

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING
JUNE 24, 2014**

MINUTES

PRESENT:

Jay Diener, Chair
Peter Tilton, Jr., Vice Chair
Barbara Renaud, Clerk
Sharon Raymond
Gordon Vinther
Diane Shaw, alternate
Lori Mattimore, alternate
Pat Swank, alternate*
Nathan Page, alternate*
*Not voting

Also Present: Rayann Dionne, Conservation Coordinator
Mark Loopley, Planning Board Representative

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Chairman, Jay Diener, at the Town Hall Selectman's Meeting Room.

CONSIDERATION OF MINUTES:

MOTION: Mr. Tilton moved to approve the May 27, 2014 minutes, with edits provided.

SECOND: Ms. Shaw

VOTE: 6 in Favor 1 Abstain (Diener)

APPOINTMENTS:

Peter Olney – Proposed drainage work on Map 209, Lot 112 (Adjacent to Esker Rd/Vyrlena's Way). This parcel contains a Conservation Commission Easement.

Present were: Peter Olney – Meadow Pond Farm owner, and Attorney Craig Solomon.

Mr. Olney provided a map showing the entire plot of land. Lot 112, he stated, is the last undevelopable lot on the property. Some of the areas in this larger development have residences, some single and some multi-family. This particular lot has a Conservation Easement which continues with the property. Esker Road, which borders Lot 112, is a glacial gravel deposit which runs all the way over to the town dump. When the development was conceived, the nicer parts of the property were preserved which added value to the adjacent development parts.

Mr. Olney noted that some areas have worked better than others and gravel and loam from this property was used for the development. At the easterly end, there are ponds and drainage ways. He noted that the property needs limitation of access as there has been a lot of vandalism and debris dumping which he would like to clean up. Further, he would like to use the gravel at the house he is building. The neighbors, he stated, are in favor of this

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plan. Ultimately, he would like to recreate an open space on this lot for the sheep grazing with minimal oversight and maintenance.

Mr. Diener stated that during the site visit, it was noted that the culvert has failed. However, there was no discussion of taking out gravel other than spoils from replacing the culvert with a swale. Mr. Olney stated that the only use for the gravel is for a driveway. This part of the property is undeveloped, but is not a model of conservation land. He would like to use the resources available to repair fences and do what needs to be done.

Mr. Solomon stated there is no plan to make the pond bigger, only to clean it up so the sheep can move around. Further, gravel would be generated by creating the swale. Also, the lot would be leveled off so the power company can get to their easement without doing damage. Speaking to the Conservation Easement, he stated that prohibition has two exceptions, utilities and agricultural purposes.

Mr. Olney said that the pipe that needs repair/replacement runs from one pond to the other under a power line 150 feet wide, plus or minus, only the section of the pipe that was removed at some point for an unknown reason would be replaced with a swale.

Mr. Diener stated that the Easement has limitations as to what can be done on the property. He has no objections to the plan if there are no issues if the swale is the same size as the culvert it is replacing. However, he would look at the limitations when considering additional removal of gravel, etc. His concern is the removal of gravel for other purposes is in opposition of what the agricultural easement permits.

Ms. Mattimore commented that getting the water flow restored as a resource may be a concern, and Mr. Tilton stated he has no problem with the gravel being removed for the swale. Ms. Raymond had questions about the swale, and Mr. Olney stated that the swale would be grass. Ms. Raymond stated that a pipe in the ground is less maintenance than a grass swale and a commitment should be made to maintain the swale if the same flow is to be maintained. Further, the flow should not change. Ms. Renaud stated that the easement states no removal unless incidental to maintenance and creating a swale would involve maintenance.

Mr. Diener stated that he does not have an issue except with the possible removal of gravel from the site. He said that replacing the culvert with a swale would require a Special Permit. Mr. Solomon commented that the proposal is to create a swale with material used from the lot and he has read the easement and understands that anything beyond creating the swale would require a Special Permit.

