



EAST LONGMEADOW CONSERVATION COMMISSION

Wednesday, May 27, 2020

06:00 PM Eastern Time (US and Canada)

Zoom Webinar

MINUTES

Chair Craig Jernstrom opened the meeting at 6:08 PM and called the roll.

CALL THE ROLL

Present: Craig Jernstrom, Chair
 Tom O'Brien, Vice-Chair
 Jeffrey Bosworth, Clerk
 Frances Corgnati
 Erin Lynch- joined at 6:09 PM
 Anthony Zampiceni- joined at 6:10 PM

Staff Present: Bethany Yeo, Acting Planning & Community Development Director;
 Ryan Quimby, IT Director

APPROVAL OF MINUTES

May 13, 2020

Motion to continue to June 10, 2020 for further review made by Clerk Jeffrey Bosworth; second by Commissioner Frances Corgnati and approved unanimously by roll call vote five (5)-zero (0).

CERTIFICATE OF COMPLIANCE REQUESTS

- 1. CC 2020-10: Request for Certificate of Compliance for 112 Porter Road (Mass DEP # 150-201)—Request for Certificate of Compliance for 112 Porter Road (Assessor's Parcel ID 48-99-30). Applicant: Michael Torcia, 112 Porter Road, East Longmeadow, MA 01028.**

The Chair stated for the record that a letter from the engineer was in the file stating that the site complied with the Order of Conditions. The Chair stated he had no issue with the request. No further discussion was heard.

Motion to approve the Certificate of Compliance made by Clerk Jeffrey Bosworth; second by Commissioner Anthony Zampiceni and approved unanimously by roll call vote six (6) –zero (0).

OLD BUSINESS

- 2. WPA Enforcement Order #1: Hidden Ponds Estates Lots 19-20 (Mass DEP 150-0447) for violation by Al Joyce, Rose-Bud Builders, P.O. Box 79, East Longmeadow, MA 01028 for removal of twelve (12) trees larger than 1-1/2" diameter outside the Limit of Work line and inadequate erosion controls.**

The Chair reported a summary of the Conservation issues with the subdivision since the approval of the subdivision in early 2018 and stated that the initial issue arose from the clearing of trees to make space for the proposed roads when a main tracking pad, of over 100 FT long was not installed in a timely manner.

2018: Erosion issues were identified on Lots 15 & 16 and corrective actions were taken by the developer with no enforcement order was issued by the Commission; Lots 19 & 20 clearing of trees 15 FT away from the quarry resulted in needing to move the erosion controls back; the infiltration basin construction began

2019: The Infiltration Basin is installed and tied into Storm water Manager System; Complaint made by abutter about a "Red River" (red clay sediment in water-run off) resulting in an investigation by the developer, DPW and the Commission. The Chair stated that the Red River may have been caused when the street was dug up to allow for the water, gas, and sewer line to be connected.

The Chair read into the record the Infiltration Basin notes located on sheet C6 of the approved plans: *"three to one slope install erosion control blankets on the interior and exterior of the basin-- immediately after constructing basin, stabilize the bottom and side slope with water tolerant grasses—do not discharge sediment-laden waters from construction activities runoff water from excavations to the infiltration basin areas during any stage of the construction."*

The Chair stated that the developer did not complete these measures and the infiltration basin sat incomplete for months before any grasses were planted other than installing fabric into the storm drain in an attempt to minimize red clay erosion.

"if the Infiltration Basin areas are exposed during construction and do receive sediment deposit, the basin bottom must be excavated over 6 to 8 inches and native materials remove sediment deposits"

The Chair stated he did not know how the basin bottom would be fixed at this point, as the bottom is dry, cracked clay.

Commissioner Erin Lynch suggested an Erosion and Sediment Specialist was required for further review and direction. The Chair concurred and reiterated that the construction notes on the approved plans had not been followed by the developer and questioned the construction methods of the Infiltration Basin.

