



# TOWN OF BRIMFIELD

## CONSERVATION COMMISSION

Salisbury Annex Building, 2<sup>nd</sup> Floor  
23 Main Street  
Brimfield, Massachusetts 01010

Ian Lynch, Chair  
Roger deBruyn  
Joe Collins  
Matt Toth  
Steve Phifer  
Michele Restino

Agent: Angela Panaccione

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### MEETING MINUTES WEDNESDAY MAY 14, 2014 @ 7:00 PM

**Members Present:** Roger deBruyn (Acting Chair)  
Joe Collins  
Matt Toth  
Michele Restino  
Angela Panaccione (Agent)

**Members Absent:** Ian Lynch (Chair)  
Steve Phifer

**Also Present:** James Dick, Roux Associates  
William & Dolores Berry, 69 Cubles Drive  
Ann O'Flaherty, Mass DOT District 2  
Joe LaFreniere, Soltas  
Todd King, CESSWI  
Chuck Caron,  
John & Sarah Rahkonen  
Art Allen, EcoTech

**Meeting Opens:** 7:38 PM – Roger deBruyn (Acting Chair)

#### **7:38 PM Administrative Matters: Chair for the Night**

Motion by Michele Restino to make Roger deBruyn the acting Chair for tonight's (May 14, 2014) meeting  
Motion Seconded by Matt Toth  
No further discussion – 4-0-0 – Motion Carries

#### **7:40 PM Cont. NOI DEP # 117-0325: 10 Shaw Road (Map 5 A-B Lot 15.1) – Dave Mayo**

Roger deBruyn re-opened the public hearing. No representatives or members of the public were present. The DEP is still reviewing the case and requested we stay the hearing until further notified.

An Administrative Consent Order has been issued against Mr. Mayo and the DEP has supplied a restoration plan to follow. Mr. Mayo is required to hire a professional environmental consultant to complete the DEP issued Restoration of the area. A Fine has also been issued from the DEP.

Motion made by Michele Restino to continue the hearing until 7:00PM on Wednesday July 9, 2014.  
Motion Seconded by Matt Toth  
No further discussion – 4-0-0 – Motion Carries

#### **7:40 PM Request for Determination of Applicability (RDA): 69 Cubles Drive – Dolores Berry**

Request for Determination (RDA) submitted by Dolores Berry, for work at 69 Cubles Drive, Brimfield (Assessors Map 6A Lot A-20), to determine if the work associated with the clearing of land and the removal of three (3) large

trees and several shrubs is subject to the Wetlands Protection Act, M.G.L. Chapter 131, §40. The work associated with the tree removal will occur within the 100-foot buffer zone of Lake Sherman.

The three (3) trees are a safety hazard from storm damage and termites. Northern Tree will complete the work. The tree's will be removed piece by piece and craned over the house. No equipment will enter the buffer zone; all equipment will operate from the front of the house, in the driveway. Stumps will be left intact. No work is proposed within 25-feet of Lake Sherman.

Roger deBruyn stated tree removal is normally completed in the winter, when the ground is either dry or frozen.

The applicants also desire to remove all vegetation down to the lake, and construct a three tier retaining wall with terraces. They intend to leave selective birch and oak trees in the area. Currently the area is heavily overgrown with a mix of native and invasive species. The Commission informed the applicants that would require a future Notice of Intent (NOI) and was NOT requested or permitted with this determination.

Motion made by Michele Restino to issue a Negative Determination, Box 3 with the aforementioned conditions; finding the work is within the buffer zone but will not alter an area subject to protection

Motion seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

**7:55 PM Request for Determination of Applicability (RDA): Interstate 90 (Road ROW) – Mass DOT**

A Request for a Determination of Applicability, submitted by Massachusetts Department of Transportation, Highway Division, District 2 for the confirmation and verification of resource area delineations which have been delineated along I-90. The proposed work involves the application of herbicides to control “target vegetation” along I-90. The location of the proposed project is I-90 Eastbound and Westbound (including entrance and exit ramps) beginning at the Palmer/Brimfield Town Line, proceeding easterly to the Brimfield/Sturbridge Town Line. All work will be performed within the State Highway Layout in Brimfield, MA 01010, from Palmer to Sturbridge, and is a Roadway Right-of-Way. Roger deBruyn opened the hearing and no public was present.

Ann O’Flaherty, Mass DOT District 2 presented the project to the Commission. A site visit was conducted by the Conservation Agent on Thursday April 17, 2014. Per the visit the wetland sheets were revised on May 7, 2014.

