

# CONSERVATION COMMISSION MINUTES

Date: August 1, 2019

Time: 7:00 pm

Place: City Hall, Room 204

**With a quorum present**, the meeting opened with Dan Green presiding as Chair

**Members Present:** Judy Hepburn, Jeff Zabel, Susan Lunin, Kathy Cade, Leigh Gilligan (Associate)

**Staff Present:** Claire Rundelli

**Members Absent:** Ellen Katz

**Members of the Public:** See sign-in sheet

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## DECISIONS

### I. WETLANDS DECISIONS

#### 1. Presentation – Trail and Seating Area Improvements – Eagle Scout Project

- Owners: City of Newton    Applicant: Henry Loftus
- Request: Eagle Scout candidate Henry Loftus will present his proposal for improving the trails and amenities at the Knob area in the Flowed Meadow Conservation Area
- Documents Presented: Presentation by Henry Loftus
- Jurisdiction: Buffer Zone, RFA
- Performance Standards from Generic OOC special conditions:
  - **SECTION I. Work to be allowed under a generic Order of Conditions without further notification to the Commission**
    1. Hand removal of trash and unnatural debris from anywhere
    2. Routine maintenance of existing trails and access roads. Routine maintenance of trails and access roads is defined as work on the existing treadway/surface, the airspace above the treadway/surface, and vegetation control within 2 feet of the treadway/surface.
  - **SECTION II. Work which requires notification to and Administrative Approval by the Commission or Conservation Office, but which may not require a separate new Notice of Intent filing. For the activities listed above, the applicant must submit to the Conservation Office as specified in Section III, number 1, below.**
    2. Installing boardwalks, stepping stones, and bog bridges
- Presentation and Discussion (Henry Loftus):
  - Applicant presented proposed project including details regarding trail improvements, location of proposed picnic table, calculations for wood chip distribution, and fundraising.
  - Applicant stated a desire to clarify trail alignments and prevent understory plants from being trampled.
  - Project is to take place over September 14<sup>th</sup> and 15<sup>th</sup>.
  - Commission asked questions regarding number of people to assist with the work and commended the applicant for a well-thought out and robust Eagle Scout project.
  - Commission requested that applicant come back and present the outcome of the workdays at the Commission's October meeting.
- Vote: To approve this project on Con Com land as this work falls under the Commission's generic Trails OOC. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

#### 2. 45 Brandeis Road – RDA – construction of rear deck on single-family home

- Owner/Applicant: James Soohoo    Representatives: self
- Request: Issue Determination of Applicability.
- Documents Presented: plans, annotated aerial plans, annotated aerial, draft DOA
- Jurisdiction: Buffer Zone
- Project Summary: Applicant is proposing to construct a 16'x10' deck at the rear of their single-family home over existing lawn. The deck will have a set of stairs connecting the deck to the existing stone patio in the rear yard.
- Presentation (James Soohoo) and Discussion:
  - Applicant provided a brief summary of the project.



**Mayor**  
Ruthanne Fuller

**Director  
Planning &  
Development**  
Barney Heath

**Senior  
Environmental  
Planner**  
Jennifer Steel

**Assistant  
Environmental  
Planner**  
Claire Rundelli

**Conservation  
Commission  
Members**  
Kathy Cade  
Dan Green  
Judy Hepburn  
Ellen Katz  
Susan Lunin  
Norm Richardson  
Jeff Zabel