2020: The Chair stated that issues with adherence with best management practices regarding tracking pads continued; two large clay infiltrations identified on Lots 19 & 20 resulting in the issuance of an Enforcement Order; "Red River" remains present; most recently the Chair noted that upon a site visit he witnessed Mr. Joyce pumping water out of the quarry to clean the streets of clay sediment after recent rain event. The Chair stated that this was a violation of the Wetlands Protection Act in itself. The Chair stated his extreme concern of the conditions of the erosion controls overall and opined, based on his site visit notes there were up to fifteen violations and noted that the Commission had issued three enforcement orders at that point.

Referring to the current enforcement order for Lots 19 & 20, the Chair stated restoration of the area would require replanting of felled trees and property maintenance of erosion controls. Clerk Jeffrey Bosworth concurred. Vice Chair Tom O'Brien recalled that the previous meeting had concluded with Mr. Joyce, the developer hiring an Erosion and Sedimentation Specialist and inquired if the Chair had invited Al Joyce to the discussion so he may address the issues raised by the Chair. The Chair stated if there were no further comments from the Commission, he would open the discussion up to Mr. Joyce. Vice Chair Tom O'Brien stated, he would like to hear from the developer. Frances Corgnati commented in agreement. Clerk Jeffrey Bosworth noted that the use of stakes rather than flags to mark the Limit of Work line had resulted in a much clearer picture.

Al Joyce, developer of Hidden Ponds Estates was present for discussion. Mr. Joyce stated he had received the Enforcement Order on May 27, 2020 and had subsequently contacted GZA to set up a meeting regarding the issues stated in the Enforcement Order. Mr. Joyce also stated he had contacted R. Levesque Associates to install stakes on the monument locations.

Mr. Joyce explained he had contacted DEP regarding permitting to withdraw water from the pond. Mr. Joyce reported DEP had referenced Chapter 91 Water Management Act program, which states that no permit is required unless the pond is considered "a great pond" which is defined by a pond covering a

minimum of 10 acres. Mr. Joyce stated neither of the ponds he had pumped water were that size. Mr. Joyce shared the other stipulation for a permit is if water usage exceeds 100,000 gallons per day. It would have to exceed that over a 3-month period. Mr. Joyce stated based on the DEP Chapter 91 Water Management Act it is permissible to pump 9 million gallons over a 90-day period before a permit was necessary. Finally, Mr. Joyce inquired if there were any other permits. Mr. Joyce stated his argument for pumping the water was to water the new loam on the tree belt to help it grow quicker and prevent further erosion of the land. Chair Jernstrom read into the record the second paragraph under the Statement of Jurisdiction 10.2 and argued that Mr. Joyce was in violation for pumping the water from the pond without permission from the Commission. Discussion ensued.

Mr. Joyce stated that on inspection of the catch basins, the most amount of silt in any of the basins is 3 inches meaning the site was very clean. Regarding the Chair's comment of inadequate tracking pads and opined that the Commission was not holding all subdivisions in Town to the same standard. The Chair stated the tracking pads had been an issue since the construction began at the subdivision and maintained his stance that the water pumping required a permit. Vice Chair Tom O'Brien, opined Al Joyce was within his right to pump water from the pond and the Chair's interpretation was incorrect. Vice Chair, O'Brien also stated based on the location of the tracking pads and that the street has not yet been accepted by the Town, the tracking pads are on private property and outside of the Conservation Commission's jurisdiction. Frances Corgnati confirmed that Al Joyce was correct in his report of the stipulations of Chapter 91 Water Management Act and read the section into the record.

Commissioner Erin Lynch questioned why Al Joyce had waited to hire a Sediment and Erosion control specialist when it had been discussed at the previous meeting. Al Joyce stated he had waited for the Enforcement Order as the consultant had inquired what the Enforcement Order requested. Commissioner Corgnati stated she respected Al Joyce for contacting the Erosion and Sedimentation Specialist upon receiving the Enforcement Order. Discussion ensued.

