

***SUDBURY CONSERVATION COMMISSION***  
**Minutes of the Meeting Held Monday, Sept. 26, 2016**

Present: Tom Friedlander, Chairman; Beth Armstrong, Vice-Chairman; Bruce Porter; Dave Henkels; Charlie Russo; Debbie Dineen, Coordinator

**Minutes**

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously to accept the Minutes of Aug. 30, 2016 Executive Session (not to be released publically at this time), as drafted.

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously to accept the Minutes of Sept. 12, 2016 as drafted.

**Landham Brook Marsh Management Plan Review and Vote**

Present: Dan Stimson, Sudbury Valley Trustees (SVT)

The Commission reviewed the Plan as drafted by D. Stimson and edited by D. Dineen. D. Dineen suggested including listing a culvert upgrade as a management task. Commissioners decided to leave in the management options for the agricultural field although they had previously agreed to manage the field for wildlife habitat, especially birds, at this time.

A gas pipeline is located on the property. D. Dineen asked SVT if they had any suggestions for dealing with the gas company's pipeline maintenance as SVT deals with this in the Memorial Forest. They did not.

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo, the Commission voted unanimously to accept the Plan as amended.

**Landham Brook Marsh Conservation Restriction**

Present: Christa Collins

The Commission reviewed the draft Conservation Restriction (CR) with comments through July 25, 2016. the previous version was reviewed, but not voted, on Nov. 30, 2015. C. Collins stated that she will go back to the state one more time for comments.

Commissioners agreed to keep the reference to agriculture in the Grantor's clause and leave in the reference to drinking water protection. The section on "Notice and Approval" was amended to read only "Notice" so not approval of SVT is required should the Town decide the sell the property. The property would be sold with the CR in place. It was agreed to not list specific passive recreational uses but just refer broadly to passive uses.

D. Dineen recommended that the Extinguishment section dealing with the allocation of proceeds require SVT to use any recovered proceeds raised in the town of Sudbury to go back into the Town of Sudbury. C. Collins stated that SVT should not be told what to do with their share of the proceeds. C. Collins stated that SVT had the ability to track who the donors are and where they reside. C. Russo did not feel it was necessary for the funds to be reinvested within Sudbury. D. Henkels disagreed.

C. Collins stated that the Commission has already voted on this issue. D. Dineen clarified that the Commission discussed it previously but did not take a vote.

On a motion by C. Russo; 2<sup>nd</sup> B. Porter; the Commission voted to accept the Landham Brook Marsh Conservation Restriction draft dated July 22, 2016 with comments through July 25, 2016 and as amended by the discussion tonight.

**WPA & Bylaw Request for Determination: 189 Boston Post Rd., Coolidge at Sudbury** Covenant Commonwealth Corp., applicant

Present: Rich Kirby, LEC Environmental for the applicant; various representatives of the applicant

Mr. Kirby presented a plan for test pits and soil borings for exploratory and design purposes within 100' of the wetland for a proposed 40b project. a drill rig will be brought in on an ATV and attire-track backhoe will also be used. Machetes and chainsaws will be used on the saplings to be removed. they are not anticipating any tree removal. All holes will be backfilled, topsoil spread, and the areas seeded with a native seed mix.

On a motion by C. Russo; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of a negative Determination provided the access path is staked on site and the Commission notified prior to any clearing. the Commission will conduct a site visit to ensure that the extent of proposed disturbance is minimized to the greatest extent possible.

**WPA & Bylaw Request for Determination: Bridge Reconstruction in Gray Reservation, off Hudson Rd.;**

Sudbury Valley Trustees, applicant

Present: Stephen Kossuth, Eagle Scout Candidate

Mr. Kossuth presented his plan for the extension of the bridge and stabilization of the banks. Currently the banks are eroding and the bridge is being undermined. A tarp will be placed under the existing bridge during removal. Crowbars rather than saws will be used to minimize sawdust in the brook. Coir logs will be anchored to the bank to prevent further erosion. He anticipates the work will take one day on the site.

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

**WPA & Bylaw Request for Determination: 35 Robert Frost Rd.,**

Stacy Ladieu, applicant; swimming Pool construction

Continued without discussion to Oct. 24 for newspaper notification. Motion by D. Henkels; 2<sup>nd</sup> C. Russo; unanimous in favor

**WPA & Bylaw Abbreviated Notice of Resource Area Delineation: Proposed Bruce Freeman Rail Trail; Sudbury Office of Planning & Community Development, applicant;**

confirm wetland delineation along proposed rail trail

Present: Gene Crouch and Tracie Lenhardt of VHB; Beth Suedmeyer, Sudbury Environmental Planner for the Planning & Community Development Office; David Burke, wetland peer reviewer for the Sudbury Conservation Commission

Mr. Burke explained that he had reviewed all 75-1000 wetland flags along the abandoned railroad line from the concord line south the MBTA tracks. There are significant wetlands along much of the line consisting of bordering vegetated wetland, bordering land subject to flooding, riverfront, bank, isolated land subject to flooding, intermittent stream, pond, land under waterbody, and presumed vernal pools. He had just completed his site work last Friday afternoon so there is no final written report as yet. He stated that VHB did an excellent job on the delineation. He felt the delineation was

consistent, predictable, logical, and conservative in favor of the wetlands. He did not find any missed areas, minus the vernal pools which cannot be determined under the wetland bylaw at this point due to the low groundwater conditions. He added several flags and connected several flags to further refine the delineation. He noted a few vernal pools to be confirmed at a later date. he also noted that some of the isolated land subject to flooding areas could also function as vernal pools.