**Conservation  
Commission  
Alternates**  
Leigh Gilligan

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- Staff explained the minor violation that occurred with the vegetation clearing.
  - Applicant apologized for the infraction and agreed to the proposed staff conditions regarding replacement plantings.
  - Commissions asked that staff approve the species and location of plantings before they are installed.
- **Vote:** To close the meeting and issue a “Negative 3” determination with the following conditions. [Motion: Jeff Zabel; Second: Kathy Cade; Vote: 5:0:0].
- Required: Plant 3 native canopy trees and 6 native shrubs along the rear fence line to provide resting, nesting, and feeding wildlife habitat and shade for the abutting wetland to mitigate for the unpermitted removal of vegetation. Staff must approve species and location of replacement plantings.
  - Required: Letter from landscaper certifying installation of said trees and shrubs on or before 10/31/19.
  - Allowed: Continued mowing between plantings (i.e., re-naturalization is not required.)
- 3. 100 Old England Rd – cont’d RDA – confirmation of wetland resource area**
- **Owner/Applicant:** Sean Wilder **Representatives:** Scott Goddard, Goddard Consulting
  - **Request:** Continue meeting until 9/12/19.
  - **Documents Presented:** none
  - **Jurisdiction:** TBD (likely: RFA, Buffer Zone to bank and BVW)
  - **Staff Notes:** Applicant has requested a continuation to provide the applicant team time to review the drainage maps of the area received from the City. These materials were provided by the applicant team without sufficient time for them to review the materials and provide revised materials to the Conservation Office by the 2-week deadline.
  - **Vote:** To accept request to continue meeting to the 9/12/19 Conservation Commission meeting. [Motion: Susan Lunin; Second: Kathy Cade; Vote: 5:0:0].
- 4. 400 Beacon St – cont’d NOI – renovate historic landscape features and improve accessibility -- DEP File #239-843**
- **Owner:** Four Hundred Beacon Corp. **Applic.:** Sandra Houston, Longyear Foundation **Rep.:** Bert Corey, DGT Associates; John Alioto (grounds); Chris Milford (project manager), Gary Wolfe (architect), Kyle Zich (landscape architect)
  - **Request:** Issue an OOC
  - **Documents Presented:** colored plans colored plans, photos, draft OOC
  - **Jurisdiction:** Riverfront Area
  - **Project Summary**
    - The project is a historic restoration project.
    - Extensive restoration and redevelopment of the main house and historic landscape features
    - Only a small portion of the overall project is within the ConCom’s jurisdiction (RFA): The circular drive, drainage from the circular drive area, an invasive tree and vegetation control.
    - The work within ConCom jurisdiction will result in ~1200 s of new impervious area; proposed mitigation is stormwater treatment system and removal of expansive areas of knotweed.
  - **Presentation (Bert Corey, DGT, and Kyle Zich, KZLA) and Discussion**
    - Historic garden restoration, tree pruning, and dead tree and Norway maple removal do not require mitigation planting or special conditioning.
    - The circular drive will require some excavation – three mature oak tree roots are potentially threatened. Applicant team responded by stating that “the roots in close proximity to the circular drive will be exposed, pruned, and treated under the supervision of a qualified arborist.”
    - Applicant’s representative discussed the alternate work plans proposed on the most recent plan sheets.
    - Commissioners questioned when the reseeding would occur in the areas proposed for knotweed removal. Applicant representatives responded that the are will be reseeded once the knotweed is reduced by 90%.
    - Commissioner’s felt that the proposed work alternative for the vegetable garden was acceptable and preferred if the applicant’s budget allows for that option.
    - Commissioners agreed to the fence replacement along the southern property boundary at Old England Road with the standard wildlife passage condition.
    - Applicant and representatives agreed that a SWPPP would be provided prior to scheduling a pre-construction site visit.
  - **Vote:** To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Susan Lunin; Second: Judy Hepburn; Vote: 5:0:0].
    - Annual monitoring reports for invasive species control on site shall be provided to the Commission promptly after the annual August/September herbicide application for 3 years.
    - SWPPP must be provided to the Commission prior to the scheduling of a pre-construction site visit.

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- When determined, confirmation of which alternate work plan is chosen, for both the fence along the southernmost property line and for the vegetable garden clearing, must be provided to the Conservation Office.
- Should the chain link fence along the southernmost property line be replaced, the new fence must be raised 4-6 inches to allow for wildlife passage.