The proposed work involves the application of herbicides to control “target vegetation” along state roads and highways in accordance with the Rights of Way Management regulations (333 CMR 11 .00) and the Massachusetts Highway Department’s Vegetation Management Plan (VMP) and Yearly Operational Plan (YOP). Herbicide application will be applied under the guardrails, around sign posts, along, walls, barriers, curbs & berms, pavement cracks, in areas of poison ivy, vehicular recovery zones, etc., and other areas where undesirable vegetation causes an unsafe condition, or impedes highway maintenance operations. Please refer to Exhibit 4 for Identification of Target Vegetation and Herbicide Treatment Description. At select locations, herbicides may be utilized to establish wildflower beds. Applicators will hold a valid pesticide certification/license from the Department of Agricultural Resources (DAR) and will adhere to the operational guidelines as set forth in the VMP and the YOP.

The spraying will occur only within 3-feet of the guardrails along I-90. The spraying will be done by a machine sprayer on a truck. The machine is set at a certain height and regulated by a computer. DOT uses markers to identify spray zones and no spray zones. DOT is not allowed to spray within 10-feet of open waters or wetlands or in any public well head zone. Spraying will also not occur in wind or rainy conditions, and should take approximately 1 day.

Motion made by Michele Restino to close the Public Meeting and to issue a Positive Determination, Box 2(a), with the condition the boundaries confirmed by this determination are strictly for the application of herbicides to control "target vegetation" and shall not apply to any project other than Mass DOT's Vegetation Management Plan (VMP) and Yearly Operational Plan (YOP).

Motion seconded by Matt Toth

No further discussion – vote taken: 4-0-0– Motion Carries

**8:09 PM Notice of Intent (NOI): Apple Road (Map 4E Lot 2) – Joe Ciesla**

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Roger deBruyn re-opened the public hearing on the Notice of Intent (NOI) submitted by Waterman Design Associates, Inc c/o Joe Ciesla for the work off Apple Road (Assessors Map 4E Lot 2), pertaining to the crossing of a perennial stream for access to the rear of Lot 3 for future house construction. Specifically, the work includes the construction of a 12-foot drive and the installation of a 12’ wide X 2.5’ high X 28’ long open-bottom box culvert. The proposed work will alter 875 square feet of Bordering Vegetated Wetland and 19,850 square feet of the Riverfront of a perennial stream. No representatives or members of the public were present.

DEP has issues with the project as proposed and have flagged it for additional review.

The Applicant has requested a site visit, but the Commission denied the request until all relevant and missing information is provided and the filing is complete.

Motion made by Michele Restino to continue the hearing until 7:20PM on Wednesday May 28, 2014.

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

**8:10 PM Cont. NOI DEP #117-0334: 229 Palmer Rd (Map 10E Lot 11) – ExxonMobil**

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Roger deBruyn re-opened the public hearing on the Notice of Intent (NOI) submitted by Roux Associates, Inc., c/o EXXONMOBIL Pipeline Company for the work at 229 Palmer Rd (Assessors Map 10E Lot 11), pertaining to the preventative maintenance activities for the ExxonMobil pipeline. Specifically, the work includes raising the stream bed by approximately 3-feet to reestablish cover over the currently exposed pipeline. Jim Dick of Roux Associates was present to present revised plans as discussed at the April 23, 2014 meeting; including a dewatering plan.

Michele Restino raised concerns with the plans stating a loss in compensatory storage and work within the Riverfront zone. Jim Dick stated the calculations were submitted to show the changes, but the area does not meet the definition/requirement of Bordering Land Subject to Flooding (BLSF) or the Riverfront Area (RFA) as defined by the WPA since it is an intermittent stream with no designated FEMA flood plain associated with it..

Michele Restino also expressed concerns with the stream undercutting the bank again, or getting around the current footings and eroding again.

Jim Dick stated the crossing is larger than the bank and is designed to meet the stream crossing standards for both openness and bankfull width. The project is basically installing an open bottom box culvert crossing for the pipeling. In essence, it is a bridge for the pipe to sit on.

Roger deBruyn asked about a monitoring plan and Jim Dick a stated he would submit quarterly reports to the Agent, as Roux currently does with the Hastings Lane Project. Jim Dick further stated on site quarterly monitoring would not be an issue since they are currently required to perform the task for the Hastings Lane site and intent to monitor both projects simultaneously.

Motion made by Michele Restino to close the Public Hearing and issue the Order of Conditions, with a quarterly monitoring requirement

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

**8:40 PM Enforcement Order/Violation DEP # 117-0338: 145 Sturbridge Road - Soltas**

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The Commission discussed the issuance of an Enforcement Order for 145 Sturbridge Road, for the violation of 17 conditions of the Order of Conditions, including conditions 13, 19, 24, 28, 29, 31-34, 37, 45, 54. Specifically, the Commission cited the work occurring at the Solar site has created excessive sedimentation that is now eroding into resource areas protected under the Wetlands Protection Act (WPA).

