

**CONSERVATION COMMISSION Minutes**  
**March 9, 2020**

**1. Chairman's Welcome & Media Notification**

Jay Simmons opened the meeting at 6:37 p.m. and welcomed everyone. He advised that the meeting was being taped for Public Access.

**2. Quorum/Attendance:**

Present: Jay Simmons, Gary Lavalette, Geoff Haworth, Daniel Doyle, Nicholas Sylvia and Amy DeSalvatore

Absent: Nicholas Carrigg

Conservation Agent, Whitney McClees was also present.

**3. Approval of Minutes**

- a) Approve the minutes of January 13, 2020  
Geoff Haworth made a motion to approve the minutes as of January 13, 2020 and was seconded by Daniel Doyle. Motion passed unanimously (6-0-0).
- b) Approve the minutes of January 27, 2020 – Mr. Haworth made a motion to approve the minutes of January 27, 2020 and was seconded by Daniel Doyle. The motion passed unanimously (6-0-0).
- c) Approve the minutes of February 10, 2020 – Mr. Haworth made a motion to approve the minutes of February 10, 2020 and was seconded by Daniel Doyle. The motion passed unanimously (6-0-0).
- d) Approve the minutes of February 24, 2020 – Mr. Haworth made a motion to approve the minutes of February 24, 2020 and was seconded by Daniel Doyle. The motion passed unanimously (6-0-0).

**4. Requests for Extensions:**

a) **SE 023-1247: 16 Wilbur's Point Drive-Request for OOC Extension – DEP#023-1247, CON023-130**  
Ms. McClees explained the request for extension. The original order of conditions was issued April 18, 2017. The project was delayed due to extensive State and Federal permitting for the upgrade of the existing vertical concrete seawall which was permitted under SE 023-1268 and has been completed. Per Ms. McClees staff report dated March 4, 2020, she recommends extending the OOC for three years to April 18, 2023.

Mr. Haworth made a motion to extend the order of conditions to April 18, 2023 and was seconded by Daniel Doyle. The motion passed unanimously (6-0-0).

**5. Requests for Certificate of Compliance:**

a) **SE 023-1245: Huttleston Ave, Map 31, Lots 115A & 117C**

Ms. McClees stated the applicant is requesting a certificate of compliance for vegetation clearing within the 100' buffer zone, there was no work completed and the order has lapsed; another NOI is pending in front of the commission for same property.

Mr. Haworth made a motion to issue the certificate of compliance for an invalid order of conditions and was seconded by Mr. Doyle. The motion passed unanimously (6-0-0).

#### 4. Correspondence:

##### **a) 3 North Street; request for discussion with the Commission**

Jay Simmons recused himself as Chairperson, because of being an abutter. Geoff Haworth took over the request as Chairperson.

Mr. Haworth stated he was moving this to the next meeting under violations due to the engineer requesting to submit additional information.

Ms. DeSalvatore stated that she felt the residents were not properly noticed previously.

Mr. Haworth stated they were not discussing it tonight but handling it as a violation at their next meeting.

Ms. DeSalvatore stated this project she felt was taking up way too much of their time and Ms. McClees time and felt that a peer reviewer should be engaged.

##### **b) 86-88 Middle Street: Request for discussion with the Commission**

Patrick Carr, A-1 crane was present.

Ms. McClees received an email from engineer that they are working on NOI for address. They've run into issues and have asked for a 30 day extension. She then stated the engineer asked for a conversation with the Commission and that's the reason for placing them on the agenda this evening.

Mr. Carr introduced himself as the owner of the business, he was present with his wife Suzanne Carr, and they were waiting on their engineer to attend. Mr. Carr asked that he be tabled until his engineer arrived.

Mr. Haworth made a motion to table 86-88 Middle Street and was seconded by Dan Doyle. The motion passed unanimously (6-0-0).

