

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**JUNE 6, 2016 MEETING**

**MEMBERS PRESENT:** William Chase (Chair), John Hadley (Vice-Chair), David Eckhardt (Associate Member), David Mercurio and Clerk Toby Goldstein.

**MEMBERS ABSENT:** Mark Meola.

(Effective 5/17/16, Charlene Hopkins resigned as a member of the Conservation Commission). At 7:00, Mr. Eckhardt made a motion to open the meeting. Mr. Hadley seconded. All in favor.

**Garside Drive, Request for Partial Certificate of Compliance, DEP File #327-0199:**

(Susan Meola and Dr. Joseph Oyer represented). Dr. Oyer is seeking to obtain a partial Certificate of Compliance for Lot #9 on Garside Drive. He explained the history of purchase of this lot and another lot, and said that there are people that would like to build a house there now. He continued that Lot 8A is also one for which he would like to obtain a partial Certificate of Compliance, but said that there are issues with DCR that are hindering that; he showed these lots on a map of the site. Mr. Chase responded that he would speak with John Scannell about that. Mr. Eckhardt added that Mr. Chase could mention that the property owner appeared informally before the Commission also and that vegetation is well established and sufficient on the lot. Mr. Eckhardt moved to issue a partial Certificate of Compliance on Lot 9, based on inspections that had been made by Concomm members. Mr. Hadley seconded. All in favor.

**Public Hearing, Pan Am Railways, Request for Determination of Applicability, Pan Am Rights of Way, West Boylston, MA:**

(There was no representative that was able to be present, but engineer Keith Morris spoke with Mr. Chase about this prior to the meeting). The proposed work was the verification of wetland boundaries with regards to herbicide application (not for the application itself) along the rights of way in the Town of West Boylston. Mr. Morris had told Mr. Chase that the work should be completed in a couple of days; Mr. Chase instructed him to provide the Commission with an "as-built" and work summary when finished. Mr. Eckhardt discussed the project, stating that it runs north to south, across the reservoir, and that the area has been well surveyed, and maps provided indicate where the herbicide will be allowed and where it will be applied. He added that this project has been done regularly for over 10 years, and that DCR is involved also because of the reservoir. David Femia, Clerk of the Zoning Board of Appeals, who was present in the audience, asked if the Commission needs to inspect? Mr. Chase replied that DCR has to inspect and will send Concomm a report, but as Concomm represents the Town, the project must be discussed with them. Carlton Barstow of 3 Emily Drive, who was also in the audience, asked about the type of herbicide being used, as the area in question is a sensitive area, and asserted that Roundup would be a fairly environmentally-friendly one to use. Mr. Chase commented that Roundup is biodegradable in 30 days. With no further questions or comments,

Mr. Eckhardt moved to close the public hearing and issue a negative determination, subject to conditions in the application. Mr. Hadley seconded. All in favor. Mr. Chase clarified that the work done is an annual event; conditions are that the work is to be done in compliance with a DCR agent, and an executive summary of the work done is to be submitted to the Commission.

**Malden Brook Realty LLC, Request for Determination of Applicability, 0 Westland Circle (Map 164, Block 39, Lot 1):**

(Representative was Matthew Walsh, a manager of the LLC). Matthew explained that Scott Goddard determined from data and in the field that there were no wetlands or resource areas on the property (he showed the Commission the USGS and orthophoto of the site) or within 100 feet of it. Mr. Eckhardt asked Matthew if he wanted to proceed by obtaining a negative determination, or if he wanted to determine that Concomm had no jurisdiction? Matthew replied that a negative determination would be a legally binding decision; Mr. Eckhardt responded that both would do that. Mr. Mercurio then asked Matthew questions about the frontage of the property; Matthew was not exactly sure, and explained that the property matches the Westland Circle right of way in the cul de sac permitted by Planning Board, and added that they are adding frontage. In response to a question from Mr. Hadley, Matthew said that they showed Planning Board a preliminary subdivision plan and they were given conditions. In response to a question from Mr. Mercurio, Matthew explained that there are eight lots, and that there are no buffer zone or resource areas on the property, and they will manage stormwater on the site; they will begin work depending on Planning Board's application process.

With no further questions or comments, Mr. Hadley moved to close the public hearing and issue a negative determination. Mr. Eckhardt seconded. All in favor.

