

Rochester Conservation Commission
April 3, 2018

Present: Michael Conway, Chairman
Daniel Gagne, Vice Chairman
Christopher Gerrior
Maggie Payne
Chris Post

Absent: Laurene Gerrior
Rosemary Smith

Jessica Brodeur, Recording Secretary
Laurell Farinon, Conservation Agent

The meeting was held in the Rochester Town Hall Meeting Room. Chairman Conway called the meeting to order at 7:02 p.m. and announced that the meeting was being televised.

Walnut Plain Cedar Swamp Land Preservation Project - (Estabrook Property)
Allen Decker, Director of Land Protection, Buzzards Bay Coalition
Vote to approve Conservation Restriction

Allen Decker of the Buzzards Bay Coalition was present to discuss the Walnut Plain Cedar Swamp Land Preservation Project Conservation Restriction. Mr. Decker stated that he had hoped to have comments back from the state Conservation Restriction reviewer, but he has not received them yet. As such, Mr. Decker was present to answer any questions the Commission had for him and requested to have a vote to approve the Conservation Restriction pending finalization of wording with Agent Farinon and Town Counsel. He stated that there will inevitably be edits to the document but believed the clear majority of them would be non-substantive. Mr. Decker alerted the board to the fact that the transaction needs to be closed prior to the end of June due to grant funding requirements.

At the last meeting, the Commission asked Rochester Land Trust President Mr. Bob Lawrence about placing picnic tables and trash receptacles. Mr. Decker stated that there is already language in the Conservation Restriction that permits this. Agent Farinon read aloud to the Commission Section 8 of the Conservation Restriction regarding "Reservation Management."

Chairman Conway wondered if any of the other boards had any comments on the document. Agent Farinon reported that nothing has been brought to her attention.

Mr. Decker suggested a motion be made to vote on the Conservation Restriction as written at the time, and if the state comes back with edits the Commission could hold another vote. Agent Farinon stated there was plenty of time to get the language to where it needed to be. She stated she would track the changes made to the document and send them to the Commission for review prior to a vote.

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Chairman Conway asked Mr. Decker when he would like to have the Conservation Restriction approved and signed. Mr. Decker stated he would like to get it done prior to the end of May. Chairman Conway suggested holding a vote at the May 15th meeting. Mr. Decker stated he would be happy to come back and that this meeting was purely informational.

Commission Business

Minutes

A motion to approve the minutes of March 20, 2018, with the minor change of adding in Chairman Conway's name next to the abstention he made regarding the March 6th meeting minutes, was made by Vice Chairman Gagne and seconded by Member Payne. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

Voucher(s)

None

Old Business

Snow's Pond Monitoring Point

Agent Farinon reported to the Commission that the Mattapoisett River Valley Water Supply Protection Advisory Committee will be covering the expenses related to the relocation of the point that was vandalized.

Access to Robinson Gilmore Preserve

Agent Farinon reported that there have been continued issues with the access easement to the Wildlands Trust Robinson Gilmore Preserve, including a gate that was put up on a private road. She stated that abutting property owners are disputing the gate and attorneys have been involved. The Wildlands Trust attorney, along with some of the abutter's attorneys, pooled resources and are now paying for a title search of that easement.

New Business

Discuss status of Enforcement Order issued to Taylor Jesse and Chance Avery, 422 High Street

Documents Submitted: Enforcement Order dated June 20, 2017; letter to Ms. Jesse and Mr. Avery from Town Counsel dated August 8, 2017; a photocopy of the Town of Rochester Notice of Violation of Town By-Law, Rule or Regulation

Agent Farinon reported that this violation has been lingering for quite some time. The initial violation took place on February 23, 2017 on a piece of property located at 422 High Street. On February 27, 2018, Agent Farinon received an email from a neighbor alerting her to work being done impacting wetlands on the property. Agent Farinon visited the site and issued a verbal cease and desist followed by a written Notice of Violation requiring the owners to file a Notice of Intent and mitigation plan. The Commission issued an Enforcement Order on June 20, 2017.

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The property owners did not file as mandated by the Enforcement Order. Town Counsel served them with a letter by constable requesting that they cooperate. Agent Farinon noted that over a year has passed, and they have not made the mandated filing.

Agent Farinon then brought to the Commission's attention that within the General Regulations (Section 11) under "Alternative Method of Enforcement" the Commission has a provision to ticket. Agent Farinon consulted with Town Counsel, who believed this could be advantageous, and told Agent Farinon that other departments have instituted ticketing provisions to gain compliance. Chairman Conway asked when the enforcement period starts from. Agent Farinon stated it's from the date of the ticket.

Agent Farinon explained that some of the work done in violation was completed on the neighboring private property belonging to the Bennett's. She stated that a shed was demolished, and a brush pile appeared to have been pushed onto the Bennett Property and 25 Foot No Disturb Zone. Member Christopher Gerrior wondered why the Bennett's had been copied and Agent Farinon replied that the violation involved a portion of their property.

Vice Chairman Gagne questioned the ticketing process – if they were ticketed today, when does it end... when they file or when they bring the property into compliance? Agent Farinon stated she would confirm with Town Counsel. Vice Chairman Gagne then asked how to enforce them having the work done. Agent Farinon stated that through the Order of Conditions they can mandate the work gets done within a certain time frame. Chairman Conway questioned if nothing is done, can a ticket be given daily? According to Agent Farinon, Town Counsel recommended that a constable hand deliver the tickets weekly and the fines accrue daily.

Chairman Conway suggested in lieu of giving them a ticket, an injunction could be filed. Upon further discussion, Chairman Conway voiced his opinion that the Commission should go with Town Counsel's recommendation.

A motion was made by Vice Chairman Gagne to send a letter to Ms. Jesse and Mr. Avery stating that if they do not appear or file before the Commission prior to the next hearing the Commission will begin exercising their non-criminal disposition and ticketing the premises. The motion was seconded by Member Christopher Gerrior. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

Future Meetings and Site Visits

Commission members discussed their availability for upcoming meetings and site visits. All attending members, except for Chairman Conway and Member Christopher Gerrior, will be available for the April 14, 2018 site visits. All attending members stated they were able to attend the April 17, 2018 meeting.

Correspondence

No new correspondence.

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At this time Agent Farinon reported that Member Rosemary Smith will be vacating her position on the Commission in the very near future, and discussed with the Commission the need to advertise for new Associate members.

Adjournment

The meeting adjourned at 7:46 p.m. on a motion made by Vice Chairman Gagne and seconded by Member Post. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0)**

Jessica Brodeur, Recording Secretary

Michael Conway, Chairman