

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Monday, June 6, 2016**

Present: Tom Friedlander, Chairman; Beth Armstrong; Vice-Chairman; Bruce Porter; Dave Henkels; Charlie Russo (6:50 arrival); Debbie Dineen, Coordinator  
Absent: Rob Elkind; Mark Sevier

**Minutes**

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of approving the minutes of May 16, 2016

**Signatures:**

**Enforcement Order/Notice of Violation 56 Cudworth Lane**

Commissioners signed the Enforcement Order in duplicate (one for recording) for 56 Cudworth Lane. Voted 5/16/2016

**Order of Conditions: 25 Union Ave.**

Commissioners signed the Order of Conditions for work at 25 Union Avenue. Voted 5/16/2016

**Certificate of Compliance: 54 Moore Rd.**

Present: Megan chambers & Bruce Nifong; property owners

D. Dineen presented photographs of the current condition of the property to the Commission. She reported that the site was well stabilized with no evidence of erosion toward the streams of the pond. The Commission is in receipt of a letter, signed and stamped by the contractor, indicated that the additions were constructed in accordance with the approved plan.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of issuing the COC.

**Town-wide Mailing of Wetland Permitting Information**

D. Dineen reported that the Town Manager has indicated she can find \$2000 left over in her FY2016 budget to fund \$2000 for the town-wide mailing for public education of wetland permitting requirements. B. Porter cited an example where posting of educational information in the Hop Brook conservation land has resulted in a cessation of illegal wetland alteration.

**Discussion:** Should the Commission communicate to other boards on issues outside of immediate wetland jurisdiction? If so, would the Commission request ZBA ask for a ground water flow plan for Sudbury Station to determine direction of groundwater flow towards wetlands and other sensitive environmental receptors, and comment on re-zoning issues related to the Route 20 redevelopment?

In response to a request from Mr. Hornstein, the Commission agreed to discuss their position on comment on areas outside their immediate wetland regulatory jurisdiction. D. Dineen had provided copies of a court decision that had been provided to her by William Henchy, attorney for Sudbury Station after he read the agenda for tonight. He is unable to be present but wanted the Commission to be aware of this court case as it relates to information ZBA can receive from other boards. The court case limits the information that ZBA can require to information that the non-40B regulatory authority can require as part of their review. In the case of Sudbury Station, under the Commission's regulatory

authority it appears you cannot require groundwater flow information due to your very limited jurisdiction on the site. Therefore, ZBA cannot require a groundwater flow investigation as the 40B permitting authority for the wetland bylaw. B. Armstrong noted that there may be other court cases with different outcomes, however there is nothing that stops a commission or board from requesting, not requiring, the information.

D. Dineen has also provided Commissioners with a copy of the Conservation Commission Act, M. G. I. Chapter 40 section 8C, and the Commission's Mission statement. Both indicate a broad mission to protect the natural resources of the town. They do not grant regulatory authority beyond that in the local and state wetlands laws.

At this point, the discussion was suspended due to timing of hearings. The discussion was continued following the completion of several other timed business items.

The commission restarted the discussion by weighing whether or not they would support the Rt. 20 zoning change for National Development and Avalon Bay.

D. Dineen noted the plan for the redevelopment seems to be the best alternative for realistic upgrades to waste water disposal and stormwater. Steve Senna added that the waste water treatment plant will have a dual redundancy and includes technological and fundamental design upgrades over the current system. Two acres of pervious surface will be reclaimed on the site.

B. Armstrong saw no harm in the Commission supporting environmental protection within the broad scope of the SCC mission. She would like to be as cooperative as possible with other boards. She added that she felt it was a missed opportunity on the part of the Commission not to have the proposed Town Meeting zoning changes presented to the Commission. B. Porter agreed that working cooperatively should be a priority.

