

NORTH STONINGTON CONSERVATION COMMISSION

**March 16, 2023 @ 6:00pm
Old High School Media Center
Regular Meeting**

Minutes (amended)

Call to order: 6:03 p.m.

Attendance

Present: Bill Ricker, Steve Colgan, Arnie Vleiks, Bob Deguorse, Jason Mancini; a quorum being present.

Regrets: Doug Farrand

Guest: Josh Strunk

Also attending: Jeremy Whipple (MPTN), Eric Dunnack (forester), Chris Cassadei (forester), Garrett Timmons (NRCS District Conservationist)

Minutes of February, 2023 meeting: accepted as written

Motion made and seconded to move CE property encroachment item from New Business to the top in respect for the gentlemen present. Voted: 5-0-0

Citizen Comments: Statements were presented by the 4-mentioned individuals, all presenting their case asserting the tree cutting was a valid and effective forestry management policy which followed practices accepted by NRCS and generally accepted to be good forest management. All the gentlemen acknowledged that the project was initiated in violation of the conservation easement terms and conditions in the property deed for parcel # 0198, a 56.87-acre conservation easement property on Swantown Road. Their overall objective as noted in the "Notification Of Timber Harvest", dated 6/21/22, and submitted to the Land Use Department at North Stonington Town Hall, is to "improve the over health and productivity of the woodlot, areas of sugarbush management and wild blueberry release where appropriate." They described the proposed management activity and agricultural goals.

Commissioner Ricker noted that the goals and objectives of their activities appeared sound and it was understood by the Commission the health of the forest would likely be enhanced by the work proposed. He noted the Land Use office did receive the notification "as a courtesy" but they do not give approval or denial of activities on private property. Ricker further stated, abiding by the deed is the responsibility of the land owner not the Land Use Office. The Chair asserted the overriding concern was not the work itself but the fact that it was initiated in violation of the terms and conditions of the deed in Vol. 0161 page 910 of the land records, and agreed by both parties at the time Lake of Isles golf course was to be constructed. The Chair read from the deed, that 1. (i) "the removal or destruction of trees, shrubs, natural vegetation . . ." and (j) "The construction and/or installation of roads or driveways" were both prohibited.

Commissioner Colgan stated the public interest must be considered as any landowner considering placing their land in a conservation easement would expect the wording in their deed be adhered to by the town. Failing to do so would set a precedent for others who choose to ignore their deed and

proceed unchecked. **Amended statement from March minutes: Commissioner Colgan offered we should capture the value of the lumber removed from the conservation easement as part of the violation on Swantown.**

Commissioner Colgan read a similar CT court case in the Fordham Law Review.

While the specifics of the CE violation were different in the Fairfield County case from North Stonington, the 2 cases were similar in that: 1) Proper permits were not obtained by the land owners, 2) The stipulations of the CE were violated in both cases, and 3) The actions that resulted in the CE violations were not deliberate or willful. For the Fairfield case, the court's opinion, while sympathetic to the land owner not knowing that permits were required, mandated remediation even though it might not produce conservation benefits because not imposing a sanction could have the effect of encouraging unauthorized violations by others. Forester Dunnack said that in his opinion, the 2 cases are not similar because the CE violations were different.

Commissioner Ricker suggested 5-possible recommendations the Commission might make to the Board of Selectmen. The MPTN representatives could offer none additional

Commissioner Ricker cited CT State Statutes: Sec 47-42e (f) that "If a municipality fails to comply with a dedication of land as open space or park land or the terms of a conservation or preservation restriction, the Attorney General may bring action in the superior court to enforce the public interest in such dedication or conservation or preservation restriction." The concern followed that the commissioners were not only expected to uphold the law with respect to the deed, but also by their actions, not place the town in a legally indefensible position.

Following further discussion, a Motion was made and seconded: *We recommend the Board of Selectmen seek counsel from the town attorney to determine what possible options are available to protect the town and not violate the terms of the CE and deed restrictions as stated.* Voted: 5-0-0

It was agreed by all parties present that there would be no further cutting or removal of timber until a resolution is decided.

Old Business:

- Calendar sales have ended. \$60 still to be turned in. Ricker surmised we should have ordered 100 rather than 125. Need for photos from anyone attending a town event this year.
- Colgan submitted an updated bike trail map for discussion and revision. We should include the Enduro Trails are under State control. Additional parking places were offered.
- The Wild & Scenic grant was rejected. Reasons were the trail was not defined enough and the second grant had not yet been ruled upon. The larger 52-page DEEP grant has been submitted and is awaiting a decision.
- The PRCL map was again reviewed with one additional property along the Green Falls River added. Commissioners are asked to review the rationale (handout given) for each parcel's inclusion.

New Business:

- The Narragansett Trail had been closed by Fire Fly Farm LLC while they were working in their property. Mike Crutchley forwarded the newly located trail map. This in turn was forwarded to Jim Russell for our trail records.
- Earth Day planning: Ricker to contact Supt. Hopkins to see if a flyer can go home with kids for a Saturday, April 22 road cleanup. Colgan & Mancini to consult on a Facebook inclusion to towns people. Each of us needs to choose a road for ourselves. Vlieks & Ricker: Wyassup Rd.
- Commissioners were asked to choose a trail to hike and clear downed branches for spring cleanup. Downed trees should be reported back for chain sawing and removal.
 - Hangman Hill Preserve: Degoursey
 - Steward Hill Preserve: Vlieks
 - Billing Lake Trail: Colgan
 - Assekonk Borderlands: Ricker
 - Wright Road Preserve: TBD
- A son-in-law of deceased Margaret Berne contacted Ricker to discuss option for selling or otherwise dispersing 4-parcels of land on Wyassup Rd, 2 of which abut Pachaug Forest. Contact information given for Avalonia, NSCLA and the DEEP Land Acquisition Department.
- All were reminded of the 3-Lakes Neighborhood meeting next Monday @ Camp Wrightman at 6:30pm.

Josh Strunk was present throughout the meeting as he was interested in an applying for an appointment to the Conservation Commission. Josh gave several compelling reasons for his interest both in conservation and wanting to get back into serving the town. He's an avid family hiker and would enjoy the work of the commission. Monica Dumont called in stating she could not attend as her horse was loose and that needed her attention. It was decided to hold off on a decision until Dumont had the same opportunity in April to be vetted.

Motion made and seconded to adjourn @ 8:15pm

Voted: 5-0-0

Respectfully submitted,

Bob Degoursey, Secretary pro tem