

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING
OCTOBER 28, 2014
MINUTES**

PRESENT:

Jay Diener, Chair
Barbara Renaud, Clerk
Diane Shaw
Sharon Raymond
Pat Swank, Alternate
Dan O'Connor, Alternate

Absent: Peter Tilton
Gordon Vinther

Also Present: Rayann Dionne, Conservation Coordinator

CALL TO ORDER:

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

CONSIDERATION OF MINUTES:

MOTION: Ms. Renaud moved to approve the September 23, 2014 minutes, as edited

SECOND: Ms. Shaw

VOTE: 5 in favor, 1 abstain (Mr. Diener)

APPOINTMENTS:

- 1. Esker Road – Map 208, Lot 50. Review most recent wetland delineation and determine if a Special Permit is necessary for the installation of a porous paved driveway with a partial retaining wall. Continued from 9/23/14.**

Present for this portion of the meeting were: Craig Solomon, representing Mrs. Remick, Jim Gove of Gove Environmental Services; and James Prokop of Wetland Consulting Services.

Mr. Solomon stated there were no wetlands on the site per the investigators. A copy of Michael Cuomo's report dated October 23, 2014 was provided to the Commission members this evening.

Mr. Prokop noted that one test pit is missing in this report. Further, Mr. Cuomo found soils in the swale that did not meet the criteria under the 2012 field indicators, but since the swale is manmade, he found it qualified as an atypical (altered) wetland. Mr. Cuomo used the 2004 field indicators as outlined. Mr. Prokop also stated that the use of 2004 indicators are authorized as a backup for disturbed soils. This backup was used as an interim way to work with disturbed soils until the Army Corps of Engineers could finalize the 2012 supplement. By using the 2004 methods, Mr. Cuomo concluded the soils met the criteria.

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Mr. Prokop stated that the use of the 2004 criteria is no longer valid, since the 2012 supplement was issued; and, Mr. Cuomo should have been using the 2012 criteria to describe the soils which are somewhat poorly drained. Further, Mr. Prokop stated that Mr. Cuomo reported the soils did meet the 2004 criteria.

He also reported that, if there is still a contention, Mr. Gove has provided a letter to request the National Resources Conservation Bureau, if required, to conduct an independent review to settle which criteria should be used.

Mr. Gove stated that this is an interesting situation in that there is no dispute over what the soil profile is and everyone agrees on the colors of the soils. It is, however, how to interpret the soil profiles. Three scientists are saying one thing, and one is saying another which is good reason to contact the NRCS to provide a totally unbiased report. He stated that the Town could make a request and provide the profile descriptions.

Ms. Raymond stated that the Commission needs to have the opportunity to review the materials provided this evening, and she would not make a decision until reading them. Ms. Swank, Mr. O'Connor, and Ms. Renaud had no additional questions.

Mrs. Dionne questioned if there is a discrepancy on how the Ordinance is being interpreted, and Mr. Gove commented there is a lot of information before the Commission. Ms. Shaw questioned if the true question of the swale has been forgotten. Mr. Diener said this needs to be addressed as it does serve a purpose and the Commission needs to ensure that the functioning will continue.

Mr. Solomon stated all the discussion has been about the criteria, and he would like to know how the new criteria is different from the former 2004 criteria. Further, that most soil scientists are using the 2012 criteria.

Mr. Diener stated the Commission members need to have a chance to read all the reports, do some research, and look at the criteria as to which are appropriate or not, and reach a decision to go forward. He stated the Commission will pursue this expeditiously.

Mr. Solomon requested this issue be placed on the Agenda for November, as a placeholder.

NEW APPLICATIONS:

- 1. 18 Hutchinson Drive. 18 Hutchinson Dr, LLC. Agent – Lyman McCrea. Build 10x18 deck on the existing house. Deck will be 6+ feet off the ground and constructed with permeable decking material. This is a NHDES Standard Dredge and Fill permit and Town Special Permit application.**

Mr. McCrea was present and described the project, building a 10 by 18 deck on the existing house. The deck will be at least 6 feet off the ground. He said the buffer will not be disturbed, and he will put in three sonotube posts for the deck. The deck will be constructed using permeable Aquadeck, used mostly in docks and decking. The stairs going to the deck are on the side of the house and have been removed for construction. There is a 3x4 concrete pad at the bottom of the steps.

