

# **Environmental Commission**

## **May 14, 2020 Meeting Minutes**

**Prepared by:  
Paul Demarest**

### **Opening Remarks**

Chairman Colwell called to order, at 7:33pm, the virtual Regular Monthly Meeting of the Environmental Commission for the Borough of Closter, New Jersey, convening via videotelephony service, due to governmental restrictions relating to the 2019-2020 Coronavirus (COVID-19) Pandemic, on Thursday, May 14, 2020.

### **Attendance**

#### **Present**

Thomas Colwell- Chairman  
Steven Isaacson- Full Member  
Miriam Lockhart- Full Member  
Grace Whitney- Full Member  
Scott Devlin- Full Member/Council Liaison  
Sophie Heymann- Full Member/Planning Board Liaison  
Nancy Pergament- Full Member/Shade Tree Commission Liaison  
Krishna Rege- Associate Member

#### **Absent**

Ethel Abrams- Alternate #1  
Bobbie Bouton-Goldberg- Alternate #2/Historic Preservation Commission Liaison  
Mordechai Feibish- Associate Member

### **Minutes**

A motion was made by Ms. Heymann and seconded by Mr. Isaacson, to approve the minutes for the February 13, 2020 Meeting. The motion passed unanimously.

Chairman Colwell reminded that being both the March 12, 2020 and April 9, 2020 Meetings were cancelled due to the Pandemic, minutes were not prepared.

### **Open to Public**

Chairman Colwell opened the meeting to the public for questions and/or comments.

Paul Weissman, 21 Mc Cain Court, Closter, New Jersey, introduced himself as 1 of the authors of recent letter(s) sent to both the Commission and Governing Body regarding the Borough's intentions on how it will proceed once the lease between the Borough and the current caretaker

and resident of Mac Bain Farm, John Mc Caffrey, expires on July 31, 2020. He asked what the existing lease provisions are, and how they are enforced; he questioned if ordinances regulating zoning, noise, etc. apply to the site being the subject parcel, 189 Hickory Lane, is Borough-owned. He questioned if Mr. Mc Caffrey is allowed to operate a business unrelated to the Farm out of the residence on-site. He reported a shack recently erected on-site is being inhabited. He asked which Borough entity will spearhead the crafting of a new contract with Mr. Mc Caffrey or a new candidate, and how those residing near the Farm, who are directly impacted by on-site activities, could participate in the process. Mr. Weissman acknowledged Mr. Mc Caffrey's positives and negatives as a neighbor.

Gil Shaked, 32 Mc Cain Court, Closter, New Jersey, also introduced himself as 1 of the authors of recent letter(s) addressed to the Borough regarding the Farm, which he considered a Borough treasure; he felt because of the value it brings to Closter residents as a destination and educational experience, he stressed the Borough must choose an individual best suited to operate the Farm. He inquired how the Borough would ensure a fair and transparent process in selecting the future caretaker as of August 1<sup>st</sup>.

Lowell Mandelblatt, 42 Mc Cain Court, Closter, New Jersey introduced himself; he concurred that the Farm is an important asset to the community, however, its occupant disregards how his actions negatively impact his neighbors. He pointed out that all-terrain vehicles (ATV's) are regularly driven on-site as are fires being lit, presumably to burn trash. He said complaints about the Farm have been filed by residents living as far away as Venus Drive. Also, he said Mr. Mc Caffrey planted copious amounts of bamboo, a very invasive plant, which has forced himself and Mr. Shaked to spend \$1,000.00's on removing the plant from their own properties (he noted neither of them have sought to be reimbursed by the Borough). He said while the Borough has attempted to assist in curtailing the bamboo, it remains a problem. He felt the bamboo planting was even more egregious being Mr. Mc Caffrey owns a nursery (Alpine Gardens, Inc.) and should know better.

