



## **Town of West Boylston**

140 Worcester Street, West Boylston, Massachusetts 01583

# **Conservation Commission Meeting Minutes**

<b>Date / Time / Location of Meeting</b>	<b>Monday, 11-4-2019/7:00 p.m./West Boylston Town Offices, Land Use Meeting Room #120/131</b>
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<b>Members Present</b>	<b>William Chase (Chair), John Hadley (Vice-Chair), David Mercurio (Vice-Chair), Emily Eaton and Clerk Toby Goldstein.</b>
<b>Members NOT Present</b>	<b>Carl Haarmann and Katelyn Ivers (Associate Member)</b>
<b>Invited Guests</b>	<b>N/A</b>

**Welcome – Call to Order**

**Time: 7:00 p.m. (Motion made by Mr. Mercurio, seconded by Mr. Hadley)**

**Approval of Previous Minutes**

**Minutes of 10/7/19**

**Motion Originator    Mr. Hadley (accept as written)**

**Motion Seconded    Mr. Mercurio**

**Treasurer – Financial Report**

**Mr. Chase reviewed report dated 10/31/19**

**Motion to Accept    N/A**

**Seconded    N/A**

At 7:00 pm, Mr. Mercurio made a motion to open the meeting. Mr. Hadley seconded. All in favor.

**Public Hearing, Michael Ohl, Request for Determination of Applicability, for Water Main Replacement at North Main, Waushacum, Laurel and Reed Streets:**

(Mr. Hadley read aloud the public hearing notice). (Michael Ohl and Chris McGuinness represented). Mr. Ohl explained that he and Mr. McGuinness had applied for the RDA on behalf of the West Boylston Water District. (He referred to an easel with maps of the site and proposed work). Mr. Ohl said that the coversheet shows the

extent of the work area. He explained that they were going to replace aging infrastructure. Asbestos cement pipe would be replaced. Mr. Ohl mentioned that the district qualified for State Revolving Loan (SRF) fund money, and he expected approval from them, then they will put the project out to bid over the winter, and hope to start work the next construction season. Mr. Ohl described that the resource areas go up North Main Street, where there is a culvert crossing, and between Waushacum and Reed Streets, there is a stream crossing and a small amount of wetland area over to the east side of North Main. They propose that all work will be done essentially replacing the existing infrastructure, within the paved roadway or right-of-way. He mentioned that they will place erosion controls in those areas at the edge of the road (he replied to Mr. Chase that they plan to use straw wattles; Mr. Chase agreed that this would be better than haybales). Mr. Ohl replied to Mr. Hadley that they will stop at the southern entrance of Stillwater Heights. In response to Mr. Mercurio, Mr. Ohl said that the work will be basically maintenance, part of the District's long-term plan for maintaining its assets, and they will be able to reuse the survey from the previously-done sewer project. In response to Mr. Hadley, Mr. Ohl replied that it will be essentially a trench patch, and they need to clarify the extent of the coordinates with DPW. Mr. Mercurio opined that it was unfortunate that it was not done in conjunction with sewer work that was already done and hoped that the compacting will be done properly.

Mr. Hadley then asked if they will use flowable fill? Mr. Ohl replied that they tend not to because it makes it difficult to go back to access it. Mr. Mercurio added that, if flowable fill is used, it will not be equal to the rest of the trench, and opined that the road will float, and he asserted that it is important to compact the trench properly. Mr. Ohl then explained in response to Mr. Chase the compacting process that they would use, and mentioned that sometimes they use patches that are travelable but not permanent and they can be flipped up and changed if issues arise.

Ms. Eaton then asked what the problems were with the current asbestos line? Mr. Ohl replied that they had many breaks in it. Mr. McGuinness added that there were areas without water because of those breaks, such as the nursing home in Oakdale. Mr. Mercurio added that use of those lines was common in the 1950's to the 1970's, but then they changed to steel lines which were stronger and more sanitary. Mr. Ohl asserted that the asbestos does not go into the water. In response to Mr. Mercurio, Mr. Ohl replied that the project hopefully with start in April or May, and will take about four to six months.

With no comments or questions from the public, Mr. Mercurio made a motion to close the public hearing. Mr. Hadley seconded. All in favor. Mr. Mercurio then made a motion to accept the proposed work according to Plan "North Main, Waushacum, Laurel and Reed Streets Water System Improvements 2019-1", dated October 15, 2019, by Comprehensive Environmental, 225 Cedar Hill, Marlboro, MA. Mr. Hadley seconded. All in favor.

