

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**JULY 13, 2015 MEETING**

**MEMBERS PRESENT:** William Chase (Chair), John Hadley (Vice-Chair), Charlene Hopkins (Vice-Chair), David Mercurio, David Eckhardt (Associate Member) and Clerk Toby Goldstein.

**MEMBERS ABSENT:** Mark Meola.

At 7:03 pm, Ms. Hopkins moved to open the meeting. Mr. Hadley seconded. All in favor.

**Request for Certificates of Compliance, Angell Brook Orders of Conditions, DEP File #327-0248 and 327-206:**

(Michael Staiti of Keystone Development represented). Several parties have been seeking Certificates of Compliance on the above Orders of Conditions due to sale of properties. Mr. Eckhardt began the discussion by pointing out that, if the Commission has jurisdiction, they can issue the Certificate of Compliance. Mr. Staiti continued by introducing himself, and discussing the fact that the Angell Brook Development had (4) Orders of conditions issued and (3) have been closed out with Certificates of Compliance. He referred to #327-206, which was 90% complete in 2010, and said that the landscaping had been finally completed there in June. He asserted that, for the outstanding Order, that of removal of dead trees due to Asian Longhorned Beetle (-0248), it has been well-established for several years, with replication complete; he just did not return to Concomm to obtain a Certificate of Compliance before.

Mr. Chase asked if anyone from the Commission has seen the property? Ms. Hopkins added that usually Concomm wants to see a full growing season before issuing the Certificate. Mr. Staiti said that the growth is lawn, and mentioned that there is a stone wall buffer separating the grass (on -0206). He discussed the two Orders, 327-0206 which had a complete Certificate of Compliance, and 327-206, which had a partial Certificate. (There was some discussion about the two file numbers, -0206 and -206). Ms. Hopkins opined that, for title purposes, -206 should probably be released; the Board should look at the property and sign off on it. For -0248 and -206, Mr. Staiti continued that it was really at the residents' request that the Certificates of Compliance be issued. Ms. Hopkins responded that, for -0248, this was for removal of dead trees, and can be issued. Regarding -206, she added that, title-wise, the work is done. Mr. Chase and Mr. Eckhardt agreed that the Commission should do that. Ms. Hopkins suggested that it can be issued at the next meeting. Mr. Eckhardt responded that he could look at the tree work area for -0248, and asked the Commission how they would like to handle the situation if there is a property transfer between now and the August 3 meeting? Ms. Hopkins replied that she believed it should not be a problem and asserted that it's not on their title. (There was further discussion by the Concomm members about the two Orders, -0206 and -206, what they were issued for and their completeness; Mr. Eckhardt discussed some of the history of the Angell Brook project, and the fact that it was done in phases). Ms. Hopkins advised the Clerk that she would look into it further and get back to her.

**Request for Certificate of Compliance, Joseph Evangelista, Bull Rock, LLC, 93 Prospect Street, DEP File #327-0255:**

Mr. Hadley had informed the Commission members that the planting of the grass on the property took place a little over a month ago, and the Commission members discussed that they usually need a growing season to pass before they can issue the Certificate. Mr. Eckhardt moved to postpone the Request for Certificate of Compliance for 93 Prospect Street to the regularly scheduled September meeting (Sept. 14); Ms. Hopkins seconded. All in favor. Mr. Chase added that, if they are not comfortable with it in September, then they will not issue it then. Ms. Hopkins questioned not waiting a year when the landscaping was just done in June? Mr. Chase replied that, where it is lawn, it is not as concerning to him as downgrading would be; he would allow them to remove haybales but not issue the Certificate yet. Mr. Eckhardt added, referring to the previous discussion about Angell Brook, where the applicant must wait for the growing season, that Angell Brook hired a wetland scientist to verify, whereas the other party (Evangelista) did not.