On a motion by B. Armstrong; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of supporting the proposed Rt. 20 zoning changes. C. Russo abstaining

The discussion continued to allow commenting on whether or not the SCC should make recommendations to the ZBA on Sudbury Station. B. Armstrong felt the Commission could assist ZBA in understanding the environmental issues of the site. D. Henkels felt that SCC and ZBA had a common case as far as protection of environmental resources in 40B projects.

B. Armstrong motioned to request ZBA to consider asking the applicant at Sudbury Station to provide a groundwater flow analysis of the site to determine direction of groundwater flow. D. Henkels 2<sup>nd</sup>; Motion passed. T. Friedlander opposed. Commissioners added that the direction of groundwater flow may effect wetlands and that is the reason for requesting and the support of a study.

#### **WPA & Bylaw Notice of Intent: 20 Dorothy Rd.; restoration of area cut without a permit**

Present: David Burke on behalf of applicants

Mr. Burke presented a plan for the restoration of an area of bordering vegetated wetland, riverfront, and/or floodplain associated with the Run Brook. This plan and NOI are in response to a Notice of Violation/Enforcement Order. Approximately 46 glossy buckthorn and 2 native trees have been cut down to expand the backyard. About 24" of each plant was left on site. This will make it easier for further removal of the invasive buckthorn with a small track machine. The entire area will be replanted with native shrubs. The southern driveway to the house will be eliminated and lawn expanded into this area to reduce overall impervious surface in the riverfront area on the site by approximately 1200 sq. ft. One deck will be removed and a 22' x 8' elevated deck will be added to the south side of the house which is the side farthest from Run Brook. The deck will be constructed to allow

water to pass through. The small area of lawn between the rear of the house and the bottom of the slope to the wetlands will be aerated and restored to prevent further erosion of the slope.

A revised planting plan was received earlier today showing the elimination of the two non-native species (hydrangea and fringe tree) and replacing them with native plants.

D. Dineen suggested the Order contain a condition for an Environmental Monitor (EM) to oversee the additional invasive species removal, the replanting, monitoring of growth, and continued removal of invasive plants should they appear. Timeframes should be included in the Order with replanting completed at the end of June. Work can begin immediately under the NOV/EO.

On a motion by B. Armstrong; 2<sup>nd</sup> D. Henkels; the commission voted unanimously in favor of closing the hearing.

On a motion by C. Russo; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of issuing the Order as discussed.

**WPA & Bylaw ANRAD (cont.): 999 Concord Rd.;** P. Duggan, applicant

In response for a request to continue to allow the Commission's peer reviewer to complete the assessment of the extensive wetland delineation, the Commission voted unanimously in favor of continuing to June 20.

**WPA & Bylaw Notice of Intent (cont.): 72 Wagonwheel Rd.; house addition; Linda Miller**

Present: Mark Arnold of Goddard Consulting, LLC; applicants Mr. & Mrs. Miller

A site inspection was held on May 19 and attended by T. Friedlander, B. Porter, D. Henkels, D. Dineen, M. Arnold and Mr. Miller.

Mr. Arnold presented a plan for an addition to an existing single-family house built prior to 1996. The property contains riverfront, bordering vegetated wetland, and adjacent upland resource area. Most of the addition will be located on existing lawn area. The existing screen porch will be removed and rebuilt on the side of the new addition. The alternative analysis indicated options for re-siting the addition further from the resource area do not exist due to septic and zoning setback constraints. Not constructing the addition will not achieve the applicant's goal of providing grater one-level living. Mitigation in accordance with 10.58(g) has been provided to the extent possible to achieve a 2:1 mitigation. In the area closest to the stream (Landham Brook), lawn is being converted to an area of native shrubs, leaving a 10' area for access around the house for emergency purposes.

