

**WEYMOUTH CONSERVATION COMMISSION
RECORD OF MINUTES AND PROCEEDINGS**

**Wednesday, December 9, 2015, 7:00 p.m.
Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA**

Present: Steve DeGabriele, Chairman
Tom Tanner, Vice Chairman
Scott Dowd, Commissioner and Clerk
George Loring, Commissioner
John Reilly, Commissioner

Also Present: Mary Ellen Schloss, Conservation Administrator

Chairman DeGabriele called the December 9, 2015 Commission meeting to order at 7:00 p.m. in the Council Chambers, Town Hall, 75 Middle Street, Weymouth, MA.

Approval of Minutes:

The minutes of October 21, 2015 were reviewed.

On a motion made by Commissioner Tanner, seconded by Commissioner Reilly, the Commission voted 3-0-2 to approve the minutes from the October 21, 2015 meeting as written (Commissioners DeGabriele and Loring abstained).

**136-138 Bridge Street, Request for Partial Certificate of Compliance
Castle Properties/Anthony Nota
Map 06, Block 062, Lot 13
DEP File #81-1152
*Coastal Bank Revetment; Rebuild Commercial Structure***

Joe Danubio addressed the Commission. He stated there were supposed to be two signs installed indicating no snow is to be plowed into the rain garden. He made an agreement with the contractor to install them prior to tonight but it did not happen. The second issue is one of the roof leaders on the back left was supposed to run down to the rain garden, but instead was directed toward the stone trench, so this has to be corrected. Ms. Schloss stated she provided the Commission with photographs of the overall site, which show the roof leaders.

Ms. Schloss stated she has not had a chance to observe the site in a significant rain period. They wanted to avoid impacts to the neighbor, as well as the coastal bank. On October 28 there was a significant berm, which is pretty flat at this time. She would like to be sure this will not have an impact on the neighbor and this will be checked during the monitoring period. She stated there is a small asphalt berm on the east side of the parking lot and she would like to see this in a rain event and address any concerns during the monitoring period.

Chairman DeGabriele asked if the whole lot drains to the rain garden, prohibiting use of salt or sand on the entire lot. Commissioner Tanner stated any sand that goes down in the wintertime contains some salt. He recommended just restricting the use of straight salt. It was decided to revise the plan so that straight salt will not be used in the parking area.

Ms. Schloss stated the coastal bank planting was done at the end of June and is in a fairly weedy condition. She is not sure what it will look like in the spring and whether the grasses in the mix will come up; they are looking for deep rooted grasses. Chairman DeGabriele stated he would like a mechanism to enforce correction of any problems detected during the monitoring period. Ms. Schloss stated perhaps plug planting with switch grass or long root grasses may be a solution. She stated the Woods Hole Group may want to weigh in when there is growth. She recommended issuing a Partial Certificate of Compliance and holding it until the signs and roof issues are resolved. Mr. Danubio stated it would be wise to have Nichols Landscaping on site with the Woods Hole Group so everyone is on the same page. Ms. Schloss stated there was some invasive Japanese knotweed on the banking and this should be eradicated. Chairman DeGabriele stated a letter should be written indicating a meeting should be scheduled in early spring to address these issues.

On a motion made by Commissioner Reilly, seconded by Commissioner Loring, the Commission voted 5-0-0 to issue a Partial Certificate of Compliance, not releasing it until the punch list of outstanding items is addressed, and to send a letter to the applicant regarding coastal plantings. An occupancy permit will be issued.

**Colonial Gas Company, d/b/a National Grid, Request for Determination, Public Hearing
(Local Ordinance Only)
Pond Street Right-of-Way, Galway Road to Abington Line
Gas Main Installation**

[Note: The Request for Determination was filed for Colonial Gas Company d/b/a National Grid; following the meeting the applicant informed the Commission that the correct company name is Boston Gas d/b/a National Grid. The Determination was issue with the corrected name.]

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 5-0-0 to open the public hearing under the Weymouth Protection Act only.

