

SOUTH HADLEY CONSERVATION COMMISSION
MEETING MINUTES
January 30, 2019

PRESENT: Bill DeLuca, Chair; Jim Canning, Vice-Chair; William (Bill) Bacis, Member; Stephanie Clymer, Member; Neva Tolopko, Member; Anne Capra, Conservation Administrator/Planner; Colleen Canning, Conservation and Planning Clerk; Michael Lucchesi; Tracy Adamski, Tighe and Bond; Mark Stinson, MassDEP

As the Chair, Bill Deluca, had not yet arrived, Vice-Chair, Jim Canning, called the January 30, 2019 meeting into session at 6:02 PM

1. Discuss and Consider Enforcement Order issued to Michael Lucchesi for activities at 16 Upper River Road (Map 43, Parcel 5)

The Conservation Administrator displayed the Assessor's map of the location on the TV screen for a visual guide and offered background on this case. The Administrator had received a series of photos of wood chips and possible soil dumping on the embankment near 16 Upper River Road. The Administrator referenced an enforcement order that was issued in 1999 due to vegetation clearing. The order required restoration of the site through planting native vegetation. The Administrator issued an Enforcement Order on January 15th 2019 to the home owner, Michael Lucchesi, for the current activities. The Administrator had not yet been on the site to identify resource areas. Michael Lucchesi was present for the meeting and was given an opportunity to explain his reasons for the dumping. Mr. Lucchesi explained that his children were coming in contact with poison ivy on the embankment. In efforts to protect them from contacting it, he covered the poison ivy with woodchips. Mr. Lucchesi recalled coming before the Commission years ago in regards to this matter. He recalled coming to an amical decision with the town that allowed him to do this however, no parties have documentations of any such agreement. It was noted that the bank is very steep. The Commissioners agreed that a site visit would be required to better conceptualize the situation. Commissioner Basics presented photos of the embankment at 16 Upper River Road. Commissioner Basics commented that he had never heard of using woodchips to kill poison ivy because the wood chips would kill all plant life, not just the poison ivy. Mr. Lucchesi reiterated he did not mean to deliberately violate the Wetlands Protection Act.

Mark Stinson, DEP Western Region Wetlands Circuit Rider, was present at the meeting and made reference to the necessity of licensing his dock on the river. When Mr. Lucchesi mentioned he had a dock on the Connecticut River, Mr. Stinson referenced the Public Water Front Act which stipulates that waterfront land is owned by the Commonwealth. A Chapter 91 license is required for any activity on the waterfront. Commission Canning inquired what type of consequences if the DEP enforce. Mr. Stinson said that the DEP had power to fine but Mr. Stinson thought this situation was one that the town could handle.

As the current deadlines mentioned in the enforcement order were approaching, the Conservation Administrator inquired about scheduling a site visit for after the ground thawed. The Commission members and the homeowner, Michael Luccesci, agreed to schedule an initial site visit on March, 11th 2019 at 9:00 AM. The enforcement timeline was extended as follows: by March 30th 2019 the resource areas must be identified, by April 30th 2019 there must be a plan for restoration, and by June 30th 2019 restoration work must be completed.

The enforcement order that was sent by the Conservation Administrator on January 15th 2019 was passed around and signed by all the commissioners present.

Motion: Commissioner Basics moved and Commissioner Tolopko seconded a motion to ratify the Enforcement Order issued to Michael Lucchesi for activities at 16 Upper River Road and to approve the amended time line for restoration. **Four (4)** out of **Four (4)** commissioners voted in favor. Chair Bill DeLuca was not present for the vote.

Chair Bill DeLuca arrived at 6:22 PM

2. Conservation Commission Q & A with Mark Stinson, DEP Western Region Wetlands Circuit Rider

Mark Stinson opened by informing the Commission that the DEP has made files available on-line so Commissioners and conservation staff are able to search for documents easily. Mr. Stinson questioned the Commission and the Conservation Administrator about three open Notices of Intent that had not been given Orders of Conditions.

Orchards Golf Course had filed a NOI (File number: 288-0455) for routine maintenance. No Order of Conditions had yet been given. The project manager planned to withdraw and re-submit a new NOI. The Conservation Administrator explained that the intention was to simultaneously resubmit the NOI with a 401 permit for intended dredge activities. Mr. Stinson mentioned hearing that the dredge application had already been submitted to DEP in Boston. The Conservation Administrator will follow up with the applicant.

Donald Jarvis filed a NOI (File Number: 288-0453) for mitigation of slope erosion at 2 Bach Lane. No Order of Conditions had yet been given. The Conservation Administrator explained that a professional engineer and an environmental consultant would be required to design the system. At the time of submission, the applicant was struggling to find a firm that would take the project on. The Conservation Administrator will follow up with the applicant.

William Mugg filed a NOI (File Number: 288-0455) to plant a vineyard at 440 Amherst Road. No Order of Conditions had yet been given. The Conservation Administrator explained that the public hearing had been closed. The Commission was waiting on a vegetation management plan for the intended wetland replication and a draft Conservation Restriction for the intended restricted acreage before giving an OOC. Mark Stinson explained that after 21 days of the closing of a public hearing, where no finding is made, the applicant can file an appeal. He further explained that after the closing of a public hearing, no new information can be received by the

Commission to determine a finding. Mr. Stinson advised that it is best practice to have all required documents before the closing of the public hearing.