#### 7. Public Hearings:

##### **Continued To a Future Meeting**

##### **a) SE 023-1297, CON-19-051: Hiller Avenue & Timothy Street, Assessors Map 28C, Lots 71 and 71A – continued to May 18**

Notice of Intent filed by Robert Roderiques for the construction of paved roadways and stormwater management systems and the installation of utilities including the placement of fill for the aforementioned work for a proposed 16-lot subdivision at the property located at Assessors Map 28C, Lots 71 and 71A. Work to take place within the Buffer Zone to Bordering Vegetated Wetland.

##### **b) SE 023-1296, CON-19-050: 46 Sconticut Neck Road – continued to April 27**

Notice of Intent filed by Joshua Alves, Alexander Grey Development LLC, for the construction of an 8-house subdivision, roadway, stormwater facility, and utilities and for wetland mitigation of historical impacts at the property located at 46 Sconticut Neck Road, Assessors Map 28, Lot 24.

Work to take place within Bordering Vegetated Wetland and Buffer Zone to Bordering Vegetated Wetland.

- c) **SE 023-1309, CON 023-110: 1 Bella Vista Island – *continued to April 13***  
Notice of Intent filed by Heiam Alsawalhi for the reconstruction of an existing eastern groin, modification of the existing seawall, dredging the bridge channel, providing beach nourishment, a line of wooden posts and planting a lawn in the non-jurisdictional depressions, the construction of a ten-foot-wide crushed stone path to the beach, and an after-the-fact electric gate at the causeway bridge at the property located at 1 Bella Vista Island, Assessors Map 43B, Lots 326, 359, and 360. Work to take place in Land Under Ocean, Coastal Beach, Coastal Bank, Land Subject to Coastal Storm Flowage and buffer zone to Salt Marsh.

Gary Lavalette asked if they can anticipate updated plans before the meeting which Ms. McClees advised yes, she expects them a week prior or the meeting would be continued.

**New Requests for Determination of Applicability:**

- d) **CON 023-125: 97 Tootle Lane – RDA**  
Request for Determination of Applicability filed by Heather Skrutski for the installation of a new septic system at the property located at 97 Tootle Lane, Assessors Map 37, Lots 2B & 2C. Work to take place in buffer zone to Bordering Vegetated Wetland.

Ms. McClees reviewed her staff report dated March 4, 2020. She stated the septic system proposed is a Title V-compliant system; it involves the abandonment of an existing cesspool. She stated it needs to go in front of Board of Health for variances.

Christopher Capone, representing South Coast Engineering was present and stated it was a basic septic repair.

Ms. DeSalvatore asked what the setbacks were for the septic because of the potential vernal pool.

Ms. McClees stated they are asking for setback variances from the Board of Health regulations, which are more stringent than the state regulations.

Mr. Capone stated it was high water table and it is a conventional system.

Mr. Simmons asked if abutters were present or anyone wanting to be heard on this, with no response.

Ms. McClees recommended closing the public hearing and issuing a Negative 3 and Negative 6 Determination with the following conditions: CAP-3, PCC-1, LOW-2, and SIL-10

Mr. Haworth made a motion to close the Public Hearing for CON -23-125, 97 Tootle Lane and was seconded by Dan Doyle. The motion passed unanimously (6-0-0).

- e) **CON-02-126: 7 Shawmut Street RDA**  
Request for Determination of Applicability filed by Lawton IRT for the abandonment of existing failed cesspools and installation of pump chambers and piping to sewer manhole structures at

the property located at 7 Shawmut Street, Assessors Map 32, Lot 45. Work to take place in Land Subject to Coastal Storm Flowage and buffer zone to Salt Marsh.

Geoff Haworth made a motion to table 7 Shawmut Street and seconded by Gary Lavalette. Motion passed unanimously (6-0-0).