Motion to postpone any decision until June 10, 2020 when Al Joyce had obtained the services of a certified specialist made by Commissioner Frances Corgnati; second made by Commissioner Erin Lynch and approved unanimously by roll call vote six (6)-zero (0).

NEW BUSINESS

3. **Vote and Ratification of WPA Enforcement Order #2: Hidden Ponds Estates Lot 3 (Mass DEP 150-0428)** for violation by Al Joyce, Rose-Bud Builders, P.O. Box 79, East Longmeadow, MA 01028 for inadequate erosion controls.

The Chair asked the Commission if they would like to continue with the Enforcement order as it or open an Enforcement Order on the original Notice of Intent for the entire subdivision. Al Joyce stated he had asked the certified Specialist from GZA to review Lot 3 while he was working on the erosion issues for lots 19 and 20. Al Joyce opined that it was not a realistic expectation that the erosion and sedimentation controls remove all signs of red clay from the water runoff. The Chair disagreed. Discussion ensued. Al Joyce expressed he felt the Commission had a vendetta against him and were penalizing him unfairly. Chair Craig Jernstrom stated the Commission does not have a vendetta against Al Joyce and maintained that the Commission's arguments and actions are valid.

4. Request by applicant to discuss erosion control measures for Lot 3 Hidden Ponds Drive (Mass DEP File # 150-0428), Lot 4 Hidden Ponds Drive (Mass DEP File # 150-0446), and Lots 19-20 Redstone Drive (Mass DEP File # 150-0447). Applicant: Al Joyce, Rose-Bud Builders, P. O. Box 79, East Longmeadow, MA 01028.

Mark Albano, Esq. [Albano Law, LLC, 1 Monarch Place, Suite 1330, Springfield, MA 01144] representing Al Joyce was present for discussion. Mark Albano introduced himself and requested that all future deliberations of the subdivision be made publicly and with notice to Al Joyce. Chair Jernstrom stated the Commissioners had attended an Open Meeting Law training session in the fall of 2019 and stated they do not deliberate during site visits as they are keenly aware of the Open Meeting Law.

NEW PUBLIC HEARINGS

5. **Case NOI 2020-2: Notice of Intent for 110 Somers Road** (Assessor's Parcel ID 39-30-C-2) for the removal of invasive plants, cutting of the understory shrub layer, and selective pruning of existing mature trees within the Buffer Zone on a 5.04 +/- acre site. Applicant: Brownstone Gardens III Inc. c/o Christopher Carr, 24 Deer Park Drive, East Longmeadow, MA 01028. (Continued from May 13, 2020)

Commissioner Frances Corgnati recused herself from the discussion and vote due to a conflict of interest. Clerk Jeffrey Bosworth read the legal notice into the record. Ryan Nelson, R Levesque Associates, and Christopher Carr, applicant were present for discussion. Mr. Nelson summarized the proposed work and stated that all the work fell within the Buffer Zone with no disturbance to the soils or the pond itself. Chair Jernstrom referred to Mark Stinson, DEP Circuit Rider comment that burning may be a good method of removing the invasive species. Mr Nelson stated that burning was noted on the plan as one method it may be removed and explained that "burning" it really meant selective spot treatment of burning of the cut stumps for more resilient invasive plant species.

Chair Jernstrom inquired how long the removal process would take. Mr. Nelson stated the actual cutting would a one-time event however; invasive species management can take several seasons to remove completely. No comment from the public was heard in favor or against the Notice of Intent.

Motion to close the public hearing made by Clerk Jeffrey Bosworth; second by Commissioner Anthony Zampiceni and approved by roll call vote five (5)-zero (0). Commissioner Frances Corgnati recused.

Craig Jernstrom, Chair- Aye	Jeffrey Bosworth, Clerk - Aye
Tom O'Brien, Vice Chair- Aye	Anthony Zampiceni- Aye
Erin Lynch- Aye	

Motion to approve the Notice of Intent for 110 Somers Road made by Clerk Jeffrey Bosworth; second by Commissioner Anthony Zampiceni and approved by roll call vote five (5) - zero (0). Commissioner Frances Corgnati recused.

