

Bolton Conservation Commission
Minutes of Meeting
January 4, 2005

PRESENT: Karen Augustine, Scott Duhaime, Ed Englemann, Bill Fateiger, Lori Stephenson, Amy Wilson, and administrator Carol Gumbart

1. Miscellaneous Scott Duhaime said that Wendy Kennedy, a resident on Rocky Dundee Road, told him that she encountered a hunter on Town conservation land. Mr. Duhaime said that ms. Kennedy said that she contacted the police but they told her hunting was permitted with the owners permission. The Commission agreed that the police should be notified that the Conservation Commission has not given permission to anyone for hunting on Town Conservation Land.

Scott Duhaime asked Carol Gumbart whether she has a database for managing the projects and the workload of each of the Commission members. Ms. Gumbart said that she does not. Ms. Gumbart says she has an excel database of the project files that lists the status of open or closed. Ms. Gumbart said that knows of one company that has developed software for Conservation Commission's but she is not too familiar with what it offers.

Carol Gumbart told the Commission that Loitherstein Environmental Consultants contacted her yesterday about the groundwater monitoring they are planning for the Smith property in the center of town on Main Street. Ms. Gumbart said that they proposed to install 4 groundwater-monitoring wells on the property and she explained the locations. Ms. Gumbart said that they install the wells by using a direct push geoprobe where they auger 4 feet into the ground and then install a 1 inch PVC pipe 5 feet into the ground and cap it at the ground. After discussion it was agreed that this activity is considered a minor project under the Massachusetts Wetlands Protection Act. The Commission did not feel that the activity required a review under the Wetland Bylaw.

2. Upcoming Meetings Scott Duhaime said that he would attend the ZBA's continued hearing on the comprehensive permit application for Pondsides. Mr. Duhaime said he would continue to pursue with the ZBA the question of what is considered "elderly" housing, which was how the applicant determined to place 66 2-bedroom units on the site, but still fell below the 10,000-gallons/day limit, which would require a public water supply. Elderly housing calculates water usage at 150 gallons/unit/day, vs., 110 gallons/day/bedroom for non-elderly housing. The Commission agreed that Mr. Duhaime should continue to seek an answer to the question of whether a partial waiver can be granted to a bylaw or whether the whole bylaw has to be waived if it is found that a part of the bylaw will cause the project to be financially unfeasible. It was also agreed that Mr. Duhaime should continue to stress the need for an Operation and Maintenance Plan during and post construction.

Bill Fateiger said that he would attend the Planning Board meeting on January 12, 2005, when they will discuss the proposed Common Driveway off Harvard Road and the proposal for marking Open Space Boundaries.

3 Minutes. A motion was made by Bill Fateiger, seconded by Scott Duhaime, to accept the minutes of December 21, 2004. VOTE: Aye, Unanimous. Carol Gumbart will send out the draft minutes of November 30, 2004.

4. Balbaky, Teele Road Carol Gumbart said that the Commission received two responses to their request for proposals for the review of the Abbreviated Notice of Resource Area Delineation (ANRAD) submitted by Yasin Balbaky. Ms. Gumbart distributed the proposals. During the discussion, Bill Fateiger called Paul McManus of EcoTec to inquire whether his proposal of \$1600 was not to be exceeded if more time was needed. Mr. Fateiger said that the price of \$1600 is not to be exceeded. Scott Duhaime said that he did not support the price proposed by Sanford Ecological Services, which was not to exceed \$3850, as it was more than 2X the price of EcoTec. The Commission decided to postpone their decision until later in the evening when they would meet with Brian Butler and inquire whether his company, Oxbow Associates, was submitting a proposal.

After consultation with Mr. Butler that he would not be submitting a proposal, a motion was made by Bill Fateiger, seconded by Scott Duhaime to give the contract to EcoTec for \$1600. VOTE: Aye, unanimous.