**f) CON 023-127: 1 Old Fort Road/Fort Phoenix State Reservation – RDA**

Request for Determination of Applicability filed by Jeffrey Parenti, Department of Conservation & Recreation for pavement resurfacing of the Fort Phoenix State Reservation courts at the property located at 1 Old Fort Road/Fort Phoenix State Reservation, Assessors Map 1, Lot 2. Work to take place in Land Subject to Coastal Storm Flowage.

Ms. McClees stated she received request to withdraw this application and stated a Notice of Intent would be submitted in the future.

Mr. Haworth made a motion to allow the withdrawal and was seconded by Ms. DeSalvatore. The motion passed unanimously (6-0-0).

At this time, Mr. Haworth made a motion to un-table 86-88 Middle Street as the engineer was present and it was seconded by Daniel Doyle. The motion passed unanimously.

**4. b) 86-88 Middle Street**

Engineer, Stevie Carvalho from Farland Corporation introduced himself.

Mr. Carvalho apologized for being late. He's working with Mr. Carr on the situation at 86-88 Middle Street and working towards a resolution. He said ideally they would like to get some feedback on what the commission to rectify what has taken place. He said that Mr. Carr has had some pretty lengthy correspondence with DPW over the years regarding the draining issues and wanted to share that timeline with them.

Mr. Carr stated that he wanted to review his past correspondence with various boards to give a clearer picture to the commission.

Ms. McClees stated they would be filing within 90 days a Notice of Intent to address the paving of the rear of the property from pervious to impervious to be submitted by 3/1 and then requested a 30 day extension, with the filing to be submitted by 4/1.

Mr. Carr gave a quick timeline of events on the property – met with Mr. Fostin to review fence 7/7/17, 8/7/17 – re: fence; 9/21/17, 10/10/17 regarding the fence there was another discussion with Mr. Fostin.

Mr. Haworth questioned one of the dates, due to it being a Saturday.

Mr. Simmons stated the fence was not under the prevue of the Commission, but he can see that Mr. Carr was trying to put together a timeline.

Mr. Carr was trying to establish a timeline and conversations he has had with Mr. Fostin, from the fence to the concrete. He applied variance 11/29/17 for fence, granted on 1/2/2018. He met 2/2/18 with Wayne regarding flood issues to the street.

Ms. DeSalvatore stated this needs to be discussed during a Public Hearing.

Mr. Carr said he met with Mr. Fostin again and spoke to Vinnie Furtado regarding drain issues. He said he was trying to establish timeline that he discussed with conservation agent.

Mr. Simmons stated this began with a violation and then an extension was given. He said he was happy to see Mr. Carr working with an engineer, and didn't have a problem granting the extension.

Mr. Carr stated this was a huge financial burden on himself and he thought if reviewed properly the Commission could see that he did talk to the correct people starting years ago and not just did what he wanted to do.

Mr. Carvalho stated he spoke to Ms. McClees about the remedy for the stormwater regulations and they are coming up with resolutions; however there's a pretty hefty cost to tearing up the concrete (which is 8" thick).

Mr. Simmons stated they rely on their staff person, Ms. McClees and Mr. Carvalho should first discuss with her about their options and then bring forth to a public hearing.

Again, Ms. DeSalvatore stated the applicant should submit a Notice of Intent, as she thought there was too much information being told that should really be held in a public hearing.

Mr. Carvalho stated it was meant to be an informal conversation. He said they would ask for the extension to April 1<sup>st</sup> as requested.

Mr. Carr asked if he was able to review the timeline in April. Mr. Simmons said he would and that most projects don't get approved at a first meeting.

Mr. Carvalho stated they were trying to find a balance between to being cost efficient as well.

Ms. DeSalvatore thinks that discussions shouldn't happen without proper notices.

**7. e) CON 023-126: 7 Shawmut Street**

Mr. Haworth made a motion to un-table 7 Shawmut Street and was seconded by Gary Lavalette. The motion passed unanimously.

Tom Roux, engineer, was present.

