



Town of Duxbury
Conservation Commission

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DUXBURY, MASS.

Minutes of February 25, 2014

The Conservation Commission met on Tuesday, February 25, 2014 at 7:00 PM in the Mural Room at the Duxbury Town Hall.

Members Present: Joe Messina, Chair; Thomas Gill, Vice-Chair; Sam Butcher, Dianne Hearn; Barbara Kelley, Holly Morris, Corey Wisneski

Members Absent: none

Staff Present: Joe Grady, Conservation Administrator; Susan Ossoff, Administrative Assistant

The meeting was called to order by Chairman Joe Messina at 7:07 PM.

PUBLIC MEETING, MASS DEPT. OF TRANSPORTATION, ROUTE 3, HERBICIDE APPLICATION, 7:00 PM

Tom McGuire, the District Environmental Engineer for the Mass DOT in Taunton presented information about their annual spray program for vegetation management. He explained that spray trucks will apply the herbicide to a 2-3' wide swath under the guard rail or jersey barrier. Most of Route 3 in Duxbury is in Zone 2 on their map which is a zone with aquifer resources or interim wellhead protection. Zone 2 will not be sprayed this year because it was sprayed last year. Colored delineators will be placed on guardrails and barriers to indicate where to spray and not spray. There is a 100' no spray zone on each side of any stream, no spraying is done if the winds are greater than 20 mph or if it is raining or forecast to rain.

Sam Butcher asked what specific herbicide will be used; Mr. McGuire replied that the herbicides they use are approved by the Department of Agricultural Resources and the Department of Environmental Protection; some examples are Accord, Rodeo, Roundup – it is the choice of the contracted applier. Corey Wisneski asked about an area on sheet 9 of 25 which showed a no-spray zone only on the southbound side; Mr. McGuire said the wetlands are only located at that side in that area. A member of the audience asked if any manual spraying is done; Mr. McGuire replied that yes, for poison ivy and invasive species.

On a motion by Thomas Gill, seconded by Dianne Hearn, the Commission unanimously voted 7-0 to issue a negative determination so that a Notice of Intent is not required for the proposed project: application of herbicides under an approved Vegetation Management Plan along Route 3 in Duxbury from the Kingston town line northerly to the Pembroke Town line as shown on the Duxbury Route 3 Locus Map Vegetation Management Program 2014 pages 1 and 2 and Mass DOT Route 3 maps, Sheets 8-14 of 25 and in the RDA Application.

PUBLIC MEETING, BAYSIDE MARINE, 433 WASHINGTON STREET, RIPRAP REPAIR, 7:05 PM

Jackson S. Kent Jr. of Bayside Marine explained that the existing wall has sagged and the project is to put 150 feet of 500 pound stones on top of the riprap wall on the west side of the launch ramp. During storms, water is washing over the wall and the uplands behind the wall are being eroded. Joe Grady explained that all materials will be placed from the upland side, and Mr. Kent said no work would be done below the mean high water line and all work will be done from the upland side.

On a motion by Sam Butcher, seconded by Barbara Kelley, it was unanimously voted 7-0 to issue a negative determination so that a Notice of intent is not required for the proposed project: repair of the riprap wall as shown on the locus map and 3 pictures submitted with the Request for Determination application.

PUBLIC MEETING, HEBERT, 103 DEPOT STREET, AUTHORIZE PREEXISTING STRUCTURES IN THE BUFFER ZONE, 7:10 PM

Samuel Butler recused himself from the Public Meeting on this project because he is working on a project with attorney Adam Brodsky on another matter.

Adam Brodsky, counsel for Mr. Hebert, and John Cavanaro, engineer, of Cavanaro Consulting were present with Mr. Hebert. The property was purchased by Mr. Hebert in 2013 and there are encroachments on the wetlands with no Order of Conditions on file at the Registry. They wish to clean up the records for the property. Joe Grady explained that filing this RDA was the only way to enable the Conservation Commission to sign off on the existing structures.

Joe Messina asked and Mr. Brodsky clarified that there has been a recent upgrade to the septic system and no new work is being done at the property.

On a motion by Holly Morris, seconded by Barbara Kelley, it was voted 6-0 to issue a negative determination that a Notice of Intent is not required for the pre-existing structures at 103 Depot Street. Voting yes were: Joe Messina, Tom Gill, Dianne Hearn, Barbara Kelley, Holly Morris, and Corey Wisneski.