Mark Stinson extended an offer to come to a Conservation Commission Meeting in the future to go over regulations. The Conservation Administrator inquired if any of the commission members had questions for Mr. Stinson. Commissioner Bacis asked for recommendations about engaging with other state agencies, in particular MassDOT. Commissioner Bacis expressed concern that activities of MassDOT were effecting the viability of two local ponds. Mr. Stinson recommended speaking with Rob at the Northampton MassDOT for concerns about MassDOT's projects concerning wetlands.

Chair DeLuca asked Mark Stinson how to best communicate with South Hadley residents about the Wetlands Protection Act. Chair DeLuca wanted to prevent people from unknowingly breaking wetlands protection laws. Mr. Stinson mentioned that he had brochures that could be configured for the town's use. He mentioned the town of Longmeadow's Conservation Commission had a pamphlet for landscapers on their website that could be used as a helpful guide. The Town of Becket has frequently asked questions posted on their Conservation Commission's website. The Commissioners discussed different methods to connect with town residents including coordinated mailings with other municipal departments.

Chair DeLuca asked Mark Stinson to clarify the Conservation Commission's jurisdiction. Chair DeLuca wanted to better understand the Commission's responsibility to protect the town's drinking water supply. Mr. Stinson said it was a "stretch" that the Conservation Commission could have jurisdiction outside of the designated wetlands protection area. He explained that local by-laws were the most effective way to strengthen the Commission's jurisdiction. Mr. Stinson gave an example that certain towns have a "Berkshire Scenic Mountain Act" that give the local Conservation Commission's jurisdiction at points over a certain elevation.

Chair DeLuca asked Mark Stinson to clarify the Conservation Commission's authority over different buffer zone areas, in particular the 50-100 foot buffer area. Mr. Stinson referenced the regulation *CMR 310 10.53 General Provisions 1*:

"...The potential for adverse impacts to Resource Areas from work in the Buffer Zone may increase with the extent of the work and the proximity to the Resource Area....Conditions may include limitations on the scope and location of work in the Buffer Zone as necessary to avoid alteration of Resource Areas. The Issuing Authority may require erosion and sedimentation controls during construction, a clear limit of work, and the preservation of natural vegetation adjacent to the Resource Area and/or other measures commensurate with the scope and location of the work within the Buffer Zone to protect the interests of M.G.L. c. 131, § 40. Where a Buffer Zone has already been developed, the Issuing Authority may consider the extent of existing development in its review of subsequent proposed work and, where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of M.G.L. c. 131, § 40."

The language of the above regulation gives Conservation Commission's power to require planting of vegetation in a buffer zone area that didn't necessarily have it there before the start of a proposed project. Mr. Stinson gave the example of requiring planting in a mowed buffer zone for a proposed home addition.

3. Open Space and Recreation Plan Update, Tracy Adamski, Tighe and Bond

Tracy Adamski attended the Conservation Commission meeting as a representative of Tighe and Bond, the town's consultants for the update of the Open Space Recreation Plan. She attended to answer any questions that the Commission had and to identify any initial concerns. She explained that Tighe and Bond's draft OSRP needs to be ready in the upcoming months. She commented that it will be important to identify the town's need and resources, as it's a prerequisite for receiving state grant funding. Tighe and Bond will be working in coordination with Harriman, the town's consultants for the Master Plan, on public outreach efforts. The first public outreach forum will be held on February 27th, 2019 at 6:00 PM. The theme of the first forum will be: Preserve, Protect, and Develop. The second public forum will be held on March 27th, 2019. The theme of the second forum will be: "Healthy neighborhood for all ages". Chair Bill DeLuca will represent the Conservation Commission on the Open Space Recreation Plan Committee. Appointments will be made for the Committee by the Select Board at the next Select Board Meeting.

Members of the Commission offered lots of insight on potential focal points for the OSRP update including:

- Waterfront management
- Educational outreach
- Access to bike path
- Route 47's national designation as scenic highway
- Maintenance of trails
- Historical narrative of local topography
- History of South Hadley's canal
- Need for new signage
- Conway School's study of the three watersheds in South Hadley and it's connection to restoration, preservation and conservation
- Defining a list of criteria for the town's acquisition of land and highlighting the regional importance of the area.
- Analysis of water supply protection areas
- Considerations for corridor connections for wildlife to the mountain range
- Comprehension of local pond health (as seen in Titus Pound versus Buttery Brook)
- Evaluating the town's governing structure (Fire Districts)
- Impact of climate change
- Engagement with bordering towns in conservation efforts

- Acknowledgement of the native peoples to the area and their impact on the town's history.

4. Discuss and Consider Approval of Meeting Minutes from January 9, 2019

Vice-Chair Canning motioned to approve the minutes from the January 9th, 2019 meeting. Commissioner Tolopko second the motion. Commissioners voted **four (4)** out of **four (4)** present to approve the minutes. Commissioner Basics had momentarily excused himself before the Commission reviewed this agenda item.

5. Administrator's Report including updates on projects, violations, next meeting dates, correspondence

As the administrator's report reviewed topics already known to the Commission, the Conservation Administrator inquired if there was any new business to discuss before adjournment.

6. Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice).

Chair DeLuca stated he was having continued concerns about drinking water protection. This concern stemmed from the excavation activities by Chicopee Concrete and the special permit, which has since been withdrawn, to expand their excavation activities. Chair DeLuca wanted an update of the project and wanted any new information available. Additionally, he wanted an understanding of the permitting of the existing excavation site. The Conservation Administrator said she would draft a letter to the Planning Board requesting information. The Commission could vote to endorse the letter after it is generated.

7. Adjournment

Chair DeLuca adjourned the meeting at 8:07 PM

Respectfully Submitted,

Colleen Canning, Clerk to Planning and Conservation