Amanda Smith, representing the applicant, addressed the Commission. She stated the existing gas line is at Galway Road and they want to tie into this and extend it to 999 Adams Street, at the Abington line. This will provide 700 feet of gas line within Weymouth. This will be a 4 inch PVC main, and will be installed over the culvert. This project is exempt under the Wetland Protection Act, as the work is being done in the buffer zone only. They will backfill the trench as they work and there will be no trench left open.

Ms. Schloss stated DPW has to issue a street opening permit, and has provided comments on the project for the Commission to review. Ms. Smith stated catch basin inserts will be installed on any catch basins and straw wattles near any wetlands. Chairman DeGabriele asked if erosion controls will need to be decided in the field. Ms. Schloss stated straw wattles should be on either side of the road wherever there are wetlands. She stated the Commission could require straw

wattles all the way down the road. The Commissioners stated they do not feel there have to be controls all the way down on both sides. Commissioner Reilly asked if there are curbs in that location, as he remembers that curbs were supposed to be put down all the way to the Abington line at the housing project. Ms. Smith indicated there are no curbs.

Ms. Schloss stated a neighbor did come in and ask a couple of questions regarding paving afterward. Ms. Smith stated the paving will be cold patching because this is only a two foot trench. The project is slated for spring of 2016, but it is possible it could be done earlier. Commissioner Tanner stated he would not recommend using cold patch in the winter as it does not last. He stated hot patch should be used, and there is material that will set up in an hour and a half if this is done in the winter. Ms. Schloss indicated the DPW will be responsible for paving decisions. Commissioner Tanner expressed concern that if cold patch is used and deteriorates that it will go into the resource area. It was decided to convey the Commission's concern about this to the DPW. Ms. Schloss stated that neighbors have asked if they will be able to tie into the gas lines in the future. Ms. Smith stated they usually install tie-ins in the line for residents.

Chairman DeGabriele opened up the hearing for public comment. Arthur Mathews, District 4 Town Councilor, stated the DPW has extended the usual moratorium on winter trenching due to the mild weather conditions.

On a motion made by Commissioner Loring, seconded by Commissioner Dowd, the Commission voted 5-0-0 to close the public hearing.

Ms. Schloss stated the DPW would like to see the utility plan. She stated typically there is a preconstruction review prior to work beginning, after erosion controls are in place.

On a motion made by Commissioner Tanner, seconded by Commissioner Dowd, the Commission voted 5-0-0 to issue a Negative 3 Determination, with the issues identified this evening.

**Alexan at Arbor Hill, Discussion of Report on Groundwater Elevations
Trammel Crow/Bristol Bros. Development
Burkhall Street
Map 38, Block 467, Lot 2 and Map 42, Block 467, Lot 3 and
Map 42, Block 469, Lots 2, 21, 22, 23
DEP File #81-1046**

Ms. Schloss stated she met with Bristol Brothers and Gale Associates this morning. She stated Gale Associates is not able to attend this evening, so she can bring the Commission up to speed on what was discussed and they can attend the January meeting, or the Commission can postpone all discussion to the January meeting. Chairman DeGabriele asked for a quick synopsis.

Ms. Schloss stated that to install the monitoring wells they used a large excavator and dug a pit and installed a perforated pipe with a device to measure the depth. She stated there is not the required depth to groundwater and referenced the finding of the Order of Conditions which indicates discharge areas 1, 2, and 3 will be added if feasible. She stated she is not sure the Commission can push for anything else at this time.

Ms. Schloss stated at today's meeting they reviewed what was done in 2009, identifying the maximum extent practical infiltration that will be done. The engineers designed the system assuming those discharge areas will not be built. Chairman DeGabriele stated he does not feel there is anything further that needs to be discussed on this subject. Ms. Schloss indicated both she and Jay Donovan (Weymouth Engineering) are comfortable with this. The Commission decided the intent of the Order of Conditions issued in 2010 has been met and they do not have to come back before the Commission.

**Lovell Playground Renovation, Notice of Intent, Continued Public Hearing
Town of Weymouth
1250 Commercial Street
Map 23, Block 253, Lot 26
DEP File #81-1141**

On a motion made by Commissioner Dowd, seconded by Commissioner Tanner, the Commission voted 4-0-1 to reopen the public hearing (Commissioner Reilly abstained).

