

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, January 27, 2014**

Present: Greg Topham, Chairman; Beth Armstrong; Vice-Chairman; Sharon Rizzo; Rob Elkind; Tom Friedlander; Debbie Dineen, Coordinator

**WPA & Bylaw Notice of Intent & Sudbury Stormwater Management Bylaw: Police Station, 77 Hudson Rd.**; Town of Sudbury, applicant

Chairman Topham called the meeting to order and opened the hearing for the proposed Police Station at 77 Hudson Rd. This afternoon a request was received for continuation without discussion from the Permanent Building Committee.

The Commission agreed to continue the hearing to Feb. 10, 2014.

**Executive Session**

On a motion by G. Topham, 2<sup>nd</sup> B. Armstrong, and by roll call vote, all Commissioners voted to leave Regular Session and enter Executive Session for the purpose of discussing revised plans for proposed settlement of current DEP adjudicatory appeal for Johnson Farm, Landham Rd.

*approved PUBLIC DOCUMENT for release 3/24/2014*

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Executive Session Held Monday, January 27, 2014**

Present: Greg Topham, Chairman; Beth Armstrong; Vice-Chairman; Sharon Rizzo; Rob Elkind; Tom Friedlander; Debbie Dineen, Coordinator

**Executive Session: Discussion and Comments to DEP on the Johnson Farm Revised Plans**

By roll call vote, all Commissioners voted to leave Regular Session and enter Executive Session for the purpose of discussing revised plans for proposed settlement of the current DEP adjudicatory appeal for Johnson Farm, Landham Rd. The SCC's peer review consultant, Fred King, was present for the discussion as well as to provide input on the revised plan.

The Commission will re-enter regular session following the closure of the Executive Session.

The Coordinator updated the Commission on the results of the pre-hearing conference held at DEP Wilmington on Jan. 9, 2014. Town Counsel Paul Kenny and the Coordinator attended on behalf of the Conservation Commission.

The adjudicatory proceedings were in response to an appeal by Madison Place, LLC of DEP's superseding Order of Conditions denying the development of the 56-unit townhouse development off Landham Road. This development is a Chapter 40B affordable rental housing development. The project includes the alteration of wetlands for crossing a perennial stream and associated bordering vegetated wetland (bvwm). Much of the original development would occur within 10' +/- of the bvwm and will isolate one vernal pool from a direct, unaltered connection to the upland areas. The Commission issued an Order of Conditions (OOC) approving the development, however the OOC contained very stringent conditions requiring greater setbacks to bvwm and replication of one vernal pool. Essentially, the DEP and the SCC's Orders required the same changes, only the DEP preferred to use the mechanism of a denial rather than an approval with many conditions.

The revised plans have significantly reduced the footprint of the development and created a much larger undisturbed area near the vernal pools. All undisturbed areas will be permanently protected. The 56 units of townhouses has been revised to be 60 units in 3-story apartment-style buildings. There will also be 8 townhouse units located two buildings in the field area along Landham Road. Most of the apartment-style units have one bedroom, allowing the developer to eliminate the need for the on-site wastewater treatment facility. The septic system will be sized for 9,980 gpd (gallons per day) which is 20 gpd below the state requirements for a treatment facility.

The wetland replication area has been relocated to be in closer proximity to the development area of the site for the purpose of maintaining the undisturbed woodland habitat.

The use of porous pavement has been eliminated and drainage will be handled through the use of subsurface infiltration structures. A drainage report was included with the revised plans.

The Commission reviewed the plans and offers the following comments to be submitted to the hearing officer for consideration at the Feb. 11 conference call of all parties.

1. A limit of lawn should be added to the plans;
2. The standard conditions in the SCC Order should be included (no use of sodium-based deicing chemicals, no herbicides or pesticides due to proximity to vernal pools, etc);

**Executive Session: Discussion and Comments to DEP on the Johnson Farm Revised Plans**

Page 2

3. All areas beyond the limit of disturbance should be placed within a perpetuity conservation restriction or gifted to the Town of Sudbury for conservation purposes in accordance with M.G.L. Chapter 40 section 8C. If the Conservation Restriction is used, the restriction should limit public access in the more sensitive areas of the site;
4. The drainage calculations should be peer reviewed by a DEP hydrology/stormwater expert;
5. A denitrification component should be added to the septic system. It is known from the information presented at the hearing that the direction of ground water flow is in a generally westerly direction. With a system at the maximum size for a Title V system, the project should address additional nitrogen loading to the ultimate receiving waters.

