

WAYLAND CONSERVATION COMMISSION

Minutes Thursday, August 11, 2011 7:30 – 10:20 PM

Location: Senior Center, Town Building, 41 Cochituate Road, Wayland, MA

Present: Commissioners: Roger Backman, Markey Burke, Barbara Howell, Chairman: Andy Irwin, Larry Kiernan (7:45), John Sullivan (8:15), Conservation Administrator: Brian Monahan

Not Present: Ted Harding

Minutes: Andrea Upham

A.Irwin opened the meeting at 7:30PM noting a Quorum was present.

1. **7:30 pm** - Citizens Time/Public Comment: Items not scheduled on a Conservation Commission agenda.

John & Susan Michalczyk, 51 Barney Hill Road, were present to share with the Commission what they felt were unprofessional and deceitful actions, distortion of facts and lack of enforcing actions concerning a Conservation Commission decision issued in 2006 at 47 Country Corners Road, concerning fencing which extended to their property identified by Brian Monahan back in 2005. The Michalcycs reported that they have been in touch with the DEP and Attorney General's office and do not understand the 2006 determination. They felt strongly that facts were misrepresented and that as Town residents, the laws should apply to everyone or no one. They requested that the Commission look back at 2006 documents. A split-rail fence was supposed to be installed and raised four inches, and they report that didn't happen. They report that things are dumped there and nobody cares. They feel that the Town made a choice to believe one party over another, which has resulted in cost to them monetarily and professionally.

Mike Lowery was present to call attention to Monday's testing where E-coli was taken from four places on Dudley Pond after the rainstorm. E-coli levels at Mansion Beach are over the standard and are nearly 200 at Chateau. He believes that no area would benefit from improved stormwater management more than Dudley Pond.

2. **7:35 pm** - Request for Return of Performance Guarantee

- a. **23 Lee Road; DEP File No. 322-741**

B.Monahan recommended return of performance guarantee on the project.

Motion to return \$1000 Performance Guarantee Seconded 4-0

- b. **22 Forty Acres Drive; File D-751, DEP File No. 322-656**

B.Monahan shared that there is no Certificate of Compliance issued for 322-656 and recommended return of Performance Guarantee for D-751 project.

Motion to return \$1000 Performance Guarantee Seconded 4-0

Approved: September 1, 2011

Page 2

3. **7:45 p.m. – Public Hearing, Town of Wayland/DPW, Applicant, Main Street/Commonwealth Road; DEP File No. 322-756:** Notice of Intent filed by the Town of Wayland pursuant to the Wetlands Protection Act, G.L. ch. 131 s. 40 and the application filed pursuant to Wayland's Wetlands and Water Resources Bylaw, Chapter 194. The applicant is proposing to replace approximately 2,000 linear feet of water main at the intersection of Main Street (Rte. 27) and Commonwealth Road (Rte 30). The existing water main is old cast iron and is scheduled to be replaced for maintenance reasons. The replacement of the main will also provide the Town with a future emergency interconnection with the Town of Natick.

Stephanie Tarves & Joel Loitherstein were present from Tata & Howard, along with Don Oullette, DPW Director.

On behalf of the DPW, S.Tarves presented summary of Notice of Intent for project at Routes 27/30 for the installation of approximately 2000 linear feet of pipe. A portion of the water main intersects with the buffer zone and riverfront area associated with Snake Brook. There is a culvert that runs underneath Route 27, and the proposed water main would cross over the existing culvert. The proposed water main is 300 linear feet in riverfront area and 270 feet in buffer zone area, totaling approximately 4000 square feet of disturbance. They expect 900 cubic yards of material to be removed and subsequently replaced. Excess soils would be removed by contractor with the intent to put the same soil back. S.Tarves reported that there will not be stockpiling within buffer zone or floodplain; there will be offsite location for trucks. A.Irwin asked Ms. Tarves if they are familiar with the Stormwater Bylaw, expressing concern with erosion control and stockpile management. S.Tarves assured the Commission that the chosen location would be acceptable to the Commission.

