



## Town of West Boylston

140 Worcester Street, West Boylston, Massachusetts 01583

# Conservation Commission Meeting Minutes

### Date / Time / Location of Meeting

Monday, 2/6/2023 6:00p.m./ MEETINGS TAKING PLACE AT WEST BOYLSTON TOWN HALL, LAND USE MEETING ROOM

### Members Present

William Chase (Chair), David Mercurio (Vice-Chair), Emily Eaton, Carl Haarmann, Colin Cahill and Clerk Toby Goldstein.

### Members NOT Present

Jeffrey Perkins (Associate Member)

### Invited Guests

N/A

### Welcome – Call to Order

Time: 6:00 p.m.

### Approval of Previous Minutes

Minutes of 12/5/22 Meeting

Motion Originator Emily Eaton

Motion Seconded Colin Cahill

### Treasurer – Financial Report

Mr. Chase reviewed the report prior to the meeting; he briefly discussed with board this evening.

Motion to Accept N/A

Seconded N/A

At 6:00 pm, Mr. Chase called the meeting to order.

### Review of Municipal Stormwater Bylaws and Proposed Changes:

(Jaurice Schwartz of Weston and Sampson, and Kevin Duffy of DPW represented). Mr. Duffy explained that they are working on EPA's MS-4 requirements. Updated 4 years ago, annually they compile new material such as bylaws, rules and regulations updates, and site investigations. He said that Ms. Schwartz will give them an overview of the program, what they have accomplished in the past 15 months that they have been working on it, and rules and regulations and bylaw updates that they are working on now. Ms. Schwartz explained that the MS-4 involves all the municipal drainage infrastructure that is owned by the Town. She explained the history of it (it was promulgated through the Clean Water Act). It regulates point source discharges to water in the US and is involved

in the impact of stormwater on water quality. She said that the focus originally was industrial and municipal waste water, then there was a shift and addition of stormwater to the program. Ms. Schwartz said that the permit was originally issued in 2003, and required covered municipalities to apply for coverage. Ms. Schwartz noted that 250 communities in MA are required to do the updates, and it is based on census data; presently it is based on data from 2010, and the new one will be based on 2020 census data. She said that the studies are done in “urbanized areas”, with higher population and higher density, explaining that not all of West Boylston (about 75%) is involved. She noted that, with the 2020 census, the area could change again but they cannot deduct area from it. She explained that the MS-4 permitting is done in five-year permit cycles. The permit finalized in 2016 was active in 2018, then the Town submitted a Notice of Intent to EPA, and she added that the Town is in permit year 5, which ends June 30 of this year. Ms. Schwartz explained that working on a new permit is a long process which can take several years, even though it may be similar to the existing permit and a lot of the existing permit will be extended. She said that the Town has greater than five years to implement it. She noted that the 2016 permit has greater accountability than the 2003, has more detailed requirements and stricter timeframes, more documentation, enhanced reporting requirements and more prescriptive requirements for impaired waters than the 2003 permit. She noted that the Town files an annual report each year to go to EPA 3 months after the end of the permit year.

Before Ms. Schwartz continued, the board members had some questions. In response to Mr. Mercurio, Ms. Schwartz replied that the EPA issues the general permit, which allows for the discharge of stormwater; it is not specific to West Boylston. In response to Mr. Chase, she replied that it is a federal mandate, issued to the Commonwealth of MA but it extends beyond MA. In response to Mr. Mercurio, she replied that the permit allows the Town to discharge stormwater to receiving waters but there are certain nuances and regulations. In response to Mr. Haarmann, Ms. Schwartz and Mr. Duffy replied that only Weston and Sampson, a private engineering consulting firm hired by the Town, is working on the update (with DPW), not the federal government.

Next, Ms. Schwartz discussed the six minimum control measures under the permit to improve receiving water quality (these were covered in a Powerpoint presentation). She explained that these are the main elements of the program and EPA believed if these are implemented, it will improve receiving water quality. They are:

Public Education and outreach: Ms. Schwartz notes that the Town has been doing a lot of this, education of the public regarding eliminating discharge that might affect water quality. These are discharges to the Town drainage system not made up entirely of stormwater, such as draining from laundry, sewer, illegal dumping and pet waste. As part of this, she noted that the Town must establish legal authority to prevent illegal discharges and investigate, go on-site and do inspections.