Adi Schwartz, 12 Mc Cain Court, Closter, New Jersey, introduced himself as a parent of 5 children. He said there is no fence to separate the Farm and his property, allowing for ATV's to be driven in the vicinity of the shared property line and cause a safety hazard for his family. Mr. Shaked reiterated the use of dirt bikes at the Farm occurs day and night, and he questioned if all residents can operate motorized vehicles on all public lands; he questioned if the Borough's insurance policies coverage such activities, noting legal actions due to bodily harm could eat into taxpayer money.

Robert Lee, 22 Mc Cain Court, Closter, New Jersey, introduced himself noting he recently agreed to remove 1 of the trees located near his shared property with the Farm at the behest of Mr. Mc Caffrey; he said the tree was rotten because the caretaker regularly stacked firewood against it to serve as a delineation between the 2 properties in lieu of an actual fence, which compromised the tree and cost him \$2,000+ to cut down. Mr. Lee also expressed concern about the bike activity on-site and how it puts his 2 young children in danger. He informed he recently put his property up for sale, which revealed how Mr. Mc Caffrey's actions have caused his home to go down in value. He added a boat that is stored illegally on-site is quite unsightly. Mr. Mandelblatt stated there is a protocol for being able to burn trash at a residence, which Mr. Mc Caffrey never follows, resulting in plumes of black smoke and embers crossing over onto neighboring properties. He further stated that Mr. Mc Caffrey is never on-site, wondering who he entrusts doing such activities in his absence. Mr. Shaked said there is a proper way to install bamboo to prevent unwanted spread.

In response to the aforementioned questions, Chairman Colwell replied he was sorry for what they have experienced but cautioned that the Commission consists of volunteers, noting it

would be involved in writing a new lease for the Farm's caretaker. He stressed the current Commission roster is newly-appointed for the most part, and the entire contract negotiation will be a learning experience. He said the Commission is an advisory body and the Mayor and Council are the landlords on behalf of the Borough. To draw a comparison on the process, he reminded that last year, several residents complained to the Commission about illegal bike activity in Schauble Park being it oversees passive parks; he said the Governing Body decided the Police Department should be contacted for enforcement when an active situation occurs. He surmised that being the Borough deemed such activity not acceptable in Schauble Park, it is likely illegal at Mac Bain Farm and not covered by insurance, though he deferred to the Borough Attorney, Edward Rogan, Esq, for a legal opinion. He also replied that being the Farm is Borough property, the issuance of zoning and tree removal permits do not apply, however, construction permits are not waived according to the Building Department. Chairman Colwell stated that when the Commission wishes to collaborate with an Eagle Scout candidate to construct an appurtenance on-site, such as a pergola or shed, approval from the Governing Body must be secured. He also deferred to Mr. Rogan as to the legality of Mr. Mc Caffrey operating an unrelated business from the house. Assuming weather permits over the coming weekend, he promised to investigate the shack in question. He agreed the Farm is an invaluable resource for Closter, and while he found the supposed behavior by Mr. Mc Caffrey troublesome, he juxtaposed that with the vision and innovation he has brought to the implementation of the Farm since its inception 2 decades ago. Mr. Shaked asked how Closter can be sure Mr. Mc Caffrey is the right candidate if the position does not out to public bid; for instance, he said there may be other farmers who could provide more than \$25,000.00 in labor for the right to live on-site free of charge, the amount required in the existing lease.

Mayor John Glidden introduced himself and stated the Governing Body discussed the caretaker lease at length during its meeting last night. He noted the existing agreement precedes all elected officials now serving the Borough. Concurring with Mr. Mandelblatt, he said there was some success in reducing the bamboo at the Farm which has caused havoc to the abutting properties. He envisioned the Governing Body would move forward with a public bid for the position as well as a new lease which would eliminate all loopholes which have given rise to the inability to police certain conduct described this evening. He promised to form a committee comprised of members from the Governing Body and Commission as well as the Borough Administrator, Edward Hynes, under the advisement of Mr. Rogan to draft a new lease. Mayor Glidden stated the enforcement of the lease's provisions moving forward will be under the auspices of the Borough Administrator, who may deputize 1 or 2 Borough employees to monitor daily oversight. He saw no reason why the public should not be privy to the wording of the new lease while it is being drafted. Councilman Devlin said he agreed with Mayor Glidden's thoughts in general, especially having a fulltime Borough employee enforcing the lease provisions. He emphasized that complaints regarding the illegally-occupied shack, ATV use and fires at the Farm should be lodged with the Police Department.