A.Irwin brought to the attention of the group that at 19 Main Street (Sunoco Station) there has been a history of contamination and releases of gasoline in that area and that J.Loitherstein is in attendance tonight to discuss what would be done to mitigate any potential issues that they might come across within the scope of their project. A.Irwin further reported that Sunoco's cleanup is ongoing and we know that on western side of Route 27 they found gasoline constituents. Dewatering needs would be heightened if contamination exists. S.Tarves appreciated the heads up and reported that they do intend to have soil samples taken on that stretch of roadway in order to inform the contractor and prepare DPW for what type of remediation might be necessary. J.Loitherstein shared that contamination was previously found to west of gas station but most recent status reports appear that wells are clear -- not above GW2. They are not pristine but don't always achieve a pristine level at gas station sites, but numbers are way down. The plume has been tracked and is now to much lesser extent. Excavation will be stopping at 6-7 feet deep and groundwater is 9-10 feet deep. They will confirm for certain how deep groundwater is and, if needed, they will use fractionation tanks and whatever Conservation Commission will allow, but they feel certain they will not encounter groundwater. D.Oullette reports that culvert has 5.5 feet of cover over it so they can go over that. S.Tarves added that one of the reasons they are pursuing the project at this time is for the potential connection to Town of Natick in the event of a water emergency, and project will provide improved water fire protection for commercial area. Scheduled road repairs that will take place in 2014, so DPW thought it prudent to get water

Approved: September 1, 2011

Page 3

main replaced before those roadway improvements take place. B.Howell felt that was a long time to wait for drainage improvements. A.Irwin raised question about BMPs and inquired if the excavation work is within the existing footprint. S.Tarves responded that it is within the existing footprint. A.Irwin raised issue of identifying resource areas, reporting that on the west side, the delineation noted is not consistent with decisions to the north of the river and that concerning the R2-R5 line, we have made different determinations and we don't want to create superseding decision. S.Tarves will take a look at what was previously delineated and requested any paperwork Commission might have which would be helpful. A.Irwin confirmed that they will have to see substantial reason to move the line further away. J.Loitherstein discussed issuing revised drawings, and B.Howell requested that datum be added.

A.Irwin reviewed the use of silt barriers, stating his understanding that there will be sediment barriers upslope from the Cape Cod berm so there is outflow from the chute and through the catch basin, and additionally there will be hay bales on downslope side. S.Tarves added that there seems to be room on upslope side for metal plate on street side. A.Irwin expressed concern about stormwater on east side and the possibility of spillage. S.Tarves inquired as to what was done that was successful in past submittal to protect Snake Brook so they can incorporate it. A.Irwin recommended that D.Oullette check with references, such as Mr. Brochu at Sunoco. A.Irwin asked if URAM is planned. J.Loitherstein replied that once borings are done on Monday, we will have URAM ready to go. D.Oullette mentioned that they had looked at provisions that if we have to back off, we can always come back at another time to hook up to Natick. A.Irwin confirmed to the group that with respect to the buffer zone and wetlands, it is a courtesy to contact the Town of Natick. S.Tarves confirmed that they had forwarded along the Notice of Intent and D.Oullette confirmed having spoken to his counterpart in Natick and he's on board with the project, adding that Natick will be putting in a new gate.

L.Segal, Aqueduct Road, commented that she had searched the DEP website for releases that have occurred historically in the area. She wished to draw attention to two others found in that research – TDBank where there was a UST under that for heating oil for the prior facility and when they cleaned up, was about 7 feet, and Route 30 East, Cochituate Nursing Home, had PCB release and 140 gallons of mineral oil that contained PCBs went into ground and NStar took care of it. J.Loitherstein made the distinction that "PCB containing" does not mean "PCB contaminated." PCB containing means PCBs are fairly low. L.Segal wished to share the information so that everyone is aware of history when digging on any project such as this one and provided copies of her findings to Tata & Howard.