5. Annual Town Meeting Articles Carol Gumbart said that Town Counsel recommends that we form a working group to prepare the redraft of the Bylaw. The Commission had a brief discussion on the comparisons between Water Resource Protection District (WRPD) and the Wetlands Bylaw. Scott Duhaime said that one consideration of changing or eliminating the WRPD is that it is linked to other Town Bylaws like the Farmland Open Space Residential Development Bylaw (FOSRD). Bill Fateiger and Lori Stephenson offered to work with Town Counsel and Carol Gumbart on a redraft of the Bylaw and article for the Annual Town Meeting. Mr. Duhaime said that we could do a phone bridge and conference anyone into the call that was interested. Ms. Gumbart will check back with Town Counsel about her availability for a conference call.

Ms. Gumbart said that Town Counsel confirmed that if we add the Non-Criminal Disposition to the WRPD we should also amend section 1.1.5. of the Bylaws to be consistent.

Ms. Gumbart said that she would arrange a site visit to Bowers Springs between Bill Fateiger and Harold Brown to evaluate what is needed to move the driveway onto our land. This will then be made into an article for the cost of the project, unless the Advisory Committee chooses to put it into the budget.

6. Budget A motion was made by Bill Fateiger, seconded by Scott Duhaime to approve the budget for fiscal year 2006 as drafted and discussed. VOTE: Aye, unanimous.

7. Moss, Common Driveway & 5 Lots off Harvard Road (112-498) Bill Fateiger opened the continued public hearing on the Notice of Intent for the common driveway and construction of 5 lots off Harvard Road. Bob Moss was present for the continued hearing. Mr. Moss submitted a revised set of plans, an alternative analysis and reviewed the changes. Mr. Moss said that the new plans show a delineation of the limit of clearing. Mr. Moss said that the alternative analysis is limited by the number of good perc tests on the site. Mr. Moss said that he understands that 30 perc tests were done and that only 7 good locations were found that would provide for expansion areas too. Mr. Moss said that they are also limited by the Board of Health's requirement that the septic system be so many feet from the drainage system. Mr. Moss said that although they did not hit groundwater within 7 to 9 feet they did observe mottling within 2 to 3 feet and so the septic systems would be raised systems. Mr. Moss said that the drainage system has been modified but that it can't go any lower into the ground without being within the groundwater. Mr. Moss said that they laid the common driveway on grade to minimize cuts and fill. Mr. Moss said that the house proposed on Lot 3 is within 102 feet from the edge of the wetlands and that he would propose a retaining wall and limit the clearing to 20 feet around the house. Mr. Moss said

that the house on Lot 1 could have a retaining wall but there is 50 to 60 feet of no disturbance and that they can't change the driveway. Mr. Moss explained that the way the house sits on the lot they want the driveway to go right into the garage. Mr. Moss said that they have proposed to replace the vegetation around the detention basins with similar understory vegetation. They have proposed planting Highbush Blueberry shrubs, 2 to 4 feet in height on 25-foot centers. Mr. Moss said that Parcel A will be deeded to the Town but that he can not provide access to it through the common driveway as a trail would pass to close to the homes. Mr. Moss said that he would put a 30-year deed restriction on the front of Lot 4 but that it is not perpetual. Mr. Moss said that he understands the Commission will require a bond for the planting and driveway and asked the Commission to clarify the bonding of the driveway. Mr. Fateiger said that the bond is for the alteration of the buffer zone and asked Mr. Moss how much alteration of buffer zone is proposed with the revised plans. Mr. Moss said that about 71,896 square feet of alteration or almost 2 acres is proposed. Mr. Moss asked the Commission what it would take to close the public hearing at the next meeting. The Commission said that they will need as soon as possible an 1) Operation and Maintenance Plan for both during construction and post construction; 2) bond figures for work in the buffer zone and plantings and that the bushes should be at least 10 feet on center not 25 feet on center as proposed; and that the limit of disturbance should be clearing defined; 3) trail easement on lot 1 (see below), and 4) move driveway on lot 1 out of buffer (also below). Scott Duhaime said that the Commission likes to see some delineation in the form of boulders, split rail fence and planting between lawn and buffer zones. Mr. Moss said that he could show split rail fencing in a detail on the plans. The Commission discussed their concerns with the house and grading on Lot 1. The Commission asked Mr. Moss to pull the driveway out of the buffer zone. Mr. Moss offered to use a retaining wall to limit grading and future encroachment for the house construction on Lot 1. Mr. Moss said that he would consider a trail easement that went along the northern edge of the property but it was noted that it goes through the wetland. Mr. Moss said that the storm design is for a 24.5-year storm and that he expects comments from the Town Engineer on January 5, 2005. Mr. Moss said that he is available to walk the property with anyone that hasn't seen it. Ed Englemann said that he was also available to walk the site. The hearing was continued to January 18, 2005, at 8:45 p.m.