Councilman Victoria Amitai introduced herself and expressed disappointment over the apparent ongoing violations at the Farm, but felt the bamboo issue must be addressed immediately, noting an ordinance regulating such was recently adopted by the Governing Body. Mr. Isaacson pointed out that Mr. Mc Caffrey and his immediate family have resided on-site for 20 years and his 2<sup>nd</sup> 10-year lease is about to expire. He reiterated the lease is between him and the Borough, with the Commission serving in an advisory capacity only. He stressed the Farm is a Borough park and complaints must be directed towards the leaseholders, not the Commission. He commended Mr. Mc Caffrey's caretaking skills and believed if he is officially confronted about his infractions on-site, the neighbors' concerns will be alleviated. Ms. Heymann said she would make available the 6 or so written presentations solicited by the Borough and submitted by farmers 20 years ago when the caretaker position was 1<sup>st</sup> advertised. Ms. Pergament said the genesis of the Farm dates back approximately 27 years when Closter

purchased the site and worked diligently to first secure it as open space and then transform it into the destination and oasis for fresh produce and visual beauty it is today. In response to Ms. Pergament, Mayor Glidden said the new lease would include the power to levy fines for failure to abide by the provisions. Ms. Rege questioned if the new lease should be for less than a 10-year term, at least initially.

Chairman Colwell thanked all for their input and promised to have an answer as to which Borough entity the neighbors should direct their Farm concerns to within 1 week.

## **Treasurer's Report**

Chairman Colwell reminded that the Commission continues to be operating on a temporary budget until the 2020 municipal budget is adopted by the Governing Body. He said \$1,035.00 remains in the temporary budget after paying \$375.00 for the Commission's annual Association of New Jersey Environmental Commissions (ANJEC) membership. He noted there may have been a shortage of funds overall if this year's Borough-wide Cleaning Effort and the Northern Valley Earth Fair were not cancelled due to the Pandemic.

A motion was made by Ms. Heymann and seconded by Ms. Lockhart, for the Commission to appropriate up to \$200.00 to be spent, within the following week, on supplies necessary for Mac Bain Farm volunteers to fulfill their duties. The motion passed unanimously.

Ms. Pergament noted that the materials to be bought with said \$200.00 do not relate to those needed for Mr. Mc Caffrey to handle watering, planting or weeding on-site.

## **Committee Reports**

### **Mac Bain Farm Operations**

Ms. Lockhart said she hoped to have the Farm open to the public by mid-June, with new guidelines in response to the Pandemic being posted on the Borough website as soon as possible; Ms. Pergament said the new protocol reflects the most recent Executive Orders issued by Governor Phil Murphy.

### **Mac Bain Farm Property**

Chairman Colwell said an Eagle Scout candidate in a troop from the Borough of New Milford, who resides on Hickory Lane, is collaborating with Mr. Mc Caffrey on refurbishing and possibly installing a new foundation for the dollhouse on-site which would remain in the same location.

Chairman Colwell said that prior to the Pandemic, a \$3,000.00+ estimate for the repair of certain fence sections at the Farm was provided by Dimick Fence Co. He believed there was only \$1,400.00 remaining in open space funding reserved for such improvements; he said being planting has begun, the fence repairs can be either be scaled back or monies from other subaccounts in the Commission's temporary budget can be reallocated to make the full \$3,000.00+ available. Ms. Pergament suggested the matter be tabled until the May 28, 2020 Special Meeting. Ms. Heymann said additional open space monies can be asked of the Mayor and Council to cover the necessary fence repairs, noting the last Commission request was 18 months ago; she stressed that the Farm cannot function properly if deer can infiltrate the Farm via faulty fencing. Chairman Colwell reminded that securing open space funds requires the adoption of an ordinance being a trust account is involved, which takes several months. Ms. Heymann said Chairman Colwell's suggestion of shifting funds to free up money for the fence is merely a temporary measure. She said the Commission must start the process by setting a

budget for long-term needs and voting on an official request for open space monies and then transmit it to the Governing Body for consideration. Chairman Colwell said 3 quotes in total would be required for the fencing repairs.

