

MINUTES

Millbury Conservation Commission

Date: September 16, 2015

Time: 7:00 PM

Present: Donald Flynn, Ron Stead, Anthony Cameron

Absent: Paul DiCicco

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

MINUTES: Commissioners postponed acceptance of the minutes of June 17, 2015 due to lack of members present at that meeting to sign off.

Ron Stead made a motion to accept the minutes of August 26, 2015; seconded by Anthony Cameron voted unanimously.

Anthony Cameron made a motion to accept the minutes of September 02, 2015; seconded by Ron Stead; voted unanimously.

NEW BUSINESS:

Bruce Nichols, Ratify Enforcement Order, 33 Beach Street

Chairman Flynn provided a brief overview that the property owner was replacing pipe on an intermittent stream. An enforcement order was issued to cease and desist and to come before the Commission. Chairman Flynn visited the property and the Commission received photographs of the work being done.

Mr. Nichols provided some history of the work on his property. He came before the Commission in 2010 about replacing a failed clay pipe that has been there 32 years and likely prior to that. The pipe had also been vandalized (crushed and large stone put in the pipe) as it had failed. The upstream end is a dry well. When it rained, water would fill and then extend throughout Mr. Nichols' backyard. Chairman Flynn asked Mr. Nichols why he did not do a filing as requested at a meeting held back in Sept. 15, 2010. Chairman Flynn read from minutes in 2010 indicating that the Commission wanted to remove the old pipe and leave it open. The work is a restoration project, and the Commission agreed that the pipe should be removed and a filing for that be made accordingly. Mr. Nichols stated he does not think it was ever opened. Mr. Nichols stated there was runoff flooding the yard and runoff from the street which was corrected by the Dept. of Public Works. Chairman Flynn is confident that if a wetland biologist was hired, he or she would confirm that the stream drains a wetland that is off the filled area where a neighbor has also filled. It appears the neighbor has also covered wetlands.

Chairman Flynn stated the Commission has no information relative to elevations for the old and new pipe or what the capacity of the pipe is and if that may cause problems for other neighbors. Chairman Flynn further stated the neighbor also had been stopped work on the stream and a filing of a Notice of Intent is needed. Back in 2010, the Commission worked with Mr. Nichols to come up with a solution to not put in pipe but rather leave it open instead.

15 NOV 23 AM 9:50

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General discussion followed about work done in the area. Mr. Nichols inquired if there is a wetland between number 31 and 35 Beach Street. Chairman Flynn noted if the area was delineated, a better decision could be made. Chairman Flynn suggests that Mr. Nichols file a Request for Determination of Applicability. The Commission could accept with some modifications or the Commission could decide on a Notice of Intent filing due to altered wetland. Mr. Nichols did not agree that a wetland was altered.

Anthony Cameron asked what changed between 2010 and present as far as leaving the area open. Mr. Nichols stated there is a need to continually clean out the pipe of leaves, sticks, branches, trees, as it had been that way since they've lived there. Chairman Flynn believes the work is a replacement to an existing condition. A wetland specialist or engineer could provide additional information. Mr. Nichols noted that when Commissioner DiCicco visited his property, Mr. DiCicco believed the work to be a replacement of a pipe, not disturbing anything except a broken pipe putting a new one in its place.

Chairman Flynn indicated the Commission doesn't have the full information, with no measurements and only pictures. The Commission needs a delineation to assist with a decision. Replacing a pipe may be a valid case. Mr. Flynn further stated that if Mr. Nichols is not in a wetland, he was in the buffer zone of a wetland. Wetland is defined as predominance of wetland indicator species. Community of plants may be supported by soil analysis. Grey indicates wetland. Mr. Nichols has pictures that water is eight feet on the lawn and he believes he has improved the situation. Chairman Flynn indicated that Mr. Nichols may be violating laws that protect wetlands as the water resource should flow naturally feeding the rest of the system to Singletary Brook. Chairman Flynn conducted a very brief walk through and it appears there are wetlands behind 31 Beach Street but not exactly sure where it begins. The next meeting is scheduled for October 7th. Mr. Nichols would like time to bring back additional information to the Commission.

7:15 P.M.
KEVIN
STOCKHAUS
PUBLIC HEARING

Kevin Stockhaus
Notice of Intent
21 Ramshorn Road

Document Used:

"Title 5 21 Ramshorn Road" dated June 26, 2015, prepared by Marshall Provost, L&R Sewerage Inc., 18 Wheelock Street, Oxford, MA 01540.

Chairman Flynn opened the public hearing for a septic system repair at 21 Ramshorn Road.