**5. 37 Duffield Rd – cont'd NOI – addition and landscaping for single-family home -- DEP File #239-842**

- Owner/Applicant: David and Sandra Baird Representative: Rich Kirby, LEC Environmental Consulting
- Request: Issue an OOC
- Documents Presented: colored plans colored plans, photos, draft OOC
- Jurisdiction: Riverfront Area, BLSF (FEMA 39.2 NAVD88)
- Project Summary:
  - Applicant is proposing to construct a roughly 581 s.f. addition to an existing single-family home for a garage and living space above, along with a new deck and proposed stormwater management. In addition, significant foundation reconstruction will be undertaken to allow the structure to nearly meet Passive House standards.
  - Overall on site a proposed 1081 s.f. of alteration is proposed between the addition, deck/stairs, and the driveway.
  - The applicant is proposing to eliminate an old driveway and create a new driveway on site for access to the proposed garage with the existing driveway being removed.
  - Applicant is proposing a new deck and stairs configuration to access the lower portion of the lot; however, a large number of existing decking and stairs proposed to be removed.
  - Applicant is proposing to remove 8 trees and is proposing to create a mitigation area of roughly 2230 s.f.
  - The proposed mitigation plan is robust, leaving minimal lawn area.
- Presentation (Rich Kirby) and Discussion
  - Engineering Department comments were received before the meeting and confirmed that the project has met all requirements of their department.
  - Staff confirmed that revised planting plans showing the correct number of proposed plantings had been submitted and reviewed. The plan is now correct.
  - Revised planting plan also shows the requested note about not mowing on City land.
  - Conservation staff questioned why bound locations were not shown on the plans. Applicant team responded that they were unsure of the spacing of the bounds and requested to work with staff to determine the most appropriate locations.
  - Conservation staff requested that erosion controls be extended along Duffield Road during construction of the garage and driveway. Applicant team agreed to the request
  - Applicant requested permission to remove some invasive Buckthorn plants from the proposed mitigation area closest to the bank of the Charles River. Commissioners agreed that this would be prudent to give the proposed plantings the best chance at survival.
  - Applicant agreed to the condition that the invasive species approved for removal will be determined and flagged during the pre-construction site visit.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions [Motion: Susan Lunin; Second: Judy Hepburn; Vote: 5:0:0].
  - Applicant shall work with Conservation Staff to flag invasive species appropriate for removal during the pre-construction site visit.
  - The approved mitigation planting plan must:
    - a. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
    - b. Be installed and maintained to replicate to the maximum extent practical a diverse ecological system, provide habitat for native species, and keep invasive species in check.
    - c. Include bounds placed
    - d. Mowing of the appropriate areas shall occur per the approved plans.
    - e. Stabilize all exposed areas
    - f. Have a survival rate of 75% of total number of trees (after 2 growing seasons)
    - g. Have a survival rate of 75% of total number of shrubs (after 2 growing seasons)
    - h. Have a survival rate of 75% aerial coverage of all other plants (after 2 growing seasons)
    - i. If any trees within the wetland or buffer within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).

