

**SOUTH HADLEY CONSERVATION COMMISSION**  
**MEETING MINUTES**  
**July 17, 2019**  
**DRAFT**

**PRESENT:** Bill DeLuca, Chair; Jim Canning, Vice-Chair; William (Bill) Bacis, Member; Neva Tolopko, Member; Steph Clymer, Member; Garth Schwellenbach, Member; Tom Dennis, Member; Anne Capra, Conservation Administrator/Planner; Colleen Canning, Planning and Conservation Clerk; Luke Brunelle, Brunelle's Marina; Ryan Nelson, R. Levesque Associates Inc; Aaron Sabbs, Thighe and Bond; Jim Reidy; Town of South Hadley DPW Superintendent; Kathleen Davis, 7 Saybrook Circle; and Mark Cavanaugh, 300 Pearl Street

Chair DeLuca called the meeting into order at 6:00 PM

**Agenda Item #1 --- 6:00 PM Public Meeting for Request for Determination filed by Brunelle's Marina for repair and replacement of a pier at 1 Alvord Street (Map 44, Parcel 1)**

Chair Deluca called the Public Meeting into order at 6:01 PM by reading the public meeting notice aloud.

Luke Brunelle, representative and operator of Brunelle's Marina, was present at the meeting and was invited to address the Commission. He explained that a *Request for Determination of Applicability* (RFD) had been filed to repair a damaged guest dock at the Marina along the Connecticut River. Luke Brunelle explained that, within recent years, major ice flows were observed on the Connecticut River. These high ice flows in the winter months made contact with one of the guest docks and damaged it beyond use.

According to Mr. Brunelle, all docks at the Marina had been licensed (Chapter 91 Waterways) during a major inventory project performed by the State in the late 1980s. This license would be valid for 99 years and included all docks at the Marina with the allowance for two guest dock. One such guest dock had been damaged which led to the RFD filing to replace it.

The Conservation Administrator explained that a site visit was performed with members of the Commission the previous day, July 16, 2019. She explained that the location of the damaged dock was down river of the boat ramp; an area with low profile and exposed bed rock.

Commissioner Bacis inquired if the initial licensing in the late 1980s stipulated how the docks were to be installed. Mr. Brunelle explained that the licensing did not stipulate installation. However, he explained that the dock would be tethered to the shore with anchors.

**Motion:** Commissioner Basics moved to issue a Negative Determination #2 to the Request for Determination of Applicability to repair/replace a dock at Brunelle's Marina, 1 Alvord Street. Commissioner Canning seconded the motion. Seven (7) out of seven (7) Commissioners voted in favor the motion.

**Agenda Item #2 --- 6:15PM Public Meeting for Request for Determination filed by Chicopee Concrete Services, Inc. for determination of delineated wetland resource areas of the property at 40 Sullivan Lane (Map 54, Parcel 20)**

Chair DeLuca called the Public Meeting into order at 6:15 PM by reading the public meeting notice aloud. He followed up by explaining that the public meeting was to consider the proposed wetland delineation only.

The applicant's representative, Ryan Nelson of R. Levesque Associates, was present at the meeting and was invited to address the Commission. He explained the property's location relative to its surroundings. To the north on this same parcel were wetlands delineated and endorsed by the Commission in 2018. To the west, following a steep drop off, was the Connecticut River.

Updated plans were submitted to the Commission which identified *Bordering Land Subject to Flooding* and added topographical contours; as was requested by the Commission at the site visit. A site visit was performed the previous day, July 16<sup>th</sup>, with the Commission to review the submitted wetland delineation. The delineation showed a *Bordering Vegetated Wetland* (BVW) and an *Isolated Vegetated Wetland* (IVW). The Conservation Administrator explained that BVW was considered jurisdictional by state law and IVW was jurisdictional under the local bylaw only. The local bylaw offered the same protections to both BVW and IVW, specifically Buffer Zone.

Commissioner Canning inquired about the Riverfront Area boundary and the mean high water mark. Ryan Nelson responded that the high water mark on their plan was considered to be the highest annual water mark, noted by changes in the slope left from water. Considering the steep slope to the Connecticut River, high water mark data was easy to gather. Flood events were considered separate. Flood information was gathered from the most up-to-date FEMA maps from 1979. The Conservation Administrator added the FEMA is currently working on updating flood maps for the region however, the 1979 mapping was the regulatory jurisdiction to be considered at this time.