Commissioner Reilly stated he is not eligible to vote, as he was not a member of the Commission for the previous discussions, and will not participate in this hearing. Commissioner Reilly left the meeting at this point.

Meg Buczynski, P.E. and Benjamin Gleason, from Activitas, addressed the Commission.

Ms. Buczynski stated they are the designers for the proposed Lovell playground project. She provided a recap of the project. The original submission was two years ago, and the hearing was restarted in April 2015 at which point they updated the design.

Ms. Buczynski provided a handout (letter from Meg Buczynski, P.E., Activitas, to Weymouth Conservation Commission, dated December 9, 2015, with four attachments). She stated that under existing conditions there are natural grass fields, two softball fields, a baseball field, and playground. There is an existing gravel parking area and a skate park. During testing they found a lot of debris, so there is a large area on the site with that material at depths of 10 to 12 feet below the surface. They have revised the plan, shifted the last field and removed the parking area. The skate park has been enlarged, so the size of the parking area has been reduced.

She stated the first major item to address is stormwater quality, so water draining from the field is at acceptable levels for heavy metals and movement of rubber from the surface of the turf fields into the river, potentially affecting the herring run. She provided an overview of the proposed stormwater system. All parking areas will slope in and there is a sand filter set below the parking lots to treat the stormwater before connecting into the existing system. Turf fields are designed for water to infiltrate into, not run off. There are two outlets that will connect to the river on the site.

Ms. Buczynski stated there is concern with heavy metals. The site is very flat and to raise up the site would cost an additional \$400,000. Rather than raising it they are proposing use of a proprietary device called a Jellyfish filter. This is not the same as bio filtration, but has the capacity to remove heavy metals. She stated they should determine what criteria this site will

fall under, acute versus chronic. Acute would be temporary, like a rainstorm, and in a chronic situation there is constant flow, such as groundwater conditions. She stated she feels this would be considered an acute condition. She stated they sampled Legion Field and found copper, but no zinc. She looked at samples from the reports they have provided so far.

Ms. Buczynski stated the Jellyfish filter makes a lot of sense to use on the site based on the concern for copper and zinc, as it has high capacity removal capability. She proposed using two Jellyfish filters. Chairman DeGabriele asked what the cost would be. She stated the filters would cost approximately \$20,000 each, but she would have to confirm this cost. Commissioner Tanner asked how often the filters are cleaned. She stated the first year they recommend checking them twice to see how much water is going through, and there would be cost associated with changing the filters and cleaning it. Chairman DeGabriele asked if there is an indicator when the filter needs to be changed. Ms. Buczynski replied they would have to be inspected on a regular schedule. Commissioner Dowd expressed concern that they will not know if copper is flowing freely with the water. She replied that pre and post construction testing would be conducted.

Ms. Schloss asked about sizing of the units. Ms. Buczynski stated she has not sized them yet, she wanted to see if this was viable for the Commission to consider prior to doing so. Chairman DeGabriele asked about using a third party to monitor the contractor. Ms. Buczynski stated she would have no issue with this, they would just have to identify who that would be, a town employee or outside consultant.

Ms. Buczynski addressed migration of rubber from the turf fields. She stated they could install a curb, but she is concerned with tripping and the fact that the rubber will probably go over the curbing. She proposed having the areas outside the walkway planted with taller grasses and installing a simple hood on the outlet pipe to keep suspended materials out of the pipe. She stated the Jellyfish filter has the ability to remove TSS and they could locate the Jellyfish to filter that material.

Chairman DeGabriele recommended mounding the walking path toward the field area. Commissioner Tanner stated he would not like to see a curb installed for safety reasons. Ms. Schloss asked if the grading plan slopes toward the river and could it be sloped in the opposite direction toward the field. Ms. Buczynski reviewed the plan and showed the proposed runoff. Ms. Schloss stated Ms. Buczynski had indicated the rubber is lighter than water and would float, however, she tested rubber in a jar of water and most of it sank. Commissioner Dowd expressed concern that if the rubber sinks it would have a negative impact in the river. Ms. Schloss asked about the temperature of stormwater. Ms. Buczynski stated there is surface heat but the stormwater will go through the field very quickly and will not contact the surface long enough to take on heat and flow out.