The Commission agreed they support this application. Mrs. Dionne stated there is an issue with the altered driveway which would be discussed following the vote on the above deck project.

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MOTION: Ms. Renaud moved not to oppose the NHDES Standard Dredge and Fill Application for the property located at 18 Hutchinson Drive based on the plan dated July 30 2014 and presented this evening with the following stipulations:

- The ground beneath the deck shall remain permeable.
- The area above and below the deck shall remain open which will prevent the deck area from being turned into covered storage or additional living space.
- The Commission be notified at the beginning and the end of the project.

SECOND: Ms. Swank

VOTE: 5 In favor, 1 Abstain (Mr Diener), 2 Absent (Mr. Tilton and Mr. Vinther)

MOTION: Ms. Renaud voted to recommend the Planning Board approve the Town Special Permit for the property located at 18 Hutchinson Drives based on the plan dated July 30, 2014 and as signed by the Chairman with the following stipulations:

- Two granite monumentations will be installed along the wetland boundaries as noted on the attached plan.
- The ground beneath the deck shall remain permeable.
- Any deck must be open above and below allowing for vegetation to grow beneath.
- 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;
- Removal of trees that are not dead, diseased, or unsafe must be performed in compliance with NHDES Shoreline Protection Act, Section Env-Wq 1403.05;
- 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;
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed;
- There are to be no additional structures such as sheds, swimming pools, gazebos, 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. Swank

VOTE: 5 In favor, 1 Abstain (Mr Diener), 2 Absent (Mr. Tilton and Mr. Vinther)

Mrs. Dionne expressed concern with the work on the driveway at 18 Hutchinson Drive. Mr. McCrea stated he bought the house from an estate and when purchased he noticed the Town of Hampton has a five-foot

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easement for a storm drain on the easterly side. There are no storm drains on Hutchinson Drive and water comes from the east and west and goes down the driveway. He was told the Town could not afford to do any work now, and people from the Hampton DPW told him to build up the driveway and build a swale. Mr. McCrea said he has brought the driveway up to one level. He also stated that the dug area has been there forever with water pouring down through. The basement, he stated, has always had water problems and his work would keep water from going into the house. He also stated he did exactly what the Town suggested.

There was a garage under the house and the driveway was higher than the basement floor, so all the water was running into the basement.

Mr. Diener commented that Mr. McCrea brought fill into the wetlands buffer without a permit. He said the buffer is there to absorb and filter the water, and making the driveway wider and deeper is taking away the purpose. Mr. McCrea stated the driveway was paved before and he is not going any deeper. Mr. Diener stated this work is being treated as a violation.

Mr. McCrea said he did not think there was an issue going back into the wetland and only did what the men from the Town suggested. Mr. McCrea stated that he brought in three small dump trucks of fill. Mr. Diener stated that he has no problem with changing the angle of the driveway, but does have a problem with that much fill being brought in.

Reviewing the aerial photograph, Mrs. Dionne noted that from the property line to the building is 29 ½ feet which could be expanded. She also noted that it appears the driveway stops between the 1st and 2nd window as shown in the photograph. Mr. McCrea stated the pavement was over as far as the neighboring house.

Ms. Raymond stated there is a violation and a plan needs to be presented that shows the altered driveway because that is not shown on the plan before the Commission. Further, she is not concerned with the amount of fill, but until she sees a plan and the impact on the buffer, cannot give an opinion.

It was pointed out the entire driveway is not in the buffer.

Ms. Swank stated she needs to see more of a plan and suggested using the area outside the buffer to expand the driveway. Mr. O'Connor said identifying the impact and volume of fill would be a good starting point.

Mr. McCrea said he did not take the asphalt out. Further in front of the door there is 20 – 22 inches of fill which slopes out. Mrs. Dionne suggested digging a hole to the asphalt through to the soil to determine the number of inches of soil. Mr. McCrea said that without the pavement, the dirt will be washing away.

Mrs. Dionne stated that the Commission needs a better understanding that the footprint has not widened or gone closer to the buffer. And if changes were made, what they were. Further she will contact the DPW regarding the project. Mrs. Dionne stated that water should not be going into the basement and would like to know the elevation. Mr. McCrea stated he will provide the information.

Ms. Renaud stated she is opposed to asphalt in the buffer.