B.Monahan issued form for permission to continue hearing under Wet lands Protection Act and confirmed that the next Conservation Commission meeting is September 1, and the deadline for submittal is 7 days prior, so August 25.

Motion for continuation under Wetlands Protection Act on 9/1 at 7:35pm Secoded 5-0
Motion to continue the Permit Hearing under Bylaw Secoded 5-0

A.Irwin raised issue of BMPs for future discussion with D.Oullette and asked about catch basin on 44 Main Street (Starbucks) asking if it connects to this catch basin. S.Tarves addressed the plan

and said it does appear to. M.Lowery requested PDF from Tata & Howard, which will be sent to B.Monahan to forward to M.Lowery. L.Segal wondered if there would be any historical value of keeping sample piece of pipe that is removed. Based on its age, it could be of value to the Historical Society.

4. 8:20 pm –Discussion of Outstanding Projects

a. 55 Knollwood Lane

Tim Dreher was present for discussion. He told the Commission that he had pulled together information and provided copies of his proposal to address the outstanding issues on the property. Material provided was reviewed and discussion ensued about plans for shoreline and water's edge. A.Irwin confirmed to T.Dreher the need for the sediment barriers to be two feet back from water's edge and directed T.Dreher's attention to the top of the slope where the concern is the flow is going right into area of loose soils and fill. T.Dreher confirmed that the area has been corrected and brought up, the lawn has been brought up at the top and slopes up rather than down. T.Dreher confirmed that this area was being worked on that very morning and silt barriers were to be installed over the weekend before Sunday's rain. A.Irwin stated that the barrier is to be toed in using a spade, not dug in.

T.Dreher shared that the main challenge is the volume of loose soil and rocks he is dealing with. A bobcat went in and a large team of people dragged material out of another section. Another area has a steep slope and equipment couldn't gain access to the yard due to low-lying power lines. One thought T.Dreher shared was to have power lines raised up so trucks and equipment can get through; he has spent \$3K trying to get the last section of soil taken care of. A.Irwin inquired as to approximately how much soil there is. Consensus was that it was a significant amount between 100-200 cubic yards. B.Howell asked about the contractor who pushed all of the soil down the hill. A.Irwin and B.Monahan felt that they were culpable as well, and B.Howell also felt that they should be held responsible. T.Dreher explained that it was a worker who was working independently. B.Monahan remembered seeing trucks and equipment and recalled perhaps making note of the name on the truck at the time.

Discussion ensued about soils flowing downslope due to instability and about tree damage from large rocks down slope. A.Irwin made comment that there is hardship to remove soils, but that he is not hearing overwhelming response from the Commission to leave them there. A.Irwin suggested T.Dreher could consider getting a soil vacuum truck (called a "vactor"), and workers can shovel the soils to the intake on the hose. Larger stone materials could be handled differently, but the larger volume of soil could be handled by the vactor. M.Burke raised the suggestion of some kind of a barrier down at the bottom with plantings for additional support. B.Monahan responded that the slope had been quite vegetated in the past and now soil is eroding even when it's not raining, so it is unlikely plantings can grow down on the edge. A.Irwin shared with T.Dreher that the Commission has been in touch with the DEP, so they are watching this, and if things don't move forward, the DEP will step in. A.Irwin also offered that another option in addition to using a vactor is some kind of crane over the slope, but T.Dreher reminded the group about the issue of

Approved: September 1, 2011

Page 5

power lines. B.Monahan recognized that it is a lot of work, but may make sense to handle this kind of soil removal buckets at a time.

Discussion ensued about manual vs. mechanical means of removal. A.Irwin raised the need to discuss a specific timeframe for completion. A.Irwin also offered some contact names to look into for the necessary equipment, such as “Clean Ventures” in Framingham, which has vactors, as well as suggesting that Mr. Dreher contact drilling companies, such as “TDS, Inc.” out of Sterling and “GEOsearch” as well. T.Dreher reminded that he had asked the Commission for plant suggestions, and B.Monahan confirmed the need to focus on soil and getting steep slopes stabilized first. A.Irwin offered that another approach is finding a creative general contractor who can address multiple issues; tank removal contractors were suggested in Natick area and Hull area that are doing creative projects and perhaps can assist.