In addition to the native shrub planting area, the applicants are proposing to fund the purchase of and grease/gas trap hood for DPW installation in the catch basin at the end of the Wagon Wheel cul-de-sac, adjacent to this property. An invasive species removal plan for the area to the left of the driveway includes hand removal of invasive shrubs, mostly winged-euyonemous, replanting of native shrubs, and monitoring of the growth of the native shrub planting throughout the site. A recharge trench for runoff from the driveway will be installed.

D. Dineen noted that the bylaw mitigation requirements have been met and although they are not direct quantitative mitigation they meet the intent of the bylaw for qualitative mitigation measures. The DPW Director has approved the grease/gas hood and will install. B. Porter confirmed that a stone apron for roof runoff is part of the plan. D. Henkels noted his opinion that the plan had an overall benefit to the wetland.

Sab Merra, abutter on the other side of the stream at 111 Woodside Rd., questioned the size of the addition. Mr. Arnold stated that the addition is 1,125 sq. ft.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the commission voted unanimously in favor of closing the hearing.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter, the Commission voted unanimously in favor of issuing the Order as discussed.

**WPA & Bylaw Request for Determination of Applicability: SVT wet meadow restoration, Wolbach Rd.**

Present: Laura Mattei, SVT; Jesse Klein, SVT Americorp

Ms. Mattei presented a plan for creating diversity for native pollinators in the wet meadow on the SVT Wolbach Farm headquarters land. Solar blankets have been placed in two areas to kill vegetation. The areas will be rototilled and replanted with native plants. Other areas of planting include a wetland swale area where purple loosestrife was dug out last year, and 8 circular areas.

D. Dineen explained that the project was submitted as an RDA. A negative Determination is not a DEP WPA option for work within wetland resource area. She believes the project is a good one and should be permitted, however the WPA does not allow it under the RDA provision for the areas within a wetland. The RDA form indicated that the project could be a limited project 10.53 for resource enhancement. To qualify for the limited project provision, a Notice of Intent must be submitted.

C. Russo felt the Commission should cooperate with SVT. D. Henkels asked how much time would it take to file the NOI.

Ms. Mattei explained that there is an existing Determination from last year that permitted the digging of the loosestrife plants. This Determination noted that native plantings would be planted where the loosestrife was dug if funding permitted. Commissioners agreed that the scope of the project has now expanded to include the solarization blankets and rototilling. This is beyond the scope of the original Determination. They agreed that any work outside a wetland resource area or within the swale where the loosestrife was dug last year could be done under the existing Determination as long as solarization and rototilling was not part of the project in those areas. Any other work would need to be permitted through a Notice of Intent.

Ms. Mattei stated that a soils class is to be held on the property next week. They will be able to determine the extent of the wet meadow at that time.

On a motion by B. Porter; 2<sup>nd</sup> B. Armstrong; the Commission voted to approve a negative Determination for the replanting outside the wetland areas. The extent of wet meadow is to be determined as part of the soils class.

**Discussion: Hop Brook Protection Association Pond Dredging**

Present: Frank Lyons, Ursula Lyons, John Edward, Ron Riggert, Nick Santangelo of Hop Brook Protection Association, Mary Kay xxxx, and Mary Abbrizio of the Ponds and Waterways Committee

Mr. Lyons informed the Commission that the HBPA has been successful in lowering the rate of phosphorous discharged into the Hop Brook from .75 mg/l to .01mg/l. Harvesting of excessive native plant growth and invasive water chestnut has been on going in Carding Mill pond for over a decade, Stearn's Mill pond for two years, and Grist Mill pond since last year. The harvesting costs \$45,000 for three years. Nutrients remain in the sediments of these ponds. Water chestnut seeds remain viable for many years. Excess nutrient-rich aquatic plants deplete oxygen and often result in fish kills.

It has been determined that 275,00- c. ft. of sediment needs to be dredged from Carding Mill pond. They would like to dredge Carding Mill; Grist Mill and Stearn's Mill pond. The cost for all three ponds is estimated at \$6 - \$8 million, with Carding Mill alone at \$3.2 million for dredging by a private

company. HPBA is investigating the purchase of a hydraulic dredge for \$300,000 - \$500,000 which could then be sold to recover much of the cost of purchase. Design and permitting is estimated to be \$75,000 and sampling and analyses at \$25,000.