Mr. Diener suggested Mr. McCrea come back to the Commission with a plan, or modify the current plan to show proposed work to be done with the new vs old driveway. He recommended Mr. McCrea work with Mrs. Dionne on the modified plan.

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Ms. Shaw questioned if there is going to be a small retaining wall to divert the water. Mr. Diener stated if the driveway is angled adequately, this will not be necessary.

It was suggested that Mr. McCrea return to the Commission for the November meeting, perhaps as an "Appointment"; however, if this is to be a replacement, a Special Permit is required. Mr. Diener stated once there is a plan, the Commission will move forward as quickly as possible.

Ms. Raymond suggested stabilizing with sandbags or silt socks until spring making sure stone does not break away and go down into the buffer and wetland. Mr. Diener noted that paving can be done outside the buffer.

2. Taylor River Bridge. NHDOT Replacement of the 1-95 Bridge over the Taylor River. The bridge opening will be widened from 15 ft to 72 ft to accommodate the 100 year flood event. This is a NHDES Standard Dredge and Fill permit.

Present were Peter Stamnas, Project Manager and Christine Parent. Mr. Stamnas stated that this evening they will provide a presentation on the scope of the project and answer any questions from the Commission.

The project will replace the existing I-95 bridge over the Taylor River, 2 miles south of the Hampton Tolls. Currently it is a 15-foot span and it will be replaced with a 74 foot long span. The work is expected to occur in the spring of 2015 and continue for three construction seasons until completion. There will be traffic shifts which will take a good amount of time. The current bridge, which carries eight lanes of traffic over the Taylor River does not meet highway safety standards in that there is corrosion and deteriorated conditions.

Modifications will be to the spillway that is upstream of the bridge. The larger opening of the new bridge will have to have accommodations, and sheeting will be extended that makes up the spillway to accommodate the channel. The pond elevation will not be lowered, but will convey more water at the top of the spillway. It will be 30 feet long which will make improvements from a flooding standpoint. This project is funded with Turnpike Funds amounting to \$12 million dollars.

Ms. Raymond asked for more details, and Ms. Parent explained that it is a busy plan as downstream is wetlands and upstream is a pond. There are impacts to both fresh water and the salt estuary. Drainage impacts will be to non-wetlands and the tidal buffer zone. The impacts are adjacent to the existing infrastructure. There will be no modifications to areas not previously disturbed as they will not be in the wetlands to any great extent.

Mr. Diener questioned the double width of the spillway and it was explained that this will improve conveyance and minimize upstream. Mr. Stamnas said investigation shows this is reasonable and will improve after going over the spillway. The permanent elevation of the pond will not be changed and a goal is to reduce flooding on the pond side during large storm events.

On question by Ms. Raymond, Mr Stamnas stated that the evaluation looked at the dam and a model was developed. It is not complete, but there has been enough work to evaluate in there will be an increase in sediment. There is no significant difference between the existing and proposed, he said.

Ms. Parent stated that the project has been reviewed with the EPA and the Army Corps of Engineers and surveys were done for rare species in the salt marsh. She said no rare species were evident in the work area

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and there are no concerns with the flow downstream. Mr. Stamnas stated that there will be limited springtime work due to the fisheries and there will be no work in the water for three months in the spring.

Ms. Raymond stated her main concern is the increased flow downstream, and Mrs. Dionne said she does not want more water moving from upstream to cause problems downstream.

Mr. Diener said he cannot assume that anyone has done adequate research that would show there are no impacts. He said part of the Commission's job is to ask questions to make sure impacts to the area are minimal or nonexistent.

Ms. Swank said she has to go on good faith that those who have researched the project have the answers and all agencies did their due diligence.

Mr. O'Connor questioned the controls during construction to mitigate damage. Mr. Stamnas said most of the bridge work is above mean high tide and work under water is to expand the channel. Work will be done behind the existing sheeting which will minimize risk at lowest tides. Provisions have been made for a temporary sediment basin south of the project and pumps and dewatering the excavation will remove sediment. Work is mostly in the median, not raising the grade but matching the existing roadway. The storm water plan is to minimize release into the Taylor River.

Ms. Renaud questioned the effects on the clam flats and sediment flowing down to the harbor. Mrs. Dionne noted that the clam flats are shut after rain events and, if there is potential for more rainwater, the flats could be closed more frequently. Ms. Parent stated that there was coordination with Fish and Game regarding impacts and it is not expected to have any impact that far down stream.