**Discussion with Michael Kittredge of DPW:**

Mr. Kittredge wanted to speak with the Commission about upcoming proposed projects by DPW. The projects involve 1 ½" overlays that they would be doing on three roads – Campground Road, Fairbanks Street and Lancaster Meadows (he showed the Concomm members a map of the roads). He mentioned that haybales would be placed in case of water. Mr. Eckhardt responded that normally they would file a Request for Determination of Applicability, and he would expect a negative determination with conditions of erosion controls in marked areas, with either haybales or wattles. He asked Mr. Kittredge about the proposed work schedule? Mr. Kittredge replied that they planned to begin that Friday, June 10. Mr. Eckhardt suggested a contingency plan and the erosion controls in case of rain. Mr. Kittredge added that he put them into the budget.

**Informal Discussion with MaryAnn DiPinto Regarding 491 Prospect Street Filing of Request for Determination of Applicability by Jim Keller:**

(Due to insufficient advertising and posting time, the public hearing could not be held at this meeting and must wait until July 11). Ms. DiPinto explained that DEP ordered Mr. Keller to excavate fill on his property; there had been previous complaints regarding dumping of waste on the property. She described how Mr. Keller excavated cellars and put the debris on his property so that he had room to park his vehicle; but, he was reported by neighbors and fined by DEP but part of that would be suspended when he cleans out the waste. Ms. DiPinto reported that the plastic and metal are gone, and she said that she and DEP would be at the site when the excavator comes to remove it, and they will look at it. She explained that Mr. Keller filed an RDA to see where he is exactly located. She pointed out on a map a solid blue line for the river in the area of the property, and asserted that there is a buffer of vegetation and the sewer easement before getting to the wetland. She also asserted that Mr. Keller added fill to the back of his property to even out the grade, and described that what he wants to do is look at the fill and remove anything that is solid waste and will loom and seed the slope to stabilize it.

Mr. Chase suggested that the last 30 feet of the lot should be capped with clay so that there will be no leeching into the direct tributary which floods from highway water. Mr. Hadley asked when the work will begin? Ms. DiPinto responded that they filed with DCR also, and have a 240-day window from March, so they have until the fall. They were ordered to dispose of the materials properly also. Mr. Hadley asked how deep the fill is? Mr. Chase estimated about 10 to 12 feet. Mr. Chase then told Ms. DiPinto that the RDA would have a negative determination with the basic conditions of clay and silt fence. Mr. Eckhardt added that the applicant should include a solid narrative of the scope of the work, and noted that the Concomm is familiar with the situation as the complaint originally went to the Commission, and if they need the Commission for anything, to let them know. (The public hearing will take place at 7:00 on July 11).

#### **Response to George Chase:**

Mr. Chase (our Chair) spoke with him regarding a complaint by Mr. Chase (George) about illegal dumping on Osgood Ave. Mr. Chase determined that the situation was not within Concomm's jurisdiction but the Commission will continue to monitor it.

#### **Discussion with Danielle Mucciarone of Central Mass. Regional Planning Commission Regarding Open Space:**

Ms. Mucciarone, principal planner of the CMRPC, explained that CMRPC is working with the Open Space Committee to update the Open Space Plan, and is meeting with Concomm to see if they have any concerns or priorities for the Open Space Plan. She mentioned that she brought copies of the plan to mark up, and asked if the Concomm members had any areas of environmental concern such as sedimentation or areas needing to be preserved? Mr. Eckhardt asked if they were aware of the Town's recent acquisition of Conservation Restriction land on Maple Street? Ms. Mucciarone replied that they are aware of that, and Mr. Eckhardt discussed the property. Mr. Chase mentioned Chief Minnich's Conservation Restriction land on Prospect Street. Mr. Eckhardt explained that a significant portion of the Town is owned by the State for the protection of the watershed. Ms. Mucciarone showed the Concomm members a map of Open Space both under State control and not under State control, but owned by the Town. She said that there may be funds available, but not necessarily through CMRPC, to purchase some of these lands, and this could be included in the OSP (Open Space Plan) for when opportunities arise (Mr. Chase responded that this would not be in Concomm's purview). Ms. Mucciarone then asked about any other lands that may be options for passive recreation? Some examples given by the Commission members and audience members were the Minnich property and property on Goodale Street. Mr. Eckhardt showed Ms. Mucciarone a map of Conservation Restriction properties.

