

**MINUTES
WEST BOYLSTON CONSERVATION COMMISSION
AUGUST 4, 2014 MEETING**

MEMBERS PRESENT: William Chase, Chair, John Hadley, Vice Chair, David Eckhardt, Associate Member, and Clerk Toby Goldstein.

MEMBERS ABSENT: Charlene Hopkins (Vice-Chair) and Mark Meola.

At 7:00 pm, Mr. Eckhardt moved to open the meeting. Mr. Hadley seconded. All in favor.

Informal Discussion With Anthony Sylvia of DPW Regarding DPW Drainage Projects:

Mr. Sylvia had previously sent e-mails to the Commission describing three proposed drainage projects by DPW, and he wanted Concomm's input. They are consulting with Lenard Engineering. He discussed each project separately:

1. Drainage Problem Near Prescott Street: Mr. Sylvia explained that there is an existing storm drain in the vicinity of the former Mixer Building that runs cross-country behind (3) existing homes, which is undersized, clogged, broken and not working anymore. Lenard Engineering has designed a proposed replacement in the same location, with a larger diameter to increase flow velocity. There will be no additional flows but it will work the way it's supposed to. There will be temporary easements due to construction, one is permanently in place. A surveyor will document an "as built" once the project is done and record the permanent easement so the Town can continue to maintain the system once it is replaced.

Mr. Eckhardt asked about wetlands in the vicinity, and Mr. Sylvia pointed out the wetlands on a map of the site, including property owned by DCR. He mentioned that he obtained DCR permission and approval to proceed with the project. Mr. Eckhardt asked Mr. Sylvia what questions he had for the Commission. Mr. Sylvia asked for specialized advice for soil erosion and sedimentation controls. Mr. Eckhardt asked about the slope of the land, and Mr. Sylvia replied that it is basically flat, and he discussed cleaning up any construction waste and the seeding and looming that they promised the residents to do that was the same as pre-construction conditions. Mr. Eckhardt then asked him to point out on the map where they would be working and the where they would be passing through and what was the scope of work. Mr. Sylvia pointed out the streets, catch basins, easements, wetlands, where they plan to replace the line, and (3) pertinent backyards where they will be working. Mr. Chase opined that DPW basically plans to change the size of pipe, and it may be a concern of DCR, not of Concomm. Mr. Eckhardt stated that maintenance is an exempted activity, when replacement is in kind. He instructed Mr. Sylvia to call the Commission when they hire someone for the construction when they are to go through the wetlands, so that Concomm can make a field decision as to whether or not erosion controls are needed. Mr. Sylvia replied that DPW will build this themselves, and added that it will save the Town \$30,000.00. Mr. Eckhardt added that this project involves the replacement of obsolete equipment and will benefit the abutters in particular. Mr. Chase asked Mr. Sylvia about the septic, and Mr. Sylvia replied that septic will be much closer to the homes, 50 to 100 feet from their work. Mr. Eckhardt asked Tristan Lundgren from DCR if there is any comment from DCR, and he replied that it is not anything of concern to DCR, unless DPW needs access, as DCR land is located there. Mr. Sylvia said

that he spoke to John Scannell about the project. Mr. Eckhardt stated that agreement between Concomm and DCR will be reflected in the minutes of this meeting. Mr. Chase added that the Commission will need an "as built" when the project is completed.