Mrs. Dionne questioned the culverts shown on the plan, and Mr. Stamnas said culverts will be upsized from 15 to 24 and 18 to 24. Mr Stamnas said this is the minimum for the interstate and there is no increase in the permanent impervious surface; however, it could be increased temporarily with the construction. He also stated no fill will be added.

Ms. Shaw stated she lived downstream and is concerned as to the effect in her neighborhood near the railroad trestle. Mr. Stamnas said there will not be any change that can be seen. There will be more water let through the spillway, but the project is not generating more run off.

Mr. Diener asked what will happen to the immediate environment downstream when additional water comes through. Mr Stamnas said there will be stone upward to the abutments which will protect from erosion. There will be deep foundations so there will not be an issue from the bridge standpoint. Also, a situation will not be created where there would be a fresh water flow change.

On questions of Mrs. Dionne regarding stone extending further down stream to slow water down, Mr. Stamnas stated that the existing channel is 15 feet and flows between sheet piles. The channel will not be extended far and will come up at a slope so it is above mean high tide.

Mr. Diener asked about the stone spillway and increase in the volume of water. Mr. Stamnas stated that the contours of the channel wild matched so will transition to wider contours to existing downstream. There will be minimum change between the existing and proposed.

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PUBLIC COMMENT:

Tupper Kinder, of Nelson, Kinder & Mosseau, PC, working with and representing the interests of the Town of Hampton in connection with this project noted that the previous application makes reference to the removal of the dam; however the dam is not a part of this application process. He noted concerns with the buildup of sediments and questioned what happens if they are released downstream. This, he said is the Town's primary concern. He reiterated that the subject of the removal of the dam may come up, but is not a part of this project.

Mr. Stamnas responded there is little information on the construction of the dam. Further, the tops of the spillway will not change, it will be widened and repairs will be made so flash boards will work. There will be better installation and improvements to the fish ladder so it works better. There was coordination with Fish and Game who has guided them through the process, he stated.

Mr. Stamnas concluded by stating that contact phone numbers will be available at the pre-construction meetings.

Mrs. Dionne asked that all stake holders have information, schedules, and contract provisions during the project.

MOTION: Mr. O'Connor moved not to oppose the NHDES Standard Dredge and Fill Permit for the I-95 Taylor River Bridge reconstruction with the stipulation that the Conservation Commission be notified at the beginning and the end of the project.

SECOND: Ms. Renaud

VOTE: 4 In Favor, 2 Abstain (Mr. Diener and Ms. Raymond, 2 Absent (Mr. Tilton and Mr. Vinther)

- 3. Route 101/Tide Mill Creek. Unitil. Agent – Nicholas Golon of TF Moran, Inc. Relocate Unitil's existing overhead electrical service line 3353 feet from the 100' Unitil ROW in the Hampton saltmarsh complex to the NHTOS Row along Route 101E. This is a NHDES Standard Dredge and Fill Permit and Town Special Permit Application.**

Nick Golon and Nate Sherwood, T.F. Moran, Inc. are speaking on behalf of Unitil.

Mr. Golon described the project as above stating that an agreement has been made with DOT to relocate one of the major transmission lines heading to the beach from its location now in the salt marsh. This will make access and maintenance easier. He stated the line is in the salt marsh on the left side of 101 heading east and is a fair distance into the marsh. When, there was an outage where both lines came down, they had to access to repair by boat.

They are trying to build one line closer to the road for easier access and to provide more reliable service to the users.

Mr. Golon also stated that this is prime salt marsh requiring a Standard Dredge and Fill Permit. Further, they worked with NHDOT evaluating how to get power to Hampton and how the line could be run differently or improved at its present location. A study was done with DOT, they reviewed the application and approved one line, but not the second line. Mr. Golon is here this evening requesting a permit for the one line, 30 feet from the white striped line on Rt 101.

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He stated that access is the overall issue. There will be a single line for ¾ of a mile. The existing line will be removed and, because of the location in the salt marsh, it was necessary to meet with all appropriate agencies. Further, Unitil has chosen the most efficient way to remove the existing line which is by helicopter with people on the ground with hand tools. There will be no heavy equipment removing polls.

