

**SOUTH HADLEY CONSERVATION COMMISSION**  
**MEETING MINUTES**  
**JUNE 26, 2019**

**PRESENT:** Jim Canning, Vice-Chair; William (Bill) Bacis, Member; Neva Tolopko, Member; Steph Clymer, Member; Anne Capra, Conservation Administrator/Planner; Colleen Canning, Planning and Conservation Clerk; Michael Lucchesi, 16 Upper River Road; David Parsons, Superintendent of Orchards Golf Club; David Cote, Western Mass Yacht Club; Jim Reidy, Superintendent of South Hadley DPW; Melissa Coady, Project Environmental Scientist with Tighe and Bond; Aaron Sapps, Tighe and Bond; Stephen Frantz, 300 North Main Street; Tom Dennis, 11 Buttonfield Lane; Garth Schwellenbach, 19 Ashfield Lane; Kahleen Davis, 7 Saybrook Circle; Catherine Linberg, 161 Lathrop Street, Russ Marion, Rivercrest Condominiums

As Chair DeLuca was absent from the meeting, Vice-Chair Canning called the meeting into order at 6:00 PM.

**Agenda Item #1 --- 6:00 PM Public Hearing Continuance for Notice of Intent filed by Orchards Golf Club for an operation and maintenance plan of the golf course grounds at 18 Silverwood Terrace (Map 52, Parcel 164)**

Vice-Chair Canning read the notice for the Public Hearing continuance aloud at 6:01 PM.

David Parsons, Superintendent of Orchards Golf Club, was present at the hearing.

Vice-Chair Canning informed the applicant that the Commission would not be making deliberations about the project as advised by MassDEP until DEP finalized a Consent Order, or similar permit, regarding their investigation. David Parson addressed the Commission requesting a continuance of the Public Hearing as no considerations could be made regarding the project tonight. He explained that the Golf Course was still operating under a 'letter of forbearance' by DEP. He explained that DEP was in contact with their consultant, SWCA, about refining details of the proposed Operations and Maintenance plan.

**Motion:** Commissioner Tolopko moved to continue the Public Hearing until August 7, 2019 at 6:00 PM. Commissioner Bacis seconded the motion. Four (4) out of four (4) Commissioners present voted in favor of the motion.

As Agenda Item #2 was advertised to begin at 6:30 PM, the Commission skipped the item and would return to it at the appropriate time.

**Agenda Item #5 --- Discuss and Consider Request for Certificate of Compliance #288-0429 by Luis Builders at 4 Ethan Circle (Lot 3) (Map 47, Parcel 83)**

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**Agenda Item #6 --- Discuss and Consider Request for Certificate of Compliance #288-0429 by Luis Builders at 6 Ethan Circle (Lot 4) (Map 47, Parcel 82)**

As agenda items #5 and #6 were related, they were discussed in tandem.

The Conservation Administrator opened with background. She explained that the construction of the Ethan Circle subdivision was permitted through the Conservation Commission under the original developer, Ethan Bagg. Over the past few years, some lots were sold off and developed by other builders. Within the eight lot subdivision, only two lots contained Resource Areas and the entire subdivision construction was filed under the same Order of Conditions DEP File # 288-0429. Luis Builders acquired lots 5 and 6 and built houses on the lots and were now seeking Partial Certificates of Compliance to facilitate the sale of the newly built homes.

The Conservation Administrator explained that she had performed a site visit to assess the as-built conditions of 4 Ethan Circle (lot 3) and 6 Ethan Circle (lot 4). She explained that 4 Ethan Circle (lot 3) was in stable condition (germinated grass in yard and silt fence installed) with no resource areas present. The contractor had also cleaned out catchbasin, replaced the filter fabric over it, and installed a straw wattle around the basin to prevent sediment laden runoff from filling it back in.

At 6 Ethan Circle (lot 4), the site was not considered to be in stable condition, bare dirt and no silt fence, and there was excessive stormwater runoff present noted in three siltation filled catchbasins in the cul de sac . She explained that lot 7 is also currently under construction with piles of dirt in the yard, no silt fence, and obvious silty runoff coming off the site into the catchbasins.