Craig Jernstrom, Chair- Aye	Jeffrey Bosworth, Clerk - Aye
Tom O'Brien, Vice Chair- Aye	Anthony Zampiceni- Aye
Erin Lynch- Aye	

6. **Case NOI 2020-3: Notice of Intent for Porter Road Bridge (E03004-5LL-MUN-BRI)** (ROW between Parcel 58-40 and 70-50) for the redevelopment of existing roadway and structures within the 100-ft Buffer Zone, 200-ft Riverfront Area and Lands Subject to Flooding, as well as temporary access to South Branch Mill River for in-culvert repairs. Applicant: Bruce Fenney, Superintendent, East Longmeadow Department of Public Works, 60 Center Square, East Longmeadow, MA 01028. (Continued from May 13, 2020)

Clerk Jeffrey Bosworth read the legal notice into the record. Tom Christensen, Deputy Superintendent of the East Longmeadow Department of Public Works and David Goncalves, Principal Project Manager [Mott MacDonald, 134 Capital Drive, Suite D, West Springfield, MA 01089], Cameron Morissette [Geologist III, Mott MacDonald, Morristown, NJ], and Andrea Mercado, Engineer IV [Mott MacDonald]

were present for discussion. Mr. Goncalves provided a report on the proposed work with plans. Mr. Morissette stated that there will be no actual permanent impacts however, there will be impacts to the wetlands buffer, bank, Lands Subject to flooding, and River front area, but all of these areas will be returned to pre-construction conditions following the work that is proposed. The Commission noted comment from Mark Stinson, DEP Circuit Rider regarding the controlled water plan. The Chair inquired how much disturbance would be caused outside of the river. Mr. Morissette replied the disturbance outside of the town property is the access to the inside of the culvert, so in essence all of the erosion and sediment control will be within the town right-of-way.

No comment was made by the public. Discussion of the special conditions ensued.

Motion to close the public hearing made by Clerk Jeffrey Bosworth; second by Anthony Zampiceni and approved by roll call vote six (6)-zero (0).

Commissioner Frances Corgnati asked for confirmation that all heavy equipment will be removed from the site on the weekends. Mr. Goncalves and Mr. Christensen confirmed.

Motion to approve the Notice of Intent made by Clerk Jeffrey Bosworth; second by Commissioner Anthony Zampiceni and approved by roll call vote six (6)-zero (0).

The Chair stated Special Conditions 8, 9, and 10 could be removed from the draft Special Conditions, as they were not applicable. The Chair stated the addition of Special Conditions 16 and 17, which state:

SC #16. The dewatering plan shall be submitted to the Conservation Commission for review and approval. The contractor shall comply with the approved guidance. The commission reserves the right to require modifications to the plan, should actual field conditions require changes. Stranded aquatic organisms shall be preserved.

SC #17. The Conservation Commission shall be notified for the pre-construction conference.

Motion to remove Special Conditions 8, 9 and 10 and add Special Condition 16 and 17 made by Commissioner Frances Corgnati; second by Clerk Jeffrey Bosworth and approved by roll call vote six (6)-zero (0).

7. **Case RDA 2020-3: Request for Determination of Applicability for 101 Old Farm Road** (Assessor's Parcel ID 42-38-26) for the replacement and extension of the existing driveway and erection of a 4-6 +/- FT fence within the Buffer Zone on a 1.11 +/- acre site. Applicant: Joseph Ngaruiya, 101 Old Farm Road, East Longmeadow, MA 01028.

Clerk Jeffrey Bosworth read the legal notice into the record. Applicant Joseph Ngaruiya was present for discussion. The Chair reported on the restoration plan on the site and stated the plantings were in fantastic condition. Mr. Ngaruiya summarized the proposed work: replace and extend the existing driveway and install a fence. Mr. Ngaruiya explained all the proposed work was within the Buffer Zone. Commissioner Erin Lynch stated she was in favor of the proposed work. Commissioner Frances Corgnati and Chair Jernstrom stated the fence would be installed in a currently barren area and the proposed work would not be a detriment to the wetlands. No comment made by the public.