2. Drainage Problem at 13 Henry Street: Mr. Sylvia showed the location to the Commission members on a map. He explained that the existing discharge is too short and there is a steep slope to the property. The discharge is only about 30 feet off the roadway and creates a problem. (Mr. Hadley informed those present that he was the builder and developer of the house at 13 Henry St., not the owner). Mr. Sylvia said that the proposal is to extend the drain line to an area of rip rap to dissipate the flow and, in doing so, will eliminate the surface drainage problem on the private property. Mr. Chase asked where the proposed discharge will take place, and Mr. Sylvia replied near the back of the property, and he opines that the runoff will be more concentrated and then the rip rap will slow it down. Mr. Eckhardt instructed Mr. Sylvia to contact Concomm prior to construction and if they need to make significant design changes. Mr. Sylvia said that they plan to begin the first project (Prospect St.) this week because DPW is doing the work, but the other two, because of the steep slopes on the properties, will require that they take bids from construction companies. Mr. Eckhardt asked about wetlands on the Henry St. property, and Mr. Sylvia replied that they have not had a wetlands biologist visit the site and look at the vegetation. Mr. Chase added that there is some vegetation there but basically sheet water so nothing significant regarding vegetation. Mr. Eckhardt also asked about trenching, and Mr. Sylvia pointed out where it would be done. Mr. Eckhardt summarized that Mr. Sylvia is proposing to alter flow by putting in a new pipe and relocating discharge to the east into rip rap because of water/drainage problems on the private property, and Mr. Sylvia agreed. Mr. Eckhardt asked the board if they were comfortable with this plan, or if they thought that the opinion of a wetland scientist was required, and Mr. Chase commented that he is comfortable with that plan. Mr. Sylvia added that he thought that a 3-foot cover would be sufficient so that it could be as shallow as possible. Mr. Eckhardt and Mr. Chase added that this runoff situation has been a problem for years. Mr. Hadley added that the house was built in 2009 or 2010. Mark Brodeur, Building Inspector, who was present, commented that the water runoff is an annoyance in that area. Mr. Lundgren opined that wetlands are not extensive there, but does not know for sure and delineation could be done to be sure. Mr. Brodeur opined that the work would be an enhancement, and would be a maintenance issue. Mr. Eckhardt suggested that it would be the opinion of the Commission that this work is the necessary maintenance of the storm sewers at 13 Henry Street to compensate for sheet flow coming from the golf course and other properties up the hill, and Mr. Chase and Mr. Brodeur agreed. Mr. Sylvia added that they would like to get funding approved through Chapter 90, and they are putting it out to bid and would like to complete it by winter. Mr. Eckhardt instructed Mr. Sylvia that the Commission wants to see the ground stable with appropriate seeding when the project is complete, and Mr. Chase added that the Commission will need an "as built" also.

3. 133 Worcester Street: Mr. Sylvia explained that the existing storm drain system from Worcester Street, which goes through the side of the property to a structure (which he pointed out on a map) where their work will begin; from there down into the back of the cemetery the line is undersized. Mr. Chase asserted that this project can be done as maintenance, also. Mr. Brodeur and Mr. Chase mentioned that this would be the second time that this has been worked upon in 5 years. Mr. Sylvia said that they need to hire a contractor here also because of the drastic slope. Mr. Eckhardt asked where the water discharges, and Mr. Sylvia replied that it discharges to an existing structure in the cemetery, across to the roadway in the cemetery, into a wooded closed detention system before it goes across the railroad tracks. They will use erosion controls, and because it is a small site, and they will

clean up and restore where needed. Mr. Eckhardt asked if it is backing up into the street? Mr. Sylvia replied that he does not know but opined that it could. He added that there is a large wetland next to Town Hall that flows into the drainage system, across Worcester Street. Mr. Chase concluded that the project can be done as maintenance also. Mr. Eckhardt instructed Mr. Sylvia to let Concomm know when they are starting the project, and the Commission will look through the work area.

Afra Terrace Resident Questions Regarding Maintenance:

(Representatives were Frank Marhefka, Regina Brodeur, Karen Epstein and Jennifer Cuker, all members of Afra Terrace Board of Trustees). Mr. Marhefka discussed the fact that residents have been dissatisfied with esthetics on the Afra Terrace property, and it has been difficult for them to have repairs done. They eventually created a Board of Trustees. Mr. Eckhardt explained the Conservation Commission's dual mandate, which is their obligation to enforce the Wetlands Protection Act of MA, and they can be of help if they can relate field problems with failures to comply with the law, and also to provide service to all state citizens. Mr. Marhefka replied that, as trustees, they do not have official standing yet, but are trying to find out where the developer stands regarding the residents' grievances. Mr. Chase added that he told Mr. Marhefka to come to the meeting after replying to Mr. Marhefka's phone call so that the Commission can address what issues relate to them.