APPLICATIONS:

1. 31 Harbor Road. Ronald Dube Agent – Tom McCarthy Design Build, Inc. Build a new addition over existing decking and between two cottages to create one dwelling unit. Add new footings under deck to support the connecting addition. Rebuild the smaller cottage on existing foundation. Add a 3' section of decking for connecting the two units and remove the existing riverside 12' x 10' deck on the smaller cottage. Add a 4' x 4' outdoor shower platform. This is a Town Special Permit and NHDES Expedited Minimum Impact Wetland application.

Mr. McDermott and Mr. McCarthy were present to discuss the application stating that the plan is to take two cottages and link them together to create one building using the same footprint that is currently there. One cottage will be removed and rebuilt on the exact foundation. Further the front deck of the small cottage will be removed

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replaced with vegetation.

Mr. Diener questioned the roof run-off, and Mr. McCarthy said it is to the left facing the water and would be brought down into a rain barrel. Mr. McDermott stated that the water from the outside shower cannot run into the sewer and would be disbursed elsewhere. He stated that if crushed stone were put in the area, the water would leach down. The intention, he stated, is for a beach shower to just rinse off sand and salt.

Mr. Tilton asked if the property was one ownership, and Mr. McDermott said it would be.

Ms. Swank stated she is concerned with the plumbing of the outside shower with people using shampoos, etc. and asked if there is a way to filter the water/chemicals from running off. Mr. McCarthy stated it is not the intent to be using soap products. Ms. Raymond questioned why the shower is to be enclosed if it is only to be used as an outside shower. Mr. McDermott said the enclosure is for aesthetics, and Mr. McCarthy said the enclosure would be six feet high and open on the bottom.

Mrs. Dionne said she is in favor of a dry well with excess water going into a dry well and absorbed into the ground. She also suggested a Rain Garden by the front gutter. Mr. McCarthy was concerned that there was not enough room for a rain garden. Mr. McCarthy stated that he could do a dry well and a rain barrel catching roof runoff would provide water to care for the plants.

Mr. Loopley questioned why the Permit is NHDES Expedited, and Mrs. Dionne explained that the structure is almost entirely over the existing decking so the impact is viewed as minimal.

PUBLIC COMMENT: There was no Public Comment.

Mr. Diener questioned if dune grass would be planted in the area that is now decking. Mr. McCarthy said this would be possible. Ms. Swank asked about the air conditioning pads. Mr. McCarthy stated that there would be two condensers on the pad with the necessary space in between to function. Further the size of the two pads would be the same as the single pad shown on the plan and they would be willing to place them on a stand so the water can flow underneath.

MOTION: Mr. Tilton moved to have the Chair sign the NHDES Expedited Minimum Impact Wetland application for the property located at 35 Harbor Road.

SECOND: Ms. Raymond

VOTE: 6 in favor, 1 abstain (Diener)

MOTION: Mr. Tilton moved to recommend the Planning Board grant the Town Special Permit for the property at 35 Harbor Road with the following stipulations:

- Installation of a dry well underneath the outside shower platform to capture and filter shower water. The design specifications for the dry well shall be submitted and approved by the Conservation Coordinator prior to installation;
- The open space recovered by the removal of the 10' x 12' deck shall be planted with dune grass. A planting scheme shall be submitted and approved by the Conservation Coordinator prior to installation;
- The AC units shall be elevated a minimum of 12' from the ground to allow water to flow or be absorbed underneath.
- A rain barrel, in the left corner, facing the water, will be placed for roof run off;

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- **Lawn care must follow the guidelines set forth in the NHDES Shoreland Protection Act (Env-WQ 1400). No storage of grass clippings or yard waste in the wetland or its buffer;**
- **All proposed plantings shall have at least 75% success after two (2) growing seasons. Any plants that do not survive shall be replanted or replaced with another suitable plant species;**
- **Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. Silt fence and hay bales (salt hay bales for tidal areas);**
- **The buffer should remain undisturbed to the degree possible in the process of construction;**
- **There are to be no additional structures such as sheds, swimming pools, gazeboes, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Special Permit is required for the erection of any additional structure(s) in the buffer;**
- **The Conservation Commission shall be notified in writing upon commencement and completion of the project and before an occupancy permit is issued. Schedule a final inspection with the Conservation Coordinator upon completion of the project;**
- **An As-Built Plan shall be submitted following project completion; and**
- **This permit will expire two years from the date that it is granted by the Planning Board. Refer to Hampton Zoning Ordinance, Section 2.3.5 for information on permit extensions.**

SECOND: Ms. Raymond

VOTE: 6 in Favor, 1 Abstain (Diener)

Mr. Diener requested the applicant provide a revised plan showing (1) the air conditioner off the ground, (2) the dry well, (3) dune grass planting; and (4) placement of the rain barrel. Mr. McCarthy said he would deliver the plan to Mrs. Dionne.