Kevin Stockhaus provided an overview of the project. Mr. Stockhaus notified abutters and a MA DEP file number has been assigned to the project. There are two steel tanks that exist with a conditional pass on Title V. Two tanks will be removed and replaced with one 1500 gallon concrete tank. The tank is ten feet from the house and will tie into a leach pit.

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Chairman Flynn asked if he was upgrading septic but not title V. Mr. Stockhaus said that is how the system works. Leach is working fine but the steel tanks will not pass Title V. A tank is over twenty years old so it must be replaced. Chairman Flynn asked who was doing the work. Marshall Provost did the Title 5 inspection and design which is included in Mr. Stockhaus' filing. The Commission has a Title V sketch including house. Trees will be removed and straw wattles installed. Vice-Chairman Stead asked where the new tank will be located. Mr. Stockhaus indicated ten feet from the house which will be gravity fed to the leaching area. The Board of Health has approved the plan. Chairman Flynn identified proposed straw wattles if there was any debris during a rain event. Chairman Flynn would like stakes placed in wattles. Mr. Stockhaus will stake wattles every six feet. Mr. Stockhaus indicated the project would be completed in two days.

Anthony Cameron made a motion to close the hearing; seconded by Ron Stead voted unanimously.

An Order of Conditions will be issued and conditioned accordingly.

7:30 P.M.
CARL AND LINDA
ERICKSON
PUBLIC HEARING

Carl and Linda Erickson
Notice of Intent
13 Bayberry Lane

Document Used:

"Septic System Repair for MD Realty Trust - 2000" dated September 1, 2015, prepared by Raouf R. Mankaryous, Alpha Omega Engineering, Inc., 25 Highland View Drive, Sutton, MA 01590.

Chairman Flynn opened the public meeting for septic system repair and associated grading at 13 Bayberry Lane. A transmittal number has not yet been assigned to this project by MA DEP.

Randa Tawadros, from Alpha Omega Engineering provided an overview of the project. This is a single family home on Ramshorn Pond. Septic system requires an upgrade. Due to small lot size, septic location cannot be changed. A Presby system will replace the failed septic. Applicant is seeking Title V waivers regarding distance to the well and house as well as water separation. Erosion control barrier is identified on the plan. The Applicant has written permission from their neighbor for access for trucks during construction. The proposed system has pipes and stone rather than just a leach field. Presby system is a new system that should last 15 years. The system is better for the environment rather than leaching. It processes the water and the flow is controlled so it doesn't overwhelm the system resulting in a steadier flow rate.

Vice-Chairman Stead inquired if there is a tank. Randa said there is a 1500 gallon septic tank and a 1000 gallon pumping tank. Chairman Flynn inquired about maintenance of the system. Randa noted the system should be flushed and calibrated. Don Flynn also recommends getting sufficient cover to prevent freezing. Randa indicated the plan is sized for a three bedroom home and has been submitted to the Board of Health which is still

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under review. If the Board of health wants modifications then they can be addressed through hearing process. Vice-Chairman Stead asked if any tanks would be removed. Randa will be using same septic tank but adding the pumping tank.

Discussion followed on digging on the property. Randa indicated they would be digging a five foot perimeter around the system. Material will be removed and hauled off site. The loam will stay on site for reuse. Title V sand will be delivered and used immediately. Anthony Cameron inquired where the loam will be stockpiled. Randa stated it would be stored at the top of the lot. Straw wattles and silt fence will be utilized for erosion control. Chairman Flynn would like the plan updated to show detail on silt fence showing it is dug into the soil a few inches. Randa will update the plan as requested.

Ron Stead made a motion to continue the hearing to October 7, 2015 at 7:15 PM; seconded by Anthony Cameron; voted unanimously.

7:45 P.M. Brendan Gove, ZPT Energy Solutions, LLC
BRENDA GOVE Notice of Intent
PUBLIC HEARING 0 Westborough Road

Document Used:

"ZPT Energy Solutions, LLC Proposed Solar Array" dated August 3, 2015, prepared by Jason D. Dubois, PE, Bertin Engineering Associates, Inc., 39 Elm Street, Southbridge, MA 01543.

Chairman Flynn opened the public meeting for construction of a solar electric facility.

Discussion followed from residents of Flint Pond Road that said they never received notice of the public hearing. (some noted as 7, 9, 10, 17 & 19) Chairman Flynn read the abutter list from the Notice of Intent that should have been notified. A resident from 10 Flint Pond Road wanted to go on record that they were not notified.

