

MINUTES

Millbury Conservation Commission

Date: November 18, 2015

Time: 7:00 PM

Present: Donald Flynn, Ron Stead, Anthony Cameron, Paul DiCicco

Absent:

Chairman Flynn called the meeting to order at 7:00 p.m. [times of public hearings are advertised times]

MINUTES: Anthony Cameron made a motion to accept the minutes of June 17, 2015; seconded by Paul DiCicco; Vice-Chairman, Ron Stead abstained; voted unanimously.

Vice-Chairman, Ron Stead made a motion to accept the minutes of September 16, 2015; seconded by Anthony Cameron; voted unanimously.

Vice-Chairman, Ron Stead made a motion to accept the minutes of October 7, 2015; seconded by Paul DiCicco; Chairman Flynn abstained; voted unanimously.

MAIL: Paul DiCicco presented an article published in the Worcester Telegram & Gazette on October 31, 2015 titled "Discovery raises question about invasive species". The article discussed lungwort as a potential threat as an invasive species which will likely be assessed by the Massachusetts Invasive Plant Advisory Group.

OTHER: Paul DiCicco suggested that Commission members try and recruit a citizen to fill the open vacancy with the Commission.

Chairman Flynn noted that he had conversation with the Town Planner that there will be some reorganization of duties within the planning department.

7:15 P.M. Brendan Gove, ZPT Energy Solutions, LLC
BRENDAN GOVE Notice of Intent - Continuance
CONTINUANCE 0 Westborough Road

Chairman Flynn opened the public hearing. Chairman Flynn read the MA Department of Environmental Protection (DEP) comments on the project.

The Commission was provided a revised plan dated September 28, 2015. Brendan Gove stated that discussion has begun with planning about revising the location of the access drive. Site plans have not yet been finalized.

Mr. Gove reviewed issues that the Commission identified at the previous hearing. Details of signage are identified on the revised plan. Signage will follow the fence line spaced approximately twelve feet apart. He has also added details of the proposed location of the directional bore staging and silt fences that will surround sides of the wetlands where the construction will take place.

Anthony Cameron noted the Commission also asked for dewatering plan for drill pits.

PREPARED BY
TOWN CLERK
16 FEB -9 PM 2:45
MILLBURY, MASS

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Chairman Flynn received information from Enzo Simmarano of 16 Flint Pond Road, Worcester, MA with regards to potential health problems for solar systems e.g. radio frequency electromagnetic radiation. Information was also submitted regarding the impact to property values when solar facilities are adjacent to residential neighborhoods. Chairman Flynn noted the issues are out of the jurisdiction of the Commission.

The Commission received information from Arthur Allen of EcoTec, Inc., with responses to comments document by Bertin Engineering, dated October 5, 2015. The summary document describes revisions made to address Conservation Commission comments specifically noted on page twelve. Chairman Flynn confirmed he had no issues with the wetland boundaries. FS&T recommends a landscape plan be submitted. Brendan Gove will be replanting some trees that were previously cut down which will occur within the 100' buffer. In addition remediation will occur where borings will be. Mr. Gove is also proposing to plant a line of vegetation near the railroad to diffuse noise in the area.

Enzo Simmarano, 16 Flint Pond Road, Worcester inquired if plantings will occur near the line of 18, 16, 14, 12 and 10 Flint Pond. Mr. Gove addressed the tree line being proposed. Mr. Simmarano inquired if the Commission has anything to do with heavy metal. Chairman Flynn stated not directly.

Discussion followed on how runoff was calculated as MA DEP noted that solar panels should be considered to be impervious surface. A response from Bertin Engineering on stormwater standards was identified on the document on page eight. Anthony Cameron stated additional information was provided on page fourteen of the document. Mr. Gove also referred to page twelve of the document which addresses wetland sign locations, erosion control barrier and elevation on the cross on the Overall Site Plan.

Mr. Simmarano wanted to discuss damage to his property. Mr. Gove intends on restoring the area that was disturbed. Chairman Flynn stated the Commission can only address wetlands issues. Brief comments regarding solar panels emitting heavy metals were presented.

Anthony Cameron stated he did not want to close the hearing without outstanding documents that the Commission is requesting. Mr. Gove requested that the dewatering plan be part of the Orders of Conditions. Chairman Flynn noted the request.

Discussion followed on reconfigurations of the access road. Mr. Gove will be looking for site approval at the Planning Board meeting.

Mr. Gove noted that the project could be in jeopardy without Orders of Conditions from the Commission and was requesting the same. Paul DiCicco made a motion to close the hearing and seconded by Vice-Chairman Stead. Paul DiCicco and Ron Stead voted in favor; Anthony Cameron and Chairman Flynn voted against; motion did not carry.

Vice-chairman Stead made a motion to continue the hearing to December 2, 2015 at 7:30 P.M.; seconded by Anthony Cameron; voted unanimously.

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Mr. Gove will provide a dewatering plan for the drill pits to the Commission.

7:30 P.M. Bruce Nichols
BRUCE NICHOLS Request for Determination of Applicability
PUBLIC MEETING 33 Beach Street

Chairman Flynn opened the public meeting for replacement of a collapsed pipe.