Commission members inquired about the potential for jurisdiction over an area of "ponded water". The Conservation Administrator explained that the state has specific standards to distinguish and determine if a water body could be considered a 'pond' or 'stream', etc. The ponded water in question did not satisfy the requirements to be jurisdictional.

Commissioner Tolopko made note of the importance of this parcel of land as it was over an aquifer. Evidence of this could be seen through a continuously overflowing well due south of the wetland area under consideration for this delineation. Commissioner Canning further emphasized that the hydrology of the site was likely much more complicated and interconnected than just the wetland areas observed, and the connection to the aquifer should be recognized.

**Motion:** Commissioner Canning moved to issue a Positive Determination #1, #2a, #5, and #6 to the Request for Determination of Applicability for the endorsement of the wetland delineation of

40 Sullivan Lane. Commissioner Bacis seconded the motion. Seven (7) out of seven (7) Commissioners voted in favor of the motion.

**Agenda Item #3 --- 6:30PM Public Hearing Continuance for Notice of Intent filed by Town of South Hadley Department of Public Works for repair of the Judd Brook Sewer Interceptor between Brainerd Street and Route 202 (Assessor's Parcels 25-55, 25-56, 19-32, 25-10, 25-26)**

Chair DeLuca called the Hearing back into order by reading the Public Hearing continuance notice aloud at 6:39 PM.

The DPW Superintendent, Jim Reidy, and the project consultant, Aaron Sabbs of Tighe and Bond, were present at the Public Hearing.

Discussion surrounding the Notice of Intent (NOI) filing paralleled DEP concerns regarding visible crossings on private property near the proposed project site. In the DEP's review of the NOI, aerial photos were used to observe the crossing. The Conservation Administrator investigated the occurrence and preformed a visit to observe the possible violations with the property owner of 47 Lawn Street, Jim Haber. During the site visit, a 12" steel culvert and an access "road" along the brook was observed. The property owner claimed that the culvert was installed by the utility company. When the utility company was asked about the culvert by Mark Stinson at DEP, they claimed they did not install it (according to Mr. Stinson). The property owner explained that he uses the crossing to access fields to mow which connect his property to his son's property at 39 Pershing Avenue. The DEP was concerned that fill was used to create the crossings. Tighe and Bond preformed soil sampling of the area prior to submittal of the NOI. At the request of the Conservation Administrator, Aaron Sabbs had reviewed the results of the sampling and observed that there was no evidence of fill in their samplings. With respect to the NOI, the DEP inquired if the project would require permitting through the Army Corps of Engineers. Arron Sabbs stated that the project consisted of 355 square feet of 'land under water'.

The Conservation Administrator recommended that the Public Hearing be continued so the communication shared at the Hearing could be passed along to the DEP for a response.

**Motion:** Commissioner Bacis moved to continue the Public Hearing to August 7, 2019 at 7:00 PM. Commissioner Tolopko seconded the motion. Seven (7) out of seven (7) Commissioners voted in favor of the motion.

**Agenda Item #3 (part 2) ---- Consider Enforcement Order for unpermitted crossings**

Conversation around issuance of an enforcement order continued for unpermitted crossings at the 47 Lawn Street property. The Conservation Administrator showed Commission Members aerial photos of the observed crossings.

Commissioner Dennis inquired what the outcome would be if an Enforcement Order was not issued. The Conservation Administrator explained that the DEP had the power to superseded any action (or inaction) of the Commission. Even though there is discrepancy about who installed the 12" steel culvert, it is being actively utilized by the property owner of 47 Lawn Street.

Separately, the Conservation Administrator has the ability to issue an Enforcement Order which could later be ratified by the Commission Members.

**Motion:** Commissioner Canning moved to ratify an enforcement order to the property at 47 Lawn Street for unpermitted wetland crossings. Commissioner Schwellenbach seconded the motion to ratify. Seven (7) out of seven (7) Commissioners voted in favor of the motion.