In conclusion, the Commission believes that with the proposed revisions to the plans, the development will have no significant adverse impact on wetland values and functions as determined by the performance standards of the Wetlands Protection Act.

By roll call vote the Commission voted unanimously in favor of adjourning Executive Session and resuming regular session,

At the conclusion of the Johnson Farm discussion in Executive Session, the Commission will vote to re-enter regular session.

**WPA & Bylaw Notice of Intent (continued): 163/183 Boston Post Rd., NStar Substation Expansion**

Present: Beverly Schultz, Michael Zylich, and Kevin McCune of NStar; Marc Bergeron, Craig Lizotte and David Halliwell of VHB, Inc.; Brian Butler of Oxbow Associates; Fred King, Stormwater Peer Reviewer for the Commission

Chairman Topham noted that Selectmen Len Simon was in the audience. As this was a continuation of the hearing, he requested the applicant give a brief overview of the project for Mr. Simon's benefit so he could follow the issues this evening.

Following Mr. Halliwell's recap of the project, Mr. King reviewed the report he had submitted to the Commission earlier today. The report stated that he was in agreement with the revisions in the new information. His report suggested a number of items to be included in the Order of Conditions. He explained that the VHB engineers addressed the issue of peak flows by increasing the time of concentration by using a longer flow path. This routed the flow of runoff through the wetland replication area. There will be no detention or storage of runoff within the replication area. He added that the additional runoff should help with establishment of the plantings.

D. Dineen raised concerns that the runoff flow could contain herbicides or pesticides. To route this runoff into the wetland replication area could cause a negative impact to the obligate vernal pool breeders as the replication area is also being set up to encourage migration through this area. Kevin McCune replied that NSTAR uses a foliar herbicide spray as approved by the state. He noted that the Natural Heritage and Endangered Species Program analyst did not have an issue with the herbicide use. D. Dineen questioned if the analyst was aware that the runoff would flow to the area intended as a migratory corridor. McCune was not clear if the NHESP analyst was specifically aware of that fact. The Commission directed D. Dineen to follow up with NHESP to determine if their decision on herbicides was made with the specific knowledge of the creation of the migration corridor. B. Butler noted that the migration time of March 15 – April 21 is not a time that it would be likely NStar would be spraying herbicides

D. Dineen reviewed a list of questions and comments for inclusion in the Order for Commission discussion and approval.

Discussion Items and OOC Conditions:

- OOC to be performance based
- Site stabilization measures should not include wood chips.
- Contractor to provide final construction sequence to SCC
- Final SWPPP to be reviewed and approved by SCC prior to start of construction
- Dependent on NHESP response, of use of herbicides or pesticides within the wetland replication/migration corridor areas west (primary) and east (secondary). Revision to 2013 – 2017 and later VMPs to include this requirement
- Drainage routing through wetland replication area OK
- Alarms for hazardous/toxic chemical containment areas - yes
- Barrier construction timing and methods for work during breeding/migration seasons
- Monitoring of invasive plant regeneration over the course of the OOC (3 years at least) discuss invasive monitoring to continue in COC
- Disposal method of invasive plants; timing of removal (before seeds form)
- What is the Facility Control Plan Contingency Plan? Spill history at the site? – 2 spills 100% contained.
- Disposal of old tower wooden supports? Removal of treated wood stockpiled poles from site?
- SCC Wetland Monitor FK to give input on # hours, when, and how long