### **Events & Publicity**

Ms. Whitney said that while the Pandemic caused the postponement of the 2020 Borough-wide Cleaning Effort, Closter retains the \$300.00 in Bergen County funding for the event; she hoped it could be rescheduled for the summer or autumn, noting all planning has been completed. Referencing a news article about Mount Kisco, New York, Ms. Pergament said the municipality opted for a do-it-yourself version of a clean-up effort which retains the cause while exercising social distancing; Chairman Colwell said such an alternative would benefit families who have not been able to venture out to vacation, etc. due to the Pandemic.

Mr. Isaacson said a planned Israeli Boy Scout “good deed day” event was also been cancelled this year due to the Pandemic

### **Trails & Passive Parks**

Mr. Isaacson said there is cleanup needed for various sections of the trail system. He said complaints have been received that the illegal dirt bike trails located in Schauble Park are being expanded upon, creating a safety hazard for trail walkers; Ms. Pergament said apparently the area of bike activity is moving beyond the northeastern corner of the Park. Mr. Isaacson said if this continued, the open space would become essentially an active park, which falls under the jurisdiction of the Recreation Commission. He said a compromise could be reached if the parties responsible for and using the trails for biking and the neighbors opposed to such open their lines of communication. In response to Ms. Lockhart, Chairman Colwell said the bicyclists are all middle-school students living in Closter and none of the bikes are motorized. Ms. Lockhart said the area north of Anderson Avenue near the water utility tower, just beyond the limits of Closter, has been overtaken by bicyclists, mostly from the Borough of Tenafly. Mr. Isaacson said the area in question is part of both the Alpine Scout Camp and Palisades Interstate Park Commission. Ms. Pergament said the trails in Schauble Park are essentially being rerouted and repurposed for a use they were not intended for. Chairman Colwell promised to photograph the violations so the matter can be further discussed at the Commission’s next meeting.

### **Education & Advocacy**

Ms. Heymann said she continues to lobby the Governing Body to pass a ban on polystyrene foam use by Closter merchants, which has been stalled in the Ordinance Committee for more than 2 years. She said she is also pushing for a Borough pamphlet to educate the public on sustainability and recycling, noting she is finalizing a grant application due sometime in July, the award of which could fund the printing of copies. Being home food deliveries are much more prevalent these days, Mr. Isaacson questioned if recyclables could be collected more often for the time being. Ms. Heymann replied that the Department of Public Works (DPW), which collects trash and the Borough’s recycling vendor, Interstate Waste Services Co., are not in a position to provide additional pick-up. Besides, she said the problem is how poorly the public sorts its recyclables, which results in them being dumped into ordinary compost piling instead of being recycled; all the more reason, she said, to educate the public with pamphlets on what they can do on their own properties to be more sustainable. Mr. Isaacson said residents may not know they can transport their own recyclables to the recycling center.

Ms. Whitney said she attended an ANJEC session on fundamentals for Commissions in early March, which she found quite informative; Ms. Pergament concurred, saying she and Ms. Heymann attended 1 last year and noted such offerings are covered by the Commission’s annual membership dues.

### **Plan Review, Environmental Notification & Contaminated Sites**

The Commission did not receive any land use board applications for its consideration.

