

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**APRIL 11, 2016 MEETING**

**MEMBERS PRESENT:** William Chase (Chair), Charlene Hopkins (Vice-Chair), John Hadley (Vice-Chair) and David Mercurio.

**MEMBERS ABSENT:** David Eckhardt (Associate Member), Mark Meola and Clerk Toby Goldstein.

At 7:09, Mr. Mercurio moved to open the meeting. Mr. Hadley seconded. All in favor.

**Informational Discussion with Parks Commission:**

(Steve Blake and Bob Dunne represented). The representatives attended the meeting to inform the Commission of a proposed project in the old pool area by the Middle School. Ms. Hopkins asserted that there were no wetlands involved, therefore the Conservation Commission had no jurisdiction. Mr. Dunne noted that there is a retention pond but it did not function for a long time; basically, the Parks Commission just wanted to let Concomm know about the project.

**Update on Afra Terrace:**

(Iqbal Ali represented). Bertin Engineering issued a letter to the Commission, which they requested previously, attesting to the fact that the latest “as-built” was acceptable to them. Mr. Hadley asked how this “as-built” differed from the original one that Ali gave to the Concomm? Ms. Hopkins replied that the newest plan shows snow storage areas; Mr. Chase reiterated that they are basically the same except that it now shows snow storage. He noted that no elevation of the retention ponds is shown but the engineer’s letter and stamp states that the plan will work. Mr. Hadley asked about maintenance, which was part of the original Order of Conditions according to Mr. Chase, and if the retention ponds were ever cleaned? Mr. Ali replied that the homeowners’ association will be responsible for that. Mr. Chase continued that he wanted to see the site, and the Concomm members agreed to make a site visit on April 12. Mr. Hadley made a motion to approve the “as-built”, subject to the site walk. Ms. Hopkins seconded. All in favor. (The Clerk was instructed that she could inform the ZBA, who is handling questions regarding Afra Terrace, of this motion and that the approval was pending the site walk).

**Update on Angell Brook:**

(Carlton Barstow and Phil Mallet represented). Mr. Barstow informed the Commission that the Board of Trustees had talked with the developer regarding fore bays, and were concerned about what the standards should be for their condition and to what extent they would be excavated. They were also concerned with who would inspect them to be sure that the conditions were satisfied. Mr. Chase responded that they are looking for a baseline to start from. Mr. Barstow agreed. He then asked if the plan from Keystone was satisfactory to the Concomm and Planning Board? Mr. Chase replied that he would like to see it but if Planning Board is satisfied, it would be satisfactory to Concomm. Mr. Barstow

continued that there is a procedure that they need to follow but that Keystone must give that to them in the conditions. Mr. Mallet added that they still do not know what would be the cost to make the area pristine, as they have no blueprint for how the fore bays are supposed to look. Mr. Chase responded that they need a starting point and the engineer who did the work can help them with that. Mr. Mallet added that they were never cleaned in ten years. Mr. Chase added that they would want to know how much sediment would be produced per year.

**Discussion of Proposed Wetland Bylaws:**

(Vincent Vignaly of Planning Board and Jon Meindersma of Bylaw Committee represented). (Mr. Meindersma distributed a red-lined version of a previous draft sent to Concomm by Mr. Vignaly, with suggestions. Mr. Meindersma said that, as chair of the Bylaw Committee, he was more comfortable recommending the most recent draft. Mr. Chase explained that he would like the bylaws to be adopted because they would bring people in front of the Commission. Mr. Meindersma continued that he suggested limited enforcement authority to what is on the new draft, because the general bylaws permit broader enforcement, such as higher fines. He opined that the State laws go too far already and that they need to be careful regarding conferring further power on the Commission. He also suggested that each time a notice is sent to someone should be considered a violation, but this may have a coercive effect. Ms. Hopkins responded that most of the violations are by businesses and she opined that \$100.00 per day would not matter much to them. Mr. Mercurio added that the entire purpose of the bylaws is to bring violators to the board. Mr. Meindersma opined that the more notices that are received, the more compelling it would be to pay the fines. He also commented that, in the general bylaws, referring to Article 16, a violation is referred to as an "offense", not a violation, so this must be refined. In response to a question from Mr. Hadley, Mr. Meindersma replied that the board does not have to charge for something but has the authority to do so from the bylaws. Mr. Mercurio added that they can waive the fee if there is a legitimate excuse. Mr. Meindersma opined that it would be attention-getting. Mr. Vignaly added that the Commission members can still revert back to the larger fine in the general bylaws. Mr. Meindersma pointed out the section giving the Conservation Commission authority to enforce the wetland bylaws and regulations within the Town. There was then some discussion about the daily charge for a violation, whether or not that will be meaningful in the future, and agreed that Concomm could amend their bylaws as the Town is able to amend theirs and that this will be Concomm's baseline. (Mr. Meindersma will change wording to "such other fines as will change from time to time"; he also said that citations and references will automatically be incorporated).

Mr. Vignaly told the Commission members that they need to hold a Public Hearing for this item, and explained that, for the general bylaws, any change needs public notice and a public hearing, in advance of the Town Meeting.