The Enforcement Order required the immediate installation of the required stormwater management structures permitted by the Order and the correction of all alterations that have impacted the resource areas, returning the resource areas to their original condition. An Erosion and Sediment Control Specialist is required to be retained by Soltas to monitor all stormwater and erosion issues. The Erosion and Sediment Control Specialist is to provide regular monitoring reports to the commission and is to be on site for any rain event greater than .25 inch, to ensure controls are properly working.

A site inspection was conducted on Saturday May 10<sup>th</sup> at 9am. All but one stormwater basin is in and the swale at the bottom of the access road, along Old Sturbridge Road is also in. The questionable culvert off Old Sturbridge Road was also found, though it was located in an area not expected. The basin/swale of Old Sturbridge Road is designed to handle 100% of the runoff that will not be mitigated by the basins along the access road. Work left is paving the first 200-feet of the access road and finishing the swales along the access road up to the array (currently the swales are ¾ of the way to the arrays, on both sides of the access road). Soltas has also received permission from Shirley Lapierre, 189 Old Sturbridge Road, to work on her property restoring the degraded pond.

Michele Restino stated the Solar Company has demonstrated they have worked hard to bring the site into Compliance and did not feel the need to issue a stop work order.

The Commission reviewed the requirements of the enforcement order, condition by condition to ensure compliance was met.

1. Immediately provide Conservation Commission with Construction Sequence Report containing information of past as well as future work. Commission must be notified of any changes to the report. **Completed and submitted by Joe LaFreniere on May 10, 2014**
2. Site shall be stabilized at all times. Report detailing stabilization materials used in which locations should be sent to Conservation Commission no later than May 28th. Stabilization conditions should be reported in biweekly report sent to Angela Panaccione. **Deadline May 28: The applicant will follow the Beals and Thomas ESC example the Agent provided from a similar solar project occurring in Hadley. Reports will be submitted every two weeks.**
3. Stockpiled material must be at least 100 feet from resource area and must be stabilized to prevent sediment from surface runoff. Erosion control must be utilized around all stockpiles. **IN PROCESS, half is removed and the rest is being added to the access road over the next week. Joe LaFreniere will have it fully removed by May 28.**
4. All equipment shall be stored at least 100 feet from resource area at the end of each day. **Completed**
5. As of May 14, 2014: An Erosion/Sediment Control Specialist must be retained until site is fully stabilized with vegetation, all basins are in order and temporary erosion controls at all sites are operating effectively in accordance with design specifications per approval of Brimfield Conservation and peer reviewer. Decision to release Sediment Control specialist must be made by the EC Specialist and Brimfield Conservation. **Todd King has been retained and he will submit an initial report on May 16.**
8. On or before May 14, 2014, the Recipient of this enforcement order shall nominate in writing an independent, third party environmental consultant qualified to assess all unpermitted resource area impacts. The Brimfield Conservation Commission maintains the right to approve or deny the nominee (to be decided at the BCC's May meeting) based upon the individual's level of experience (qualifications and experience shall be provided). **Chuck Caron has been retained and will submit a plan by May 28.**

Chuck briefly discussed his plans for stream restoration with the Commission. He has noted a natural channel forming already in the damaged areas and proposes installing a naturally stone bottom to the channel as well as doing plantings along the banks and slopes for stabilization.

Motion made by Michele Restino accept Todd King as the Erosion and Sediment Control specialist as required by Condition # 5 of the Enforcement Order

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

Motion made by Michele Restino accept Charles Caron as the Environmental Specialist responsible for stream bank restoration as required by Condition # 8 of the Enforcement Order

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

**9:17 PM Enforcement Order (EO): 46 St Clair Road (Map 11A Lot 2) – John Rahkonen**

In response to the Enforcement Order issued April 23, 2014 John and Sarah Rahkonen attended tonight's meeting with environmental consultant Art Allen, from EcoTech. John Rahkonen supplied pictures to the Commission, for the record, of several different culverts along St. Clair Road and the sediment present within each. He also supplied GIS maps of the culvert locations.

Art Allen explained to the Commission that runoff from the site has affected a finger BVW along the stream with 2+'' of sediment. There is also noticeable sediment on the bank and in the stream bed as well. The sediment present on the downstream side of the culvert is not associated with the work at 46 St. Clair Road. Currently, the bottom of the driveway has been stabilized with check dams, cross pipes and a stone basin. Mr. Rahkonen has also sprayed the area with seed to help with stabilization. The Agent will call Mr. Rahkonen if more complaints are received.