#### Public Participation and Involvement

Illicit Discharge Detection and Elimination (IDDE): She explained how this involves discharge to the Town drainage system, such as draining laundry, sewer, illegal dumping and pet waste, all mentioned above. She reiterated that the Town must establish legal authority to prohibit illicit discharges, investigate suspected illicit discharges and implement appropriate enforcement procedures and actions. Mr. Mercurio commented that laws such as never allowing dumping of illegal waste in catch basins are already in place. Mr. Chase responded that something like that would become more definitive with these regulations. Mr. Mercurio responded that these things have to be covered and contained in the bylaw, but Mr. Chase replied that that is not done all the time. Ms. Schwartz added that the updated permit would cover more and be a broader regulation that would cover all types of illegal discharge. It would have language to give authority and explain in a broader way for full compliance; she said that most of the language comes from the State Attorney General’s office. There is a template IDDE Bylaw from their office, used to develop the Town’s Bylaw. Ms. Schwartz summarized that this evening they gave the board a series of bylaws and regulations, and they are only talking about the IDDE bylaw, the first bylaw; it discusses the enforcement agency, exemptions and pages of definitions. Mr. Duffy replied to Mr. Mercurio that Weston and Sampson has been working on this with him. Ms. Schwartz replied to Mr. Mercurio that there are five different documents in the paperwork this evening; the first is the IDDE bylaw, and this is the first meeting to outline the process. It must be reviewed by Town Counsel. The new bylaw specifically governs discharges to the drainage system. The authorized enforcement agency is DPW, or a designated agent. It highlights exemptions,

provides authorized enforcement agency with property access to test and inspect, and to issue fines for non-compliance. There are more exemptions given in the IDDE bylaw such as the right to access private property, testing and inspections and fines for noncompliance. It is more prescriptive now for the permit's intent. She noted that EPA does audit communities for compliance. In response to Mr. Cahill, Mr. Chase replied that EPA can fine the Town but also DPW can fine for violations. Ms. Schwartz added that it is a comprehensive review of the Town's drainage but gives them latitude in case they cannot eliminate the source of illicit discharge and outline a schedule for eliminating it. Mr. Chase mentioned an example of Rte. 128 where most properties have sump pumps. Ms. Schwartz responded that they can be an issue and gave an example. She asserted that there is fairly standard language, adopted by many conservation commissions. She opined that it will come more into play when they begin to investigate the Town's drainage system, and noted that there are mostly private entities that will be involved.

Construction Site Runoff Control: Ms. Schwartz continued that the next piece of the documentation is Construction and Post Construction Stormwater Management. She explained that the 2016 permit expanded on what was required, and she noted that, since the Town never developed supporting rules and regulations, the point now is to focus on what is missing and include it in those regulations. Mr. Chase noted that building has picked up in the permitting that the Town has (1,200 pages), and opined that there is not much more building to be done. Ms. Schwartz opined that the Town will have more redevelopment now. Mr. Chase opined that they need some kind of general law, that goes with the State itself; he asserted that the only difference with the State regulations is at the seashore, where there are separate standards. Ms. Schwartz responded that they reference that in the regulations in the bylaw, and explained that the point was to try to put everything in the rules and regulations or as much as possible so that it would be an easier process. She said that they are trying to pull out what is right and include it in the updated bylaw along with what was missing.

Post-Construction Runoff Control: The stormwater rules and regulations must include requirements for low-impact development practices, reduction of impervious, maintenance of open space and nature-based solutions. Also there will be pollutant removal requirements for items such as phosphorus and long-term operation and maintenance requirements.

Mr. Chase and Mr. Mercurio noted that, in West Boylston, the threshold is 10,000 square feet. Ms. Schwartz responded that they did not change that and noted that a lot of communities go to a smaller amount. Mr. Chase gave an example, where the Town does not dictate where someone puts a dumpster on their property whereas in many towns the Fire Dept. will tell people where to place it and fine residents. Ms. Schwartz opined that 10,000 square feet is a manageable threshold for the Town. Mr. Mercurio noted that, in West Boylston, it is 100' x 100', but for the State it is one acre, and that it depends on the type of project; that large an area might apply to a commercial project but a residential project would probably be a lot smaller. Mr. Mercurio suggested to Mr. Chase that they could put more stringent regulations on the property owner, maybe going to the State size of 40,000 square feet. In response to Ms. Eaton, Mr. Chase replied that ½ acre would not be affected; she opined that this applies to most of the Town. Mr. Duffy added that this applies to disturbed area, not lot size. Mr. Chase opined that they are trying to make things easier for homeowners. Ms. Schwartz added that this is the case for single-family properties. She gave an example where one town has a threshold of 300 square feet so single-family properties would be impacted. Ms. Schwartz asked the board to think about why West Boylston uses a threshold of 10,000 square feet, and to think about whether the Town has the staff and resources to manage that and how many projects they would get that that threshold. Mr. Mercurio replied that this has been on the books for a while, and noted that a lot of property has been used up in West Boylston over the years for housing and development so there is not much new development to take place. Mr. Mercurio and Mr. Chase suggested that development of 40B projects will put a strain on the Town's resources.