#### **Informal Discussion with Chief of Police Dennis Minnich Regarding 405 Prospect Street:**

(This discussion involved a Determination issued by the Concomm previously on 8/5/2019 for this property). George Tignor, Building Inspector, said that he had a question from someone regarding a "DCR CR." He said that he contacted DCR to ask about this, but they could not answer him. He said that they gave him a packet of information regarding 405 Prospect, regarding their protective act. Nancy McGrath told him that the property is not in a critical zone but in a Watershed Protection Act area, and Chief Minnich had to fill out an application form (for applicability, Mr. Chase added). Mr. Tignor said that he talked to Chief Minnich and told him that he had no problem with him doing work (he visited the site, and commented on the nice appearance of what he saw), but there is water below, so he told him that he can go ahead but at his own risk because DCR might have objections and Chief Minnich could end up having done all that construction for nothing. Mr. Tignor called DCR today and Ms. McGrath did not get back to him yet; she told him before today that it would probably take two days to approve the work, but it had been about one week now. He reiterated to Mr. Chase that the Watershed Protection Act applies to this land. Mr. Mercurio explained to Chief Minnich that, if any part of the property is within 200 to 400 ft. of wetlands, the Cohen Bill applies, and DCR considers the entire property that way. Mr. Chase asserted that, since the property was developed before 7/1/1996 (Cohen Bill) which was when the protected list was developed, Chief Minnich's property is exempt. Chief Minnich responded, that he explained to Ms. McGrath that he went before the Conservation Commission, the property was surveyed, and an architect was there, then this came up. He said that she explained that, for exemptions, there would have to be addition to an existing structure, or one can peel off a buildable lot and can build there. Chief Minnich explained to her that he told her that he needs a first floor bedroom and bathroom due to his family situation.

Mr. Chase responded that he believed that Concomm has jurisdiction there because Chief Minnich's property is within the 200-foot zone, but opined that tree removal was a problem. Mr. Mercurio opined that it should not be an issue, as 200 feet or less is under Concomm jurisdiction. Chief Minnich continued, that someone from DCR came to his property and was taking pictures to prove that he was not in that zone. Mr. Tignor responded that Chief Minnich needs approval from all the Town boards for him to issue a building permit. He asserted that DCR got involved because of another resident's complaint. Mr. Tignor said that he wanted to make the right decision and to protect Chief Minnich.

Mr. Chase reiterated that DCR had no jurisdiction, and asked why they did not call the board? Mr. Tignor said that he called DCR today and told them that Chief Minnich needed to know their answer. Mr. Tignor explained that part of Chief Minnich's land is in that zone. Mr. Mercurio asserted that Chief Minnich had to show DCR that, even though part of his property is within the 200- to 400-foot zone, his excavation is not within that area. Mr. Chase asserted that the foundation is within that area, therefore so is the alteration. Chief Minnich opined that it is supposed to be allowed for him to add a structure to the existing building, but Mr. Chase responded that he needs DCR's permission. Mr. Mercurio asked Mr. Tignor how to expedite approval from DCR? Mr. Hadley asked, if DCR does not reply for a week, what should be done? Mr. Tignor replied that he had no problem with the project, and aside from a few changes that need to be made to the plans due to building code issues, Chief Minnich can go ahead; but, he said that he told him for his own protection that it would be at Chief Minnich's own risk until DCR gives approval. Chief Minnich mentioned the fact that he put 35 acres of his land under Conservation Restriction for free when he bought it.

In response to Mr. Mercurio, Mr. Tignor opined that his feeling from Ms. McGrath was that DCR will give approval. Chief Minnich told Mr. Chase that he was going to put in footings today, but said that approval was an issue because the builder had fit him into his schedule. Mr. Mercurio added that there could be snow also. Mr. Chase suggested waiting until Tuesday for a response, or else he will talk to DCR on Wednesday. Mr. Hadley mentioned that he was concerned, as in this case the board is hearing about the situation but he wondered what would happen in other cases? Mr. Mercurio replied, suggesting that the Concomm has to know if they have jurisdiction or not, and the Building Inspector has to know also, as Concomm represents the Town and the wetlands. Mr. Chase mentioned that a DCR representative used to come to the Concomm meetings. Mr. Hadley opined that the board needs to be able to make valid decisions for the Town. Mr. Mercurio opined that the board has to be clear about what they can and cannot do. Chief Minnich commented that he is trying to do the right thing. (The board continued to discuss this, asserting that they had jurisdiction, and therefore the Building Inspector should be able to issue a building permit. Mr. Chase explained that the law in question did not exist before 1996. Mr. Hadley suggested that DCR should attend a meeting, and the board agreed. Mr. Mercurio suggested, after this issued is resolved, that Ms. Goldstein send a formal letter to DCR. Mr. Tignor said that he will notify Mr. Chase when he hears from DCR).

#### **Minutes of October 7, 2019 Meeting:**

After review of the draft minutes by the board members, Mr. Hadley made a motion to approve the minutes as submitted. Mr. Mercurio seconded. All in favor.

#### **Update on Mr. Chase's Plan for Trails:**

Mr. Hadley informed the board that the money was funded for Blueberry Hill, and mentioned that there will be an Open Space meeting on November 7. Mr. Chase added that they need to decide on contractors to use, and replied to Ms. Eaton that the surveying had not been done yet. Mr. Hadley and the board opined that the best time to survey would be when there are no leaves.

#### **Treasurer's Report and/or financial approvals:**

Mr. Chase reviewed and discussed the latest report, dated 9/30/19. He notified the board of how much was in the Concomm account.

#### **Miscellaneous Mail and/or Paperwork Including Correspondence from DCR, DEP and MACC;**

Mr. Chase informed the board that he went through this already and found nothing of importance for the board to be aware of that they didn't already receive.

**Next scheduled meeting – DECEMBER 2, 2019**

With nothing further to discuss, Mr. Mercurio made a motion to adjourn the meeting at 7:40 p.m. Ms. Eaton seconded. All in favor.

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

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

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