

Fremont Conservation Commission
09-14-09 Minutes



Fremont Conservation Commission
Minutes of September 14, 2009

Approved with amendment September 21, 2009

Present: Chairman John (Jack) Karcz, Members Janice O'Brien, Pat deBeer, and Recording Secretary Meredith Bolduc.

Chrm. Karcz opened the meeting at 7:00 pm.

MINUTES

Mbr. O'Brien made the motion to accept the minutes of the August 31, 2009 meeting as written. The motion was seconded by Mbr. deBeer with unanimous favorable vote.

VERNAL POOL STUDY

Present: Mark West of West Environmental, Inc.

Mbr. O'Brien asked Mark West if he could do a study on vernal pools in Fremont and about how much would it cost to do such a study. He agreed to come up with a ball-park estimate of what it would cost to do a study to determine where vernal pools are in Fremont.

WETLAND AND WATERSHED PROTECTION ZONING ORDINANCE AMENDMENT

Present: Mark West of West Environmental, Inc.

At 7:10 pm Mark West of West Environmental, Inc. met with the Commission to review a draft of the Wetland and Watershed Protection Zoning Ordinance amendment he authored at the request of the Planning Board and to explain his rationale for the suggested changes.

Mr. West addressed the following questions previously generated by the Conservation Commission Members (Mr. West's answers are in italics):

- Under G-1; were golf courses to be excluded? *Mr. West said that we should not exclude golf courses, but they should meet the buffers.*

Discussion:

Mbr. deBeer felt that golf courses should not be in the wetland buffer because of the fertilizers and chemicals that are used for lawn and grass treatment. There was a general conversation relative about whether or not to include golf courses. This will be further discussed.

- Is the intent that the structural setback includes the vegetative buffer or is the intent that the buffer would be in addition to the structural setback? *The buffer is in the setback.*

Discussion: Mbr. deBeer asked why such a small buffer and said she thought it would be larger. Mr. West said that towns typically have a 25' no cut and no disturbance buffers and he feels it

Fremont Conservation Commission 09-14-09 Minutes

works relatively well. Mbr. deBeer thought that at the joint meeting in May David West had advocated a 50' buffer. Mbr. deBeer said that she is concerned for the cumulative impact to the wetlands because of the small areas with little or no buffer. She said that the State has a "cumulative" impact rule. This generated a conversation relative to the impact of a series of small impacts could have on the wetland. Mr. West said that the way the ordinance currently reads you can have a lawn up to the wetlands. This amendment would protect the first 25'.

- Should the State of NH delineation requirements be included? *Mr. West said that the State requirements are included under the definition section.*
- Is there a buffer and/or setback suggested for a wetland less than 3,000 square feet? *Mr. West said that there is not.*

Discussion: In answer to questions by the Members, Mr. West said that 3,000 sf is used because that is the size of a minimum impact area according to the State of NH. He added that the small wetland systems should not deserve the same protection as the larger systems. An owner cannot fill any wetland without a wetland permit from NH DES and in order to get a state permit the owner has to have a "need" to impact that wetland. Mr. West said that there could be a setback to the less than 3,000 sf wetlands if the town wants, it is just not typically done and difficult to police. Mbr. O'Brien said that if we try to regulate all of the lesser functioning systems, the larger ones may not be treated as important as they are. Mbr. deBeer asked Mr. West if he could include in the amendment a sentence that states "all wetlands must have a permit". Mr. West said he could and the Members agreed that this would be helpful. Mbr. O'Brien asked if there could be 2 more buffer tiers that would clarify what was allowed for a wetland less than, and more than, 3,000 sf. It was agreed to include graduated buffers for different sizes of wetlands: greater than 3,000 sf – less than 20,000 sf; and all wetlands greater than 20,000 sf.

- The State buffer for prime wetlands is 100'; the table for the buffer setback here shows 75'.

Discussion:

Mr. West said that the State buffer ties to no-cut. Mbr. deBeer said that Sandra Crystall from the Wetlands Bureau directed her to RSA 482-A:11, IV regarding Prime Wetland buffers. When she asked for clarification, Ms. Crystall referred her to Chris Brison who stated that "right now, it would require a permit to do any work, including timber harvesting activities, within 100' of a prime wetland designated by the Town. Mr. West said that the State policy is to have a 100' buffer for disturbing soil. He reported that the State has a prime wetland law that they are looking to redo to waive the buffer for forestry and some other activities. The buffer is for physical disturbance, not tree cutting. Right now there is no restricting on cutting (timber). Mr. West said he feels that using the Comprehensive Shoreland Protection Act guideline is the only way to limit the cut. Mbr. deBeer said she would rather restrict the timber cutting more than the Shoreland Protection Act does. Mr. West said that then you would have to come up with your own formula. He said that the Town would have an easier time enforcing something that conforms to a State standard than a stricter standard of its own. Mbr. deBeer stated that she thought we should abide by NH DES rules. Mr. Karcz said that for enforcement reasons he would not want to be out of sync with the State, but would want to conform with the State requirements.

- There is no direction for the asterisk beside "limited-cut" in the buffers table. *Mr. West said that he would add directions.*

Fremont Conservation Commission

09-14-09 Minutes

There was a conversation relative to what steps can be taken if the buffer is violated. Mr. West said that the NH DES Shoreland people can require the landowner to replant.

Mbr. deBeer asked how to protect streams that are not 4th order. Mr. West agreed to add a “stream section” to the ordinance and tables. He said that he would add the edits as a result of tonight’s meeting to the draft and e-mail it to the Land Use Office so it can be sent to the Planning Board and Conservation Commission Members for their review. Mr. West will attend the September 23, 2009 (7:30 pm) Planning Board meeting for a joint review of the amendment.

The Members thanked Mr. West for his time and he left the meeting at 8:30 pm.

TOWN FOREST ORDINANCE

Mbr. O’Brien made the motion to amend the verbiage of the Town Forest Ordinance to include prohibition of campfires and camping.

Motion seconded by Mbr. deBeer with unanimous favorable vote.

Mbr. O’Brien said that she will look at the Easement and the sign and bring in the verbiage to the next meeting for the Conservation Commission to submit to the Selectmen along with a request to hold the necessary Public Hearing to amend the ordinance.

CONSERVATION COMMISSION ZONING ORDINANCE; NH RSA 36-A: 4-a

Chrm. Karcz asked the Members if they wish to re-submit to the voters the provision of RSA 36-A that authorizes Town Conservation Commissions to make contributions from their conservation funds to “qualified organizations” for acquisition of property interests (fee or easement) held by the organizations, and/or transaction costs related to these purchases. This was on the 2009 Warrant and was defeated. The Members agreed that it should again be put before the voters for reconsideration by the Voters in 2010.

Mbr. O’Brien made the motion to move forward to put before the voters at the 2010 Town Meeting the following Article that would give the Conservation Commission the ability to support land protection projects by giving money to a qualified organization (such as a land trust) without taking a property interest: *Shall the Town vote to adopt the provisions of RSA 36-A-4-a, I (b) to authorize the Conservation Commission to expend funds for contributions to qualified organizations for the purchase of the property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the Town will retain no interest in the property.* Motion seconded by Mbr. deBeer with unanimous favorable vote.

INCOMING CORRESPONDENCE

There was no incoming correspondence.

Mbr. O’Brien made the motion to adjourn at 9:05 pm.

Motion seconded by Mbr. deBeer with unanimous favorable vote.

Meredith Bolduc

Fremont Conservation Commission

09-14-09 Minutes

Land Use AA/Recording Secretary