Discussion followed as to why Mr. Nichols did not think that a filing was necessary on this project. Mr. Nichols stated that he did not change anything except that he replaced one broken vandalized pipe and put another in its place.

Vice-Chairman Stead inquired as to what the conditions on the property have been since the filing. Mr. Nichols stated that the yard is not wet but that the water is running down Beach Street and at times comes over the curb into his side yard. He noted that when that happens, the area on his property dries up in a day or two. The pipe is not connected to a dry well and since the replacement pipe was installed, there is no standing water in the backyard.

Paul DiCicco visited Mr. Nichols' site a couple times and believes he improved the existing situation. The pipe is the same diameter plastic instead of the old clay pipe. Work was conducted in a way that the original pipe was meant to be.

Chairman Flynn stated the issue at hand is doing work near wetlands without a permit. The property upgradient that would be drained by this pipe would have wetland species in it. The Commission would want protections for work that is to be done. The Commission does not have elevations of the pipe installed and how that could potentially impact the neighbor's property. The pipe could deflect where wetlands would naturally go. Chairman Flynn also noted that when Mr. Nichols came before the Commission years ago, it was suggested to leave the pipe open. It would be more of a natural system and that is why the Wetlands Protection Act is in place. An open stream is better for the environment instead of a pipe.

Mr. Nichols suggested that he would not be before the Commission if he had left the pipe alone. Vice-Chairman Stead also noted that Mr. Nichols was going to fix the area a few years ago and there was discussion about opening the pipe, however as the owner of the property, Mr. Nichols has the option to repair it. Vice-Chairman Stead's intention was not to have Mr. Nichols dig it up again.

Anthony Cameron inquired what was downstream from the end of the pipe. Terry Burke Dotson, co-owner of 35 Beach Street provided some history of the work that had been done in that area both years ago and also in most recent history. She remembers the stream being wide open. She stated that she came before the Commission to do work on their property and complied with what Conservation required and did not agree that others should be doing work without proper permitting.

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Piping a brook does affect what is downstream. She was under the impression the intermittent stream was going to be opened up. Ms. Burke-Dotson had taken pictures of the work and stated that the work done at Mr. Nichols' property was done within an hour. She stated that the area is being filled with silt where the water exits the property.

When Paul DiCicco visited the site, water was flowing from the pipe and it seemed clear when he observed the area. The silt was coming from Beach St. over the berm. Paul can see the track coming from the road to the bottom of Mr. Nichols property and following to the Burke property. Terry Burke-Dotson said their property is mucky since the pipe was put in and was hoping to have the natural flow of the stream.

Chairman Flynn recalls at a previous meeting that wanted to come up with a design to drain adequately without impacting the stream. It is possible the pipe is diverting the water around it instead of draining to the stream where it would be naturally going and thus causing an adverse effect to the neighbors' property. Mr. Nichols stated that he has lived at that property for thirty-two years and the pipe has always been in place.

Scott Burke, resident at 35 Beach Street provided additional history of the area and stated approximately 35 years ago, there was not a pipe in place. Filling on another resident's property was done and caused flooding.

Vice-Chairman Stead made a motion for a Negative Determination; seconded by Paul DiCicco; Vice-Chairman Stead and Paul DiCicco voted in favor; Anthony Cameron and Chairman Flynn voted against; motion did not carry.

Anthony Cameron would like to see elevations of the pipe. It should be low enough to equal the stream bed, should have been vetted in sand and should have used perforated pipe or left the pipe completely open.

Discussion followed about conducting additional inspections in the future. Chairman Flynn questioned the potential long term impacts of the work. Vice-Chairman Stead restated that Mr. Nichols only replaced a pipe that had been there for over thirty years. Mr. Nichols also restated that the pipe had always been there and the same length was replaced. Vice-Chairman Stead does not see any issue, but rather that Mr. Nichols corrected a situation. Chairman Flynn wanted to be sure that the work would not exacerbate flooding on the property.

Vice-Chairman Stead stated that because the vote among the Commissioners was 2 to 2 that Mr. Nichols would not have to do anything additional at this time. Chairman Flynn would like to revisit this situation at an April meeting so that they can better determine how the pipe is working. The Enforcement Order will be in effect until that time.

Mr. Nichols would allow the Commissioners to enter his property, however he would like to be present. Terry Burke-Dotson also will allow the Commissioners to enter their property.

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The Commissioners agreed to bring the issue back on April 6, 2016 at 7:15 P.M. for further discussion. Both Mr. Nichols and the Burkes will also be notified of the meeting.

7:45 P.M. G. F. Realty, LLC
G.F. REALTY, LLC Notice of Intent
PUBLIC HEARING Lot 1 Riverlin Street, Map 18, Lot 20

Document Used:

"Lot 1 Riverlin Street Map 18 Parcel 20" dated October 7, 2015, prepared by J.M. Grenier Associates Inc., 787 Hartford Turnpike, Shrewsbury, MA 01545

Chairman Flynn opened the public hearing for construction of a driveway, single family house and associated site work.