A.Irwin began discussion regarding the issuance of the Enforcement Order stating that the silt barrier and barrier at top are immediate needs and should be in place one week from now. As far as the soil removal from hill is concerned, a sixty-day period is imposed to remove the soil.

Motion to issue Enforcement Order Seconded 6-0

(B.Howell read paragraph with specific language).

Discussion ensued about stairs and restoring the grade in that area. B.Monahan recalled that the property’s original contours prevented water from going over, so trying to restore that would be best. A.Irwin stated the need to retain water so flow doesn’t go down the slope. T.Dreher mentioned that he had rerouted gutters and is using “pro grass” for water absorption and was surprised to hear the amount of potential water flow the Commission is envisioning. A.Irwin stated that from eco-environmental standpoint, the Commission is looking for repair and not concerned about aesthetics; matching grades will assure it will not overtop. B.Howell inquired as to who owns Lakeshore paper road. T.Dreher recalled that the gas company has an easement. M.Lowery offered that Alf Berry should be consulted to find out for certain.

Discussion ensued about the calendar for sixty-day order, and A.Irwin confirmed that October 7, 2011 at noontime is the deadline for completion/inspection. A.Irwin stated that B.Monahan will be out to inspect the property on that date and added that compliance deadlines are significant and that progress needs to be diligent and prompt.

Motion to issue Enforcement Order and establish deadline of October 7, 2011 for soil removal Seconded 6-0

b. 44 Main Street

A.Irwin reported to the Commission that he spoke to John Huber, the property owner, about resolution in this matter, and J.Huber asked for a meeting on the site to cover what needs to get done and come up with action plan. A.Irwin is inclined to pursue that approach

Approved: September 1, 2011

Page 6

before addressing through enforcement mode and recommends that Commission defer enforcement action for the moment to allow him to do that. A.Irwin tentatively offered to meet him at the site on August 25 to discuss bollards and stones and operation and maintenance plan to address snow management and pollution control. L.Kiernan spoke generally about such situations where people abut wetlands, commenting that if we find an approach to get them to partner with us instead of become litigants, that would be ideal, but the Commission needs to help them see what the issues are that we address. A.Irwin confirmed that at this point any mailing on this matter will be held.

Item 5 - Discussion of Capital Budget – Land Acquisition Janet Caristo-Verrill, 174 Pelham Island Road, reported on her piece of property. After losing her husband, she had thought of putting a conservation restriction on the property and was trying to sell it, but the Town could not buy it. She has since been focused on trying to preserve the land and at the same time gain some equity from it. Property consists of a rectangular piece of land, and three houses on either side can fit on property very easily. She has been trying to save it from developers. After these years of consideration, she now would like to preserve the entire property as opposed to putting a conservation restriction on just three acres. She shared that the property is a beautiful bird habitat and feels it is a precious piece of land, which she would see as having potential for use by the Town as an educational center for topics such as organic gardening. There is a water habitat in the center, and a swimming pool that was converted to a pond, along with beautiful healthy trees. J.Caristo doesn't want the land torn up for her own healthcare/long-term care requirements down the road, but would rather make an arrangement now. She reports having spoken to US Fish and Wildlife who had an interest in the property for approximately \$750K at the time, but they got bad news that their budget was cut and could not pursue it further. J.Caristo inquired whether the Town could make some kind of offer so the land doesn't get torn up. A.Irwin inquired if her intent was to continue to live on property, and J.Caristo confirmed that it is her intent. J.Sullivan confirmed that Community Preservation funds are there and available, but the proposal would have to go to the Community Preservation Committee first and then to Town Meeting. Discussion ensued as to whether the land had been discussed with the Open Space Plan team. B.Howell inquired about the value of landlocked pieces in the back of the property with no access. B.Monahan felt that lots would be subdivided. L.Kiernan thanked J.Caristo for thinking creatively and generously to the Town about preserving the land. J.Sullivan confirmed that the Commission would have to make a presentation to Community Preservation Committee – with the Commission being the sponsor – and then the Town Meeting would follow in April.