8. Appointment with Kevin Sweeney, Bolton Manor, Sugar Road (112-494) Kevin Sweeney, was present by appointment to discuss the Order of Conditions recently issued to him for the development of a condominium project on Sugar Road. Mr. Sweeney was accompanied by Sue Sullivan of Places Site Consultants, and two of his sons, John and Luke Sweeney. Mr. Sweeney said that he wanted some clarification of some of the Conditions. Mr. Sweeney said that he is scared that some of the conditions will increase the cost of the project needlessly. Bill Fateiger asked him what specific conditions he was concerned about. Mr. Sweeney said that Condition #5 requires the site supervisor to be a Registered Professional Engineer and for that person to report to the Commission on a weekly basis. Mr. Fateiger had Mr. Sweeney read the entire condition and not just a section of the condition. Mr. Fateiger said that he did not see the concern. Mr. Fateiger said that the Commission wants the engineer to be interactive with them but they are not looking to have an engineer there 40 hours a week. Mr. Fateiger noted that certain towns do require that in their Orders. Ms. Sullivan said that if he is doing 6 weeks of rough grading the PE does not need to stop by on a weekly basis. Ms. Sullivan said that it is the site supervisor that has the ability to make the changes on the ground that are needed. Ms. Sullivan said that the engineer usually stops by at key milestones. Ms. Sullivan also noted that the NPDES log would be submitted on a weekly basis as long as the ground is open. Mr. Sweeney said that he has never been cited by a town for a violation and that he has worked on some difficult sites. Mr. Sweeney said that his second concern is that the Order requires a

qualified wetland person to be present while the well drilling is going on. Mr. Sweeney said that DL Mahr, the company installing the wells is very reputable and that he himself is a former water commissioner. Carol Gumbart said that she understood this to be about a two-week endeavor. Scott Duhaime said that he did not see this as a problem as it is a short period of time. Mr. Sweeney said that he is concerned with Condition #10 that requires that the wells be installed during frozen ground conditions. Ms. Gumbart said that this is when Mr. Sweeney told the Commission that was when he would do the work. Mr. Sweeney said that at this time he plans to drill on the week of the 24th but that ground is not frozen now and he doesn't know what the conditions will be like on the 24th or if it gets postponed at all. Mr. Fateiger said that if the conditions are not suitable that this could be considered a field change. Ms. Gumbart noted that it would only need to be amended if additional conditions were needed. Mr. Sweeney said that Condition #14 does not permit underground sprinklers without the future approval of the Commission. The Commission said that if the condominium association wants to install underground sprinklers then they could come back to the Commission. Mr. Sweeney said that Condition #24 seems impossible to comply with, as it requires that you do not alter the vegetation beneath a stockpile. The Commission agreed that this could be difficult but that in his case he is not proposing to stockpile within the buffer zone and so it will not matter, as the Order will not apply that area. Karen Augustine said that she would be satisfied if the engineer would be on site for important milestones. Ms. Sullivan said that the Town's consultant, Sandra Brock would be on site during these milestone events. Mr. Fateiger suggested that we send Mr. Sweeney a letter of clarification stating that the Commission is satisfied that the Town's Registered Professional Engineers can replace the need for Mr. Sweeney to have a separate engineer out to the site and that the site supervisor shall send as the Order requires the NPDES log. Mr. Sweeney said that he has no problem with the letter and that he is only making a 9% profit on the project and is concerned that it doesn't erode further.