Ms. Buczynski addressed increased use on the site, as well as the comments provided by the Division of Marine Fisheries (letter from Kate Ostrikis, Division of Marine Fisheries, to Weymouth Conservation Commission, dated December 9, 2015). She stated based on these comments the size of the fields would have to be reduced. Commissioner Dowd asked if they could reduce from three fields down to two fields. Steve Reilly, Program Director of the Recreation Department, addressed the Commission. He stated they are trying to maximize the

space based on the study done by Stantec. He stated for the user groups two fields would not be enough and will not have the same impact. Commissioner Dowd asked if reducing the number of fields would collapse the entire project. Mayor Kay addressed the Commission. She stated when they conducted the open space study Pingree was a good solution, and they found the high school needed to use a certain percentage of Legion Field. She stated this would be a solution for the junior high, and having two sites with turf fields would allow them to go into all the smaller sites with natural grass.

Linda DiAngelo, President of the Back River Watershed Association, addressed the Commission. She asked if they could take this project away from the Weymouth Herring Run and use a different location, such as Southfield, to eliminate all these serious environmental concerns. She stated she feels more time needs to be given to truly investigate the other organic infield options, which pose no human or environmental risk, She feels this proposal is a substantial risk to the environment. Chairman DeGabriele stated what is before the Commission is this proposal, though it is an interesting consideration whether it could be built at a different location.

Ms. Buczynski addressed the time of year for construction work. The Division of Marine Fisheries indicated no work should be done within the buffer zone from March 1 through June 30. She stated this would be very difficult. Commissioner Dowd stated it would be difficult to go against the Division of Marine Fisheries.

Chairman DeGabriele stated the level of use is obviously going to increase versus the current site conditions. Ms. Schloss stated the Commission has to conclude that this is an improvement of the site overall. Ms. Buczynski stated to keep in mind that they are making a vast improvement that will balance out the negatives as they will be treating the stormwater which now flows freely into the river.

Commissioner Tanner stated adding to the buffer zone would provide more opportunity for growth in that area, without losing much parking. Ms. Buczynski stated moving the fields 60 feet out of the 100 foot buffer is not viable and they are offering sufficient mitigation to alleviate concerns. She stated they can look at this if the Commission would like to gain an additional ten feet. Commissioner Tanner stated his concerns would be the indentions that limit the back of the fields. Ms. Buczynski stated she would have to work with the working group to make that determination. Commissioner Tanner stated he would like to increase the green area, even if it is not 100 feet.

Ms. Buczynski stated the Division of Marine Fisheries was concerned that the walking path was in the buffer zone. She stated people are going to walk in that area regardless, so she would prefer to have the path in that location. Ms. Schloss stated the Division of Marine Fisheries' point is to use a pervious material, rather than having an impervious walkway. Ms. Buczynski stated she would not want to use stone dust which will go onto the field. She stated pervious asphalt could be used. Ms. Schloss stated the Division of Marine Fisheries would like to see more plantings in the area where the skate park is proposed. Ms. Buczynski stated this will create additional loss of parking.

Commissioner Dowd asked why environmentally benign materials are not being considered for the fill. Ms. Buczynski stated there is a cost implication and the organic materials have to be replenished every three years, and have to remain moist, so there would have to be irrigation. She stated TPE plastic could be used but it is one dollar more per square foot. She stated it was decided that SBR rubber was the material to use. Commissioner Dowd asked if a determination is made that the tire material is not acceptable for this site would it make construction of the fields not viable for the site. Ms. Buczynski stated she would have to discuss this with the working group. Commissioner Dowd stated the tire crumble could affect the herring.

Chairman DeGabriele opened discussion up to the public. Steve Reilly, Director of the Recreation Department, stated that before the Commission are three regulation size fields. He stated an abbreviated field would limit rental capability, and rental helps generate revenue for maintenance and upkeep. He stated the baseball field that is there currently is no longer used as it is not safe to play on and the existing soccer field is no longer permitted for use.