Motion made by Michele Restino to accept Art Allen of EcoTech as the Environmental Specialist responsible for stream/BVW restoration and to lift the cease and desist order and allows restoration work to proceed under the requirements of the Enforcement Order

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

The Rakonen's will attend the next Conservation Commission meeting, scheduled for May 28<sup>th</sup> to present the proposed restoration plan for the damaged area.

**9:45 PM Public Inquiry/Request: Carol Platenik – Open Space and Recreation Committee**

Carol Platenik attended the meeting to request a financial contribution from the Conservation Commission to help the Open Space and Recreation Plan Community Visioning Session, scheduled for May 29, 2014. The OSRP committee is working without funding currently and requested from the Commission the purchase of name badges, a flip chart, maps and colored pencils.

Roger deBruyn stated it was a good idea to help the Open Space Committee, and the Commission should be doing more with it anyway. He stated if expense money was still available we should help fund the visioning session.

The Agent will purchase the supplies from quill and submit the payable at the next meeting for the Commission to sign.

Motion made by Joe Collins to spend expense money on Open Space to assist with the Community Visioning Session

Motion Seconded by Matt Toth

No further discussion – 3-0-0 – Motion Carries (Michele Restino recues herself from the vote as a member of the OSRP Committee)

**9:50 PM Administrative Matters: Discuss & Sign Payroll – Angela Panaccione \$472.50**

The Commission discussed the payroll voucher for the Agent, since the wetlands account is low and the Agent went over hours this pay period and incorporated the additional hours into Comp time. The Commission decided Ian Lynch should speak with the personnel officer about Comp time procedures.

Motion made by Michele Restino to sign the payroll sheet for Angela Panaccione in the total amount of \$472.50, for the pay period of 5/4/2014 - 5/17/2014; including the unpaid comp time of 19.5 hours

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

**10:00 PM Administrative Matters: Discuss Finance Committee and Bylaw Committee Meeting**

The Commission attended both the Bylaw Committee and the Finance Committee meetings on Thursday May 8, 2014 to discuss the proposed wetlands bylaw and the requested increase in hours for the Agent position, respectively.

The Finance Committee has recommended the increase in hours to 25/week; totaling \$20,475

The Bylaw Committee has recommended the bylaw with the removal of the second to last paragraph of Section 8, dealing with Vernal Pools.

**10:01 PM Administrative Matters: Building Permit Sign Off Request**

The Commission discussed and drafted a letter to send to Nelson Burlingame, Building Inspector to request the Commission sign off on all building permits for additional structures (decks, pools, sheds); whether or not there are resource areas present on site. The permit signing used to be a standard procedure with Jack Keough (Inspector prior to Klansik).

Michele Restino stated it would be a proactive solution to avoid wetlands violations and that she signs all permits in Taunton. She is actually first to sign the permit in Taunton, before any other Board.

Roger deBruyn stated it is a good idea and would be helpful to the Commission. It would also promote more collaboration between departments.

Joe Collins was concerned about holding up the issuance of the permits and desired to be careful in our wording of the letter.

Motion made by Michele Restino to designate Angela Panaccione, Conservation Agent as representative to the Commission with full signatory ability and send a letter to the Building Inspector requesting Conservation sign off on all building permits dealing with exterior structures.

Motion Seconded by Matt Toth

No further discussion – 4-0-0 – Motion Carries

**10:28 PM Administrative Matters: Minute Approval**

Motion by Michele Restino to approve the minutes from Wednesday April 23, 2014

Motion Seconded by Matt Toth

No further discussion – 3-0-1 (Joe Collins abstains) – Motion Carries

**10:30 PM Request for Certificate of Compliance DEP # 117-0337: 45 Seventh Street - Lori Morrill**

The Commission received a request for Certificate of Compliance for DEP # 117-0337; 45 Seventh Street property owner Patrick and Lori Morrill. The Agent conducted a site visit and informed the Commission the site has yet to be stabilized with vegetation, per Conditions # 29 & 30. She requested the Commission stay the request until the area is re-seeded and revegetated. The Agent will contact Mark Farrell of Green Hill and the Morrill's and inform them to resubmit the request when vegetation has grown in.

**Meeting adjourned 10:35 PM –**

Motion made by Matt Toth to adjourn 10:35 PM

Motion was seconded by Michele Restino

No further discussion – 4-0-0 – Motion Carries

Sincerely Submitted

Angela Panaccione, Conservation Agent