Ms. Sullivan provided the Commission with a detail of the area where the wells will be dug. The detail shows the location of proposed haybales for this first phase of the project. Mr. Fateiger agreed to conduct a site visit on Friday, January 7, 2005, to view the surveyed haybale line. He will meet with Mr. Sweeney and determine which trees will be kept when the area is cleared for haybales and the installation of the water line. Mr. Sweeney said that they expect to drill the week of January 24 and be finished around the week of February 7.

9. K&L Holding, Hudson Road (112-444) & WRPD Bill Fateiger opened the continued hearing to consider new information. Present was Jon Delli Priscoli – President, Stan Gordon, Vice President of Operations and Brian Butler, the Commission's consultant. Mr. Priscoli gave an overview of why he was present. Mr. Priscoli said that his friend Günter Zisler, is the money behind the former applicant and that he is not familiar with the permitting process and asked Mr., Priscoli to help him out. Mr. Priscoli said that when he looked at the project he could see that it was imperative to work with the Natural Heritage and Endangered Species Program (NHESP). Mr. Priscoli said that he just received on January 3, 2005, a letter from the NHESP with a list of conditions that need to be incorporated into the Order of Conditions and the Conservation Restriction. Mr. Priscoli said that they are proposing to use 3.5 acre for a house and open area that was termed the development envelope. Mr. Priscoli said that they would have the engineer draft this area and get rid of the superfluous notes. Mr. Gordon said that the engineer, Mr. Savello, is out of town until Thursday but upon his return they will meet with him and get the plan cleaned up and submit it to us. Mr. Priscoli said that he has a problem with the timing restraints that the NHESP put on the project because he might not be able to get the driveway paved during the November 1 to April 1 work period. Mr. Priscoli said that sometimes asphalt plants in the area do not open until April 15. Carol Gumbart looked at the restriction and said

that the NHESP may consider paving as stabilizing and that is allowed beyond the window for construction in the restriction. Mr. Priscoli said that he is acting as Mr. Zilser's consultant and that they will build the road and then look for a homeowner. Scott Duhaime said that we are looking for a definitive plan, reviewing the final Order of Conditions, the revised Conservation Restriction and the Bond (letter of credit). Brian Butler said that they Order of Condition are in conflict with the NHESP window for construction. Mr. Butler also described the footprint for the conservation restriction area. Mr. Butler said that he understood there was some initial concern with the developable area being within 25 feet of the locally regulated wetland but that it encompasses the flattest area. Mr. Fateiger said that those wetlands serve little purpose. Carol Gumbart asked if they had the bridge evaluated. Mr. Priscoli said that they had a structural engineer look at it and that it is fine but they will put a steel plate over the bridge during construction.

At Mr. Priscoli's request the hearing was continued to February 1, 2005, at 8:00 p.m.

10. Symmes, Danforth Lane Carol Gumbart said that she received a call today from Symmes asking why they had not received their escrow money yet for the projects on Danforth Lane. Ms. Gumbart said that she told them that no one had requested the release. After review of the work and discussion of which lots the escrow money covered, a motion was made by Bill Fateiger, seconded by Lori Stephenson to release \$9,351 to Symmes and to hold the remainder (\$4,263) until plants on Lots 3A and 14 have successfully established themselves.

11. Open Space and Recreation Plan Scott Duhaime said that the Plan is done and that we need to assemble the attachments and distribute it for comments. Mr. Duhaime said that we need letters of support from the Planning Board, the Chief Elected Official and the Regional Planning Agency. Mr. Duhaime said that the MAPC is the regional planning agency we need to send it to. Mr. Duhaime said that it is desirable to have letters from the Park and Recreation Commission, the Board of Health, the Zoning Board of Appeals and the Watershed Agency. Carol Gumbart said that she would help him distribute them if he can identify the attachments.

Respectfully submitted,

Carol A. Gumbart
Conservation Administrator