**6. 188-192 & 210 Needham St – cont'd NOI – 36-stall expansion of parking and restoration of RFA -- DEP File #239-841**

- Owner/Applicant: Kerry McCormack, Crosspoint Associates Representative: Brandon Li, Kelly Engineering; Brad Buitenhuys (Cross Point)
  - Request: Issue an OOC
  - Documents Presented: colored plans, alternative analysis requirements synopsis colored plans, photos, draft OOC
  - Jurisdiction: Riverfront Area, BLSF
  - Project Summary:
    - Add 36 parking stalls (4800 sf of new pavement) in what is currently lawn and woods.
    - Excavate to provide required compensatory flood storage
    - Install deep sump catch-basins and a water quality structure
    - Undertake restoration and mitigation planting and stormwater improvements to compensate for the work in RFA
  - Vote: To accept to request Applicant's request to continue hearing to the 9/12/19 meeting. [Motion: Jeff Zabel; Second: Kathy Cade; Vote: 5:0:0].
- 7. 62 Carlton Road – cont'd NOI – construction of new single-family home over existing tennis court -- DEP File #239-836**
- Owner: 62 Carlton Road LLC Applicant: Mikhail Deychman Representative: Karen Skinner Catrone
  - Request: Approval for the construction of a new single-family home with associated site features on site with an existing tennis court.
  - Documents Presented: colored plans colored plans, photos, draft OOC
  - Jurisdiction: Buffer Zone, City Floodplain
  - Project Summary
    - Proposed construction includes a ~3800 s.f. single-family home with associated patio, driveway, stormwater management infrastructure, and retaining walls.
    - ~390 s.f. of the proposed house falls within BZ.
    - The majority of the work in BZ is retaining walls, lawn, and patio. Along with the proposed invasive species removal and mitigation plantings.
    - Applicant is proposing to install stormwater management on site, including trench drains and 2 sets of infiltration chambers (both in BZ) to collect roof runoff.
    - 4 red maples are proposed to be planted as mitigation.
    - Bittersweet, Japanese barberry, burning bush, and garlic mustard are proposed to be removed as mitigation.
  - Presentation (Mikhail Deychman and Karon Skinner Catrone) and Discussion:
    - Engineering comments were received by Conservation Staff and the proposed project does meet all Engineering Dept. requirements, except the submission of an O&M plan. Applicant stated that he would provide an O&M plan for review and inclusion in the Order.
    - The sale of the property has closed, and the owner of the lot is now 62 Carlton Road LLC. Proof of lot being recorded as a separate lot is now in hand.
    - Revised planting plan was provided during the meeting showing a new mitigation planting plan that included 67 native shrub plantings proposed for the areas of invasive species removal.
    - Commissioners requested that the growing season survival requirement be extended to 3 growing seasons in order to be sure that the invasives do not take over as soon as the treatment period ends.
    - Applicant acknowledged that in order to meet the growing season survival requirement an extension for the OOC is needed. Applicant representative suggested that the applicant apply for the extension immediately after recording the OOC.
    - Applicant stated during the presentation that they may not build the rear most retaining wall depending on site conditions. Staff made it clear that this would need to be approved as a minor plan change.
    - Commissioners had concerns about the grading of the "wildlife corridors" on each side of the lot would lead to increased erosion or rivulets in the grass proposed there. Applicant agreed to place geomatting under the lawn proposed in those areas.
    - Applicant team did provide an invasive species management plan with three years of mechanical treatment proposed with annual reporting to the Conservation Office.
    - Applicant agreed to condition requiring a tree permit be submitted before the scheduling of a pre-construction site visit.
  - Public Comment

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- Marlene Yudelman (70 Carlton Rd) – Resident expressed her concerns about the proposed grading changes along the property boundary shared between her property at 70 Carlton and the subject property, 62 Carlton.
  - Applicant provided more detail about the nature of how the grading he proposed would meet her existing grading. Explanation appeared to be accepted by resident.
  - Commission clarified that we cannot do much about the proposed grading as it is outside our jurisdiction.
- Charles Klee (5 Kelveden Rd) – Resident is concerned about drainage post-development on site with the proposed retaining walls and the potential changes they will make to the natural drainage pattern. He also had concerns about the grading of the “wildlife corridors” on either side of the lot.
  - The Commission made sure to state that the drainage rates will be lower than pre-development, as is required by the Engineering Department.
  - Applicant had already agreed to put some sort of erosion control prevention (e.g., jute matting) to prevent rivulets forming.
  - The Commission made sure to let the applicant know that an engineer really needs to be involved in the construction of the rear most retaining wall to ensure correct weep holes are installed.
- Erol Yudelman (70 Carlton Rd) – Resident expressed his concerns about the project being properly monitored and inspected during the construction process and about the trees along the property boundary between his lot and the subject lot.
  - Applicant stated that he would replace trees if necessary but would like to speak with the homeowners of 70 Carlton further outside the meeting.
  - Commission clarified inspection procedures for a wetland filing (i.e., pre-con SV, neighbors reporting, COC SV).
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Vote: 5:0:0].
  - The mitigation and/or restoration planting plan must be installed per the approved plans (desired changes must be approved by the Conservation office in advance) and:
    - a. Be designed and maintained to replicate to the maximum extent practical a diverse ecological system, provide habitat for native species, and keep invasive species in check.
    - b. Include 4 native trees (*Acer rubrum*)
    - c. Include 67 native shrubs (variety of species, see planting plan for details)
    - d. Include native seed mix, as shown on the approved plan
    - e. Have a 75% survival rate after three years after installation
    - f. Stabilize all exposed areas
    - g. Be installed in compliance with the approved plans
  - Applicant must submit a tree permit from the City Forester to the Conservation Office prior to the scheduling of a pre-construction site visit.
  - Invasive species removal and the reporting of progress must be conducted per the approved plans.
  - Jute matting (or another similar anti erosion method) must be installed under the grass proposed for the “wildlife corridors” on either side of the proposed house to reduce potential erosion caused by the grading.