Arthur Allen from EcoTec, Inc., represented the applicant and provided additional information regarding abutter notification. The Conservation requirement is for direct abutters within 100 feet. Chairman Flynn noted that the Commission has a certified document from the United States Postal Service that the mailings were done. The applicant did what they were obligated to do. Chairman Flynn provided attendees at the hearing the date of the notice and that it stated abutters could contact the applicant or Conservation regarding the hearing. Vice-Chairman Stead inquired if anyone in the audience received notice for Conservation hearing. Many attendees said no, however they received notice of the upcoming Planning Board hearing. After much discussion, it was noted that abutter notification for Conservation is residents within 100 feet, however abutter notification for Planning is for residents within 300 feet. Because of the different requirements for notice, only those residents within 100 feet would have received notice of the Conservation hearing. Per Chairman Flynn, all abutters for this hearing were notified properly.

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The hearing proceeded with Mr. Allen providing project details. The owner of the property, Mr. Etre was present at the hearing. Mr. Allen stated ZPT Energy Solutions is proposing a six acre solar array located South of Flint Pond Road. Access to the solar array will be off Valente Drive. Eco Tec has delineated the Wetland and the land Bordering Vegetated Wetland (BVW) is outlined. The project includes six acres of solar panels, roadway and stormwater management.

The twenty-five foot wetland setback is provided with the exception of a Northerly area where an underground utility crossing is proposed. Mr. Allen identified the area on the plan of the location of the vertical pits to access directional drilling under the wetland. There will be a minimum of 30" under the base of wetland in hard soil, cased off with conduit following directional drilling. There will be no hydrological disturbance. They will be drilling pits on the outer buffer zone. Mr. Allen pointed out two areas of existing wetland disturbance which are associated with abutters to the project site. Areas have been cleared on the East side where soil has been pushed over the banking into the wetland. On the West side, yard waste has been placed on the wetland. Full restoration protocol on the plan is proposed to restore that area to stabilize the buffer zone. The plan proposes full restoration where the utility crossing will take place. A barrier of boulders or rail fence as a permanent demarcation of the edge is proposed once areas are restored. The proposed project is stormwater compliant noting the MA DEP checklist and documentation in the Notice of Intent filed by Bertin Engineering. There is currently no MA DEP file number assigned to the project, therefore Mr. Allen is not looking to close this hearing this evening but rather informational.

Vice-Chairman Stead would like to see signs along the border of the wetland so everyone knows where it begins. Conservation could provide a format previously used for signage at the limit of disturbance. This is a good reminder that you cannot dump or throw yard waste in that area. Commissioners recommend signage also be placed close to the public road.

Chairman Flynn outlined an area that appears to have been previously filled in the upland. Mr. Allen pointed out the area on the plan and indicated it appears to be a stockpiling of material that was done previously. Mr. Allen is not proposing to do anything with that area. The existing fill is outside of the buffer zone.

Chairman Flynn reviewed an email submitted by Mr. Enzo Simmarano, however the Commission can only address wetlands issues including streams, ponds, marshes or swamps for example.

Chairman Flynn asked Mr. Allen to show wetland delineation for audience. Mr. Allen pointed out wetlands on the plan. Chairman Flynn stated it is reasonably representative of a wetland boundary. Chairman Flynn doesn't have any reason to challenge that at this time. Vice Chairman Stead inquired if there were any wetland crossings. Mr. Allen said no. Directional drilling under the wetland is proposed. Chairman Flynn asked if there would be dewatering pits. Mr. Allen said potentially, yes. As an action item, Chairman Flynn would like to see a dewatering plan for drill pits. Chairman Flynn asked how the pit gets covered. Mr. Allen stated it is a covered manhole. The drilling machine will be utilized in the pit and the manhole will be left.

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There was a question when five acres of trees are removed, how does that affect the wetland. Chairman Flynn responded that there are impacts and the applicant needs to mitigate it. They are proposing stormwater systems that will infiltrate most of the water in the general facility. Mr. Allen stated there will remain a 25' no disturb vegetation trying to keep a buffer. There's a 100 foot buffer zone which is the review area for Conservation and MA DEP. Any work within 100 feet, Conservation can condition work, but there is no minimum set back from the wetland.

Chairman Flynn inquired if land clearing had already started. Mr. Allen stated only for soil testing. A hearing attendee stated there are trees on Mr. Simmarano's property.

Chairman Flynn read a letter received from Enzo Simmarano of 16 Flint Pond Road with his concerns. One item addresses the old filling of a portion of the property. Chairman Flynn noted that is outside of Concom jurisdiction and is nothing the Commission can readily address. Another concern was about fill being brought on site. Mr. Allen indicated there will only be grading on site.

A question was asked if solar panels are going over the stream. Mr. Allen said no that there will be no altering or filling in the wetland. Mr. Allen provided a field sketch for the delineation as well as GIS. There is an isolated non-jurisdictional area. He further stated that the wetlands mapped were more extensive that what is shown on GIS.