2. 155 Drakeside Road, Hampton Meadows Condominiums. Agent: Jones and Beach Engineering, Inc. Emergency repair of the pond outfall and tree clearing along the berm to allow or future inspection and maintenance. This is a Town Special Permit application.

Mr. Joe Coronati, Jones and Beach Engineering, spoke to this application. He stated there are two detention ponds that take the storm water. It was discovered that the berm was overgrown and thick with wood vegetation. There was also beaver activity and the outfall was completely eroded with the water going out on either side of the outfall pipe. The ponds rose and, as they did, they overtopped the berm at the outfall. Mr. Coronati stated he advised the applicant to fix and stabilize the berm. Emergency approval was received from DES with a completed permit. The berm will be seeded and mulched and everything will be tidied up. The applicant wants to continue with the clearing of the berm to the other set of pipes and the catch basin at the south end of the pond. They wish to keep it clear and use as a walking trail. He noted there is a trail that goes to the corner of the berm and this trail will be continued. The applicant would like to maintain the berm following the provided maintenance requirements for a detention pond.

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PUBLIC COMMENT: There was no public comment.

A Special Permit is needed in that this deals with a natural wetland in the lower portion. The ponds are manmade.

Mr. Coronati stated there is no berm on the lower pond, it is just excavated. Mrs. Dionne asked that the brush be disposed off-site of the property. Mr. Vinther questioned why grass is more stable than roots of shrubs and trees. Mr. Coronati explained that tree roots will extend from one side of the berm to the other and over time water will follow the roots through the berm causing erosion and destabilization of the berm. Grass, he said, has shallow roots that knit together. Ms. Raymond suggested removing the trees from the rest of the berm. Mr. Tilton asked if the 2007 plan had walking trails or just access, and Mr. Coronati stated the plan indicated it was just for access.

MOTION: Ms. Renaud moved to recommend the Planning Board approve the Town Special Permit to allow for future inspection and maintenance on the property at 155 Drakeside Road with the following stipulations:

- Any debris and brush be cleaned out and transported off site;
- The berm shall be seeded and mulched.
- The Conservation Commission recommends and supports the continued maintenance of the berm. No Town Special Permit shall be required for routine maintenance as long as it does not result in changes in the detention pond's capacity and function.

SECOND: Ms. Raymond

VOTE: 6 in Favor, 1 Abstain (Mr. Diener)

3. 4 Nor' East Lane. Richard and Karen Fitzpatrick. Emergency repair of small portion of the revetment to remove unstable stones along the stairway. This is a Town Special Permit and NHDES Standard Dredge and fill application.

Present was Mr. Steven Olds who explained this work was done as an emergency in that it was a safety issue. Boulders were removed to take care of the hazard and the work has been completed.

Mr. Diener noted his concern about the boulders on top of the wall which, he said, may not stay there during a storm surge.

Mrs. Dionne stated it would be practical to extend the railing further downward.

PUBLIC COMMENT: There was no Public Comment

Mr. Loopley asked if the applicants went to the Selectmen, first for work on Town land, even if they got an Emergency Authorization from NHDES. Mr. Olds stated that they had received permission from the Selectmen.

MOTION: Ms. Renaud moved not to oppose the NHDES Standard Dredge and Fill Application for the property located at 4 Nor' East Lane.

SECOND: Mr. Tilton

VOTE: 6 in Favor 1 Abstain (Mr. Diener)

MOTION: Mr. Tilton moved to recommend the Planning Board approve the Special Permit for the property at 4 Nor' East Lane, as per the As – Built Plan dated 6/2/14.