A.Irwin suggested that the Commission do some homework, bring the matter to the Open Space Plan team to see how this fits into the criteria of open space first, and then the Commission will have a more logical way of how to respond and how to proceed. A.Irwin felt that is a step that can be taken in the next one to two months and then address the Community Preservation Committee. J.Caristo shared that the house on the property is 1500 square feet. B.Howell asked if the Sudbury Valley Trustees looked at the property. J.Caristo said that the former president had reached an agreement with her, but the new president couldn't honor the agreement without putting a building on it for headquarters

location or as a residence for staff person. A.Irwin mentioned in closing that along with consideration of this parcel, the Commission needs to be considering existing opportunities for other parcels as well. It was mentioned that this property is not currently on our Open Space Plan.

5. **Other**

a. **Dudley Area**

Bob Goldsmith, 235 Concord Road, was present as representative of Dudley Area Advisory Committee. Mr. Goldsmith was present with a DAAC update and to advise everyone to become active as residents in an upcoming event. At the last Town Meeting, an article was narrowly defeated that would have declared seven acres on the east side as conservation land. An article was passed to create DAAC, and the committee has seven or eight members. Selectmen decided that something should be done with the seven acres. According to Goldsmith, it is an utter mess of weeds and unusable land extending down to Rocky Point, which juts out into Dudley Pond. An area on the east slope of DP has groundwater that flows down, groundwater runs into pond from failed septic systems, and Doran Road runs down to Pond. Mr. Goldsmith further shared that DAAC is a good, cooperative committee with competent members. First “charrette” was held five weeks ago, where consultant is retained to come up with preferred plan to present to Selectmen to go to Town Meeting. The topic of that meeting was land use. Subgroups were formed and discussed issues and then came back together to consolidate ideas for the consultant.

A.Irwin asked if their study would involve delineation of wetlands, and Mr. Goldsmith confirmed that vernal pools were found by someone at Tighe and Bond, and he added that there is limited funding. B.Monahan expressed concern that they not arrive at the wrong conclusion.

A.Irwin asked if a topographical survey had been done yet, stating that nothing had come back to the Commission. Mr. Goldsmith confirmed that hadn't yet happened. Tighe & Bond, Ian Catlow, is managing the project.

Mr. Goldsmith said there were 70 people at charrette and it was very passionate. The result was no housing, no public parking next to pond, control stormwater and wastewater. The meeting resulted in open meeting law violation but they got a lot of public opinion. Next one is September 27 in the large hearing room at 7:00pm. The subject is stormwater and wastewater treatment and alternatives, and B.Goldsmith recommends Commission members attending. The committee will go before the town meeting next spring. B.Goldsmith added that a playing field there would occupy a large portion of the site, which would appear to be unacceptable to a lot of residents.

Discussion ensued about the leaching system, septic system, treated wastewater. A.Irwin added that the proposal for a wastewater system there was made in 1996, and the people on Dudley Pond said no; perhaps the sentiment has changed, but there is the reality of cost. Mr. Goldsmith felt that residents want the stormwater/wastewater treatment but they haven't been exposed to the figures yet, and the Town would have to cover a portion. Public access to

Approved: September 1, 2011

Page 8

the pond could be considered by the Town and there are many ideas being discussed, but Tighe & Bond will present conceptual ideas on September 27 for stormwater and wastewater treatment as these issues are important to protecting the pond.