Mr. Brodeur spoke next, and wanted to simplify the issue. He discussed the history of the development, stating that, when the Afra Terrace project was proposed, the Commission approved wetlands crossing. Two retention ponds were built as part of that wetlands crossing. Now, Mr. Brodeur says, the topsoil on the retention ponds is gone, the remaining condominiums have been built, and there are multiple trees and bushes in the retention ponds, which he asserted are not doing what they were intended to do. Mr. Eckhardt surmised that maintenance was not done. Mr. Brodeur continued that the residents want guidance on where they stand regarding the condition of the ponds before they take over the complex as the condo association; his opinion is that the ponds should be pristine and in perfect working condition before they take over the complex. Mr. Marhefka continued that, in his conditions (the Order of Conditions, issued by Conservation Commission), Mr. Ali was supposed to present a maintenance program, which would be contained in the residents' condo documents. Mr. Chase interjected that Mr. Ali was supposed to do the retention ponds as they were designed and presented to the Conservation Commission, but he has never come before the Conservation Commission. Mr. Marhefka continued that now, the units are 85% occupied, and there are still no maintenance plans in there. Mr. Eckhardt responded that Mr. Ali did not do what he was supposed to do, therefore there is a cloud on title. Mr. Marhefka opined that when someone steps in, voicing concern that, before the last unit is occupied, the conditions have to be met. Mr. Chase replied that they need someone to come before them, and asked if the trustees have counsel? Mr. Marhefka replied that they do not at this time, and asked what recourse they have if he does not comply? Mr. Hadley replied that Mr. Ali has or should have bond with the Town. Mr. Chase made the suggestion of "Omission and Errors Insurance". Mr. Marhefka asked if Mr. Ali is under any time restraints? Mr. Eckhardt suggested that first they summarize their requests, next refer to the original Order of Conditions, and then have a field visit; the Commission can then go out and determine if the conditions have been satisfied or not; after doing that, they can send the developer a letter stating that he is in violation, warning him of possible penalties, and asking him to give the Commission a compliance plan at the next Concomm meeting.

Mr. Hadley asked if there are any rental units, and Mr. Marhefka replied that there are 11 rentals, and 4 unsold units. Mr. Chase continued that they will do a site visit, determine what is right and wrong, and define the violations. Mr. Eckhardt added that the Commission needs to know who needs copies of the

information. Regina Brodeur of added that Mr. Ali installed chain link fences around the retention ponds about a month ago. Mr. Marhefka asked where he would obtain agricultural plans, and it was opined that Planning Board or ZBA would have those, but Mr. Lundgren replied that he could obtain most plans needed. Mr. Marhefka also needs quarry information, and Mr. Brodeur opined that this information would come from a state group. Mr. Chase instructed that, for the site visit, Mr. Lundgren bring any paperwork that he might have (he is willing to attend), as well as the residents, and Mr. Eckhardt added that they will determine the deficiencies, set deadlines and ask for specific items that they need. It was agreed to by all that the site visit would take place on Tuesday, August 5, at 3:00 p.m. Mr. Lundgren said that he will bring any documents that he can obtain. The Clerk was instructed, meanwhile, to check past Afra Terrace files with the Zoning Board of appeals (ZBA) to determine if Afra Terrace has ever posted bond with the Town. Mr. Hadley also suggested that the Clerk contact ZBA regarding meeting with the residents and Afra Terrace representatives. Mr. Eckhardt suggested that the Conservation Commission can file an enforcement action or a stop work order. Mr. Chase added that the Commission will have bylaws later on in the year. Mr. Hadley asked if a potential buyer cannot close on the property if there are violations, and Mr. Eckhardt replied that, if the Commission issues an Enforcement Order, the problems must be corrected before the property can be sold.

