

Wetlands Working Group
TOWN OF PETERBOROUGH, New Hampshire

Minutes of January 20, 2010

Members of the Peterborough Planning Board and Peterborough Conservation Commission held a joint meeting on Wednesday, January 20, 2010 at 7:30 a.m. in the Selectmen's Meeting Room of the Town House. The purpose of the meeting is to continue the preparation of an amended Wetlands Protection Ordinance.

Members Present: From the Planning Board David Enos, and from the Conservation Commission JoAnne Carr and Matt Lundsted. Also present was Francie Von Mertens.

Staff Present: Carol Ogilvie, Director and Laura Norton, Assistant, Office of Community Development; and Tom Weeks, Code Enforcement Officer.

The meeting was called to order at 7:35 a.m. Chairman Enos (Mr. Enos) noted that a review of the comparative wetlands evaluation checklist was in order. Ms Ogilvie noted she had incorporated all of Mr. Simpson's comments and the Workgroup's recommendations into the latest iteration. She also noted Mr. Simpson had suggested adding to (2) Performance Standards (b) Storm water Management (ii) the word *hydrology* to complete the sentence "Existing site hydrology must not be modified so as to disrupt adjacent wetlands *hydrology*."

Mr. Enos suggested the group review the comments and concerns stemming from the Planning Board meeting on January 11th. Ms. Carr noted she felt there was a broad public misunderstanding that all wetland applications would go through the Planning Board "which is not the case" she said. She noted the need for an applicant to go to the ZBA for a Variance if they were in clear violation of the wetland setbacks. Another member agreed they felt that was the implication from reading the local newspaper, adding "you read it as all the authority belonging to the Planning Board." Ms. Carr added "I think it was fuzzy to the audience, I know it was unclear to me." Ms. Von Mertens asked "what is so important about it? In the grand scheme of things that is the fine print." Ms. Carr suggested presenting a skeleton of the ordinance showing all the recommendations and the changes "so there will not be any more cherry picking comments of pieces of the ordinance that has been read here and there." Mr. Enos agreed adding "we need to stress the fact that this only effects anything thing that is new, that is a trigger point."

Ms. Von Mertens asked about the participation of Juniper (Peter Brown) at the January 11th meeting with Me. Enos replying he had commented on the wetland amendment but had not presented any sort of plan for a hockey rink. Mr. Weeks noted the current regulations would require a Variance to proceed with the concept sketch that had been presented. A brief discussion about the potential of such a facility and related parking followed.

Getting back to the wetland study Ms. Von Mertens noted "we need to be able to answer how this report relates to the \$15, 000.00 wetlands study" adding "and the tiers, that study specifically defined tiers rather than a sliding scale." Mr. Weeks noted "it needs to be clear on how it will affect the taxpayer in the overall picture." He added "try to read it now and all you can say is "are you kidding me?" Mr. Enos also noted the cumulative impacts "that no one looks at." He

offered the future water plans for the town as an example. Mr. Weeks replied “it needs to be in layman terms and explain how the changes positively impact the people and the town.” He reviewed the (three) options of being able to meet the 100 foot setback with no consequences, to seeking relief through meeting Performance Standards and Conditional Use Permitting at the Planning Board level, to seeking relief in the form of a Variance at the ZBA level. A brief discussion followed with Ms. Carr suggesting “something in advance of town meeting explaining the amendment.” One member suggested an informational report in the town newsletter “and the timing might be just right as well” said another member.

A brief discussion about the when and where to hire a wetland scientist to delineate the wetlands followed with Ms. Von Mertens noting “it is important to understand that you have to do that now.” The members also very briefly discussed a letter by Sharon Monahan to the Workgroup but noted Ms. Monahan was not present to answer questions or clarify her concerns. “She needs to be here for that” stated Mr. Von Mertens. During the discussion of when and who would delineate the wetlands in the application process Ms. Von Mertens made it clear the Conservation Commission was not interested in the job. “We don’t want that” she said, “it is a can of worms.” The members went on to discuss the 14 functional values used in the New Hampshire Method and creating a regulation to satisfy the town. Mr. Enos noted “you can do that; you can use the standards you want to use as long as you can support them.” The members went on to review the nomenclature of the wetlands evaluation checklist. Ms. Von Mertens pointed out that “122 properties or 85% of the wetlands in town were assessed using that list” Mr. Enos interjected “we will do what is best for our town with both a science and a method behind it so that it will withstand any challenge.” He went on to note “the point is to see the value of the wetlands we have, to look at their functional values and have a differentiation in buffers based on those functions so we have something left in 100 years.” A brief discussion followed.

Ms. Von Mertens reiterated the need for a good lead statement about the ordinance and the flexibility it provides. She suggested visuals as well as examples be provided at the public sessions. Mr. Enos mentioned the Planning Board Workshop on January 25th adding “that will be a good opportunity to start to flush that out.”