M.Lowery shared his feelings that this is a good political process, and the committee is doing well, but maturing will occur and then those opposing housing will see need for compromise. Conservation Commission, Planning Board, etc. can help by responding to suggestions by Tighe & Bond. Mr. Goldsmith urged everyone to please show up in as many numbers as possible so these important issues have broader representation. A.Irwin asked Mr. Goldsmith to bring to the Commission what he thinks Tighe & Bond might have. B.Monahan felt perhaps Mr. Goldsmith could return to the Commission's meeting on September 22 before the September 27 DAAC meeting. B.Goldsmith and M.Lowery would be happy to come back. There is an upcoming meeting on August 30 at 7:00pm, and Mr. Goldsmith felt that A.Irwin could make a major contribution.

9:55 M.Burke departed the meeting.

b. Community Preservation Committee

**Motion to reappoint John Sullivan as representative for Community Preservation Committee
Seconded 4-0, 1 abstain**

c. Rice Road Dam Repairs – Status Report

B.Monahan reported that we have reached out and are awaiting response. Need to obtain estimate on getting the pump house door fixed and the windows done. A.Irwin asked if we are looking for estimate for getting something inside so it's operable. B.Monahan responded that we need to get prices and see where money is best spent; there is an issue with the door frame breaking.

6. Administration, Expenditures, Payroll, Announcements, SIGNATURES

7. Minutes –July 28, 2011

Motion to approve minutes as amended and discussed 5-0

B.Howell requested copies of recent minutes, and B.Monahan will send.

Commission confirmed upcoming meetings of September 1 and September 22, 2011.

A.Irwin reported that Gayle Associates is studying the playing fields project. We should have definition of resource areas around these areas. Why pay consultants for new flagging? Why don't we look at the areas and feed information to consultants and pay Peter Fletcher to do delineation so the Commission might do ANRAD. In that way, the Town gets what they need and we don't spend

Minutes – Thursday August 11, 2011

Approved: September 1, 2011

Page 9

any more money than we need to. Consensus from commission members is that Peter Fletcher is the expert in that area of work.

A.Irwin proposes that B.Monahan write a letter to Tighe & Bond regarding the Dudley Area Advisory Committee and make the point that they should be aware that the Town has Bylaw of land with depression subject to flooding and that land that might be covered under Chapter 194.

J.Sullivan added a comment from the previous land discussion item, raising the issue of the Hamlen property and feeling that we might find resistance on reviewing other areas until that is resolved.

Motion to adjourn 10:20pm Seconded 5-0

**TOWN OF WAYLAND
MASSACHUSETTS
CONSERVATION COMMISSION**

LIST OF PUBLIC DOCUMENTS PROVIDED TO THE CONSERVATION COMMISSION
July 29, 2011 to August 11, 2011

July 29, 2011

DEP 322-624 Wayland Commons Inspection Report #26 from Cornerstone Engineering
DEP 322-732 Construction Observations at proposed TD Bank from Bohler Engineering

August 1, 2011

DEP 322-754 Notice to start work at 3 Lawrence Road

August 2, 2011

DEP 322-745 Notice to start work at 76 Lakeshore Drive
Notice of Preconstruction Kickoff Meeting for Wayland Town Center from EMJ Construction
DEP 322-741 Request for Performance Guarantee return for septic project

August 3, 2011

DEP 322-665 Inspection Report #6 on Wayland Forest from Hayes Engineering
Notice of Intent for construction project at 101 Boston Post Road

August 5, 2011

D-781 Notice to start work at 32 Hampshire Rd
Dudley Pond Run/Walk Pamphlet

August 8, 2011

DEP 322-583 Inspection Report #95 from Samiotes
Draft Release Abatement Measure Plan from Vertex Environmental re: former Raytheon facility

August 9, 2011

DEP 322-708/709/710 Inspection Report on Fieldstone Estates from H2O Engineering
DEP 322-624 Inspection Report #27 on Wayland Commons from Sullivan, Connors

August 10, 2011

DEP 322-738 Notice to start work at 34 Lakeshore Drive

August 11, 2011

D-771 Site Inspection at 81 Riverview by Samiotes
D-674 Letter to Commission from Susan/John Michalczyk regarding 47 Country Corners site