#### 8. Discussion of Enforcement Order – 22 Hollywood Dr – DEP file #239-368

- Owner: James McKay     Representative: John Rockwood, EcoTec, Inc.
- Request: Approve plan that would bring the site into compliance with open Enforcement Orders and Order of Conditions.
- Documents Presented: colored restoration plan   photos, colored restoration plan
- Jurisdiction: BVW, Buffer Zone, Riverfront Area, and City Floodplain
- Performance Standards: Compliance with 3 Enforcement Orders and an open OOC
- Project Summary: Applicant proposes to move fence to rear property line, plant required native shrub and understory tree species, remove invasives and diseased/hazard trees, and prune existing canopy to allow light into the restoration plantings.
- Presentation (John Rockwood, EcoTec) and Discussion:
  - Applicant representative presented the project in detail.
    - The required plantings were not all planted. The wetland scientist for the project has confirmed that the required saplings were planted and are alive and thriving, but that the required shrubs were not installed.
    - The proposed applicant involves a robust planting plan that should, with appropriate maintenance, should reestablish understory in this area.
    - Applicant is proposing 20 understory trees and 154 shrubs.
    - The proposed plantings are to be grouped into “habitat islands” with 2 understory trees and 14 shrubs per island.



- The enhancement area is proposed to be monitored for two years. At the end of the monitoring period (fall 2021), if a 75% survival threshold has been met, the applicant will submit a request to close out the open EOs and OOC.
- Staff inquired how the Commissioners would like to approve the restoration plan – through a memo or an amended E.O.
- It was determined that a restoration plan could not be required through a memo and since parts of the restoration were required by different E.O.s, it would be difficult to determine which one to amend.
- Applicant representative presented another option that has been used in other communities he has filed in. A “friendly” E.O. This new enforcement order would require the restoration planting plan. Once completed the applicant will close out all 4 enforcement orders and the open OOC.
- Commissioners agreed to this option with the new Enforcement Order being issued by staff and ratified by the Commission at the 9/12/19 meeting.
- Vote: To approve proposed restoration plan through the issuance of an Enforcement Order. [Motion: Susan Lunin; Second: Kathy Cade; Vote: 5:0:0].

**9. 55 Grace Road – OOC Extension (DEP File #239-767) – hemlock removal**

- Owner/Applicant: Joel Sable      Representative: none
- Request: Extend Order of Conditions by 1 year to allow for the last of the required mitigation plantings to be planted and meet the 2 growing season requirement (to be met in April 2020).
- Documents Presented: photos, draft OOC extension
- Project Summary: Approved work included the removal of a large number of mature hemlocks along the side yard of the single-family home.
- Jurisdiction: Buffer Zone, Riverfront Area, City Floodplain
- Discussion: Photos from homeowner confirmed that the rest of the work on site was done in compliance with the with the approved plans and OOC. Applicant did plant the required inkberries along the side yard. Evidence of a large die-off of the required mitigation plantings was submitted to the Conservation Office in May 2019, but homeowner immediately rectified the situation replacing the dead shrubs and re-sodding the area of lawn still bare.
- Vote: To approve request to extend Order of Conditions 239-767 for one year. [Motion: Judy Hepburn; Second: Susan Lunin; Vote: 5:0:0].

