

**MINUTES**  
**WEST BOYLSTON CONSERVATION COMMISSION**  
**DECEMBER 7, 2015 MEETING**

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

**MEMBERS ABSENT:** David Mercurio and Mark Meola.

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

**Georgeann Keer of DEP Division of Ecological Restoration:**

Ms. Keer had attended the June Concomm meeting to discuss proposed work on Quinapoxet Dam; she came to this evening's meeting with a slideshow and results since June to discuss with the members. She described what the Division does. One slide shown depicted dams in Massachusetts, by location on a map. She discussed the number of total dams and the numbers of the different types, including flood control dams, hydropower dams, and water supply dams. Ms. Keer discussed conditions affected by the Quinapoxet dam, such as fish passage, sediment transfer and water conditions. They have been working on the feasibility investigation, and she said that most of their work is complete in this phase.

Ms. Keer showed the original river bed and explained what was done to it; it was expanded, widened and flattened with the intention of slowing down the water. But, sediment still traveled downstream into the reservoir. (She showed slides of the actual construction plans from back at the time of the dam's installation and what they intended for it to do). Now, topography and hydrology studies are being done and sediment samples taken, showing that upstream and downstream are basically equal; results show that onsite and offsite reuse appears feasible. She said that the railroad was a concern for contamination, but none has been seen so far.

Ms. Keer also stated that, because the fish ladder is essentially useless, and because there is so much cold water coming from the aqueduct, it is difficult for fish to swim upstream. Also, after meeting with fish and wildlife experts, they have found that some of the fish data may have focused on too large a fish size, so they need to think about some of the smaller fish and make sure that the grades created will facilitate smaller fish. They would also carve out additional material upstream to restore the grade that is needed. Ms. Keer explained that the fish and wildlife experts generally like a more constructed approach, whereas her division would prefer for the system to be self-sustaining. They would like to do the minimum construction to include fish passage, and try to be holistic and include all concerns such as sediment transfer, downstream water temperature and fish passage.

Mr. Hadley asked her about the steepness of the grade? Ms. Keer replied 1 ½ to 2 percent, but greater than 2% would be an issue, and they are trying to keep it down naturally. She said that, referring to the second conceptual, they might use a two-graded approach with ripples, and mentioned that, downstream, they have some concern that, when the water level is low, they can see some ledge, and opined that blasting probably was stopped at some point and that caused this situation; but they do

not want to blast where there is aqueduct. So, she said that two issues that they need to deal with are smaller fish size regarding the grades and construction site constraints and they need to determine what height is ledge and how much of it they have to deal with, and decide what approach to use to create a pathway for the fish. Mr. Chase asked her if they would lose width if they remove the dam? Ms. Keer replied that they would not as they would not lose the natural width of the river. Ms. Keer explained the scale used on the drawing shown, in response to a question from Mr. Eckhardt, and mentioned that MMI did the mockup. She pointed out the dam, fish ladders, and aqueduct, and said that what they are proposing, and are in the process of getting the bid together for, includes the ledge investigation and coordinating with Fish and Wildlife on revising a conceptual based on the fish passage requirements.

Ms. Hopkins asked about fundraising, and Ms. Keer replied that they have started, and one grant application was rejected as being too early and another, which just closed, they decided not to apply for as they wanted to have the preferred conceptual developed. She explained that they need a preferred alternative and a construction process in place because they might get into the work and find conditions different from what they expected, such as that ledge would change construction outlook.

Mr. Hadley asked her how they would get machinery into the area? Ms. Keer explained that, if the water flow is low, probably they will use track driven machinery; if it's high, perhaps barge boat. Mr. Chase asked how long the work would take? She replied one to two weeks, adding that the drilling goes quickly, and regarding the fish ladder area, there may be softer material. She further explained a drill rig and how it works, and they are looking for where ledge is located. She also mentioned that they are in coordination with DCR and NRW. Mr. Hadley asked how much a project like this would cost? Ms. Keer estimated \$20,000 if they don't have to blast and excavate material, but if they need to deal with ledge, she hopes it would be under \$1,000,000. She stated that the engineers are Malone and McGrew (sp.?), and mentioned some of the experience that they have with this type of project, and that Andy Green and Janine DeGoin (sp.?) are working on writing of the permits, which will be reviewed by Georgeann, DCR and Fish and wildlife.

Mr. Eckhardt then asked her what approval is needed from Concomm? Ms. Keer replied that is is mainly interest by others, especially because of the fishing. Mr. Eckhardt asked her if she suggests more test borings in the future and if the work is fully defined? She replied that they are working on it. Mr. Eckhardt continued that he specifically was asking about soil and ledge testing for a better foundation for the project. He explained that he is concerned with the view of the public that the right thing is being done, and said that he would like them to communicate with the Commission in a letter explaining what the program is. He added that their policy as a board is that reasonable engineering studies are exempt and can be conducted under the signature of the Chair. Mr. Eckhardt instructed her to submit a proposal to the Commission, letting them know when she needs a response, and they will respond so that they can proceed with the testing, and to let the Commission know if the scope changes drastically. Ms. Hopkins assured Ms. Keer that the minutes will reflect this conversation, and Mr. Eckhardt added that the Clerk will send the minutes of this meeting to her.