**Request for Determination of Applicability, Lawrence Salate, 12 Church Street:**

(This was to be an informal discussion, as Mr. Salate did not submit the filing until it was too late for the legal ad to be placed in the newspaper, so the public hearing has to take place at the August 3 meeting; for the record, the Clerk erroneously listed this item on the agenda as "382 Prospect Street"). Mr. Salate discussed the work that was proposed in the Request:

1. To put in handicapped access
2. To have a storage shed for the Boy Scouts

Vincent Vignaly, who was present at the meeting, had discussed this issue before Concomm previously. Mr. Salate explained that they would like to have the shed because the area gets used, and stated that it would be approximately 4' x 15' in size. Mr. Chase added that he would have wood for them to use. Mr. Salate showed Concomm wetlands on a map of the site. He said that there would be other possible places for the shed, but when this area is plowed in the winter, they would still have access at that location. Mr. Eckhardt stated that Concomm has jurisdiction there, and opined that the Request for Determination would be a negative determination with minor conditions, and for charitable purposes, the Commission agreed to waive the fee for the Request for Determination except for the legal ad fee. Mr. Salate added that they also plan to place the shed off the ground, perhaps using solder tubes, for air circulation. (The public hearing will be held on August 3).

**Discussion of Wetland Issues at 99 Hartwell Street:**

Mr. Vignaly discussed the situation at this address; the property owner is Bob Diverdi. Mr. Vignaly explained that Mr. Diverdi has two businesses on the property, and he is not doing work there but there had been an old sump pump discharging into the wetlands. He continued that there had been problems with the power being too close to the gas line, so the power was shut off but, due to flooding, it had to be turned on again. Mr. Diverdi, the new owner, is now running a scavenger pump in its place. Mr. Chase said that he had received a letter from the Building Inspector, Chris Lund, regarding this situation, and told the owner that he needed to file a Request for Determination, not realizing that it was a temporary situation, and he advised him to put on rip rap and give Concomm an "as-built" when completed.

**263 Maple Street Realty Trust:**

A citizen may be interested in donating land to the Town. Mr. Vignaly discussed that the Greater Worcester Land Trust and DCR are involved in the discussion. DCR might purchase a lot from Charlene Weisel, leaving two lots. She might want to donate land in the back of the property to the Town; this area could be buildable. He said that Open Space was interested in buying it for the Town. Affordable Housing was interested also in a ten-acre area on which affordable housing could be built, but it would be more costly for the Town so they decided it would be better if DCR purchases a portion and the Town acquire the other. Mr. Chase mentioned his idea of building an environmental trail on the property, showing different types of species and the wetlands. Mr. Vignaly stated that the Greater Worcester Land Trust does not want to own it or maintain it, so it must go before the Board of Selectmen for approval for the Town Meeting warrant if the Town is interested. Mr. Chase said that he would want it (for the Town). Mr. Hadley said that it was not approved yet by the Board of Selectmen. Ms. Hopkins mentioned that there is money available in the Community Preservation Committee (CPC) fund, but Mr. Chase mentioned funding it through other sources, and mentioned informal discussions with several people. Mr. Vignaly added that he had tried to interest some college students.

**Planning Board Suggestions Regarding Draft Wetland Bylaws:**

Mr. Vignaly had sent to Concomm Draft 6 with proposed changes by Planning Board; this had been emailed previously. Mr. Chase instructed the Clerk to send this to Mark Archambeault of the Nashua River Watershed Association (NRWA) to be incorporated into the previous draft. Ms. Hopkins added to ask Mr. Archambeault to present the bylaws at the October Town Meeting. The Commission thanked Mr. Vignaly for his work on the matter. Mr. Mercurio opined that this draft is less restrictive than previous drafts. Mr. Vignaly responded to the Commission members that Planning Board and Open Space Committee had positive comments about Concomm.

**Afra Terrace:**

Mr. Ali, who was supposed to attend the meeting, called shortly before the meeting to inform Concomm that he and his representative could not attend this evening. Mr. Chase therefore said that there would be no discussion of the matter this evening.

