

Minutes of West Boylston Bylaws Committee March 29, 2016

Members in attendance: Jon Meindersma, David Mercurio, Mark Frieden, John Hadley

Members not in attendance: Kim Hopewell

Also attending:

Bill Chase, Conservation Commission (the "ConComm")

Vincent Vignaly, advisor to the ConComm

The meeting was called to order at approximately 7:37 pm

Mr. Meindersma addressed the Wetland Bylaw proposed by the ConComm, which the ConComm had submitted for Bylaw Committee review and comment (copy attached). He opined that the proposed bylaw seemed unduly burdensome to residents of the town; given the breadth of the Wetlands Protection Act (the "WPA") and related regulations found at 310 CMR 10 et seq (the "Regulations"), it did not appear that additional levels or layers of regulations were necessary or desirable.

Mr. Mercurio shared that opinion. The committee then queried Msrs. Chase and Vignaly on why the bylaw specified so many subcategories of permitted or prohibited activities and the areas to which they applied. They replied that it was to give guidance to those engaging in activities in wetland areas subject to regulation by the ConComm.

Mr. Chase further explained that the primary objective of the bylaw was to give the ConComm a way to get the attention of violators. He explained that under the current setup, the ConComm could request the Commonwealth, via its Department of Environmental Protection (the "DEP") to take action against violators, or it could bring court proceedings itself, but that doing so was time consuming and expensive and, therefore, not practical. Having a town bylaw that provided for enforcement powers would let the ConComm issue (or have an appropriate town official issue) notices of violation which carry a \$100 fine. Mr. Chase also explained that the objective was not to run up a large fine, but to get the attention of the violator so that s/he would come before the ConComm and have a meaningful discussion about the affected wetlands and the violator's activities thereon, and issuing such notices and handling the violation administratively within the town would be more effective and less costly than either waiting for the DEP to act or going to court.

The committee asked if a more limited bylaw that provided the ConComm with power to enforce the WPA and the Regulations without imposing additional restrictions on town residents and landowners would meet the ConComm's objectives. Msrs. Chase and Vignaly indicated they thought that would be sufficient. The committee therefore suggested that the ConComm draft a revised bylaw with this objective. Further discussion was had on varying the level and frequency of fines the ConComm could impose and the burden it might place on town residents and landowners unaware of the existence or severity of their violations. A suggestion was made to have the fine apply to each time the ConComm gave notice of the violation rather than running the fine at \$100 per day from the first (and possibly only) notice, particularly since multiple notices were more likely to achieve the objective of getting the violator's attention and motivating him or her to go before the ConComm. Mr. Chase indicated he was amenable to such a change. Mr. Vignaly indicated he would draft a revised bylaw and circulate it for review.

The meeting was adjourned at approximately 8:40 pm.