**10. 326 Fuller Street (Brae Burn CC) – COC Request (DEP File #239-750) – tree removal at hole 1**

- Owner: Brae Burn Country Club    Applicant: Sean McLaughlin, BBCC    Representative: Sarah Stearn, Beals & Thomas
- Request: Close out Order of Conditions 239-750.
- Documents Presented: photos, draft COC
- Project Summary: OOC 239-750 permitted the removal of mature trees near the hole 1 green.
- Jurisdiction: Buffer Zone
- Discussion: A site visit on 7/25/19 confirmed that the site is in substantial compliance with the approved plans and OOC.
- Vote: To issue a Certificate of Compliance for the approved work under OOC 239-750. [Motion: Kathy Cade; Second: Jeff Zabel; Vote: 5:0:0].

**11. 326 Fuller Street (Brae Burn CC) – COC Request (DEP File #239-812) – wet well and pump house construction**

- Owner: Brae Burn Country Club    Applicant: Sean McLaughlin, BBCC    Representative: Sarah Stearn, Beals & Thomas
- Request: Close out Order of Conditions 239-812.
- Documents Presented: photos, draft COC
- Project Summary: OOC 239-812 permitted the construction of a new wet well and pump house to meet regulations by OSHA and the building code regarding their entire irrigation system.
- Jurisdiction: Buffer Zone
- Discussion:
  - A site visit on 7/25/19 confirmed that the site is in substantial compliance with the approved plans and OOC.
  - As anticipated by Conservation Staff, the roots of the large tree adjacent to the proposed pump house location were damaged during construction and the tree was deemed a hazard by an arborist. Per the OOC, this removal was approved with the condition that two native saplings be planted in the area. The saplings planted were two white oak saplings. Please see the map included in the packet for the location of the saplings.

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- Commissioners inquired why the COC request was occurring now if the oak saplings just went in this spring. Staff clarified that the growing season requirement had not been included with the requirement that required they be planted.
  - Commissioners requested that on the next filing from Brae Burn, a condition be added to the Order requiring these oaks trees survival.
- Vote: To issue a Certificate of Compliance for the approved work under OOC 239-812. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

**12. 326 Fuller Street (Brae Burn CC) – COC Request (DEP File #239-820) – electrical conduit for new pump house/wet well**

- Owner: Brae Burn Country Club Applicant: Sean McLaughlin, BBCC Representative: Sarah Stearn, Beals & Thomas
- Request: Close out Order of Conditions 239-820.
- Project Summary: OOC 239-812 permitted the installation of a new electrical conduit from the existing electrical service box near the irrigation pond to the wet well/pump house approved under 239-812. Project was comprised of a trench being dug in existing lawn or landscaped areas adjacent to the existing cart path to the pump house location.
- Documents Presented: photos, draft COC
- Jurisdiction: Buffer Zone
- Discussion: A site visit on 7/25/19 confirmed that the site is in substantial compliance with the approved plans and OOC.
- Vote: To issue a Certificate of Compliance for the approved work under OOC 239-820. [Motion: Kathy Cade; Second: Jeff Zabel; Vote: 5:0:0].