Linda DiAngelo, Back River Watershed Association (BRWA), stated the BRWA has raised a lot of concern about toxicity of runoff to aquatic life. The proposed project would discharge runoff directly to Herring Brook. The Back River estuary includes 100 plus acres of salt marsh and salt ponds. She stated these areas are protected under MGL 21A, Section 2 and 7. Public interest defined in the Wetlands Protections Act requires that at a minimum the proposed work shall result in an improvement over existing conditions. She read from the Wetlands Protection Act and Clean Water Act documentation. She stated the BWRA opposes the use of artificial turf fields due to negative impacts to water quality, aquatic life, and water fowl. She asked the Commission to ensure the water runoff is adequately treated and best management practices are in place. She stated the BWRA suggests the Commission investigate alternatives to crumb rubber that have been used successfully in other places in the country. They requested that this hearing period be extended to consider this important decision which will have long-term repercussions. She expressed concern with the human health impacts which will be addressed by the Board of Health.

Ms. Buczynski stated there is existing scientific literature that indicates there is no cancer concern with the use of crumb rubber. Ms. DiAngelo stated the EPA is retracting their statement regarding cancer risk and will be updating their information.

Phillip Chase Lofgren addressed the Commission. He addressed the stormwater mitigation. He stated that the majority of the 50-acre watershed draining to the outfall comes from a wetland and no testing has been done. He stated the water from the outfall is crystal clear, but in other areas it is not clear and the visibility is zero. He stated in a storm event herring found refuge at the outfall and it provided a safe harbor until the dirtier stormwater cleared out. He questioned whether the 50 acres need to be cleaned up as mitigation, versus the impact of the proposed rubber turf field. He is concerned about runoff and the effectiveness of the Jellyfish filter. He stated this will require maintenance and maintenance is a problem in Weymouth.

Mr. Lofgren addressed the migration of crumb rubber. He stated at Legion Field it was on the tennis courts and in the parking lots. The next day there was an inch of rain and the crumb rubber was gone, and must have ended in the drainage system. He stated he is concerned with the wear of the crumb rubber. After a few years it becomes microbial rubber particulates and can

be windblown. He stated anything affecting human health will also affect health of herring, and reproduction cycles. He stated fire retardants are present on the fields and should be investigated. Microbial agents have to be applied to the fields to keep the health of the people up to standards. With every hour of playing time, this crumb rubber material will end up inside the cleats of players. They are going to shake out their shoes in the parking lot and it will end up in the drainage system of the parking lot. He stated it also transfers on clothing. There is a need for refill each year so the field is flushing on a yearly basis, not a onetime event.

Mr. Lofgren addressed increased usage. He stated each field is going to get 1500 hours of usage per year, which is a huge increase. A skateboard park and three basketball courts is increased usage. All of this will impact the river resource. He stated he would like to restore the 100 foot buffer zone. He would like the Division of Marine Fisheries to address carbon black. He asked the Commission to consider the concerns raised by Commissioner Dowd. He stated this project is more than this resource can handle.

Trish Pries, 15 Woodbine Road, President of the Whitman's Pond Association, addressed the Commission. She stated they must respect the heritage of the town. She stated this will affect the fish and reproductive systems. She expressed concern with environmental impact of shredded tires. She stated there is no way to contain this when it is on the kids' clothing. She stated the salt water/fresh water line is clearly delineated. She stated this is a location to plant grass, not to scatter tens of thousands of tires. She stated the impact in perpetuity is far more important than the school sports program for a percentage of the student population. She stated academics is as important as sports and they have a world class laboratory right in Weymouth. She stated they should look at Southfield as a potential location. She stated this is one of the most productive herring runs in the northeast. The applicant's request to do construction when the herring are running tells her that they do not understand this site at all. She stated this is in the Commission's hands and they can make sure this area is protected from this project. She asked the Commission not to allow scattering of tens of thousands of tires next to the herring run.

Bob Tufts, 54 Beach Road, addressed the Commission. He stated he lives near the launching ramp on the Back River. They deal regularly with gasoline, oil, and sewage that people dump. He expressed concern that they will be facing carcinogens and various other chemicals that will affect the water where they swim.