Ms. McClees reviewed her staff report dated March 4, 2020. Project will be a significant improvement to existing water quality as there will no longer be a septic system onsite & the property will be tied into town sewer. She recommended a Negative 3 and a Negative 6 with the following conditions: CAP-3, PCC-1, LOW-2, SIL-10.

Carol Lawton is the owner of the property and was present.

She stated it is listed as 5 and 7, but it is one lot. It will be two systems into one tie-in, one for each structure on the property. All dirt road. We switched to the E1 units that the sewer department wanted us to use.

Ms. McClees stated it was a major improvement and she feels it would be a net win.

Ms. DeSalvatore asked if the resource areas were delineated.

Mr. Haworth stated there had to be a washout area for the concrete.

Mr. Haworth made a motion to close the public hearing and issue a Negative 3 and a Negative 6 determination with the following conditions: CAP-3, PCC-1, LOW-2 and SIL-10; and was seconded by Gary Lavalette. The motion passed unanimously.

**Continued Notices of Intent:**

**g) SE 023-1315, CON 023-119: 333 Bridge Street – NOI**

Notice of Intent filed by Acushnet Company for the construction of 900 sq. ft. modernized main entrance and 7,500 sq. ft. employee wellness amenity space and reconfiguration of portions of sidewalks, access drive, parking, site utilities, and landscaped areas at the property located at 333 Bridge Street, Assessors Map 30C, Lot 60. Work to take place in Riverfront Area, buffer zone to Bordering Vegetated Wetland, and buffer zone to Inland Bank.

Michael Kelly was present for Acushnet Company.

Ms. McClees stated there has been no changes and it has been approved by the Planning Board.

Mr. Haworth made a motion to approve SE 023-1315, CON 023-119 and issue an order of conditions based on plans dated January 28, 2020 with the 53 conditions on the staff report dated March 3, 2020 and was seconded by Amy DeSalvatore. The motion passed unanimously (6-0-0).

**h) SE-023-1302, CON 19-066: 6 Emerson Avenue – NOI Natalie Reis**

Notice of Intent filed by Natalie Reis for the installation of a garage, stamped patio, and concrete driveway at the property located at 6 Emerson Avenue, Assessors Map 29A, Lot 119. Work to take place within Land Subject to Coastal Storm Flowage/Zone VE and Buffer Zone to Coastal Beach.

Ms. McClees stated this has been requested to be continued until March 23, 2020 as she didn't receive plans in time of Commission's deadline.

Mr. Haworth made a motion to continue 6 Emerson Avenue to March 23, 2020 at the applicant's request, and it was seconded by Amy DeSalvatore. The motion passed unanimously (6-0-0).

**i) SE 023-1299, CON 023-081 Bridge Street, Assessors Map 36, Lot 15-NOI Carapace, LLC**

Notice of Intent filed by Craig Lutz, Carapace LLC for the construction of an auto dealership with ancillary paved parking on vacant lot at the property located at Bridge Street, Assessors Map 36, Lot 15. Work to take place in Bordering Vegetated Wetland.

Ms. McClees stated there was a request to continue per the applicant to March 23, 2020.

Mr. Haworth made a motion to continue Carapace LLC, Bridge Street, per the applicant's request to March 23, 2020 and was seconded by Mr. Doyle. The motion passed unanimously (6-0-0).

**j) SE 023-1308, CON 023-095: Huttleston Avenue, Assessors Map 31, Lots 115A & 117C**

Notice of Intent filed by Dana Lewis for the construction of four 3-unit residential buildings with ancillary earthwork and utilities, along with two storage buildings and a shed at the property located on Huttleston Avenue near Gellette Road, Assessors Map 31, Lots 115A and 117C. Work to take place in Buffer Zone to Bordering Vegetated Wetlands

Ms. McClees advised this was pending stormwater peer review and the applicant had requested to continue to March 23, 2020.