Mr. Burke stated that 15 – 20 wetland flags were found on the ground, however he felt the percentage of remaining flags was more than sufficient to determine the wetland boundaries. He noted a beaver dam just to the east of Hop Brook. He located culvert not shown on the plan. This culvert should be added in the area of wetland flag #36/209. He noted an area off Union Avenue where a stream appears to disappear under a building, heading east. he mentioned that this stream was flowing in spite of the drought conditions.

D. Dineen stated that it will be important to show the culvert at flag #6/209 as this will show the areas are connected and could affect the type of wetland delineated and the performance standards that may ultimately be required to be met.

- D. Burke noted several areas he wanted to revisit with the Commission and VHB. They include:
- a wetland just north of Windmill Drive at the Davis Farm conservation land;
  - an area just north of Rt. 117 and the delineation of bank in this area;
  - an area just north of the Maurer property where wetland flags may need to be connected;

He noted a recent man-made ditch off the end of Codman Lane. D. Dineen stated it was a violation that the Commission has worked with the owner to find an alternative to his flooding issues. He also noted the corner of Gerry Drive and Old Lancaster where it appears recent wetland alteration had occurred. D. Dineen confirmed that area previously held water.

Mr. Crouch confirmed that the VHB wetland scientist used soils to confirm his delineation.

In discussion with Mr. Crouch, D. Dineen confirmed that there were areas along the track where permission was not given to enter private property. She also confirmed that the Commission is being asked only to confirm bordering vegetated wetland and top of bank/mean annual high water at this time. Only perennial streams that had previously been determined to be perennial are included in this ANRAD. Perennial vs. intermittent cannot be determined at this time due to the declared drought. D. Burke added that not all vernal pools along the track are located within other wetland areas. He noted at least four vernal pools outside of other wetland areas even with the drought conditions. Mr. Crouch agreed that all wetland constraints are not going to be known with this partial ANRAD.

Dan DePompei, Hynes Road, stated that the 25% design contract required VHB look at one alternative. He questioned if the wetland along any alternative route had been included. Mr. Crouch stated they had not. The likely alternative route would be along Union Avenue where Mr. Crouch stated there will be wetland impact with a 10' wide bike trail with 2' shoulders on either side.

Melanie Weaver, Old Lancaster Road, stated that there is a stream behind the houses on Old Lancaster/Peakham that she believes is perennial.

Len Simon, Selectman, questioned if VHB saw any insurmountable obstacles at this point. Mr. Crouch stated that the 25% is at the very beginning and they will be looking at a design that will reduce the impacts to wetlands. He could not identify any insurmountable obstacles at this time. he further stated that there are a lot of wetlands and a lot of accompanying documentation that needs to be considered. He has seen on other projects that there are not always a lot of options to go off the rail bed alignment. he felt linear projects do not give much latitude. He added that this is a big project with a lot of wetlands. D. Burke will report a summary of the wetlands along the track.

Beth Suedmeyer of the Planning & Community Development Office for the applicant gave permission for the continuation of the hearing to Oct. 24 to review the areas in questions in the field.

On a motion by B. Porter; 2<sup>nd</sup> D. Henkels; the Commission agreed to continue the hearing to Oct. 24<sup>th</sup>.

**Violation Status:**

85 Ford Rd. - NOV Issued 7/21/16 waiting for SCC site inspection

3 Goodnow Rd.- NOV Issued 7/21/16 (most recent); Ticket Issued 9/14/16

Property owner contacted the office following receipt of the ticket to report the debris has been removed from the wetland

197 Old Sudbury Rd. - NOV issued 7/21/15; Ticket Issued 9/14/16. No NOI received. Property owner still stating they should not have to file even though their project will reestablish a hydraulic connection and is only 85' from the wetland across old Sudbury Road.

On a motion by D. Henkels; 2<sup>nd</sup> B. Porter; the Commission voted unanimously in favor in favor of issuing another \$100 ticket.

**Certificates of Compliance/Duplicate Originals/Signatures:**

- Approximately 10 COC's for old files for septic repair that have been approved by the Board of Health

On a motion by D. Henkels; 2<sup>nd</sup> B. Armstrong; the Commission voted unanimously in favor of issuing COCs to Orders for septic system repair where the Board of Health has signed off the repair was done in accordance with the approved plans.

- COC- Sudbury Village (work never commenced)

On a motion by D. Henkels; 2<sup>nd</sup> C. Russo; the Commission voted unanimously in favor is issuing the COC for "work never commenced" and the Order has expired.

**Reports from Commissioners/Staff on Meetings & Site Inspections Attended**

- Site Visit DEP appeal 0 Willis Rd. Sept. 21 10:30am

Site visit attended by D. henkels; B. Porter; D. Dineen; T. Friedlander. DEP wetland analyst was Pam Merrill. She had many questions as to why the applicant could/would not reduce the permanent limit of disturbance near the wetland.

- tree removal request at 51 Morse Rd.

D. Henkels visited the site this morning. He was concerned for the extent of work that could occur in the wetland/vernal pool. D. Dineen met with Mr. Shedd later in the day. Mr. Shedd confirmed that they would be winching the tree out of the wetland so the disturbance in the wetland could be minimized. Commissioners felt this scope of work was eligible for an Emergency Certification so the work can be done at the lowest possible water elevation and at the driest possible time. C. Russo suggested adding to the EC that tarps/plywood should be placed in the muck; manual tools only should be used below the drift line of the pool; and the Commission should be notified of any fuel or lubricant spills.

On a motion by B. Porter; 2<sup>nd</sup> D. Henkels; the Commission voted unanimously in favor of permitting the work under and Emergency Certification with the conditions stated by C. Russo, to reduce impact to the wetland.

**Executive Session:**

By roll call vote of unanimous yeas, the Commission voted to end regular session and enter into Executive Session for a discussion regarding strategy for response to request for court action on 0 Washington Drive denial of Certificates of Compliance & update an 9/14/16 settlement discussion.