Swamp matting will be temporarily used for access. The matting area was delineated on the plan provided. Mr. Golon also said there is no way to remove impacts for the project. He outlined how the mats work to minimize impacts. He said the wetlands will be protected. With regard to the two plant species, he said they are growing and the project will not impact in that work will be done during the winter when the species are frozen. Further, the disturbed areas will be stabilized at completion of the project and once the poles are cut, they will be removed by helicopter to a lay-down area.

Mrs. Dionne stated that the contractor has done a good job in an effort to reduce impacts. Mr. O'Connor stated it is a good plan.

NO PUBLIC COMMENT – No Public Comment

MOTION: Ms. Renaud moved not to oppose the NHDES Standard Dredge and Fill Application for UNITIL Service Line Relocation along route 101, as described in the application as to the process for the line relocation with the following stipulation: The Conservation Commission shall be notified at the beginning and the end of the project.

SECOND: Ms. Swank

VOTE: 6 in Favor, 1 Abstain (Mr. Diener), 2 Absent (Mr. Tilton and Mr Vinther)

MOTION: Ms. Renaud moved to recommend the Planning Board approve the Town Special Permit for the UNITIL service line relocation along Route 101, with process as described in the application and with the following stipulations:

- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed;
- 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; 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: 5 in Favor, 1 Abstain (Mr. Diener), 2 Absent (Mr. Tilton and Mr. Vinther)

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OLD BUSINESS:

a. 2015 Warrant Articles.

Ice Pond Dam

Land Acquisition Fund

Section 2.3 Wetlands Conservation District Amendments.

There was a lengthy discussion on Section 2.3.

Mrs. Dionne stated that the definition of Vernal Pools (Section 2.3.2 D) was a concern in that should one be put in now there is the possibility that DES would change the definition now or within 5 – 10 years, and another revision would be required. She said she has reviewed Vernal Pool definitions in surrounding communities. Ms. Raymond recommended a restrictive definition. Mr. Diener said the definition should be short and clean with the reference to DES being removed. He also stated that listing a definition could be a judgment call as to what is more restrictive.

With regard to the proposed revisions to Section 2.3.7 C, they were presented to the Planning Board and there were suggestions from that Board regarding the revisions. Mr. Diener asked for the opinions of the Commission whether to go forward or put on hold. He said this could go to another year, combined, or with additional changes. It was determined that 2.3.7C 4 required more discussion and development and/or return to the Planning Board with housekeeping items in 2.3.7, omitting #4.

There was no consensus on how to proceed with the section of the warrant article addressing lot size and adequate space outside the buffer. Mrs. Dionne said she would e-mail the Commissioners for their opinions and/or recommended revisions in that a decision is needed prior to the next Planning Board Meeting on 11/5/14.

NOTE: On October 29, 2014, a Work Session was scheduled for Monday, 11/3/14 at 7 p.m. for discussion on the above warrant article.

- b. **Signage.** The Board of Selectmen have approved the proposal for hunting signs in appropriate locations in Town.
- c. **Eco/Green tips** – No discussion
- d. **Green Infrastructure Subcommittee.** No report.

NEW BUSINESS:

- a. **Data loggers.** Mrs. Dionne reported that a group from Plymouth State is collecting data on how water affects beach closures. A data logger has been put in on the Taylor River on Towle Farm Road. It will collect temperature data and provide water quality information. Mrs. Dionne will monitor, stating this is an opportunity to get water quality data.
- b. Mrs. Dionne reported that the NH Association of Conservation Commission dues are payable. One year costs \$814.00. She stated it is a good organization that provides some benefits, especially lobbying. She does not use this source often. She recommended not joining for this year and the Commission agreed.

TREASURER's Report. Ms. Renaud

Ms. Renaud provided the Commission with the quarterly Treasurer's Report.

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Ms. Renaud and Ms. Raymond left the meeting.

The Next Public Hearing of the Conservation Commission will be held on November 25, 2014.

The December meeting will be moved back one week and will be held on Tuesday, December 16, 2014.

ADJOURNMENT:

**MOTION: It was moved by Mr O'Connor, seconded by Ms. Shaw to adjourn the meeting at 10:20
p.m.**

VOTE: 4 in Favor

**Respectfully Submitted:
Anne Marchand, Recorder**