SECOND: Ms. Raymond

VOTE: 6 in Favor, 1 Abstain (Mr. Diener)

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4. Stowcroft/Dalton Woods. Lloyd Graves and Green & Co Agent – Jones and Beach Engineering. Proposed 13 lot subdivision that will involve the construction of a proposed roadway, construction of a gravel wetland pond, and replanting trees around the wetland impact. There will be 680 sf of wetland impacts and 5,280 sf of buffer impacts. This is a Town Special Permit and NHDES Standard Dredge and Fill application.

Present: Michael Cuomo (RCCD), Joe Coronati (Jones & Beach Engineers), Michael Green, applicant, and Stephen Ells, Attorney for the applicant.

Michael Cuomo, a Certified Wetland and Soil Scientist of the Rockingham County Conservation District (RCCD) reviewed the wetland boundaries at Stowcroft/Dalton Woods. The site visit was conducted on May 19, 2014. Also attending the inspection were Leonard Lord (RCCD), James Gove, Gove Environmental Services, Mark West, West Environmental Services and Michael Green, Applicant, and Mrs. Dionne.

Mr. Cuomo stated that he has reviewed documents submitted by Mr. Gove and stated that Hampton defines poorly drained soils in their ordinance as soils in which water is removed so slowly that the soil remains wet for a large part of the year. Further, a poorly drained soil has a water table near the ground surface that keeps the soil wet for 7 to 9 months of the year.

Mr. Cuomo noted that the method of determination of poorly drained soils by Mr. Gove is not appropriate in this case, nor have they been used by other consultants in New Hampshire. This alternative method has not been used in Hampton but noted it may more often be used by Federal agencies doing investigations.

He further stated that soil depths and colors have to be observed and this method is site-specific in NH and VT and is used widely by consultants. He said the areas inspected and flagged by the applicants' consultants are poorly drained.

Mr. Diener questioned the areas with the most differences, and Mr Cuomo stated that the northeast corner is poorly drained in the wetland which was not shown by the applicants' consultant. The western corner of the property (Flag 5) is isolated and identified as poorly drained.

Mrs. Dionne pointed out that there will be an updated plan submitted, so the Commission can see where the adjustments are located. Mr. Cuomo stated it is not his job to generate a plan and, hopefully, the applicants will submit a new plan with the new significant spots.

Mr. Cuomo said the Vernal Pool is in a small wetland adjacent to the access road and a portion of that wetland is a Vernal Pool as defined by the State of New Hampshire. After he made a determination of the limits of the Vernal Pool, he noted the flags are in the right place. Further, in the northeast corner of the property, he extended the area of poorly drained soil off the property to allow the buffer to be measured appropriately. He did not find other areas that were poorly drained. He said the site is wet, but did not meet the criteria.

Mrs. Dionne noted that while doing the review, she was pleased with the thoroughness and professionalism of Mr. Cuomo. Flags were placed on-site and measurements were taken so the areas could be described. Mr. Cuomo outlined the areas inspected in his letter of May 23, 2014, which is on file with the Conservation Coordinator.

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Mr. Coronati, Jones and Beach Engineers, stated that he has spoken with Mrs. Dionne and informed her the updated plans are not yet ready for submission to the Commission and Planning Board and asked that this discussion be continued to the next Commission meeting. He noted that the RCCD flags will be shown on this plan.

PUBLIC COMMENT:

Mr. Diener requested those speaking in the public comment session focus on the wetland delineation.

Mary Louise Woolsey – 148 Little River Road, commented that it was difficult to hear the speakers and questioned why the Agenda did not include the discussion on the review of the RCCD Report. Mr. Diener stated that the Agenda contains the name of the project being discussed, rather than the specific details, which is standard practice.

Mr. Diener stated that in February, the Special Permit was approved and has been discussed; however the decision on the Special Permit has been retracted or “put on hold” because of new information that only came to light after the February meeting. The Commission did not know until today that the new maps showing the RCCD delineation were not available.

Mrs. Dionne stated that the Special Permit is being revisited and the information on the Agenda is what appeared on the Special Permit Application completed by the applicant.

Mrs. Woolsey stated she would like to see more detail on the Agenda; i.e. information about the RCCD Presentation.