Ms. Mucciarone then asked if there were any environmental concerns to add? Mr. Kittredge from DPW replied that areas of erosion were concerning. Mr. Hadley added that groundwater was present on Shrewsbury Street but was cleaned up. Mr. Eckhardt then discussed the new gas pipeline. Mr. Hadley asked him, if there were to be a leak in it, would the Town be able to handle it? Mr. Eckhardt explained to Ms. Mucciarone that it was a new, 18-inch gas line, and he showed her on a map where it would run, starting in Boylston, and resulting in (2) 18-inch lines down East Mountain Street; ownership will be changed to Eversource from the Transmission Company.

Ms. Mucciarone then asked if there were any forestry concerns, such as with Asian Longhorned Beetle (ALB)? Mr. Eckhardt replied that, regarding ALB, the entire Town is in a quarantined area; it has been fully surveyed once, and they are halfway through the second survey, and perhaps the third. He asserted that the Emerald Ash Borer is more of a significant threat than ALB. He mentioned that, in November of 2015, it was discovered on Plant Street and I-290 area, and said that the Town needs a plan to deal with it, adding that it often infests railroad crossings and highways; Mr. Eckhardt also said

that the State Forest Task Force is providing information about this. Ms. Mucciarone then asked, as the Commission has concerns about shade trees, if they felt that the Town needed more of those? Mr. Chase opined that the Town could always use more. Ms. Mucciarone agreed that they need a plan of action developed. Mr. Hadley asked if DCR was giving the Town some help? Mr. Eckhardt replied that, with ALB, they did, but there are few ALB-infested trees left now. Mr. Chase opined that more shade trees on the main roads would be a good idea; Mr. Hadley responded that the Town Administrator asked the Selectmen if that was needed.

Next, Ms. Mucciarone asked if there were any issues with DCR land, groundwater or surface pollution? Mr. Chase replied that the Commission can handle those issues, and mentioned a situation where a problem was solved after trees were added to the grounds. Mr. Eckhardt said that a transportation accident would be a pollution risk, but the State learned how to deal with it (mentioning a situation that happened in West Boylston); Mr. Chase complimented DCR on their handling of that situation. Mr. Eckhardt then continued that air pollution is not really a problem unless there is a fire.

Ms. Mucciarone mentioned that a public forum was held the week before, and that the survey is still open and that they will be reaching out to the schools for comments also.

(Next, Mr. Chase asserted to Tristan Lundgren of DCR, who was present in the audience, that the Subway restaurant on West Boylston Street expanded the buffer zone. Mr. Lundgren responded that Nancy McGrath and John Scannell of DCR were handling this situation, and commented that someone cannot change an area of jurisdiction. Mr. Eckhardt commented that wetlands can move over time due to various factors. Mr. Mercurio asked for explanation of the Subway situation, and Mr. Chase replied that Subway increased the buffer zone; Mr. Eckhardt explained that the line is now 100 feet from where it used to be. Mr. Lundgren continued that there are differences in zones and who has jurisdiction over them. Mr. Chase mentioned that the buffer zone changed regarding Gerardo's Bakery's property, and that they are trying to find out why it is not now the same as before. He also mentioned that Gerardo obtained approval for his work from DCR. Mr. Lundgren responded that he is the contact for this at DCR, and that the Commission contact him with any questions).

#### **Update on Angell Brook Board of Trustees Questions:**

(Carlton Barstow represented). Mr. Barstow explained that he received an e-mail from Michael Staiti's secretary (he is the developer of Angell Brook), with a revised O and M (Operation and Maintenance) plan, but said that not everything was included. He also said that Planning Board told the Board of Trustees that two things were still needed-a Certificate of Compliance from the Conservation Commission, and then a Certificate of Completion from Planning Board. Mr. Barstow commented on one point that was confusing - that Planning Board said that Keystone Development did not have to comply with the Operation and Maintenance plan, but their original O and M said that the Angell Brook Development Corporation is responsible for the O and M; but the developer was a trustee until two years ago and Mr. Barstow asked the Commission about this? Mr. Chase replied that the developer needs to be in compliance with the plan that he gave the Trustees, and then turn over responsibility to the Trustees.

Mr. Barstow then asserted that the Trustees need a baseline, and commented that they see the infiltration trenches and stormwater basins but that no drawings show monitoring wells. Mr. Chase responded that he needs to ask the developer to show this on the drawing. Mr. Barstow replied that the latest drawing does show it. Mr. Chase commented that it would be 20 or 40-gauge PVC pipe, 10 feet into the ground. Mr. Barstow opined that, if Planning Board and Concomm holds the Trustees to this, Mr. Staiti should turn the property over to the Trustees in pristine condition, but he is afraid that Planning Board will accept it as is. Mr. Chase responded that he would not sign off on it. Mr. Barstow also commented that the agreement says that the catch basins must be maintained monthly, but he asserted that they have not been cleaned.