The Conservation Administrator explained that a complicating factor in issuing a partial Certificate of Compliance was that the OOC required that a Homeowners Association be formed and be responsible for operation and maintenance of the stormwater systems. As the subdivision was still under construction, a Homeowners Association was not active. It was up to the discretion of the Commissioners to endorse a partial COC to release the lots. The Conservation Administrator explained that all deeds within the subdivision would reference the OOC which stipulated that the developer was the responsible party for stormwater management prior the implementation of a homeowners association. Given the existing conditions, she recommended issuing a Partial COC on lot 3 but not lot 4 until the site was stabilized, silt fence installed, and the other two catchbasins were cleaned out and restored.

**Motion:** Commissioner Tolopko moved to issue a partial Certificate of Compliance DEP File # 288-0429 for 4 Ethan Circle (Lot 3). Commissioner Bacis seconded the motion. Four **(4)** out of four **(4)** Commissioners present voted in favor of the motion.

The Commission did not choose to endorse the partial Certificate of Compliance for DEP File # 288-0429 for 6 Ethan Circle (lot 4) at that time.

**Agenda Item #7 --- Discuss and Consider Request for Certificate of Compliance #288-0268 by Attorney Kathleen Kelly at 5 Misty Court (Map 44, Parcel 66)**

The Conservation Administrator opened with background. She explained that an attorney representing the sale of 5 Misty Court submitted a request for a Partial Certificate of Compliance

to release the property. The Conservation Administrator explained that this lot was part of an 11 lot subdivision with one Order of Conditions on the subdivision during initial construction. As Misty Court was not a Town accepted road, responsibility of maintaining the road and stormwater was the responsibility of the Homeowner's Association. As the applicant's attorney had explained to the Conservation Administrator, the Homeowner's Association was now defunct. All lots had been developed within the subdivision and the site was in stable condition. No resource areas or buffer zones existed on 5 Misty Court.

Commissioner Bacis inquired if other lots had been granted a Partial Certificate of Compliance. The Conservation Administrator did not find record of that and noted that the initial OOC was issued in 2000. She added that the Town has a right to maintain the road in the event that the Homeowner's Association failed to adequately do so, and charge the property owners for that work.

**Motion:** Commissioner Bacis moved to issue a Partial Certificate of Compliance on #288-0268 for 5 Misty Court. Commissioner Tolopko seconded the motion. Three (3) out of Four (4) Commissioners present voted in favor of the motion. Commissioner Clymer voted against the motion.

**Agenda Item #4 --- Discuss and Consider Request for Extension of Order of Conditions #288-0443 by Western Mass Yacht Club at 22 Cove Island Road (Map 22, Parcel 1)**

David Cote, representative of Western Mass Yacht Club, was present at the meeting.

David Cote addressed the Commission. He explained that a request was filed to extend the Order of Conditions #288-0443 as it would expire in August 2019. The OOC permitted routine maintenance of the shoreline at the Yacht Club. David Cote explained that vegetation control along the shoreline was important as it allowed the dock and shore to be visible addressing safety concerns around boats and people in the water. The management team for the property had remained the same since initial permitting and were aware of the standards in the OOC for vegetation maintenance.

**Motion:** Commissioner Tolopko moved to issue an Extension of Orders of Conditions #288-0443 to Western Mass Yacht Club. Commissioner Bacis seconded the motion. Four (4) out of four (4) Commissioner voted in favor of the motion.

**Agenda Item #2 --- 6:30PM Public Hearing Continuance for Notice of Intent #288-0457 filed by Michael Lucchesi for re-vegetation of Bank on Connecticut River at 16 Upper River Road (Map 43, Parcel 5)**

Vice Chair Canning called the public hearing into session by reading aloud the notice at 6:30 PM.

The applicant, Michael Lucchesi, was present at the public hearing.

The Conservation Administrator opened with background. She shared that comments regarding the project had been received from the Natural Heritage and Endangered Species Program (NHESP) and MassDEP. With comments received from relevant state agencies, the Commission was in a position to offer a determination on the Notice of Intent if appropriate.

