

**SUDBURY CONSERVATION COMMISSION**  
**Minutes of the Meeting Held Tuesday, August 30, 2016**

Present: Tom Friedlander, Chairman; Beth Armstrong, Vice-Chairman; Mark Sevier; Dave Henkels; Bruce Porter (6:36 arrival); Charlie Russo (6:42 arrival)

**Discussion with Town Counsel: re: Recording of Enforcement Orders**

Present: George Pucci, Kopelman & Page

Atty. Pucci advised the Commission that under the Wetlands Protection Act there is no authorization for recording Enforcement Orders. He stated it was analogous to a cloud on the title. An option would be for the Commission to obtain a lis pendens through the Court for injunctive relief. He added that the scope of the violation should be worthwhile to go through the time and effort necessary.

The Commission questioned the advisability of recording a Notice of Violation under the local wetland bylaw where the wording of the bylaw gives the Commission specific jurisdiction to do so. Atty. Pucci stated he will need to review the exact wording of the bylaw and report back to the Commission.

T. Friedlander asked if there are other vehicles available to the Commission to achieve compliance and/or notify potential buyers of property if a property with a violation is for sale. he suggested including a condition the Order of Conditions giving the Commission the right to record. Atty. stated that the Commission is not authorized to do so under the WPA. He will review the Bylaw wording in this regard.

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo, the Commission voted unanimously by roll call vote to enter Executive Session for a discussion with Town Counsel George Pucci regarding strategy for response to request for court action on the 0 Washington Drive denial of Certificates of Compliance.

On a motion by B. Armstrong; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously by roll call vote to reconvene in Regular Session (7:35pm).

**Vote: on Enforcement Order Issuance for 0 Washington Drive**

The Commission tabled this action until after the Settlement Meeting scheduled for Sept. 14, 2016. It will be brought back on the Sept. 26 agenda.

**Violation Follow Up:**

T. Friedlander stated that the Commission is obligated to have homeowners and developers respect and comply with the WPA and wetlands bylaw. Tickets are a method to seek compliance.

**197 Old Sudbury Rd.**

An Enforcement Order was issued on July 21, 2016. The NOI was due Aug. 8 and has not been received as of 8/30. There has been no word from the property owner since July 25, 2016 on their receipt of the violation in late July. B. Armstrong suggested a ticket should be issued to move them toward compliance. D. Dineen suggested waiting to see if an NOI was in progress and the delay was not fault of the property owner. Commissioners felt that if that was the case they could have notified the Commission.

On a motion by B. Porter; 2<sup>nd</sup> B. Armstrong; the Commission voted in favor of issuing a ticket. C. Russo opposed. M. Sevier abstained. Motion passed.

### **Discussion: Land Stewardship Activities and Review of Revised Priority List**

#### **Funding for Nobscot/Tipling Rock work**

The Commission reviewed the updated Land Stewardship Priority List for consideration of a request for possible funding from National Development and Avalon Sudbury for enhancements at the Nobscot and Tipling Rock Trail conservation lands. Both of these properties are within walking distance of the new developments.

D. Dineen recommend the repair of the trail uphill from the parking lot at Nobscot conservation land on Brimstone Lane. Old wooden steps are deteriorating and present a safety issue. The steps can be removed, the area re-stabilized, and the trail relocated to a switchback pattern to reduce future erosion. C. Russo mentioned that the old apple orchard is overgrown.

#### **Deer Hunting 2016**

D. Dineen informed the Commission that deer hunting season begins in mid-October. She did not feel that office staff had the time available this year to add any new hunters to the program as the protocol calls for advertising, interviewing and proficiency testing. This can be very time consuming. She recommended continuing the program for 2016 with the returning hunters from last year.

C. Russo mentioned that the Blue Hills was allowing deer hunting this year. He asked if the Commission wanted to consider expanding the program into the Landham Brook Marsh conservation land as was discussed last year. The Commission felt they could revisit LBM depending on the number of openings from last year.

On a motion by C. Russo; 2<sup>nd</sup> D. henkels; the Commission voted unanimously in favor of continuing the deer hunting program for 2016 as discussed.

### **Discussion: Review Meeting Introduction Draft Handouts for developing a final version**

Commissioners discussed several draft versions of the Conservation Commission Protocol. This document is to be handed out at meetings to the public and presenters to promote the rules and provide guidance for the meeting. B. Porter had drafted an alternate version. B. Armstrong noted that his version was an alternative and abbreviated. Commissioners decided to stay with the current version drafted by K. Roopenian and T. Friedlander.

### **Unforeseen Last Minute Items**

Chairman Friedlander allowed discussion of two items not on the agenda as they are eligible to be discussed tonight due to the fact that they were unforeseen and are time sensitive for wetland protection.

#### **Wayside Inn Emergency Certification**

D. Dineen reported that she was at the Wayside Inn today for a meeting on soil testing. Steve Pickford, the Innkeeper, asked her to look at a situation on Hop Brook where the brook flows in front of the Grist Mill. Two areas of banking of the brook have sluffed-off into the stream. It is more visible now due to the extremely low flow in the brook. Channel reinforcement is necessary to keep more of the lawn area around the brook from eroding into the stream and creating a dangerous situation in front of the Grist Mill. In one area, the roots of several very tall mature white pines have been exposed down the banking. The bank will be reinforced with large rocks at the stress points on the curves of the channel as is now in place in other areas along the brook by the Grist Mill. She shared photos of the

situation. She recommended issuing an Emergency Certification for the work so it can be done soon to eliminate the dangerous situation, save the abutting trees, and perform the work at a time of low flow.

C. Russo added that he would like to have a 24-hour notice for the work and a Conservation commission inspection at the conclusion. Steps should be taken to prevent sedimentation downstream and no equipment should be permitted in the channel.

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

#### Vote to issue NOV 201 Peakham Rd.- tree removal

D. Dineen had noticed tree being removed t 201 Peakham Road on her way to the Wayside Inn. D. Henkels went to 201 Peakham and stopped the work as the work was within wetland jurisdiction. he permitted the removal of the one tree that was in process of being taken down. He added that A1 Tree Company out of Framingham was cooperative.

C. Russo suggested sending the wetland bylaws and the homeowner's brochure to the property owners and the tree company and requiring the submission of a Request for Determination of Applicability (RDA) for after-the-fact tree removal and the removal of the remaining trees the homeowners were planning on removing. a replanting plan should be submitted with the RDA.

B. Porter motioned to require the RDA; 2<sup>nd</sup> C. Russo; unanimous in favor.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously to adjourn the meeting.  
8:15pm