**II. CONSERVATION AREA DECISIONS**

**13. 170 Suffolk Road – Encroachment into Houghton Garden – Land Swap Proposal**

- Documents Presented: letter and plan submitted by homeowner letter and plan submitted by homeowner, letter from Law, minutes from 2011, minutes from 2018, site photos
- Request: Applicant, Ken Lyons, is proposing to be allowed to maintain the current encroachment of lawn and fence by providing a land swap of equal area at the rear of the parcel.
- Presentation (Ken Lyons) and Discussion:
  - Abutter provided a summary of the revised plan submitted which involves a land swap of the same area presented at the 4/18/19 meeting along with the construction of a new stone bridge in Houghton Garden, replacing the wooden bridge that had its handrails removed due to safety concerns last summer.
  - Conservation staff discussed the suggestion of the Law Department to develop a license agreement for a certain number of years, detailing the encroachment, the acceptable uses on the encroachment, and the compensation to be gained by the City (e.g., Conservation Commission).
  - The abutter and several Commissioners were dismayed by the potential concept of the license being revocable at any time.
  - The Commission determined that a meeting with staff, any Commissioners interested, the abutter, and the Law Department would be the most appropriate next step.
  - Applicant stated that Wednesday afternoons and Thursday mornings worked well for him.
- Consensus: Schedule a meeting between Conservation Staff, interested Commissioners, Ken Lyons, and a Newton Law Department representative to discuss the best method of resolution.

**14. Houghton Pond sedimentation**

- Discussion: Commissioners determined that it is their interest to see the historic nature of the pond preserved and for staff to continue investigating the process of how to permit the potential dredging of Houghton Pond.
- Consensus: Conservation staff should continue to pursue information from NHESP regarding the procedure for dredging a historic registered, certified vernal pool and provide an update at the next meeting.

**15. Norumbega Dog Park – Review of draft Memorandum of Understanding**

- Documents Presented: draft MOU draft MOU
- Discussion: Commissioners did not have any edits to the MOU language.
- Vote: Accept MOU language with no edits. [Motion: Jeff Zabel; Second: Susan Lunin; Vote: 5:0:0].
- Note: Staff realized after the meeting that this MOU was signed already at a previous meeting and that this vote was unnecessary.

**III. ADMINISTRATIVE DECISIONS**

**16. Handout ConCom101**

- Discussion: Commissioners requested that the electronic copy of the ConCom101 be sent around to the entire Commission.

**17. New Liaison to the Newton Commonwealth Foundation - Update**

- Discussion

- Staff stated that Commission involvement in the Newton Commonwealth Foundation is not a requirement.
- Commissioners felt that with the Newton Commonwealth Golf Course seeking approval for chemical and mechanical vegetation maintenance around their ponds, it may be a good idea to have a representative of the Commission on the board.
- One Commissioner stated that they would potentially be interested in taking over the liaison position but would need more information about meeting times and frequency.
- Consensus: Staff to connect a representative of the Newton Commonwealth Foundation to the interested Commissioner to determine if the scheduling works.

#### 18. Earth Moving Ordinance - Discussion

- Discussion:
  - The Commissioners would like to see draft language that involve the Commission in reviewing projects that involve major amounts of cut and fill.
  - Staff recommended reviewing the Natick Stormwater and Erosion By-Law draft to determine if that language aligns with what the Commission is looking for.
  - Commission requested that by-law language be forwarded to them to review.
- Consensus: Review potential models for an Earth Moving Ordinance and continue discussion to the next meeting.

#### 19. Minutes of 7/11/19 to be approved

- Documents Presented: draft minutes draft minutes
- Vote: To adopt the 7/11/19 minutes as presented. [Motion: Susan Lunin; Second: Jeff Zabel; Vote: 5:0:0].

#### IV. ISSUES AROUND TOWN DECISIONS – none at this time

### UPDATES

#### V. WETLANDS UPDATES

- 189 Wells Ave – Dave Snyder is working to get a crew out on site to finish removing the chips but timing and availability has been difficult as many crews are already booked. He will be letting Conservation staff know when work is to commence. Staff will be keeping up with the site carefully.

#### VI. CONSERVATION AREA UPDATES

- Houghton Garden: photos The new annual maintenance contractor created some problems at Houghton Garden. Our conservation area stewards for that parcel reported the poorly done work to us and we met on site with the crew in order to resolve the issue and get the clean-up done.
- Old Deer Park: photos The new annual maintenance contractor did great work at the Deer Park! We have made great progress in cutting down the bittersweet and hopefully after a few more passes, it will be ready for trail flagging.

#### VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge: Barry Price Center has locked the gate from their parking lot onto the bridge. Conservation and Planning Dept. staff met with the new representative 7/24/19.
- Open Space and Recreation Plan: We will solicit bids for a contractor to assist.
- Climate Action Plan: Will go before the City Council on August 26, 2019.

#### VIII. ADMINISTRATIVE MATTER UPDATES

### OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING

#### 20. 14 Phillips Lane – Discussion – driveway expansion

- Owner/Applicant: Louise Dube Representative: Linda Walton, W.R. Walton Contracting, Inc.
- Request: Determine if request can be administratively approved.
- Project Summary: Homeowner would like to expand their driveway by 90 s.f. in the outer riparian zone. The Commission does not have a clear policy on whether driveway expansions in RFA are administratively approvable.
- Jurisdiction: Riverfront Area
- Discussion: Commissioners felt that due to the small nature of the expansion that the work could be administratively approved but should require some plantings.
- Consensus: Staff can administratively approve the driveway expansion proposed for 14 Phillips Ln with a requirement for mitigation plantings.

#### 21. Dexter Woods (25 Dexter Rd) – Discussion – proposed tree removal

*The location of this meeting is wheelchair accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA/Sec. 504 Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.*



- Owner: Newton Conservators    Applicant: Katherine Howard    Representative: none
- Request: Determine how the Commission would like to approve the proposed tree removal given the applicant is the Newton Conservators and the time sensitive nature of the work.
- Project Summary: Applicant would like to remove 28 mature trees (both native and invasive) in the outer 100' of RFA in order to prevent future damage to abutting properties and utility infrastructure. Applicant is proposing a robust mitigation planting plan of native understory trees and shrubs.
- Jurisdiction: Riverfront Area
- Discussion: Commissioners felt that, due time sensitive nature of the work, an Emergency Certification would be appropriate. The E-cert would give the applicant 30 days to conduct the tree work and require the restoration plantings.
- Vote: To issue an Emergency Certification to allow the removal of 28 mature trees and requires restoration plantings. [Motion: Jeff Zabel; Second: Susan Lunin; Vote: 5:0:0].

**22. 97 Florence Street – Discussion – chemical treatment of pond for algae**

- Owner/Applicant: Bill Bannon, Property Manager of The Farm Condominiums    Representative: none
- Request: Determine if request for pond maintenance requires a new filing.
- Project Summary: Applicant is proposing to treat the pond on the Farm Condo property for algae. Previous filing with the Commission (239-108) approved a Pond Maintenance Covenant which was recorded at the Registry and is in effect in perpetuity.
- Discussion: Commissioners feel that the language in the previous order and in the maintenance covenant, that further filing cannot be required.
- Consensus: The Farm Condominium can proceed with the proposed treatment for the pond on their property.

**23. 194 Dedham Street – Enforcement Order – unpermitted cutting of mature vegetation in flood plain**

- Owner: Denitsa Brown    Representative: none
- Request: Ratify Enforcement Order.
- Project Summary: Homeowner cut a large amount of mature vegetation in the 100-year FEMA flood plain. 24 stumps over 1" were counted and it is estimated that roughly 160 caliper inches were removed.
- Discussion:
  - Staff disclosed that the cutting had occurred on 7/30/19 and that they were notified by the neighbor at 176 Dedham St.
  - This neighbor notified the office because the vegetation cutting crossed property lines onto land owned by 176 Dedham St.
  - Cutting occurred completely within flood plain.
  - Commissioners discussed potential requirements for restoration and determined that requiring a Notice of Intent detailing the planned restoration would be the best path forward. Commission asked that this notice be filed no later than the deadline for the 10/3/19 Conservation Commission meeting.
- Vote: Vote to ratify and issue an Enforcement Order against the owners of 194 Dedham Street for the unpermitted cutting of vegetation in the 100-year flood plain, requiring the filing of a Notice of Intent for the 10/3/19 Commission meeting. [Motion: Kathy Cade; Second: Judy Hepburn; Vote: 5:0:0].

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**ADJOURN** [Motion: Jeff Zabel; Second: Kathy Cade; Vote: 5:0:0]