CONTINUANCE OF PUBLIC HEARING, MCLAUGHLIN, 685 WASHINGTON STREET, PIER, DEP FILE SE18-1653, 7:15 PM

Chair Joe Messina reported that the applicant has requested a continuation of the hearing. The report from Horsley Witten Group, the Commission's consultant, was not received in time for distribution to the Commissioners for this meeting; in addition the Applicant wants further time to review the report.

Paul Brogna, engineer, representing the applicant, submitted the original written request letter for the continuation which had earlier been emailed to the Committee.

Mr. Messina explained that in order to maintain the quorum, the date for continuance will have to be carefully chosen.

Paul Driscoll, attorney for the applicant, said that the Horsley Witten Group report was not received until Wednesday prior to this hearing and they will submit an expert review and written response in a timely way so that the Commission will have it in time for review before the next meeting. They will submit materials at least a week in advance of the 7-day cutoff (noon on the Tuesday prior to the meeting) used by the Commission as the deadline for submission of materials for consideration.

Joe Grady described his concerns that if Attorney Driscoll prepared a review of the report, that additional time may be needed to go through the process to have Horsley Witten review and respond to those comments, including the time it takes to have the applicant agree to the review, provide the funds, and get a contract in place. The Conservation Commission met on January 14 and voted to use Horsley Witten, it took about 3 weeks for the funds to arrive to the Conservation office, and a few days to prepare the contract, which only gave Horsley-Witten a short time to prepare their report and they were not able to get it back to the Commission in time for distribution with the materials for today's meeting. Mr. Grady is concerned that at some point perhaps there needs to be an agreement that reviews by the all interested parties are complete.

Mr. Palmer, representing the Friends of the Bluefish River (FOB) referred to a letter submitted to the Conservation Commission in which the FOB asked for time at the continued hearing to do a presentation to the Commission, including input from several experts. They expressed concern that at the next hearing they will not have time to give their presentation following the applicant's presentation.

Joe Messina explained that this is an evolving process, and deadlines will not be set until everyone has the opportunity to get their information presented. There will be plenty of time for all issues to be addressed. The Applicant will make their full proposal and presentation, followed by questions from the Commissioners, and then questions can be asked from the audience, and FOB or others will be able to make their presentations; time may not allow for this to all happen in one night.

Mr. Palmer asked for clarification as to whether the Commission is going to proceed with only one Notice of Intent (NOI) application or with both NOIs that have been filed; Joe Messina replied that attorney Mark Bobroski is reviewing that question. Joe Grady commented that the Conservation Commission will not be combining the materials from the two NOIs. Kathy Palmer asked that the FOB lawyer be allowed 45 minutes for their presentation; Chair Messina responded that everybody will have adequate opportunity to present their materials.

Tom Gill expressed his concern that the number of iterations of the discussions and reviews in his opinion need to have an end point, particularly when the same materials are being repetitively presented.

Chairman Messina may be unable to attend an April 15 hearing date, so proposed the hearing be continued until May 6. Mr. Driscoll said he wished to contact his client to verify that he is able to attend that date and he will let the Commission know with a day or so.

On a motion by Sam Butcher, seconded by Barbara Kelley, it was unanimously voted 7-0 to continue the Public Hearing for SE18-1653 until May 6 at 7:10 PM.

ADMINISTRATIVE MATTERS:

Minutes: On a motion by Dr. Gill, seconded by Ms. Hearn, it was unanimously voted 7-0 to approve the minutes of February 11, 2014.

Permit Extension: Marshfield Country Club, 0 Acorn Street, SE18-1529, drainage
Joe Grady recommended that the drainage permit be extended for 3 years. On a motion by Joe Messina, seconded by Tom Gill, it was unanimously voted 7-0 to extend the SE18-1529 permit for 3 years.

Adjournment: On a motion by Sam Butcher, seconded by Dianne Hearn, it was unanimously voted 7-0 to adjourn the meeting at 7:58 PM.

MATERIALS REVIEWED AT THE MEETING

RDA Application and materials for MA DOT Route 3 herbicide application
RDA Application and materials for Bayside Marine, 433 Washington Street, riprap repair
RDA Application and materials for Hebert, 103 Depot Street, authorize pre-existing buildings
Draft Minutes of February 11 meeting
Permit Extension Request, Marshfield Country Club, drainage

Respectfully Submitted,
Susan Ossoff