Wayne Mathews, 952 Commercial Street, President of the East Weymouth Neighborhood Association, addressed the Commission. He addressed the economic impact for the revitalization of Jackson Square. He stated for every single website that says crumb rubber is bad, there are five that say it is safe. He feels it is speculation that it could be toxic. He asked for proof of a study that says it is toxic. He stated he appreciates the herring run and grew up with it and can picture the children enjoying that as they use the park. He feels comfortable that all the environmental concerns will be addressed. He expressed concern that an email was sent about carbon black from a Commission member and asked if that is a conflict of interest. (After discussion it was determined this email was not sent from Commissioner Dowd.) He stressed working on facts, not speculation. He implored the Commission to ignore the speculation and work upon the facts.

Mayor Kay addressed the Commission. She provided history of how this project began. She stated there was a field study and eight fields were reviewed. This site was selected for high usage because it was not in a residential area. She stated there was concern about the herring run and the river. She has always respected her environmental residents and always counted on them for information. She is confident these issues are being addressed. She thoroughly read Ms. Schloss' report, she stated the Division of Marine Fisheries commended the town for the proposed project. She asked the Commission to take into consideration this report. She stated they could utilize this field with educational boards about the herring run for the children. She stated the Jellyfish filters are a solution to remove the heavy metals. She stated she would like to see studies showing that people are getting sick. She agreed it is the Commission's job to protect the fish, as this is a great asset to the town.

Commissioner Dowd stated there are scientific publications regarding rubber crumb affecting fish. He stated the herring find the run by chemoreceptors, they can smell the water. He is concerned about what this will do to the cues for the fish. When fish are migrating they are going through an intense physiologic process. They have thousands of eggs and a lot of formation happens very late in stage and happens right at that site. Fish have adaptive responses if they are exposed to irritants, and excrete a mucous coating to protect their gills. He stated the benefit is that they protect themselves, however, there is a cost. They excrete cellular waste from their gills and when they are in this response the waste is retained in their body, which has a potentially huge impact.

Commissioner Dowd stated they have this resource and it is up to the Commission to protect it. He stated he has very low risk tolerance, and this site is very sensitive. He stated if the herring run dies it will have a huge impact on Boston Harbor and the whole Gulf of Maine. It would have little impact on Weymouth. He stated the threat of discharge from the 50 acres is the devil they know. He is afraid of the devil they do not know. He stated he is surprised at the amount of light at Legion Field at night. He recommended using natural turf or going down to one field and coming out of the buffer zone, although this will impact the validity of the project. He is concerned with the buffer zone and stress response on fish, and mitigation dealing with runoff from the 50 acres could result in a net benefit to the environment. He stated he would like to take time and look into it more, but at this time he is quite concerned.

Chairman DeGabriele asked if the Commission has enough information to close the hearing and deliberate. He stated if they need additional information they should not close the hearing.

Mayor Kay asked if the hearing is closed can they still get information from the Division of Marine Fisheries. Chairman DeGabriele stated closing the hearing would result in no further input from the public or applicant and no new information could be taken.

Wayne Mathews asked that the Commission extend the public hearing so he can review the information and peer reviews further and have the opportunity to ask questions.

Ms. Buczynski asked for time to consult with a member of the working group. Chairman DeGabriele allowed this time.

Linda DiAngelo stated there are many communities throughout the U.S. banning the use of crumb rubber. She stated there are organic materials that can be used that are recyclable and asked that this be looked at again.

Ms. Buczynski stated they feel they have presented their information and there is nothing else they could present at this time. She stated they support closing the hearing.

Philip Chase Lofgren expressed concern with the cumulative effect on the Back River. He stated the EPA was the biggest proponent of synthetic turf fields, but as of March 1, 2015 they rescinded this and they no longer promote use of crumb rubber on synthetic turf fields.

Chairman DeGabriele stated the EPA's position at this point is that it is up to local communities and state government to decide on the use of artificial turf fields, as they feel further information is required.

Mr. Mathews withdrew his request to continue the hearing.

Commissioner Loring stated he would need further information on turf field material. He stated he cannot stress enough how badly this will affect the fish and he has spent a large part of his life on the run trying to protect the fish.

Commissioner Dowd stated he does not require any more information.