Mr. Haworth made a motion to continue to March 23, 2020 at the applicant's request and was seconded by Mr. Doyle. The motion passed unanimously (6-0-0).

**8. Violations/Enforcement Orders/Cease and Desist Notices**

a) 44 Torington Road – preliminary replication plan submitted

b) 7 Waybridge Road

Same owner for both properties.

Ms. McClees stated there was a preliminary restoration plan submitted as a 'fluid' document, requesting input from the commission to be discussed with the engineer and wetland scientist at the March 23 meeting. Draft wetland restoration plan show that the stumps will remain; planting of 21 tree saplings, she continued to review her staff report dated March 6, 2020.

Her recommendation amending the restoration plan to include three years of monitoring, clusters of shrubs among the stumps and proposed tree planting locations, including specific species as noted in staff report.

Mr. Simmons asked if she needed action from the Commission tonight.

Ms. McClees stated no they just wanted to submit something to see if they accepted and like this plan and the wetland scientist would like to get planting done sooner or later. They will need to make some revisions.

Mr. Lavalette asked if they have paid the fine as of yet. He feels that no correspondence should be continued until the fine is paid. He said that it was aggravating that we've been out there several times and working on this with them and they still haven't paid the fine.

Ms. DeSalvatore stated she had major concern of a back hoe in the resource area. Concerned about heavy equipment in the area.

Ms. McClees read the narrative from the applicant and recommended a site visit.

Mr. Haworth thinks they should replace with bigger trees as they took out 60 year old trees.

Mr. Simmons recommended a five year plan to be more appropriate to see if the trees take and grow and to ensure invasive species do not take over.

Mr. Haworth stated he didn't want the wrong impression to be that the Commission would allow someone to take down 60 year old trees for water views and then not replace them in kind.

Mr. Simmons asked that a formal letter or email be sent to the engineer asking why the fine hasn't been paid as of yet.

Commission has agreed that the fine be paid before they continue with an approved plan.

## **9. Discussion**

### **a) Sandra Lane**

Mr. Simmons and Ms. McClees did a site visit and saw there was some clearing on Sandra Lane. Cleared recently within the last 30 days.

Mr. Simmons had concern that if the clearing did continue for another 20' or more, it'll get to a resource area. At this point, he said there were no violations.

Ms. DeSalvatore suggested a letter that there is no violation currently, but there may be if they continue to clear.

Resident David Patterson stated within the radius there is wildlife living there and his concern was the utilizing of trucks in/out of the paper street.

Board discussed how to go forward to decommission a paper street.

### **b) Non-Voting Consulting Members**

Mr. Simmons shared his ideas for up to four members, age 16 + or a college student. Only on for a year in case if they lose interest or they can re-submit to stay on. He said the additional four members would be able to contribute but not able to vote.

Ms. McClees stated the commission could appoint non-voting consulting members.

Ms. DeSalvatore asked if there was a non-paying consultant if they had to reside in Fairhaven.

Board discussed how potential members could provide an outlet for members who may think about leaving and will email Ms. McClees with their ideas to discuss at a future meeting.

### **c) Potential Future Commission Policies**

Ms. McClees stated this has come up recently to update policies, for instance a more definitive policy on 25' no-disturb policy; administrative approvals and basic other policies that needed updated. Ms. McClees will leave this on the agenda for future discussions.

### **d) MACC Conference**

Jay Simmons stated he enjoyed and it was beneficial.



Ms. McClees stated usually within a week, MACC posts the workshop presentations on their website, so the resources are there.

**10. General Business**

a) Bills – not available.

b) Next Meeting: March 23, 2020

c) Basic Wetland Delienation with John Rockwell, May 30 & June 6

Any interest at all, let Ms. McClees know.

Mr. Haworth made a motion to adjourn and was seconded by Amy DeSalvatore. Motion passed unanimously (6-0-0) at 8:38pm.

Respectfully submitted,  
Patricia A. Pacella  
Recording Secretary