Chairman Colwell said the Borough Engineer's firm, Boswell Engineering, Inc., recently prepared a wetlands survey for the defunct Closter Swim Club site located on Blanch Avenue. According to Mr. Hynes, he said that by August 2021, the Borough will have had possession of the site for a decade. He said once a parcel has been tested for contamination, the New Department of Environmental Protection (NJDEP) gives a municipality 10 years to devise a remediation plan for its approval; if such is not completed, the NJDEP will take control and bill the municipality for the cleanup. Chairman Colwell said Mayor Glidden recently formed an advisory committee, consisting of himself, Councilman Joseph Yammarino, Councilwoman Jannie Chung, Recreation Commission Chairman James Oettinger and the Borough Engineer, Nick De Nicola, PE, which is tasked with preparing Closter's remediation plan by next August. Ms. Pergament questioned if the Commission should be a part of such; it tabled the matter until the May 28, 2020 Special Meeting.

Mr. Isaacson said there was additional correspondence received from the NJDEP pertaining to 73 West Street with respect to an underground heating oil storage tank removal, which required no further action, as well as the construction of new 1-family houses at 60 Anderson Avenue and 14 Venus Drive, both located near protected waterways.

### **Executive**

Chairman Colwell said that Mr. Rogan advised the request to amend Chapter 16 of the Borough Code so to create the position(s) of either Vice Chairperson or (2) Co-Chairpersons would not be legal because State statute dictates Environmental Commissions in New Jersey. Given that fact, he announced he would resign as Chairperson effective June 30<sup>th</sup> and Ms. Pergament would succeed him for the remainder of 2020.

### **New Business**

The Commission did not discuss new matters.

### **Liaison Reports**

#### **Governing Body**

Councilman Devlin said both the polystyrene foam and plastic bag ban proposals are on hold by the Ordinance Committee, revealing it is far more ahead in the process with foam than with plastic. He said the Governing Body is only concerning itself with necessities for the continuity of government in wake of the Pandemic.

With respect to the 2020 municipal budget, Councilman Devlin said the Commission was approved for a \$5,290.00 operating budget last year, and its respect for an increase to \$6,540.00 has survived being cut in the amended budget due to expected revenue losses stemming from the Pandemic. He estimated the final budget would be adopted in 2 weeks. Mr. Isaacson questioned if repairs at Mac Bain Farm should be paid out of the Commission's budget if the Recreation Commission does not handle the costs for maintaining its ballfields, etc. Councilman Devlin replied the issue is the speed in which access to open space funds is obtained, noting the previous estimate for fence repairs at Mac Bain Farm was far less than \$3,000.00. Ms. Pergament said the Farm's fencing is a constant maintenance issue.

Councilman Devlin noted that some tasks can be handled by the DPW, such as lawn maintenance, however, fence work is specialized.

### **Planning Board**

In light of Ms. Heymann's early dismissal, a report was not given.

### **Shade Tree Commission (STC)**

Councilman Devlin reminded that Chapter 181 of the Borough Code, which pertains to tree removal and preservation on private property, was made more stringent with amendment(s) adopted in December 2019; for example, he said mitigation is now required for trees removed where a building footprint will be constructed; however, he said requests for further changes from the land use boards did not make it into the ordinance change and incorporating said requests are now being held up due to the Pandemic. Mr. Isaacson asked if both property owners and tree service providers can be held responsible for illegal tree removal or even going beyond the scope of an issued tree removal permit; Councilman Devlin said he would ask Mr. Rogan for a legal opinion. Councilwoman Amitai said nearby municipalities issue penalties to tree service providers and opined that if Closter were to start doing so, the word would spread fast (especially to smaller outfits) that it does not pay to remove trees without Borough approval. She also revealed that once the Municipal Court restarts its sessions, the illegal tree removal at 56 Lindemann Avenue, which either includes or abuts land protected by the NJDEP's Green Acres program, will be enforced.

### **Historic Preservation Commission (HPC)**

In light of Ms. Bouton-Goldberg's absence, no new matters were discussed.

### **Adjournment**

The Commission commended Chairman Colwell on how he conducted this evening's meeting via telephone conferencing.

There being no further items to discuss, a motion was made by Ms. Lockhart and seconded by Mr. Isaacson, to adjourn the meeting at 9:01pm. The motion passed unanimously.