Ms. Schwartz noted that new language will be needed in the updated permit, such as "Homeowners' Association". Mr. Chase said that they have found out that some property developers have maintenance contracts with the various towns, and said that there are instances where this Town does not even know about maintenance that is required. He mentioned that the board requires an as-built plan for everything that is completed. Ms. Schwartz and Mr. Chase discussed that there should be language in place to make sure that is set up and that as-

built plans are required after construction is completed. She opined that the main thing is to have everything in one place, and that most towns find it easier to have one separate stormwater bylaw, noting that a lot is usually based on what other communities are already doing. Mr. Chase opined that they are doing a good job, and that there are not a lot of ways around the regulations. In response to Mr. Mercurio, Ms. Schwartz replied that she pulled information from 14 or so communities that she works with do this (she discussed some of them), and suggested that, being later in this process, West Boylston probably would benefit from their examples; she mentioned Rockport, which she thought was very similar to West Boylston. Mr. Chase noted, though, that the seashore in that area brings about different concerns.

Ms. Schwartz continued that certain receiving waters are at risk, and a 303D list is made every two years, which is an assessment of receiving waters and if they meet the quality standards for certain uses. She said that, if there is enough evidence, that a TMDL (Total Maximum Daily Load) must be developed. She added that there are assigned reduction targets for certain materials in certain communities, such as phosphorus (Mr. Chase discussed his experiences related to this). Ms. Schwartz also discussed chloride impairment for a number of receiving waters, and mentioned some updates in regulations; they include covering of salt stockpiles to keep out precipitation and runoff and procedures to minimize salt usage and use of salt/sand mixes where necessary. She said that the Town has three years to develop and implement a plan but they are trying to capture it in the meantime; one way it to pass it on to private entities on a smaller scale. She replied to Mr. Chase that the O and M plan must define storage areas and commit to keeping the materials covered, and it will be part of a broader stormwater management permit. It is in the stormwater rules and regulations now. Mr. Mercurio noted that the Town already has one in place for salt. Mr. Chase noted that the Town has snow storage requirements. Ms. Schwartz continued, that the stormwater bylaw put together by the Town in 2007 and it was compliant with the 2003 permit, but the goal now is to update it to be compliant with the 2016 permit and to incorporate rules and regulations so that, if it needs to be updated in the future, they can go before the Town meeting and streamline it. Regarding bylaw updates, they reordered some sections; they will keep definitions for each document that are pertinent to the individual documents, they made clarifications and exemptions. She explained that they have two different documents, needed for Town meeting, redlined and a clean version., clarified performance standards, authority, applicability and exemptions, and documents (a redlined stormwater bylaw, clean version, moving of application fees to rules and regulations, requirement of security funds (this concerned Mr. Chase) and Ms. Schwartz suggested the board think about where they want it to apply, outlined rules and regulations and seeing what the permit requires, and they need to develop actual forms. Mr. Chase suggested that they could see what other towns have done. He noted that there are very specific forms in West Boylston, because of the types of water that are here.

#### Pollution Prevention/Good Housekeeping

Ms. Schwartz reiterated that the State has a model stormwater bylaw. She opined that it would be a good idea to have Town Counsel' input regarding the enforcement of penalties. In response to Mr. Mercurio, Mr. Chase replied that Mr. Duffy would be the enforcer. Mr. Duffy added that homeowners need to know that this is being done. She also mentioned the section on construction inspections, project completion and annual inspection and maintenance. Mr. Duffy suggested that self-certification come from homeowners.

Ms. Schwartz discussed the next steps in the process. After tonight's meeting, they will meet with Planning Board on Wednesday for an overview, then the goal is to go before the Board of Selectmen in March (1<sup>st</sup> or 15<sup>th</sup>) to talk about regulations and also provide a broad overview on MS-4 compliance and what the Town's been working on., with the goal of obtaining opinions from all the entities and make some updates before going to Town Counsel. Mr. Duffy hoped that they would have all opinions by the end of March. Ms. Schwartz continued that Town Counsel would give comments in early April, then from the Bylaw Committee, and then on April 12 will have one more meeting before Town Meeting in May. She explained that the permit year ends on June 30, so they want to try to have things in place. She replied to Mr. Mercurio that, if the Town is audited by EPA, EPA will be

aware that the bylaw update is not complete, and if it is not approved, the Town will look for feedback and modifications that they can make.

In response to Mr. Chase, Ms. Schwartz replied that each bylaw will be put forth individually, and one could pass at one time and not the other. She explained that the rules and regulations bylaw allows them to pass rules and regulations but they do not have to go to Town Meeting, although opined that it would be nice to have everything done at one time. She added that EPA would like to see that the Town is making the effort, but there is only so much that they have control over; Mr. Chase and Mr. Mercurio agreed that there is only so much that they can do at one time and that a lot of things are going before the Town. Ms. Schwartz suggested that it might be helpful if they highlight what EPA absolutely requires, based on the permit; Mr. Mercurio suggested that they could highlight areas more applicable to the Town.