Next Mr. Dunne, who represented at the Parks Commission discussion, commented on something he thought to be redundant and something misspelled, and Mr. Meindersma responded that he will make revisions and circulate again the next day. Marc Frieden of Planning Board then asked about how access and inspection by Concomm were to be handled in the bylaws? Mr. Chase replied that they need to give 24-hour written notice. Mr. Mercurio asked if that is in the State regulations? Mr. Vignaly responded that they would not want to add that to the draft, as the Wetlands Protection Act does not require notice, and suggested that this could be written as policy, where a public hearing is not needed. (The Clerk was instructed to post the public hearing, for the adoption of the local wetland bylaws).

Mr. Meindersma continued that Mr. Vignaly wanted to amend an article of the General Bylaws, but thought that Town Counsel might have to advise on this. Mr. Frieden asked if the Commission still

intended to present this at the May Town Meeting? Mr. Chase responded that he wanted backing by all the Town Boards. Mr. Meindersma opined that there were not that many changes, and Mr. Chase responded that he might have a lawyer look it over. Mr. Meindersma suggested meeting before the Town Meeting, as soon as the Commission decides what they want to say. Mr. Mercurio suggested that they meet after the May 2 meeting, at which they will have the public hearing.

**Baldarelli Discussion Regarding Beaver Problem at Sterling Meadows:**

(John Farnsworth and Eddie Baldarelli represented). Mr. Farnsworth discussed that he contacted the Commission about high water levels and said that the water seems to be going down. He said that he spoke to Chuck Caron from DCR in order to obtain a variance. He said that, instead of a plank bridge which was agreed upon previously at Routes 12 and 20, he was using two four-foot pipes and would cover those over. He also mentioned installing wetland flags, and showed soil borings to the Concomm members on drawings. Mr. Farnsworth said that there is not yet a curb cut from MA DOT. He explained how there were two 24-inch diameter pipes feeding in above, now there are two pipes below it, so the flooding retreats, with four feet carrying more than two 24-inch pipes.

Mr. Farnsworth asked what happened to cause the water level to go down? Mr. Chase replied that they obtained a special permit from DCR to remove beavers that were causing the water problem. Mr. Vignaly discussed that "beaver deceivers" were suggested, but were rather small. He suggested to Mr. Farnsworth that they may need a MEPA plan, and Mr. Farnsworth agreed. Mr. Vignaly continued that, after April 15, the dam can be breached and maybe brought down (he said this to Mr. Baldarelli). The Concomm members said that approval from them was still active, and Mr. Farnsworth said that they are asking for another extension for maintenance after breakup of the dam. Mr. Chase and Ms. Hopkins said that they must file a Notice of Intent. Mr. Farnsworth added that they need a variance from DCR, and that the Army Corps of Engineers told them that they cannot have a permit from them, as there were no start and end dates; so, all that they need to do is file with MEPA and go to DCR. The Commission said that they would not act this evening. The Commission also discussed what they would prefer for a curb cut from MA DOT, and Mr. Baldarelli responded that DOT would not sign for the curb cut, and they decided to relocate the stream. Mr. Farnsworth responded that Mr. Caron said that no one would agree to relocating the stream, but he is away and Mr. Farnsworth is waiting for him to return.

**Update on Minnich Property:**

(Ms. Hopkins lead the discussion). She explained that the CPC voted to postpone so they are not funding at this point in time. She discussed what would be needed in CPC funds for due diligence and what was available in their funds, and said that this topic will be on the warrant for Town Meeting in May. The Commission members discussed the possibility of the property being purchased and used for a 40B project, asserting that there would be money in that type of project. Ms. Hopkins disagreed, asserting that a developer would not take nine buildable lots that are available to create a 40B. She mentioned that Mr. Minnich wants to sell the Conservation Restriction for \$215,000, but Iqbal Ali of Metrowest Builders would pay \$300,000. The property may have Chapter 61A regulating it (agricultural). Ms. Hopkins said that there has to be open space on the property, and Commission members opined that the Town would not match Mr. Ali's price if they cannot use the property. Ms. Hopkins said that she would look at the property's assessed value. Mr. Frieden did not think that there was 61A property there. Mr. Hadley suggested that, instead of a Conservation Restriction, seeing if the Town might buy it at a reduced price.

**Update on 263 Maple Street Property:**

The Commission agreed that the Town should accept the gift of the Conservation Restriction, but Mr. Hadley said that they should send a note to Nancy Lucier and Anita Scheipers, Town Administrator, telling them that Concomm wants the Board of Selectmen to approve it because it is a donation. Also, Ms. Hopkins discussed an invoice for GWLT (Greater Worcester Land Trust) that was past due, with greater than \$1000.00 in fines; she explained that Thompson Liston billed them for engineering work to create an ANR plan, and said that Concomm cannot reimburse them for this as it would deplete their funds.

**Minutes of March 10 Meeting:**

After review of the minutes by the Commission members, Mr. Hadley moved to accept the minutes as submitted. Ms. Hopkins seconded. All in favor.

**Public Comments Regarding Afra Terrace:**

David Femia of the ZBA asked the Commission members about their earlier statement that the "as-built" for Afra Terrace was approved pending their site walk. He said that the ZBA had been contacted regarding outstanding issues by the management company, who want to know their rights and if certain things have been done or not. Mr. Chase explained that two different engineers, both insured, both signed off on the plans. Mr. Femia asked if ZBA could obtain a copy when the plan is approved? Mr. Chase gave him a copy at that time, but approval was still pending Concomm's site visit.

With no further business to discuss, Ms. Hopkins moved to adjourn the meeting at 8:33 p.m. Mr. Mercurio seconded. All in favor.

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

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