Berkshire Design Group had been retained by the applicant to draft a plan for the revegetation. The plan was given to NHESP who in turn offered comment as follows:

- *The notes never actually say that the burlap on B&B plants needs to be removed after planting. I've seen way too many with the burlap remaining. So, it would be good to note that it is removed from the 3/4 of the rootball.*
- *The plantings should be conditioned to be watered for the first year.*
- *They need to guarantee survival for 3 years.*
- *If the underlying purpose of this was to control poison ivy, what is the plan for that moving forward? Maybe condition them to require additional filings for such work or any other invasive/nuisance control.*
- *The mulch should be viewed a temporary, to provide stability. Over time, native species should be allowed to inter-plant along the bank – either by plating by the owners or by self-seeding. They need to stop adding mulch without further filings*

DEP also inquired about the status of a dock at the location, and noted that they did not have a Chapter 91 Waterways License for one. The Conservation Administrator explained that she had been in communication with the applicant. A dock had been installed on the property. She explained that the applicant had submitted a fee for a Chapter 91 Permit but did not fill out the application. The Conservation Administrator explained that she would work with the homeowner to submit the appropriate documents if his consultant could not.

**Motion:** Commissioner Bacis moved to issue an Order of Conditions to DEP file # 288-0457 with special conditions including the aforementioned conditions from NHESP. Commissioner Tolopko seconded the motion. Four (4) out of four (4) commissioners present voted in favor of the motion.

As Agenda Item #3 was advertised to start at 7:00 PM, the item was skipped and the Commission would return to it at the appropriate time.

**Agenda Item #8 --- Discuss and Consider Request for Certificate of Compliance #288-0385 by Kenneth LeBlanc at 12 Sullivan Lane (Map 56, Parcel 111)**

The Conservation Administrator opened with background. She explained that she performed a site visit on June 25, 2019 to observe the as-built conditions of the single-family house at 12 Sullivan Lane. As the site was partially within wetland buffer zone, a Notice of Intent was filed in 2007 to construct the house. A condition placed upon the construction was to stay out of the 50 foot conservation zone and to create a “tree line” to offer a visual marker of the zone. She explained that the site was in good condition and the applicant had filed for a COC relative to the sale of the property.

**Motion:** Commissioner Bacis moved to issue a Certificate of Compliance for the construction of a single-family house on 12 Sullivan Lane DEP File # 288-0385. Commissioner Tolopko

seconded the motion. Four (4) out of four (4) Commissioners present voted in favor of the motion.

**Agenda Item #11 --- Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice).**

**Rivercrest Certificate of Compliance DEP File # 288-0431 Ratification**

Russ Marion, representative of Rivercrest Condominiums, was present at the meeting. The Conservation Administrator opened with background. She explained that at the previous Conservation Commission meeting, the Commission issued a contingent Certificate of Compliance #288-0431 for the construction of Condominiums on Rivercrest Way. The applicant needed to satisfy components of the Order of Conditions before the Commission would ratify the Certificate of Compliance. Since the previous meeting, the applicant sent the Conservation Administrator proof of signs at retention basins, adequate maintenance checklists and confirmation of caps on the demarcation pins.

The Certificate of Compliance was passed around to Commission members to sign.

**Agenda Item #9 --- Discuss and Consider Approval of Meeting Minutes from May 16, 2019 and June 5, 2019**

The draft minutes from the May 16, 2019 meeting and the draft minutes from the June 5, 2019 meeting had been previously transmitted to the Commission for their review.

**Motion:** Commissioner Canning moved to approve the draft minutes from the May 16, 2019 meeting. Commissioner Bacis seconded the motion. Three (3) out of four (4) Commissioners presented voted in favor of the motion. Commissioner Clymer abstained from voting.

**Motion:** Commissioner Canning moved to approve the draft minutes from the June 5, 2019 meeting. Commissioner Bacis seconded the motion. Three (3) out of four (4) Commissioners present voted in favor of the motion. Commissioner Clymer abstained from voting.