Barry Curtis, 6 Fieldstone Circle stated that there are two sides to a story and credibility is an issue. Mr. Diener pointed out it is not appropriate if he planned to question other people’s credibility.

Mr. Curtis continued stating there are hundreds of people living in the development and, as a group, they are knowledgeable people. Further, the RCCD report confirms that the delineation line should not have changed and the line was moved back to allow four lots. The RCCD shows lots that are not buildable if lines were in the proper place. He also said the water level is 3 inches below; the granite pond does make sense which was confirmed by the RCCD; and, the Vernal Pool boundaries may not be determined. He spoke of the water run-off from properties the houses being built are graded up so the subsurface water will flow and people have water in their homes when a second house is built. He also stated the properties cannot handle additional water run-off from 13 additional houses. He questioned where the water will go.

Mr. Curtis also stated that the residents are not trained personnel and questioned how the Homeowners’ Association would have the knowledge and funds to maintain a swale properly. He stated if this project goes through, it would be a sentence on the residents as the system will fail and the residents will pay the price. He said this is not a matter of if, but how much damage will occur. Water has to go somewhere and it will go beyond the wetlands and into surrounding neighborhoods. He stated it is important to work together to see both sides and it is fair to look at the facts and use common sense. He concluded by stating that a more thorough investigation should be done and a new stormwater method needs to be submitted.

David Drolet, 34 Stowcroft Drive, stated he reviewed the purpose of the Conservation Commission and quoted from the Ordinance. He stated he wanted to clarify the primary and main function of the Commission. He also commented that his neighbors have flood zone certificates from FEMA.

Mr. Diener commented that it is not the job of the Commission to identify flood zones, but look to the Wetlands Conservation areas. A flood zone is not necessarily a wetland. Mr. Diener also stated that the proposed road does not go through the Vernal Pond.

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Mrs. Dionne spoke of the classes of streams and stated that not every stream is covered by the Shoreland Protection Act.

Louise Drolet, 34 Stowecroft Drive, noted that the application is now a Design and Review application in the Planning Board process. She questioned why, now that the RCCD information is available, the Conservation Commission is continuing discussion for another month.

Mr. Diener stated that the Special Permit Application and the Subdivision are parallel, but go in separate paths. How the Planning Board looks at a project is not necessarily the same way the Conservation Commission is looking at the same project. The Planning Board is looking at access, Lot B, and other issues, while the Conservation Commission is looking at Wetlands issues.

Mr. Loopley stated that, once the issues get settled, it is hoped the Planning Board will have all the recommendations from the Conservation Commission.

Mr. Diener stated that there is an obligation to the taxpayers and to the applicants as they are entitled to have discussion as much as the opponents.

Mrs. Dionne stated there is nothing in the Zoning Ordinance that states there is a specific order in which the permits have to happen, there could be changes and revisits.

The Public Portion is closed.

Mr. Diener stated that there are options involved with the Special Permit before the Commission. A decision could be made accepting the RCCD, or the Commission could make a decision whether to recommend to the Planning Board.

Mr. Stephen Ells, attorney for the applicant, stated that Mr. Cuomo has made his presentation this evening, and Mr. Gove should have the opportunity to have his say. He asked to continue this matter on discussion of the Special Permit recommendation when the actual overlays and plans are provided. His request is to defer recommendation pending one more hearing before the Commission.

Mr. Diener stated he had hoped Mr. Gove would have been at this meeting; however, he did receive an e-mail and letter which outlined Mr. Gove's opinions regarding the RCCD report. The DES recommendation will also have to be delayed. He also stated that he is not prepared to make a decision until the final plans are presented, and hears the Town's opinions, on the drainage study.

Mrs. Dionne would like time to review the overlay, verifying the flags are where they should be. Further, she would like the plans at least a week prior to the next meeting. Mr. Coronati said he would send them electronically.

Mr. Diener stated that DES is on a clock and the applicant has to request the delay from DES. Mr. Coronati stated that DES will also need to have the revised plan. The request would be for DES to delay their hearing on this matter until after the Commission's Public Hearing on July 22, 2014.