- Source of the soil amendments for wetland replication area
- Depth to groundwater in the wetland replication area?
- Transplanted native plants from area to be disturbed to wet rep area OK if bare root- NStar would prefer to purchase new plants for the 1 year guarantee
- All plants must be thriving at time of COC
- Wetland replication area will be full sun? If so, clethra OK in full sun? winterberry, elderberry, blueberry (hb) also OK to add for food value – B. Butler- clethra is OK
- Env. Monitor to provide status reports of wet rep area 2 x/year minimum
- Bond for wet rep area? Commission agreed not to bond
- Removal and disposal of erosion control and migration barriers requires site and approval of SCC of designee prior, including wet rep area. Timing of wet rep area completion should allow for flow of water into area
- Timber mats are likely to attract migrating amphibians and reptiles. Monitoring under mats possible? Area will be fenced off with erosion control.
- Approval required for plant substitutions by SCC Env. Monitor or other SCC designee
- Irrigation and pruning – no in ground irrigation; why pruning? – just on the new plants
- Site prep work, especially the wetland replication area should not be done during migration – will be fenced off
- 30 sq. ft. inventory plots not necessary – OK with Commission
- Survival density of the wet rep area must be > 90%
- Where will swamp mats be cleaned? Contained debris – off site or onto large contained tarps for removal and proposer seed disposal
- Snow removal and stockpile areas designated?

Chairman Topham asked if Selectmen Simon, as the member of the public, had any questions. Mr. Simon confirmed some of the information stated in the discussions. He stated that it appears the Commission was giving NStar waivers to the wetland laws. D. Dineen clarified that NStar, as a utility, was not subject to all the performance standards that other developments must meet. No waivers are being given and the Commission does not have the ability to grant waivers. Mr. Simon remarked that he was unclear on how the process really works.

On a motion by G. Topham; 2<sup>nd</sup> R. Elkind; the Commission voted unanimously in favor of closing the hearing.

On a motion by G. Topham; 2<sup>nd</sup> by R. Elkind; the Commission voted unanimously in favor of issuing the Order as discussed in the hearings.

### **Minutes**

On a motion by G. Topham; 2<sup>nd</sup> T. Friedlander, the Commission voted unanimously in favor of approving the Minutes of 1/6/2014 as drafted.

### **Discussion: Spring Adult Ed Walks**

The Coordinator advised the Commission that LS Adult Ed is seeking to include spring conservation land walks lead by the Commission or designee as part of their spring adult education programs. The Coordinator noted that the Commissioners who have participated in leading the walks are no longer on the Commission. Current Commissioners R. Elkind and G. Topham are available to lead walks on Friday mornings due to their work schedules. Other Commissioners did not feel confident that they had the knowledge to lead the walks. However,

Sharon Rizzo volunteered to lead a geology walk at Haynes Meadow conservation land and on the Water District public trails behind Curtis Middle School.

The Coordinator will contact Associate Member and former Commissioner Dick Bell to see if he might be interested in leading a walk. Commissioners agreed that the walks are an opportunity for the Commission to interact with the public in a non-regulatory role. If possible, the walks should be held.

#### **2014 Town Meeting Warrant Articles for Revolving Funds**

Commissioners reviewed and signed the Warrant Articles, provided by Elaine Jones of Town Counsel's office, for the wetland fees and the trail maintenance funds revolving accounts.

#### **Certificate of Compliance: 79 Lincoln Lane**

On a motion by G. Topham; 2<sup>nd</sup> T. Friedlander; the Commission voted unanimously in favor of issuing the COC for 79 Lincoln Lane as construction never commenced.

#### **Ratification and Vote of 12/2/2013 discussion re: MEPA EENF Mass Central Rail Trail-Wayside Branch**

On a motion by B. Armstrong; 2<sup>nd</sup> T. Friedlander, the Commission voted in favor of ratifying the discussion held on Dec. 2, 2013 on comments to MEPA for the MA Central Rail Trail Wayside Branch. R. Elkind and S. Rizzo abstaining as they were not present at the Dec. 2 meeting. The discussion on Dec. 2 was not listed on the published agenda. The discussion was held due to a last minute cancellation of a public hearing. Commissioners agreed during this discussion that they would like to see MEPA require a full Environmental Impact Report required.

The intent of the vote tonight is to ratify that discussion with a vote as originally scheduled on Dec. 16. The Commission was unable to achieve a quorum on Dec. 16 and comments were due to MEPA on Dec. 20. The Chairman approved a letter to MEPA per the Commission's discussion in order to meet the MEPA deadline.

Although it is a moot point at this time due to the MEPA decision being issued, for the record, the Commission now ratifies the Dec. 2 discussion formally through this vote.

The meeting adjourned at approximately 9:05pm.