**Agenda Item #10 --- Administrator's Report including updates on projects, violations, next meeting dates, correspondence log**

**New Commission Members FY20**

The Conservation Administrator shared that at a recent Selectboard meeting two additional Members and one Associate Member were appointed to the Conservation Commission. The Conservation Commission will now consist of seven members and one associate member. The appointee's membership will be reflected at the next meeting; as the next meeting will be the first in fiscal year 2020. Future considerations could be made to change venues for meetings as there is limited platform seating in the Selectboard room. New members, Gath Schwellenbach and Tom Dennis, were present at the meeting. The current members introduced themselves and welcomed the new members the Commission.

### **EInk- Gaylord Street**

The Conservation Administrator opened with background. A site visit had been performed to access proposed site improvements at the building owned by EInk on Gaylord Street. Site improvements included enclosing an existing open docking bay. This portion of the site is outside of Riverfront Area and Buffer Zone, and the work will essentially be interior to the existing structure and footprint. Thus, no permitting was required under the Conservation Commission. EInk is planning some major renovations and redevelopment of the rear of the site, some of which is within Riverfront Area. The Conservation Administrator has discussed the permitting requirements for that work with their consultant and expects a Notice of Intent to be filed sometime later this year for that work.

### **Trompke Conservation Area Tree Removal**

The Conservation Administrator opened with background. She explained that a tree at the Trompke Conservation Area had fallen over Stony Brook onto private land at 7 Edison Drive. The DPW had planned to remove the tree earlier in the year but, at the request of the property owner, the work was delayed to the wet site conditions and his concern about damage to the lawn. However the ground never fully dried and now the DPW's funds were depleted. Currently, the property owner is concerned about increased beaver activity and the likelihood of flooding.

Because this tree is on Conservation Land, DPW is inquiring as to whether or not the Conservation Commission will fund its removal. Commissioner Bacis inquired about the interest accrued in the Conservation Fund account. The Conservation Administrator explained that the Commission had requested through the Town Administrator that funds be transferred into an interest bearing account and therefore the interest was not significant at the time.

The Conservation Administrator explained that the Tree Warden had been in communication with the homeowner and that the Conservation Area was accessible through the backyard of 7 Edison Drive. Tree Removal would cost roughly \$1,000 to \$2,000.

Kathleen Davis, 7 Saybrook Circle, addressed the Commission. She remarked that the tree had fallen onto private property. From a landownership perspective, if a neighbor's tree falls on your property you are responsible to pay for removal.

**Motion:** Commissioner Tolopko moved to approve the use of Conservation Funds to remove a fallen tree from the Trompke Conservation Area which had fallen onto private property at 7 Edison Drive. Commissioner Bacis seconded the motion. Four (4) out of four (4) commissioners present voted in favor of the motion.

**Agenda Item #3 --- 7:00PM Public Hearing for Notice of Intent filed by Town of South Hadley Department of Public Works for repair of the Judd Brook Sewer Interceptor between Brainers Street and Route 202 (Assessor's Parcels 25-55, 25-56, 19-32, 25-10, 25-26)**

Vice-Chair Canning called the Public Hearing into order by reading the notice aloud at 7:01 PM.

Jim Reidy, Superintendent of South Hadley DPW; Melissa Coady, Project Environmental Scientist with Tighe and Bond; and Aaron Sapps, Tighe and Bond were present at the Public Hearing.

Melissa Coady opened by explaining the project's location relative to the public ways near it and the scope of the project. She explained that the proposed project site was east of Lathrop Street and south of Brainerd Street. Two points along the Judd Brook sewer line needed to be replaced as the stream bank had eroded around the headwalls and the integrity of the pipe was compromised. One location was to the north and would be considered location one. The other was to the south and would be considered location two. The pipe and headwalls at both locations would be replaced, and the stream bank restored.

The area is accessible through 20 foot easements on private property. To access the area for the duration of the project, temporary access paths needed to be constructed through wetlands. Melissa Coady explained that the most direct route to the work site was off Lansing Avenue/ Lawn Street. The proposed temporary access road would affect 3,800 square feet of bordering wetland vegetation. The access road would be removed after the completion of the project and the area would be restored. There would be no excavation or earthwork and mitigation was incorporated within the proposal at a rate of 1:1.

