taken – will be reporting this to the police
- Baker Ave 40B draft plan received from Robert Kraus, Esq.

8:15p.m. **Marilyn Kozodoy returned from the Community Preservation Committee meeting.**

8:15p.m. Opened a Public Hearing for a Request for Determination of Applicability for 55 Landing Road, Map 37, Lot 51

Present: Pine duBois – representative for Jones River Landing Environmental Heritage Center

Pine duBois presented the proposed project to the Commission and the public. She reviewed the change in height and location of the stone wall.

Maureen Thomas asked if there would be six pilings placed within the seawall. Pine duBois stated that they would not need to place six pilings within the seawall unless the relocation of the stone wall required it. She discussed the crushed pipe and wall collapsing with the Commission.

Maureen Thomas asked if the road not being crowned correctly had contributed to the undermining of the wall.

Pine duBois stated that it was part of the problem but that there were other contributing factors. She discussed the other issues regarding the wall and the meeting that she had with the Army Corp of Engineers and CZM.

Pine duBois stated that she would file a Notice of Intent for the two docks, boat ramp, revetment and the repair of the wall.

The chairman asked what was currently under the area for the solar panels.

Pine duBois stated that they had performed soil borings and determined that there was 2'-3' of fill over about 4' of fibrous peat and then 4'-10' of compact buried marsh.

Maureen Thomas asked about the solar array being impervious but their plans to remove other impervious area.

Pine duBois stated that the solar array structures would shed to pervious areas. She stated that they would like to remove all impervious areas if the stormwater project takes place. She stated that she would prefer pavers and gravel but that there was a new extremely permeable white pavement that she needed to research.

Maureen Thomas stated that the solar array could not be built until the revetment was repaired.

Pine duBois stated that the crushed pipe would be replaced this week.

Marilyn Kozodoy motioned to close the Public Hearing.

Daniel King seconded the motion.

8:48p.m.

VOTE: 7-0-0

Daniel King motioned to issue a Negative Determination of Applicability with conditions.

Marilyn Kozodoy seconded the motion.

8:48p.m.

VOTE: 7-0-0

8:50p.m.

Opened a Public Hearing for a Request for Determination of Applicability (RDA) for Rocky Nook Avenue, Map 39, Lot 31

Present: Harold Barnett - applicant

Harold Barnett presented the proposed project to the Commission and the public.

The chairman stated that a simple staircase could possibly be permitted under this filing, but the proposed drawing would certainly need a Notice of Intent filing.

The chairman stated that a plan showing the beach would need to be submitted if they were planning to use a Bobcat to restore the revetment.

Harold Barnett stated that they currently place the rocks on the beach back into the revetment by hand.

The chairman stated that the rocks on the beach serve a function by breaking up the storm surge.

Maureen Thomas stated that Coastal Zone Management could be contact to provide some guidance.

The chairman asked when the revetment had been built.

Residents stated that it was between 1949 and 1951.

Maureen Thomas stated that there was a natural zone called the rocky intertidal zone and she wondered whether or not the project would be affecting the area.

The chairman stated that the applicant needed to re-assess what they actually wanted to do as part of the proposed project. A float to be used during high tide (which is not on a shell fishing area) with a simple staircase could be permitted under an RDA.

Maureen Thomas stated that a float could be permitted by the harbormaster but if there were going to be legs attached to the float, then it would be more complicated.

Harold Barnett mentioned that there was poison ivy towards the beach area in the rocks along the sand. He stated that he spoke with Colin Darling who uses an herbicide and that Duxbury Conservation approves of the use.

Discussion regarding site visit

Marilyn Kozodoy motioned to continue the Public Hearing.

Daniel King seconded the motion.

9:10p.m.

VOTE: 7-0-0

Continued to December 15, 2009 @ 7:45p.m.

9:15p.m.

Continued a Public Hearing for an Abbreviated Notice of Resource Area Delineation for Off Parting Ways Road, Map 105, Lot 7

The applicant requested a continuation of the Public Hearing.

Marilyn Kozodoy motioned to continue the Public Hearing.

Daniel King seconded the motion.

9:17p.m.

VOTE: 7-0-0

Continued to December 15, 2009 @ 7:30p.m.

Agent Updates:

- Route 106 – project completed this week
- 40R – office copied on several letters to the Board of Health from Helen Gavin's attorney regarding the location of the landfill and how it interfaces with Cranberry Road
- Conservation and Management Permit for Barrows Brook
- Reviewed the Baker Avenue draft plan

Daniel King motioned to adjourn.

Marilyn Kozodoy seconded the motion.

9:25p.m.

VOTE: 7-0-0