Mr. Coronati stated the poorly drained soils are in debate, but the wetlands are on solid ground. Also, the northeast corner will be on the new plans. He also stated that DES is expecting revised plans, and that everyone seems to be in agreement with the lines.

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Mrs. Dionne stated that she was told by Hampton DPW the drainage study will be reviewed when the Lot B issue has been resolved. Further, she said she will be writing a letter to the Planning Board with regard to postponing a decision until after the next Commission meeting.

Mr. Coronati stated that the Planning Board is in Design Review and is trying to resolve as many items as possible. Further, he will review the access road near the vernal pool at the request of Mr. Diener, who stated that the road is too tight to the pool.

Conservation Commission discussion on this application will be continued to the July 22 2014 meeting.

OTHER BUSINESS:

Applicant for Conservation Commission Alternate Member.

Mr. Dan O'Connor, on suggestion of Mr. Vinther, appeared and stated his interest in becoming an alternate member to the Commission. He reviewed his background as a structural engineer dealing with structures in or on the water/waterfront. He also commented that he has worked in the cell phone industry. He further stated that he would not be in a conflict of interest position in that his work deals mainly with industrial properties. Mr Diener suggested he send a letter to Mrs. Dionne indicating his interest, which would then be forwarded to the Board of Selectmen.

OLD BUSINESS

a. 2015 Warrant Articles – Continued to the July meeting.

b. Open Space Committee

Mr. Tilton stated that the committee of five is coming to consensus on the Town Forest and have discussed better signage at the access points in the Twelve Shares area and the possibility that bike traffic will be limited to the main trails. He said the committee would like to go forward as a working group and would be presenting information to the Commission.

NEW BUSINESS

c. Organize a clean-up group for Conservation properties: Ms. Swank stated the group has been making a successful attempt cutting and removing the knot weed at Ice Pond and will continue their efforts.

Mr. Page commented that the DPW may, at some point, be mowing the area.

d. Green Infrastructure Subcommittee. Mr. Diener reported that the Rain Garden has been installed at the Library and, with funds allocated, would like to extend the program throughout the Town. There are few public areas that would meet the criteria and the subcommittee would like to consider installations on private properties. He suggested a group of 2-3 people meet to investigate how to make the process work, doing the design, and whether the private property owners would pay for the materials. The profits from the Rain Barrel sale will go towards funding the Green Infrastructures. Ms. Swank and Mr. Page indicated their interest in the above project

e. Eco/Green tips. Mrs. Dionne commented that the Energy Committee has a presentation on Channel 22 and recommended the Commission investigate adding a “filler” between programs that would highlight the Commission and its efforts. She asked all members to submit “Green Tips: of no more than 1-2 sentences that can be used for this purpose.

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f. Conservation Easement Monitoring. Mrs. Dionne stated she has a file for each parcel and is in the process of organizing the easement information, which should be monitored from time to time. She suggested adding 1-2 monitoring stops to each monthly site-walk, depending on the schedule.

g. 2015 budget review. Mr. Diener provided a copy of the Commission's 2015 Budget which will go to the Budget Committee this week. He noted three changes, one of which is a salary adjustment to make up for lost hours as the Town has set a limit on part-time hours to 28 hours per week.

h. Signs – The DPW can produce signs which can be installed on 5 conservation properties. They will have the logo of the Town and that of the Conservation Commission and will be installed at: Hurd Farm, Drakeside Road – Viewing Area, White's Lane, Jonty's Lane, and Great Gate Woods. We will try to customize the signs for each property.

Conservation Coordinator and Chair Update

Mr. Diener reported there will be a meeting/workshop on July 17, 2014 in Seabrook from 6:00 – 8:30 p.m. on planning for the rise of the sea level. Mrs. Dionne will provide the commission with the information. The towns involved will be Seabrook, Hampton Falls and Hampton.

Treasurer's Report. To be reported in July.

Adjourn:

MOTION: Mr. Tilton moved to adjourn the meeting at 10:05 p.m.

SECOND: Ms. Raymond

VOTE: Unanimous

The meeting was adjourned at 10:05 p.m.

The next Conservation Commission Public Hearing will be held on July 22, 2014.

Respectfully Submitted:
Anne Marchand, Recorder