In response to B. Porter, Mr. Lyons stated that the only other option was to continue to harvest the ponds indefinitely.

C. Russo questioned if the sediment would first be sampled for hazardous materials. Mr. Lyons confirmed this would occur.

T. Friedlander questioned how realistic it was for the project to be considered at this time with town funds being low. B. Porter noted that there not dredging would result in a price paid on the pond biology.

D. Dineen questioned the order in which the ponds would be dredged as the harvesting is not done sequentially. Mr. Lyons replied that the ponds would be dredged sequentially from west to east. d. Henkels questioned if any ponds nearby Hop Brook would be considered for dredging at the same time as this project.

The representative from the PWC stated that although no vote had been take yet by PWC for support of the project, it has been discussed positively.

On a motion by C. Russo; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor of supporting dredging of the ponds. B. Porter agreed to attend the Board of Selectmen's meeting as the SCC representative when HBPA goes in front of the BOS.

**Orders of Conditions: Review draft for Vote/Signature: Meadow Walk Sudbury Grocery store,**  
drainage, utilities

Present: Steve Senna, BPR Development, LLC

Commissioners viewed the draft OOC provided before the meeting to SCC and Mr. Senna. C. Russo suggested including a condition relative to snow storage and questioned if there were conditions that could be place don't he project to further reduce the use of fertilizers and deicing chemicals. He also questioned if fencing should be provided to prevent vehicles from parking on grassed areas.

Mr. Senna stated that the property would be monitored and any vehicle illegally parked will be towed. He added that the wastewater treatment plant will be expanded and significantly upgraded to include phosphorous removal.

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of accepting the order as drafted and amended by discussion.

**Open RFPs for Licensing of two Conservation Agricultural parcels**

Only one RFP was received for use of 3 or the 4 acres at the Carding Mill Pond field on Dutton Road. Mr. Lenny Rodriquez offered \$50 per acre for the growing of vegetable crops. The Commission will entertain a license for a term of one year with a one- year renewal option. Mr. Rodriquez must acknowledge that there is no water source on the property and only organic methods of farming will be permitted in the License Agreement.

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor accepting the RFP with the terms of the discussion to be included in the License Agreement.

**Discussion: Mosquito Squad, Mosquito Ranger and other mosquito spraying private businesses**

D. Dineen informed the Commission that private companies and landscapers are now spraying two formulas of mosquito spray on private property. This includes the use of pesticides in wetlands. One formula is purported to be all natural with a peppermint base and the other is a controlled chemical. None of these companies have permits to spraying wetland or upland regulated areas. She has discussed this with the Board of Health Director who is concerned and he will be discussing this use with the Board of Health.

D. Dineen will report back to the Commission after further investigation.

**Update: DCR Forest Cutting Plan Workshop:**

D. Henkels & D. Dineen attended a workshop by the state Dept. of Conservation and Recreation (DCR) in Springfield last week. The DCR representatives informed those at the workshop of a forestry exemption in the state wetland regulations that permit tree removal on private property without a wetland permit provided the tree is reused on site as lumber, wood chips, firewood etc. There are limitations on the amount of trees removed, however these trees can be removed within wetland and buffer zone resource areas without a permit.

More research and a town counsel opinion may be necessary to interpret how this applies under the local wetlands bylaw.

**Set Summer Schedule**

Commission meetings were scheduled for June 20, July 11, July 25 (tentatively as needed) and August 8.

**River Stewardship Council: Request for Alternate Member**

B. Armstrong volunteered to be an alternative member to the River Stewardship Council.

The meeting was adjourned at 9:20pm. Motion by D. Henkels; 2<sup>nd</sup> C. Russo