**Agenda Item #4 --- Discuss and Consider Partial Certificate of Compliance #288-50 for 162 Pine Grove Drive, Unit 162 (Map 31, Parcel 110-162)**

The Conservation Administrator explained that an Attorney representing the sale of the condo at 162 Pine Grove Drive had requested a Partial Certificate of Compliance (PCOC) to release the property. For the benefit of the new Commissioners present at the meeting, The Conservation Administrator explained that a PCOC would lift the Order of Conditions for this unit only. As units are sold off one-by-one, PCOCs are requested to release the property. The Commission had reviewed many PCOCs for the Pine Grove Condominiums as they were initially permitted and constructed in the 1980s.

**Motion:** Commissioner Bacis moved to issue a Partial Certificate of Compliance 288-0050 for 162 Pine Grove Drive, Unit 162. Commissioner Tolopko seconded the motion. Seven (7) out of seven (7) Commissioners voted in favor of the motion.

**Agenda Item #7 --- Other New Business** (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice).

**Partial Certificate of Compliance for 6 Ethan Circle**

The Conservation Administrator opened with background. At the previous Conservation Commission meeting, the Commission considered Partial Certificates of Compliance (PCOC) for two built lots within the Ethan Circle Subdivision. 4 Ethan Circle was issued a PCOC but 6 Ethan Circle was not. Luis Builders, the developer of both lots, stabilized the site by installing new filter fabric within the catch basins after cleaning them out. Additionally, construction on adjacent lots was completed which reduced issues concerning stormwater runoff and sediment control.

**Motion:** Commissioner Bacis moved to issue a Partial Certificate of Compliance #288-0429 for 6 Ethan Circle (lot 4). Commissioner Clymer seconded the motion. Seven (7) out of seven (7) Commissioners voted in favor of the motion.

**Agenda Item #6 --- Administrator's Report including updates on projects, violations, next meeting dates, correspondence log**

**Upcoming Schedule Change Request**

The Conservation Administrator explained that the Town Administrator had requested the Conservation Commission reschedule their regularly scheduled meeting on Wednesday September 18, 2019. A training session was scheduled the same night for Chairs and Vice-Chairs of Town/Municipal Boards and Commissions. It was amenable to push the Conservation

Commission meeting to the following Wednesday on September 25, 2019. The Conservation Commission meeting schedule would now reflect the following dates:

- August 7, 2019 at 6:00 PM
- August 28, 2019 at 6:00 PM
- September 25, 2019 at 6:00 PM

### **Riverlodge Road RFD**

The Conservation Administrator explained that a Public Meeting to consider a *Request for Determination of Applicability* to construct a road at River Boat Village would continue on August 7, 2019 at 6:45 PM. She explained that the Public Meeting opened a number of months ago. However, the applicant now had revised plans to continue the meeting.

### **Water Supply Protection District Working Group Update**

The Conservation Administrator shared that the Water Supply Protection District (WSPD) Working Group had met for a second time. The Working Group has been evaluating the Town's current WSPD bylaw. Additionally, the group called for boards and/or commissions to review their own bylaw to consider amendments that could aid in protection.

Separately, the Water District No. 2 Board of Water Commissioners was requesting to meet with the Conservation Commission to gather input regarding potential development scenarios within the Water Supply Protection District, particularly at the Chicopee Concrete gravel pit.

### **Agenda Item #5 --- Discuss and Consider Approval of Meeting Minutes from June 26, 2019**

The draft minutes from the June 26, 2019 meeting were previously transmitted to the Commission for their review.

**Motion:** Commissioner Tolopko moved to approve the draft minutes from the June 26, 2019 meeting. Commissioner Clymer seconded the motion. Four (4) out of seven (7) members voted in favor the motion. Three (3) members abstained from voting as they were either not present or not members during the June 26, 2019 meeting.

### **Adjournment**

The meeting was adjourned at 8:30 PM.

### **Appendix**

<b>Document</b>	<b>Document Location</b>
Updated Plan 7/17/19 – Delineation of 40 Sullivan Lane	Conservation Files
Aerial Photos of 47 Lawn Street	Conservation Files