Mr. Weeks asked for clarification about changing the Wetlands Buffer definition, specifically noting *surface waters* in the current definition. Ms. Ogilvie noted “it may no longer be appropriate to say *all* surface waters.” The members briefly discussed the shoreline setback of 100 feet on all the bodies of water identified on the 1953 and 1987 geodetic map. Ms. Carr suggested that although it was not in the purview of the Workgroup, someone may want to reconsider the whole Shoreland Overlay District. A brief discussion that included the many streams and water surfaces that might fall through the cracks followed. The members also briefly discussed the similarities of the wetland and shoreline restrictions and the potential for absorbing the shoreland overlay into the ordinance. Ms. Carr asked “would we lose protection by abandoning it?” with Mr. Enos replying “we should think about it, on face value it gives relief and would be much more consistent. We need to look at it.” The members further discussed the “science and politics” of the ordinance with Ms. Carr noting she would like to see a revised wetland map based on the town’s functional criteria adding “we talked about this but the conversation got dropped a month or two ago.” Ms. Carr noted the importance of updating the maps as “we rely on them and right now it is false data.” She added “we need a revised map to go with the functional analysis used for this study. The data is ours to use in a rational way. I

think it would be simple to link the data to polygons, change the values and use it.” A discussion about the 14 functions of the New Hampshire method versus the 4 functions used for the Peterborough analysis followed. Ms. Von Mertens reiterated the importance of “making sure the checklist coincides with the 85% of wetlands assessed.” Ms. Carr agreed adding “and right now I don’t think it does.” The members noted the wetlands of an aquifer as an examples as well as assuring “noteworthiness” being kept to a high standard “so as not to become a dumping ground.” The members re-reviewed the functional values of the New Hampshire Method with Mr. Enos reiterating “the New Hampshire Method is a one size fits all method, it is a data base, it is not a ranking system.” The members discussed the functional values of ecological integrity, wetland wildlife, flood control, groundwater use, sediment trapping and nutrient attenuation as the values they were interested in applying to the Peterborough assessment. Mr. Lundsted noted the use of these functional values would allow a ranking system relative to Peterborough’s wetlands “and a high or low functional ranking is comparative to Peterborough only” with Mr. Enos interjecting “which is what allows you to organize your own ordinance.” Mr. Enos went on to note “it is reasonable and for public benefit.” He offered the example of using functional values that differ from other towns is of the same reasoning that “you have different speed limits on different roads in different towns.”

The members went on to discuss certain examples in the Shoreland Conservation Zone that are in conflict with the new ordinance. They also briefly discussed the potential of incorporating the Shoreland Conservation Zone into the Wetlands Protection District and calling it a Conservation Zone. They discussed several examples of how combining the ordinances “would result in one less process” for an applicant, with one member noting “it would not be based on an either/or basis, it would be the two melted together.” A brief discussion about streamlining the process followed with Ms. Carr noting “streamlining this process will mean better compliance, and you only look at it once.”

Mr. Lundsted noted the need for a definition for vernal pools and Ms. Von Mertens reiterated the need to define “noteworthiness” as well. Mr. Weeks noted some areas of conflict between the ordinance and the checklist. Mr. Lundsted agreed noting “we will need to change that, based on our discussion of the ordinance it will have to match the checklist.” Ms. Carr noted there had been some concern about initiating Conditional Use Permits and the burden they may place on the Planning Board. A brief discussion that included specific examples of what type of application would be appropriate (and what type would not) for Conditional Use Permits followed. This discussion sparked another on driveway and access ways with Ms. Von Mertens noting “driveways shouldn’t change at all.” Mr. Weeks noted the inconsistency of the amount of feet (25 feet to 50 feet) between the new and old ordinance and suggested an exception for driveways in the proposed amendment.

Mr. Enos concluded the meeting by reminding the members to review the wetlands evaluation checklist and be prepared to discuss it next Monday morning, adding “this is still a work-in-process. We have an opportunity to learn and grow with this using flexibility and reasonability.”

Ms. Von Mertens once again mentioned the comments sent along by Ms. Monahan with Mr. Enos replying “she needs to come to the meeting; she needs to be here to discuss her concerns.” When Ms. Von Mertens suggested Mr. Enos give Ms. Monahan a call he noted “I don’t want to do anything outside of this Workgroup. I want to only speak about this during the meeting as part of the public process.”

In conclusion Mr. Weeks noted mentioned the permitted uses in the Overlay District, specifically wells; well supply lines and state-approved septic systems. He noted that “foundations and roof drains should be allowed in the setback area as well” adding “some thought has to be put into it.” A brief discussion of the attenuation of flow drains to daylight and urban well head protection being incorporated into the standard followed.

The meeting adjourned at 9:08 a.m.

Respectfully submitted,
Laura Norton
Administrative Assistant