Mr. Eckhardt suggested that this item, of Afra Terrace Resident Questions, be listed on the meeting agendas until the problems are satisfactorily resolved, and suggested that one or more of the residents attend the upcoming meetings. Mr. Brodeur added that, on the Town website, meetings of all the Town boards are posted. Mr. Eckhardt offered his and Concomm's e-mail addresses and Mr. Chase offered his cell phone number for communication between the residents and the Commission.

93 Prospect Street Changes to Site Plan:

Joseph Evangelista and engineer Neil Gorman submitted a site plan with changes from what was originally submitted; the original was submitted with a Request for Determination of Applicability for David Lipinski, Land Value LLC. Mr. Chase informed the Commission members that he made (3) visits to the site and approved the changes to the site plan.

DCR Exempted Activities:

Mr. Eckhardt and Mr. Lundgren explained that it would be helpful to DCR if the Commission would have DCR activities in the minutes that are exempted from the Wetlands Protection Act (WPA). Mr. Lundgren mentioned several activities from which DCR is exempt from the WPA that are necessary for reservoir function, including emergencies, maintenance, water flow and water quality measurements. They do not require filing with the Commission, but need some paperwork from DCR. Mr. Lundgren said that he would send Concomm a matrix of exemptions.

ESCO Project – Gas Main Work:

(Mr. Eckhardt gives a weekly report to Leon Gaumond on the project, and is now updating the Commission). Mr. Eckhardt pointed out the new gas main on a DCR map; this gas main was discussed at the June meeting as part of a project by the Town to convert all the schools to gas from oil heat. DCR owns property along the route of construction. The gas main starts at the far side of Route 12; there are no wetlands present, therefore DCR and Concomm have no issues. The new main requires permits from the Town and State this week, so that it will be two weeks until construction begins. After the gas main is started, Goodale Street will become a one-way street. Mr. Eckhardt stated that the new main will be 3-feet in-ground, and 2-feet off of the existing one. He said that work started that day (August 4) at the schools (insulation); the electrical contractor will meet on Wednesday, August 6; lighting will be done

this week or next week; boilers have been ordered. The completion date will be before October 15, which is the start of the heating season. He said that the underground oil tanks will be removed at the end of October. Mr. Eckhardt said that soil samples will be tested, and a contingency plan will be needed if there is contaminated soil. He also mentioned some other energy saving ideas such as controls on air conditioners and power savers.

Regarding any problems that DCR might have with the gas main work, Mr. Lundgren commented that he does not do permitting at DCR. John Scannell and Nancy McGrath do that. But, Mr. Lundgren can tell a party if their intended work is alright or not, and he can tell Mr. Scannell or Ms. McGrath about it and they can decide if it is allowed.

Minutes of July 7 Meeting:

After review of the minutes by the Commission members, Mr. Hadley moved to approve the minutes as submitted. Mr. Eckhardt seconded. All in favor.

Question of Notice of Intent for Gerardo:

Concomm had received an e-mail from Nancy Lucier, requesting them to contact Bill Smith regarding a possible NOI for Gerardo's Bakery. However, Mr. Chase and Ms. Goldstein were not able to contact Mr. Smith or anyone at the phone number they were given regarding the matter, and they received no further correspondence. Mr. Hadley commented that he heard that Gerardo wants to connect the driveways in the back of his business, but nothing else has been seen yet. Mr. Brodeur added that Gerardo needs to come to the Building Department and tell them what he wants to do. Mr. Hadley moved that the Commission wait to take any action until Gerardo comes to them with a request. Mr. Eckhardt seconded. All in favor.

At 8:10 p.m., with nothing further to discuss, Mr. Hadley moved to adjourn the meeting. Mr. Eckhardt seconded. All in favor.

Submitted by: _____

Date accepted: _____