

**Town of Foxborough  
Conservation Commission Minutes  
March 14, 2011**

**Members present:** Robert Boette (Chair), Allan Curtis (Vice Chair), Douglas Davis, Judith Johnson and Eric Nelson (Clerk)  
**Absent:** Harold Blomberg and James Marsh  
**Also present:** Jane Sears Pierce, Conservation Manager

**Meeting Opened**

Bob Boette opened the meeting, held in the Andrew A. Gala Jr. Meeting Room, at 7:00 p.m.

**Public Comment:**

Foxborough resident Lauren Bitar, 7 Mechanic Street, came to the meeting to reiterate her request to open Cocasset River Park to Foxborough residents and to again offer her assistance in this endeavor. She asked for an update on the status of her previous request to reopen the park. Allan Curtis explained that the park could not be reopened until the perimeter's fencing had been removed. Bob Boette added that there are current discussions going on about maintaining the fence because a number of residents do not want it taken down; negotiations are ongoing. Bob assured her that the Commission is working on it. Lauren said she check back with the Commission in a couple of months.

**Request for Determination, AMTRAK Right-of-Way,**

The Applicant's representative, Kyle Fair from TEC Associates, attended the meeting to discuss Amtrak's renewal of their vegetation management plan. Mr. Fair provided checks for the filing fee and legal notice fee.

He explained that in 2005, the Commission reviewed the wetland lines along Amtrak's right-of-way for the previous filing and a Determination was issued to allow Amtrak to conduct vegetation management activities in accordance with the Massachusetts Rights-of-Way Management Regulations (333 CMR 11.00) and Amtrak's Vegetation Management Plan (VMP). Every year, the Commission receives copies of Amtrak's Yearly Operational Plan (YOP).

Amtrak's VMP expired on December 31, 2010 and is now in the process of being renewed. Mr. Fair explained that in accordance with the WPA, Determinations issued for work that conforms to 333 CMR 11.00 are in effect for the life of the VMP. Maps were provided with the RFD, representing the locations of permanently marked setbacks prescribed by 333 CMR 11.00 (no spray is allowed within 10 feet of flowing or standing water). Mr. Fair stated that no wetland delineation changes are being proposed at this time and no work is being proposed in the wetland resource areas. He will have someone go out to review the markers before spraying.

**Motion** was made by Doug Davis to issue a Negative Determination (checking #5 and #6).  
Seconded by Allan Curtis. **Vote: 5:0:0**

**Continued ANRAD, DEP #157-496, 369 Central Street, Big Y Foods**

The applicant's representative, Bill Buckley from Bay Colony Group, attended the meeting to discuss the boundaries of all resource areas on the property. With the recent rains, Jane was able to visit the site during flooding conditions and then notified the applicant's representative, Briscoe Lang (PARE Corp.), that the area was flooding.

Jane stated that the stream (Robinson Brook) had flooded to the BVW line, adding that the recent rain event did not cause a particularly high flood. Briscoe added that he had checked a nearby gauging station, and agreed that the Mean Annual High Water Line (MAHW) should be modified. Bill advised that Jane and Briscoe will be confirming the map's delineation later in the week, and asked the Commission to continue the hearing to the next meeting on March 28.

**Motion** was made by Doug Davis to continue the hearing for DEP #157-496 to March 28, 2011 at 7:05 pm. Seconded by Allan Curtis. **Vote: 5:0:0**

### **Informal Review Re: 204 East Street**

The applicant's representative, Bill Buckley from Bay Colony Group, attended the meeting to ask for the Commission's informal guidance on a future project that would be proposed for 204 East Street.

Bill provided the Commission with large copies of his proposed plans. The landowner (Mr. Barbato) is moving forward with the next phase which would involve some type of development, with a few possible scenarios in mind. Mr. Barbato recently met with the Canoe River Aquifer Advisory Committee (CRAAC) to discuss possible funding for the purchase of part of the land.

Mr. Barbato's first preference would be to keep his small home with his own driveway, accessed across the cart path, and sell the rest of the land to a conservation organization as dedicated open space. His second preference would be to develop an open space subdivision, with 35% to 45% open space. The third would be a conventional subdivision (as shown on the distributed plan) to determine how many lots and to determine the property's value. The last couple of lots on the street sold for around \$150K. Bill admitted that "they really don't have access." Jane suggested considering other options, including conservation restrictions where they would lose some lots, but would gain some tax benefits.

The proposed development includes three parcels; a large parcel with Mr. Barbato's (junior) home, Mr. Barbato's (senior) house on a small lot and a third lot with most of the site's frontage on East Street. Bill stated that they want to avoid triggering waivers from WPA.

Mr. Barbato does not own the driveway, but shares it with the Hunts. For the new driveway across the cart path, they would use retaining walls to minimize wetland fill. Since the site is located in an ACEC, they are not allowed to fill any bordering vegetated wetlands.

The proposed conventional plan (which is needed to determine the number of possible lots), including the Barbato's' two homes has 13 lots; 11 lots without the two existing homes. Although two entrances are proposed in the conventional plan, they would prefer to have one entrance for a cluster subdivision. Bill stated that the Planning Board's 800 foot maximum length for a dead end road rule would be an issue, but added that in the past they have granted allowances when working in sensitive areas. Eric asked how deep the lot was; Bill said it was approximately 1,300 feet deep. Bill opined that the Town's Open Space Resident Development bylaw is a good bylaw as long as the numbers work. It allows for a reasonable lot density as well as open space through gifting, easements or restrictions.