Mr. Hadley added that they look forward to the project and praised the work that the Division is doing. Ms. Keer added that their guiding thought on this is the aqueduct and the amount of water that it pumps daily of extremely cold, blasting water, the concern is the effect of the ledge on where will be the convergence that allows the fish to get attracted to the water. Mr. Eckhardt acknowledged that the project would significantly affect the fish habitat, and that fishing is important along the length of the river, but that it is not certain whether or not it will affect the fishing at any given point. Ms. Hopkins opined that the work should improve the fishing situation. In response to a question from Mr. Eckhardt, Ms. Keer replied that they should get a proposal to Concomm and obtain funding before 6/30/16. Mr. Eckhardt asked her if work might commence by the second half of fiscal year 2017? She replied that the

permitting process could be lengthened. In response to questions by the Commission members regarding what type of filing they are planning, Ms. Keer replied that they would be filing a Notice of Intent by that time. She added that there are restrictions depending upon the time of year, the operation of the aqueduct and not doing construction when the water is not being actively pumped because they do not want to introduce disturbed material when the water is being pumped. Mr. Eckhardt commented that the NOI for the construction phase makes the public aware of what is being done and allows them to voice their opinions, and added that the Commission is generally supportive if the applicant can work within the regulations. He suggested that, if they are on a tight schedule, the Commission could have a special meeting. Ms. Keer added that they probably would like to do public outreach ahead of the filing, and Mr. Chase suggested contacting Nancy Lucier, assistant to the Town Administrator.

David Femia, ZBA member, asked Ms. Keer what the consequences would be if the proposed work does not go through? She replied that eventually the concrete will give way and something will have to be done, and she opined that the worst situation would be that lot of money will have to be spent on engineering and permitting to re-build.

Mr. Eckhardt suggested to Ms. Keer that she send the information in draft form to Mr. Chase prior to filing the NOI to obtain his comments.

#### **45 Maple Street:**

(This discussion relates to e-mails that the Commission received from Chris Lund, Building Inspector, regarding to a situation where a Town resident, when constructing a new garage, had poured a concrete floor and installed an illegal floor drain). Mr. Hadley related to the board that the resident built a new garage and installed an illegal drain, and Mr. Lund told him that it was illegal. Mr. Chase suggested that the resident install an oil separator which is in every garage, so that he does not have to redo the floor. Mr. Hadley responded that he would forward the idea to Mr. Lund. Mr. Chase added that once a year, the Board of Health would require paperwork if the drain was put in, and discussed that the oil separator should be added to the conditions for the Gerardo's NOI recently, where his drain was full of sand and not working properly; it must be cleaned once a year (Mr. Hadley responded that it was just cleaned).

#### **Update on 99 Hartwell Street:**

(Comments were obtained from DEP when the DEP File Number for the NOI was issued, regarding spacing and types of vegetation for replication). Ms. Hopkins instructed the Clerk to note in the minutes that the State wants to be sure that spacing of the replication is on point; in the opinion of the Commission, it looks good.

#### **Update on Afra Terrace:**

Mr. Hadley and Ms. Hopkins discussed that there is one more unit left to sell in the development, and it is ready to be sold. Mr. Hadley commented that the Commission still does not have the information that they need from Mr. Ali, and that the Condo Association wants to improve the property but asserted that the owner ignores their requests. Ms. Hopkins responded that the Commission has a cloud on title for the last sale, due to the Certificate of Compliance not being issued due to lack of certain information, and she commented that Mr. Ali can give the owners an indemnification but the cloud is still on the title for the entire property. Ms. Hopkins said that the bank will either demand a Certificate of Compliance or an indemnification. But, Mr. Ali can still sell the property. The Commission members then discussed the fact that no bond was required prior to the

start of work (ZBA is responsible for enforcement of this) and Mr. Hadley said that he had talked to the ZBA chair about this.

The Clerk was instructed to send a certified letter to Mr. Ali, stating that Concomm still has this topic on the agenda monthly, and reminding him that he is required to submit an "as-built" so that the Commission can issue a Certificate of Compliance; a copy is to be sent to ZBA, Board of Selectmen, and the Building Inspector.

**Update on 491 Prospect Street:**

Ms. Hopkins wanted to find out the outcome of the 11/20 meeting between the property owner and DEP; she said she would contact DEP, cc'ng the Building Inspector.

**Concomm Meeting Schedule for 2016:**

The Clerk submitted a tentative meeting schedule for the Commission members to review. Ms. Hopkins moved to approve the list of Concomm meetings for 2016. Mr. Hadley seconded. All in favor.

**Update on Wetland Bylaws:**

Ms. Hopkins suggested sending a copy of the draft bylaws to legal counsel to review, and it could be discussed at the January meeting. Mr. Hadley mentioned an e-mail from Mr. Mercurio reminding Mr. Vignaly of a change that he wanted at the November meeting and that he wanted incorporated into the next draft of the bylaws, regarding Concomm needing permission from a property owner to enter his property; Ms. Hopkins commented that what was agreed upon was only "after 24-hour notice" to the property owner, not "after obtaining permission" from the owner or tenant as Mr. Mercurio asserted; Mr. Chase specified "written" notice with Ms. Hopkins change. The Clerk was instructed to incorporate the change into draft 6 and send the entire draft to Town Counsel for legal review of this as well as other language, with Mr. Chase looking at it before she sends it.

**Addition to Agenda for January Meeting:**

Mr. Eckhardt instructed the Clerk to add to the agenda for the next meeting a presentation by him regarding green communities, under "Other Business."

With no further business to discuss, Ms. Hopkins moved to adjourn the meeting at 8:10 p.m. Mr. Hadley seconded. All in favor.

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

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