Mr. Duffy, Ms. Schwartz and the board members thought that they can see what happens at Planning Board on Wednesday, do the highlighting and look at what other towns are adopting. The Town Administrator suggested that both Planning Board and Concomm offer a level of expertise to the Board of Selectmen, so that maybe they can have a special meeting and have some of the comments and revisions made in time for the March presentation. Mr. Chase asked Ms. Schwartz to give the board the information that they requested; he agreed that Planning Board (and possibly Board of Health) might have similar questions. He also opined that the public may want to comment. They can schedule a meeting when they receive the highlighted material. Mr. Chase opined that maintenance is important, and that rivers cause problems because they are not maintained and gave some examples. Ms. Schwartz responded that they need to decide where to put the applicable language for this, in the bylaw or more in the rules and regulations, or in another bylaw.

Mr. Mercurio asked Mr. Chase if he thought that the threshold of 10,000 square feet should be raised to the State threshold of 40,000 square feet? Mr. Chase replied that he likes that but must speak with other Town people such as the Building Inspector first. Ms. Schwartz suggested that they consider how many projects the Town has had in the last year over 10,000 square feet and what the impact would be. Mr. Chase replied that most are problem lots but the land is valuable. Ms. Schwartz noted that she wants to get the Town in compliance, explaining that technically they are behind in updates. She also reiterated to Mr. Mercurio that they will get sample forms to the board. Ms. Warren-Dyment replied to Mr. Chase that there does not need to be a public hearing for this, just a meeting with this discussion posted. Mr. Chase responded that when the board obtains the highlighted information that they wanted, they will schedule a meeting, decided what they want to do, and then see Ms. Schwartz and Mr. Duffy at the next Concomm meeting. Ms. Schwartz replied that she will try to get back to the board this week.

Ms. Schwartz then responded to Mr. Mercurio that there were some entities exempted with compliance with the regulations, such as single-family homes, but a 10,000 square foot threshold would not exempt them. Mr. Chase responded that 1, 2 or 3 family homes are exempted if the property is under one acre. Ms. Schwartz replied that a lot of communities exempt them under the 2003 permit. Mr. Chase opined that he would like to see exemption of single-families. In response to Mr. Mercurio, Ms. Schwartz replied that the fee for stormwater management permit could be about \$1,000. She noted that a lot of other communities have concerns over fees for homeowners and asserted that fees must be passable and acceptable as the board members were concerned about fees for the working people of the Town.

#### **Minutes of December 5, 2022 Meeting:**

After review of the draft minutes by the board members, Ms. Eaton made a motion to approve the minutes as written. Mr. Cahill seconded. All in favor.

#### **Update on 0 Bowen Street:**

Mr. Chase informed the board that the Town would like to try to purchase the property ultimately, but the money may not be there right now; he will call Scott Goddard and update him on this.

**Update on 256 Worcester Street Tree Cutting:**

This matter was discussed at the last meeting. It involved complaints by the neighbors of this property about trees being cut down. Mr. Chase explained to the board that he resolved this; an agreement was written up between the neighbors and Mark Meola, owner of the property, regarding the tree cutting and erosion, and signed.

**Update on Two Lots on Prospect Street:**

This was also discussed at the last meeting. Mr. Chase explained that one lot, the old Thunberg estate, the owner will probably buy the front, renovate the garage, and put it back the way it was. The other lot is not buildable, as they need to be 400 feet off native wetlands, and there was an agreement with Dr. Tashjian to never build on that lot.

**Treasurer's/Financial Report:** Mr. Chase reviewed the most recent report at the meeting and discussed it briefly with the board.

**Miscellaneous Mail and Paperwork:** Mr. Chase had reviewed any mail prior to the meeting and informed the board that there was nothing of importance for them to go over this evening. He mentioned that he will send correspondence to DEP regarding 0 Bowen Street after meeting with the Town Administrator.

**NEXT SCHEDULED MEETING – MONDAY, MARCH 6, 2023, AT WEST BOYLSTON TOWN HALL.**

Mr. Chase noted that the meeting could be sooner than March 6. Mr. Mercurio requested that, if the board receives the information back from Ms. Schwartz with the highlighted areas, the board members should receive a copy and have a chance to look it over.

With no further questions or comments, Mr. Mercurio made a motion to adjourn the meeting at 7:10 p.m. Mr. Haarmann seconded. All in favor.

**Submitted by:** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_

**Date submitted:** \_\_\_\_\_