**Discussion Regarding Baldarelli Work on Sterling Street:**

(John Farnsworth was supposed to attend to discuss this, but had not as yet). Mr. Vignaly gave the Commission members an update on the work. He mentioned property that Ed Baldarelli and Richard Baldarelli's daughter own; the two parties do not talk. Ed owned the woods and old access and area near a swamp. Mr. Vignaly continued that there is no access to get to a pit, and do not have enough property to create another one. They are watching the area on the hill; there is a small pit, but not big enough. Mr. Chase asked if they will create a new owner? Mr. Vignaly replied that he is not sure, and they may appear before Earth Removal. They tried to build a bridge. DCR did not want the stream filled in, as half of the bridge is on the Right of Way to Route 12. The bridge is on MA DOT property, so it must be done by MA DOT standards. It would be expensive. Also, to fill in the wetland, they must go through MEPA. The status is questionable right now.

Mr. Eckhardt added that Chris Lund is aware of the regulatory problems. Mr. Vignaly added that the Planning Board is waiting to review the plans, and that they haven't heard anything since the winter. Mr. Hadley asked if they could sell some of the property? Mr. Vignaly added that Mr. Farnsworth is aware of the issues.

**Wachusett Liquors:**

Mr. Hadley informed the Commission members that Wachusett Liquors is still under a temporary occupancy permit. Mr. Vignaly mentioned that they have not requested a Certificate of Compliance from Planning Board yet, and opined that the property looks good, but is costly.

**Update on Quinapoxet Dam Removal Investigation:**

Ms. Hopkins suggested sending an e-mail to Georgeann Keer, who appeared before Concomm at the June 1 meeting, to ask if they are re-applying for funding, and also to find out the status of the project. Mr. Vignaly mentioned that the fish ladder at the area is not working.

**Asian Longhorned Beetle Update (ALB):**

Mr. Eckhardt had no further information to report.

**Request for Determination of Applicability by DCR, Division of Water Protection, Wachusett (Informal Discussion) for Work at Lancaster Street, Parcel 28:**

(The public hearing for this matter will also be heard on August 3, due to lack of time for posting). Ms. Hopkins discussed the former dairy barn at the property, which the applicants are proposing to remove, and asked if it is on a slab, and if so, would it disturb the ground?

**Minutes of June 1 Meeting and June 4 Special Meeting:**

After review of minutes by the Commission members, Mr. Hadley moved to accept the minutes of June 1 as submitted. Ms. Hopkins seconded. All in favor.

Next, Mr. Hadley moved to accept the minutes of the June 4 Special Meeting on the site as submitted; Ms. Hopkins seconded. All in favor. (Note: Ms. Hopkins recorded the minutes at the meeting due to the Clerk's absence; Mr. Eckhardt and Mr. Mercurio abstained from voting on these minutes as they did not attend the meeting).

**Update on 491 Prospect Street Complaints:**

Ms. Hopkins informed Concomm of what she had observed on the property. She reported that the owner of the property had pushed all the debris that he dumped on his property over the edge, probably into the wetland. She continued that Chris Lund tried to get there but couldn't, and she mentioned that there is sewer installed there. Mr. Vignaly added that Gates Brook is in that area. Mr. Eckhardt asked if this might be a similar situation to solid waste disposal and that would apply to its regulations? Mr. Chase said that he will see Mr. Lund the next day and discuss this. Mr. Eckhardt suggested that DEP should look at it. Ms. Hopkins added that the plants are overgrown so it is difficult to see exactly what is there; she replied to a question from Mr. Hadley that the waste is within 100 ft. of the wetlands. Mr. Eckhardt suggested that solid waste disposal might be the better route to follow to handle this. Mr. Vignaly suggested that Anthony Sylvia of DPW might be interested. Mr. Chase said that he would speak to Mr. Lund also.