Motion to approve with a Negative 2 Determination made by Commissioner Frances Corgnati; second by Commissioner Anthony Zampiceni and approved by roll call vote six (6)-zero (0).

PROJECT MONITORING

8. Bella Vista Estates
9. 108 Old Farm Road

Commissioner Frances Corgnati stated that the DEP sign was in poor condition as well as some of the erosion controls may need to be replaced.

10. 39 Pondview Drive

The Commission stated, based on comment from DEP Circuit Rider, Mark Stinson, this issue was no longer one of concern and could be removed from future agendas.

11. 15 Yorkshire Place

Petitioner/property owner, Matthew Castanho and representative Peter Levesque, R. Levesque Associates were present for discussion. Mr. Levesque summarized the restoration plan and stated the site was progressing well with substantial regrowth of vegetation and the ground is stable with minimal erosion. Mr. Levesque stated based on his observations of the site that 25% of the shrub layer that had been cut out consisted of invasive species.

Motion to approve the restoration as proposed made by Clerk Jeffrey Bosworth; second by Commissioner Anthony Zampiceni and approved by roll call vote six (6)-zero (0).

12. 12 Chatham Circle

Clerk Jeffrey Bosworth stated a letter needed to be sent to the property owner to cease and desist use of recreational vehicles beyond the Limit of Work Line and on Town owned conservation land.

13. 461 Chestnut

Clerk Jeffrey Bosworth reported on conversation with home owner and stated a letter would need to be drafted regarding dumping of grass clippings in the resource area.

14. 116 Elm Street

Clerk Jeffrey Bosworth read an update regarding the restoration plans for 116 Elm Street into the record.

15. Lot 5, Pondview Drive

Clerk Jeffrey Bosworth reminded the Commission that they should expect to receive a Notice of Intent from the property owner regarding in the near future and a reminder letter may be necessary.

16. Projects [See Project Monitoring spread sheet]

OTHER BUSINESS

17. Policies and Procedures of the Conservation Commission

Chair Jernstrom suggested the Commission use their funds to put an advertisement of their vacancy in the newspaper. Acting Director, Bethany Yeo suggested the Chair speak about the vacancy during the meeting as the live stream of the Conservation Commission meetings received several hundred views. The Chair agreed and summarized the duties and responsibilities associated with being a Commissioner. Clerk Jeffrey Bosworth stated he had drafted the duties and responsibilities of the Commission to be posted on the webpage and suggested several other minor improvements that could be made to the website to make it more user-friendly and informational. Commissioner Frances Corgnati offered to help with webpage edits.

18. Discussion of Levying Fines for Violations

Clerk Jeffrey Bosworth explained his thought process behind drafting the Fines Form and stated he had obtained a quote from a local print shop for the cost of 100 Violation Fine forms. Vice Chair Tom O'Brien stated, he was not in favor of a "fear fine schedule" and expressed his opposition to Clerk Jeffrey Bosworth obtaining the printing quote prior to consulting the Commission. Discussion ensued. Vice Chair Tom O'Brien requested all future draft letters be sent from review to the Acting Director and forwarded to the Commission prior mailing. Clerk Jeffrey Bosworth stated that is the process he has practiced.

19. Discussion of Remote Internship Opportunity for Nina Fazio
Acting Director, Bethany Yeo asked if the Commission was interested in hosting a potential remote internship opportunity for recent graduate Nina Fazio. The Commission expressed positive interest in the opportunity.

ADJOURN :Motion to adjourn made by Commissioner Anthony Zampiceni; second by Clerk Jeffrey Bosworth and approved by roll call vote six (6)-zero (0) at 8:40 PM.

Respectfully submitted.

Bethany Yeo,
Director of Planning & Community Development