MassDEP had issued a file number for the project and offered comment. Mark Stinson, MassDEP, noted crossings over Judd Brook/Stony Brook on private property that did not have a history of permitting that he could identify. The impact of this observation was addressed at the meeting as it could affect the permitting of the proposed work. Melissa Coady observed that the use of the current crossings would allow the project to have less of an adverse impact as the current crossings already diminished the area rather than creating a new access point. The Conservation Administrator will open an investigation regarding the origin of the crossings.

Jim Reidy, South Hadley DPW Superintendent, addressed the phasing of the proposed project. He explained that hotter weather conditions were ideal for the project as scoped. He hoped that the project could be performed in August or early September during low flow conditions. He expected the project to take 1-2 weeks to complete. The contract to perform the work had not yet to be awarded. He added that DPW staff perform routine inspections to assess all town sewer pipes and had been monitored these sites for some time.

Catherine Linberg, 161 Lathrop Street, addressed the Commission. As an abutter to the project, she asked for clarification of the project. Jim Reidy responded that the primary concern regarding the existing sewer pipe was that it would fail and dump untreated wastewater into the brook.

A determination could not be made on the project tonight as the Conservation Administrator would need to close her investigation into the observed crossings. Additionally, Commission Members would require a site visit to better assess the existing and proposed conditions.

The DPW Superintendent, the Conservation Commissioners and the project consultants scheduled to meet on Thursday July 11, 2019 at 9:30 AM at the end of the cul-de-sac at Berwyn Street Extension for a site visit.

**Motion:** Commissioner Clymer moved to continue the public hearing until July 17, 2019. Commissioner Bacis seconded the motion. Four (4) out of four (4) commissioners present voted in favor of the motion.

**Agenda Item #11 --- Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice).**

### **Public Comment on Glyphosate Use**

Stephen Frantz, 300 Main Street, addressed the Commission. He explained that he was concerned about the use of Glyphosate at Orchard Golf Course and would like to see the substance banned. He described Glyphosate as the most egregious allowed substance pertaining to landscape maintenance. On June 25<sup>th</sup>, he sent an email to the Commission with information about glyphosate for the Commission's consideration. Commissioner Canning asked if we could devote some time at a future meeting to discuss this issue in more depth.

**Agenda Item #10 --- Administrator's Report including updates on projects, violations, next meeting dates, correspondence log**

### **Upcoming Projects**

The Conservation Administrator explained that two Public Meetings for 'Requests for Determination of Applicability' would be held at the next Conservation Commission Meeting. Brunelle's Marina was requesting to replace a dock that was damaged by ice, and Chicopee Concrete was requesting endorsement of a wetland delineation for the property at 40 Sullivan Lane. Site visits will be scheduled prior to the next meeting.

### **Water Supply Protection District Bylaw Committee**

The Conservation Administrator explained that a subcommittee had been formed, with representatives from relevant Boards and Commissions, to review the current Water Supply Protection District Bylaw and offer recommended amendments. Another facet of the review process would require Boards and Commissions to review their own bylaws to see if they could be amended in some manner to improve protection of the aquifer.

Stephen Frantz, 300 North Main Street, asked if the WSPD subcommittee meetings were open to the public. The Conservation Administrator explained that, as there was no quorum of any board present, they were not public meetings. She noted that the outcomes of the working group in the form of any proposed revisions to bylaws or regulations would become available for public review and comment.

### **Adjournment**

The meeting was adjourned at 7:52 PM.

Respectfully Submitted,  
Colleen Canning, Senior Clerk Planning and Conservation

**Appendix**

<b>Document</b>	<b>Document Location</b>
Plan of Ethan Circle Subdivision	Conservation Files
Plan of Misty Court Subdivision	Conservation Files
Plan of 12 Sullivan Lane	Conservation Files
Plans for Sewer Pipe Removal at Judd Brook	Conservation Files
NHESP comments on NOI #288-0457	Conservation Files
MassDEP comments on NOI #288-0457	Conservation Files
Revegetation Plan for NOI #288-0457	Conservation Files