Mr. Eckhardt continued, that the first question was if the plan was workable, and second, what is the condition of the physical plan, and is it suitable and operates? He suggested that the Trustees may want to take this in steps. Mr. Chase continued that he wanted to see where the monitoring wells are if they are part of the agreement. Mr. Barstow discussed infiltration ditches, and Mr. Chase said that they would be six or eight inches, 10 feet into the ground. Mr. Barstow responded that mostly the forebays were cleaned, and one had to be added, and he said that he wanted to see them added to the plan and clarified. Mr. Chase added that Mr. Barstow should tell the developer that he will okay the plan once those items are on it. Mr. Eckhardt suggested negotiating a draft to see if the plan is acceptable. Mr. Chase continued that everyone involved needs to sign off on the plan before Planning Board does, and told Mr. Barstow to let him know what he wants done so that it will be part of a provision. Mr. Barstow then mentioned that he could not find the infiltration trenches and asked Mr. Chase if there should be an inspection or if Concomm could do a site walk? After discussion, the Commission members decided that, if the plan is completed to the Trustees' satisfaction, they can walk through the site and accept the plan at the Monday, July 11 meeting.

**Minutes of Previous Meetings:**

4/25/16: After review of the draft minutes by the Concomm members, Mr. Hadley moved to accept the minutes as submitted. Mr. Eckhardt seconded. All in favor.

5/2/16 Special Meeting: After review of the draft minutes by the Concomm members, Mr. Hadley moved to accept the minutes as submitted. Mr. Eckhardt seconded. All in favor.

**Statement by Mr. Eckhardt:**

Mr. Eckhardt announced that this would be his last Conservation Commission meeting, and that he was concluding his service to the Town. He discussed his value monetarily to the Town in terms of work gained by the Town and money saved in various areas by the Town. He mentioned his contacting of the Ethics Committee regarding issues surrounding the vote on the Town Wetland Bylaws at the May Town Meeting. Mr. Eckhardt stated his qualifications and experience to those present at the meeting, and summarized projects that he brought into the Town. The following is a letter that he wanted to be included as part of the record:

**Farewell to WB Conservation Commission**

Due to what I perceive to be poor leadership, particularly by the Chair of the Board of Selectman and Town Moderator, I am concluding my service to the Town. This should be my last meeting as an associate member of the Conservation Commission. I am concurrently concluding other volunteer service to the Town.

By its actions, Town Leadership is strongly discouraging my continued participation in Town Government. My recent annual effort is in excess of 200 hours per year and my professional billing rate is in excess of \$150 per hour. I trust that the town has current plans to replace my skills/value.

It now appears that Town leaders did not follow Town Bylaws in their opposition to the recent Conservation Bylaw proposal. The MA Ethics Commission deserves the opportunity to offer a second opinion on this matter.

Footnotes to history:

1. My public service now includes 16 years on Boards of Directors (American Institute of Chemical Engineers-4 years, Saint Louis Section AIChE-6 years, Virtual Section AIChE-3 years, Hillside Village Condo Association-3 years) and five years on Management Boards (Design Institute for Physical Property Research-4 years, Design Institute for Emergency Relief Systems-1 year).
2. In the Chemical Engineering Community, I have received five national awards for my volunteer efforts.
3. I have lectured at Northeastern University, the University of Connecticut, the University of Iowa, the University of Missouri-Rolla, and Washington University on the topic of Professional Ethics.
4. I brought in the \$2.9 M ESCO Project on budget and on schedule.

If nothing else, I choose to be remembered for integrity in WB government.

I wish you all well and remind you that we are all judged by the decisions that we make.

D.R. Eckhardt, PE

Fellow AIChE

**Concomm Elections:**

This item will be continued to the July meeting.

**Addendum by Mr. Chase:**

Mr. Chase contacted Ms. Goldstein and informed her that he met on March 29 with the Bylaw Committee. Mr. Mercurio and Mr. Hadley, members of the Bylaw Committee, were also present; technically, the Conservation Commission had a quorum present at that meeting. Mr. Chase explained that this was an oversight on his part, and that it needed to be stated in the minutes.

With no further business to discuss, Mr. Hadley moved to adjourn the meeting at 8:40 pm. Mr. Eckhardt seconded. All in favor.

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

Date accepted: \_\_\_\_\_