Roadway issues, security issues, trespassers, emergency access are not under the purview of the Commission. Chairman Flynn asked if all wires will be underground. Mr. Allen said yes. All wiring is underground and feeds to a pole on Flint Pond Road.

A resident at 10 Flint Pond inquired about the tree area that is currently a sound barrier. He stated the proposed project is removing trees to the existing railroad tracks. There is so much nature in that area. He further stated that the project should be built on disturbed land. This is not disturbed land but trees that will no longer exist. The resident also inquired that with the removal of trees, will direct sunlight have any impact to the wetlands. Chairman Flynn asked what the buffer was for the trees. Mr. Allen stated twenty-five feet off the wetland. There will be approximately eighty feet left wooded on a portion of Flint Pond, however in the area of 14 and 16 Flint Pond it is reduced to about a twenty foot buffer. Chairman Flynn stated the rules do not constrain the proponent and owner from doing that work. He further stated if the design conforms to the regulation, it is his property and he can move forward. While the Chairman may have sympathies for the concerns of residents, the Commission is responsible to uphold the regulations. If there was a bylaw it could change. Chairman Flynn added it won't be a great effect on the wetlands. There will still be a canopy of trees over wetlands.

Mr. Allen is required to follow the detailed stormwater plan which the goal is returning as much water to the wetland. The primary effect are trees located on North, not in the South. The solar array is proposed on the West and expects minimal impact regarding solar gain or loss on the wetlands on the West. Stormwater management is a major constraint; when trees are removed, the ground may get wetter. The stormwater plan is in place to control it.

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Anthony Cameron inquired if there will be a grass hill when complete. Mr. Allen said yes. Mr. Allen indicated that there will be a loss of noise buffer. He has heard the concern of some residents and will bring that information back to the engineer and proponent and see what they can do.

Anthon Cameron asked where the water will be going from the fifty foot area of paved roadway. Mr. Allen stated it will be going down the hill into the stormwater system. The drainage system lines the entire wetlands area. An audience member requested a copy of the Stormwater Management Plan. Mr. Allen will contact the person and provide a copy. Chairman Flynn indicated that the Stormwater plan takes into account analysis of soils, slope, annual rainfall, stormwater events, soil characteristics across the site, mitigating factors and when water is infiltrated the systems work pretty well.

Ron Stead made a motion to continue the hearing to October 21, 2015 at 7:15 PM; seconded by Anthony Cameron; voted unanimously

NEW BUSINESS:

HAYR LLC
CERTIFICATE OF
COMPLIANCE

The Commission received a Request for a Certificate of Compliance from HAYR, LLC for Amigo Enterprises Re: OOC#224-0373. The proposed project was never started and the property has been sold.

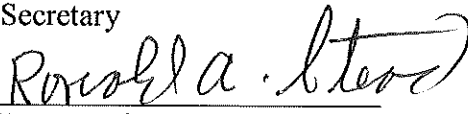
Ron Stead made a motion to issue a Certificate of Compliance for Amigo Enterprises, Map 4 Lot 61; seconded by Anthony Cameron; voted unanimously

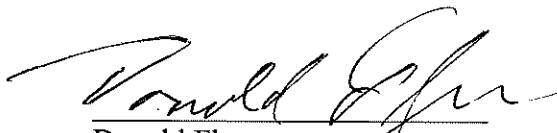
A Certificate of Compliance was approved and issued.

Ron Stead made a motion to adjourn the meeting; seconded by Anthony Cameron; voted unanimously. Meeting adjourned at 9:00 PM.

Respectfully submitted,

Michelle Desorcy
Secretary


Ron Stead


Donald Flynn


Anthony Cameron

Paul DiCicco

CONSERVATION COMMISSION



*A Better World
Through Conservation*

September 16, 2015

Agenda

- 7:00 P.M. Mail, Minutes, Vouchers
- 7:15 P.M. Kevin Stockhaus
Notice of Intent
21 Ramshorn Road - septic system repair
- 7:30 P.M. Carl and Linda Erickson
Notice of Intent
13 Bayberry Lane - septic system repair and associated grading
- 7:45 P.M. Brendan Gove, ZPT Energy Solutions, LLC
Notice of Intent
0 Westborough Road - construction of a solar electric facility

15 SEP 11 PM 1:12

OLD BUSINESS:

NEW BUSINESS:

HAYR LLC Amigo Enterprises
 Request for Certificate of Compliance Re: OOC #224-373
 Dorothy Lane (off Southwest Cutoff) Map 5 Lot 61

 Bruce Nichols
 Ratify Enforcement Order
 33 Beach Street

All business not reasonably anticipated to be discussed
Note: Agenda subject to change without notice