**Adam Last and Frank of Waste Management Discussion Regarding Hartwell Street:**

Mr. Last discussed that there are two properties involved, one being 107 Hartwell Street, and the other 124 Hartwell. At 107, the Waste Management parking lot, is maintenance of existing drainage structures. He mentioned that the stormwater management plan was approved by Concomm in 2005, and the periodic maintenance and removal of sediment is what they want to bring to Concomm's attention and find out what information they need to supply.

At 124 Hartwell, the property has routine maintenance. He mentioned that surface runoff goes to the back of the right-hand corner of the property, along with sediment. He continued that they

scrape down sediment on the upland portion around the perimeter and on the paved surface, and added that there are erosion controls around the perimeter. Mr. Chase responded that they can use sock to define the work area, and do not need haybales.

Mr. Last summarized that they would be routine maintenance activities; sediment removal would be done every 5 to 10 years as needed. They would use a mini excavator. Mr. Chase responded that, when the work is completed, they need to send a letter of what was done to Concomm for the records. Mr. Eckhardt added that, along with the documents, they should lay out what is the plan, indicate the work time period, and Concomm will look at it when complete. Mr. Eckhardt then asked, on the second piece of property, if the sediment is clean or contaminated and if it has been evaluated? Mr. Last replied that it has not been tested yet; there is some amount of petroleum probably; there is a roll-off container and they will determine what it is. Mr. Eckhardt asked Mr. Last to lay out in a letter what they intend to do, thanked him for his detail in managing the property, and to call the Commission if they run into any unexpected problems. Mr. Last added that they hope to have a final complete package by the end of August. Mr. Eckhardt let him know that there will be evidence in the minutes as to what is going on.

(David Femia, Clerk of the ZBA, who attended this meeting, informed the Commission about a letter from EPA regarding work by Mr. Ali on Prescott Street. Mr. Chase informed Mr. Femia that Mr. Ali cancelled appearing this evening to discuss Afra Terrace. Mr. Femia then discussed the Quinapoxet Dam project with the Concomm, who responded to him that Ms. Keer appeared at the June meeting to obtain the Commission's opinion on the project, and said that whether or not it went through would depend upon funding).

#### **John Farnsworth Discussion of Baldarelli Order of Conditions:**

(Mr. Farnsworth came to the meeting later). Mr. Chase asked Mr. Farnsworth why there was a 16-foot entry, when they needed 24 feet? Mr. Farnsworth replied that they have almost 36 feet. He continued that Mass. Highway said to them that as long as it is not in the Right of Way, it would be alright, but if any part is, it must be by their standards. Mr. Farnsworth said that the project is estimated at ¼ million dollars; they had figured ½ million dollars. Mr. Farnsworth told Concomm that they gave a good opinion of (4) 36" pipes being used; it ended up being (2) 4' pipes. He added that they are not in the highway layout, mostly in the existing channel. He also said that he will see Nancy at DCR regarding a letter to DEP. Mr. Farnsworth told Concomm that he tried to put together a package for an amended NOI, and handed them copies. He asked if he needed a hearing if the Order of Conditions is amended (the change would be "de minimus")? Mr. Vignaly said that it can be noted on the "as-built" if it is "de-minimus." Mr. Farnsworth continued that they still need to see DCR, DEP, MA DOT, MEPA and the Army Corps of Engineers for approval.

Mr. Eckhardt said that Concomm needs proof that it is "de-minimus." If it is, he instructed, they need to write Concomm a letter stating why they think that is true, and Concomm will agree or not and have a public hearing on this, and if other agencies do not give approval, they may need a public hearing. Mr. Eckhardt added that the minutes will be in the public record and show that the applicants are in on-going communication with Concomm.

With no further business to discuss or any further comments, Mr. Hadley moved to adjourn the meeting at 8:25 p.m. Mr. Eckhardt seconded. All in favor.

Submitted by: \_\_\_\_\_

Date accepted: \_\_\_\_\_