John Grenier, JM Grenier & Associates, Inc. represented the applicant. Mr. Grenier provided an overview of the property. The wetland goes north to south and flows southerly. The house is located at the rear portion of the site. The wetland has been flagged. There will be a small wetland crossing. They are proposing fill of approximately 450 square feet adjacent to that area with a proposed replication area of 693 square feet. The access drive is to the east.

The septic is outside the 100 foot buffer area with a gravity system proposed to the rear portion of the house. The well will be in front of the house.

The replication area does include a planting plan, wetland soils will be stockpiled, and existing soils will be reused. The plan includes native species that will be placed in clusters to replicate that area.

Discussion began on the driveway if water is going to exit at the crossing. Mr. Grenier is proposing a 12 inch corrugated pipe 26 feet long connecting one side to the other. Chairman Flynn inquired if the pipe could be bigger which would be good for a wildlife corridor. Mr. Grenier could go to a 24 inch pipe so the bottom could be natural. Mr. Grenier will make the change to the plan.

Chairman Flynn read a comment from Massachusetts Department of Environmental Protection (DEP) about obtaining a Water Quality Certification. Mr. Grenier has filed the Certification with the State.

There will be gutters on the roof and the foundation drains will go to daylight. Vice-Chairman Stead and Anthony Cameron would like signage at the wetlands included in the Orders of Conditions.

Cheryl Testagrossa of 248 Riverlin Street noticed that there had been an influx of frogs, mice and snapping turtle on her property during the summer months that she had not had previously. Chairman Flynn stated it could be a temporary relocation of the habitat and wildlife. She just wanted the Commission to be aware how the building has affected her property.

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Chairman Flynn provided details to Ms. Testagrossa of what the responsibilities are of the Conservation Commission as it pertains to the Wetlands Protection Act.

Anthony Cameron would like to see the detail of the crossing and the pipe on the plan.

Ron Stead made a motion to continue the hearing to December 2, 2015 at 7:45 P.M.; Anthony Cameron seconded; voted unanimously.

8:00 P.M. Kevin Lobisser, New Generation Development, Inc.
KEVIN LOBISSER Notice of Intent - Continuance
CONTINUANCE 442 Greenwood Street

Chairman Flynn opened the hearing for installation of a solar facility with access on Greenwood Street.

The Commission received a request for a continuance to December 2, 2015 from Mark Allen, PE, Allen Engineering as they need additional time to finalize a new set of drawings based on peer review comments from the Planning Board.

Paul DiCicco made a motion to continue the hearing to December 2, 2015 at 8:00 P.M.; seconded by Ron Stead; voted unanimously.

OLD BUSINESS:

NEW BUSINESS:

JAMES TOMAILOLO
CERTIFICATE OF
COMPLIANCE

The Commission received a Request for a Certificate of Compliance from James Tomaiolo for James Simmler Re: OOC#224-717 at 112 MacArthur Drive. Vice-Chairman Stead conducted a site visit recommending that the Commission issue a Certificate of Compliance.

Ron Stead made a motion to issue a Certificate of Compliance; seconded by Paul DiCicco; voted unanimously.

A Certificate of Compliance was approved and issued.

MICHAEL CATINO
CERTIFICATE OF
COMPLIANCE

The Commission received a Request for a Certificate of Compliance from Michael Catino Re: OOC#224-531 at 35 Singletary Road for septic repair and replace retaining wall. The

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work was never started and the Order of Conditions has expired. The homeowner tied into sewer when the main was installed at the street.

Ron Stead made a motion to issue a Certificate of Compliance ; seconded by Anthony Cameron; voted unanimously

A Certificate of Compliance was approved and issued.

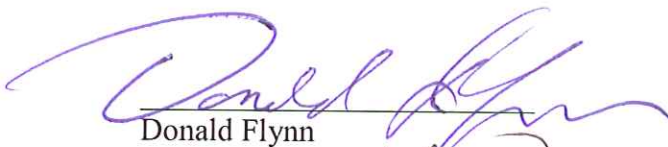
Discussion followed about having one meeting in the month of December. The Commissioners agreed to have one meeting on December 2, 2015 and cancel the second meeting of them month.

The Commission received a request from the Mass. Association of Conservation Commissions asking Commissions to participate in the OARS water chesnut survey. The survey was completed and will be submitted.

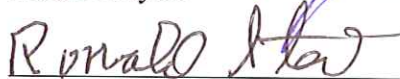
Anthony Cameron made a motion to adjourn the meeting; seconded by Paul DiCicco; voted unanimously. Meeting adjourned at 9:30 PM.

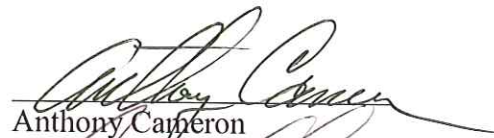
Respectfully submitted,


Michelle Desorcy
Secretary

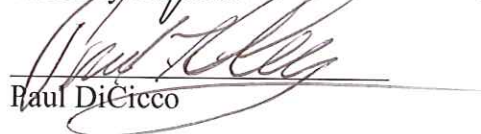


Donald Flynn


Ron Stead



Anthony Cameron



Paul DiCicco