Bob asked if they had been to the Planning Board yet; Bill B. replied "no," but he planned to go before the Planning Board next.

Judi reminded everyone that last year the river's flood waters actually ran across East Street and into the road's drainage basin, adding that the plan didn't show the floodplain going over the road. Bill stated that FEMA calculated the base flood elevation for this river. Judi stated that the area was very flashy and she believed that the road would be overtopped every three to four years. The culvert was old and unraveling, which would create a tentative situation if water was not able to go across the road.

Bob indicated that he would like to see a reduced number of lots, with reduced roads. Bill asked the Commission to think about their preference for the site's roadway configuration and offered to set up a site visit.

### **DEP #157-498, Lamson Road Water Treatment Facility, Order of Conditions**

**Motion** was made by Doug Davis to sign the Order of Conditions for DEP #157-498, Lamson Road. Seconded by Eric Nelson. **Vote: 5:0:0.**

### **January 24, 2011 Minutes**

**Motion** was made by Eric Nelson to accept the January 24, 2011 meeting minutes, as distributed. Seconded by Doug Davis. **Vote: 5:0:0.**

### **February 14, 2011 Minutes**

**Motion** was made by Eric Nelson to accept the February 14, 2011 meeting minutes, as distributed. Seconded by Allan Curtis. **Vote: 4:1(DD):0.**

### **Conservation Commission/Manager Goals & Objectives for Fiscal Years 2011-2012**

Jane asked the Commission to review the Commission's Goals and Objectives document that she had drafted, which she will be submitting to Kevin Paicos. The Commission did not have any comments or changes to the draft document and didn't think that a formal vote was needed.

### **Miscellaneous**

Jane informed the Commission that she had told Kevin that they wanted her to apply for the MACMAPP GIS grant and he told her to "go for it." She told the Commission that Kevin said that he would like them to become members of the MACC and that he would be willing to pay for this membership out of his budget.

Doug said that before he would give his approval (to become a MACC member), he wanted to know what the MACC's procedure is for providing Commissions with requested information and advice. He wants their Newsletter to include an article that provides an outline about how members are supposed to solicit MACC's help.

### **Farm Lease/License Update**

Jane spoke to Earl Ferguson who will keep working with the Department of Agriculture to obtain a license renewal for the Hersey Farm property. He has spoken to the contact at the department who stated the license would be sent out to the Commission, but they have not yet received it.

### **Vernal Pool Workshop**

Jane will hold a Vernal Pool Workshop this spring. Bob advised her to speak Chuck Drayton and/or Debbie Giardino about holding it at the recreation building on Mill Street.

### **Morse Street, Glue Factory Pond Dam/Spillway Discussion**

Bob met with Kevin Paicos concerning Bob Swanson's memorandum to reconsider the Commission's 8/2/10 Positive Determination regarding the proposed installation of two 5'x4'x6' tall concrete control structures with two 150 foot long, 24" underground pipes behind it, adjacent to the existing overflow sluiceway on the east side of Morse Street. At that time, Bob S. had explained that he had been working with FEMA to get them to share the cost of rebuilding/restoring the spillway, using Ch. 90 funds, to correct flooding issues on Morse Street.

In addition, the Town's consultant (ZBA) had recently issued their recommendation for the area, including the installation of additional or larger culverts between the two ponds, under Morse Street.

During their meeting with Kevin, he had told Bob that he would have an engineer he had worked with in the past contact Jane about the recommendations and the flooding issue.

Jane distributed a copy of the recently revised (3/1/11) Mass. River and Stream Crossing Standards' "Applying the Standards to Culvert Replacement Projects" to the Commission for their review. The Commission also reviewed the request to reconsider memo from Bob Swanson to Bob B.

Judi stated that the law did not allow the very elaborate work, as proposed (without the submission of a plan) to be performed without the filing of a Notice of Intent. The Commission agreed that they should not to change their previous Positive Determination.

#### **William Hocking Memorial Fund Update**

Donations in the amount of \$900 have been received to date.

#### **Washington Street, Sallie Property Memorial**

Judi J. asked the Commission to let the Garden Club know that the Commission was interested in participating in the memorial garden that they were proposing for Bill Hocking at the Sallie Conservation Property. Judy Leahy was asked to send a note to the Garden Club, to let them know that the Commission supports their efforts. Judi also asked Jane to send the Garden Club a copy of the State's list of invasive plant species.

#### **Meeting Adjourned**

**Motion** was made by Eric Nelson to adjourn. Seconded by Allan Curtis. **Vote: 5:0:0**

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Eric Nelson, Clerk

#### **List of Documents, Reviewed during Meeting**

1. For the wetland applications reviewed above, please see the Commission's files.
2. Conservation Manager's Report, 3/14/11
3. Memo from Bob Swanson to Bob Boette, asking to reconsider 8/2/10 positive determination
4. Revised (3/1/11) Massachusetts River and Stream Crossing Standards' "Applying the Standards to Culvert Replacement Projects"

Draft minutes taken by Judy Leahy  
Reviewed by Jane Pierce: 6/22/11  
Approved by Commission: 7/14/11