Commissioner Tanner asked the applicant why they want to use synthetic rubber and asked if they have explored any other material. Ms. Buczynski stated the working group went through the various options and this was their decision. Commissioner Tanner asked if they have a proposal to provide the 100 feet requested by the Division of Marine Fisheries. Ms. Buczynski stated they would have to look at the site again, as this is the orientation they need for the program they are trying to meet. Commissioner Tanner stated if the 100 foot buffer would protect the herring he would be happy to schedule a special meeting later in December. Ms. Buczynski stated she would have to confer with the working group. Steve Reilly, Program Director of the Recreation Department, stated he would not want to make that decision on behalf of the working group. Chairman Reilly asked if they did go through the exercise of changing the configuration and the buffer zone would that allay concerns about the adequacy of the protection.

Ms. Buczynski stated they would like to move forward with closing the hearing.

Chairman DeGabriele stated he has sufficient information and does not have any questions that time will answer any better, however, he is willing to continue if Commissioner Loring wants additional information. Commissioner Loring stated he is willing to vote.

Ms. Schloss stated once the hearing closes the Wetland Protection Act requires an Order of Conditions within 21 days, so they may need to ask for an extension of time to issue the order. Commissioner Tanner stated he would prefer to have a special meeting before the end of the year.

On a motion made by Commissioner Dowd, seconded by Mayor Kay, the Commission voted 2-2-0 to close the public hearing (Commissioners Tanner and Loring opposed). The motion did not pass due to a tied vote. [Note: There was no second from the members of the Commission and Mayor Kay invoked her right to second, stating the Mayor is a member of every Board, though has no voting rights].

Motion made by Commissioner Tanner that a future meeting, restricted to this subject only, be scheduled for December 30, 2015. Motion failed due to lack of a second.

On a motion made by Commissioner Dowd, seconded by Chairman DeGabriele, the Commission voted 3-1-0 to close the public hearing (Commissioner Tanner opposed).

Chairman DeGabriele stated this is a difficult decision. He stated the intensity of activity is going to be more, and the walkway brings people closer to the resource area. Putting in treatment for heavy metals would be an important safeguard. With respect to crumb rubber migration, he feels that some is going to leave the field no matter what, but measures such as filtration or a hood and creating a berm-like structure along the perimeter of the site offers some degree of protection. He stated the big "if" has to do with the unknowns, and whether they can make a decision based on unknowns.

Commissioner Tanner stated he is comfortable with voting. He stated they have had ample time to digest the information and he thinks the safeguards are enough to vote.

On a motion made by Commissioner Tanner, seconded by Chairman DeGabriele, the Commission voted 2-2-0 to approve the plans as described and issue an Order of Conditions (Commissioners Loring and Dowd opposed). The motion did not pass due to a tied vote.

Other Business

Ms. Schloss stated there is a request for a Certificate of Compliance for a project that never started for Norma Ave and Healy Road, for development of two additional homes, under DEP File #81-484. The property was sold to Ken Ryder. They are trying to close this out and are 100 percent confident that the work was not done under #81-484, but was done under subsequent Orders of Condition. She recommended the Commission vote for a Certificate of Compliance verifying the work was never done.

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0-0 to issue a Certificate of Compliance indicating the work was never done.

Ms. Schloss stated National Grid has work to do on the Pleasant Street substation and under the new DEP wetland regulations they can work within the fenced area without a filing. This is a small project and she asked if they should come before the Commission under local rule. She stated this is now an allowed minor exemption under the Wetlands Protection Act, but they have not yet included this in local rules. The Commission decided they do not have to review this project.

Ms. Schloss stated they are trying to do a change order on the Kibby property to remove tires and debris, and they will be looking at this in the future.

CPC Update

Commissioner Loring stated Dandel Construction has been hired for the work on the Kibby project. The CPC approved the Back River trail system through the landfill and they discussed installation of solar panels at the landfill also.

Conservation Report

Ms. Schloss stated she will email the Conservation Report to the Commissioners.

Adjournment:

On a motion made by Commissioner Loring, seconded by Commissioner Tanner, the Commission voted 4-0-0 to adjourn at 11:10 p.m.

Respectfully submitted by,

Patricia McDonnell
Recording Secretary

Approved by:


Scott Dowd, Clerk


Date