

**TOWN OF NEEDHAM  
CONSERVATION COMMISSION  
MEETING MINUTES  
Thursday, June 23, 2011**

LOCATION: Public Services Administration Building, Charles River Room

ATTENDING: Dr. Lisa Standley (Chair), Dawn Stolfi Stalenhoef (Vice Chair), Paul Alpert, Marsha Salett, Carl Shapiro, Sharon Soltzberg, Patricia Barry (Agent), Elisa Litchman (Assistant)

GUESTS: Tom Daly, Lisa Daly, Kyle Fair, LEMONIA Fotiadis, John Frankenthaler, Bill Hannigan, Raina McManus, Clifford Mosher, Steve Nadeau, Stephen Rafferty, John Ruer, Helen Sagan, Vincent Roy, Tom Ryder, Mike Toohill,

L. Standley opened the public meeting at 7:35 p.m.

**MINUTES**

L. Standley accepted the written certifications from M. Salett, C. Shapiro and S. Soltzberg that these members have missed no more than one single session of the hearings pertaining to 1143 South Street (DEP File #234-613) Notice of Intent and 74 Pilgrim Road (DEP FILE #234-602) Notice of Intent, and have examined all evidence received at the missed session including a transcript of the meeting in accordance with MGL Chapter 39, Section 23 D Adjudicatory Hearings.

**Motion to approve minutes of May 26, 2011 as amended by P. Alpert, seconded by D. Stolfi Stalenhoef, approved 6-0-0.**

**Motion to approve minutes of June 9, 2011 as amended by P. Alpert, seconded by S. Soltzberg, approved 6-0-0.**

**HEARINGS**

**MA BAY COMMUTER RAILROAD - REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the public hearing at 8:30 p.m. L. Standley recused herself due to a conflict of interest. D. Stolfi Stalenhoef chaired the hearing. Kyle Fair represented the MA Bay Commuter Railroad and explained the vegetation management plan spraying and the approval of the plan that is submitted every five years. He further explained that this Request for Determination of Applicability is to renew the wetland resource area confirmation along the MA Bay Commuter Railroad right-of-way. The map provided to the Commission within the request indicates different spray zones and frequency. The herbicide application is anticipated to be completed during the first two weeks in July. **Motion to close the public hearing for the MA Bay Commuter Railroad Request for a Determination of Applicability by P. Alpert, seconded by M. Salett, approved 5-0-0.** The public hearing was closed at 8:40 p.m. **Motion to issue a negative determination of applicability for the MA Bay Commuter Railroad Vegetation Management Project by P. Alpert, seconded by M. Salett, approved 5-0-0.**

**0 FOREST STREET (NGWP #16) – NOTICE OF INTENT**

L. Standley opened the public hearing at 8:00 p.m. The Commission was notified by LEMONIA Fotiadis, that she would be tape recording this hearing pertaining to the 0 Forest Street Notice of Intent submitted by the Wellesley Country Club (WCC) in accordance with the MA Open Meeting Law (MGL Chapter 30A). Mike Toohill of Coneco Engineers and Scientists represented the WCC and presented the “after-

the-fact” Notice of Intent application under the Needham Wetlands Protection Bylaw (Article 6) for work conducted within an isolated vegetated wetland and its associated 100-foot buffer zone. M. Toohill explained that the WCC had received the spring information clean-up letter from the Needham Conservation Department and had responded to it per Bill Sansone, the Director of Golf Course Operations, to ensure that the WCC operations were in compliance with the wetland regulations. The WCC contracted M. Toohill to clean up the area within the buffer zone that was used as a work yard to stockpile materials including loam and mulch that inadvertently spilled into the wetlands. P. Barry met on-site with B. Sansone and M. Toohill where immediate authorization was given for erosion control installation and mulch pile removal. The proposed project includes restoring the 100-foot buffer zone and moving the stockpile materials and future operations outside of the buffer zone. Boulders will be placed to prevent further unauthorized dumping. The restoration proposal includes a gravel path adjacent to the existing unpaved access road to infiltrate runoff and keep the access way sediment from entering into the wetlands, and an extensive planting plan. L. Standley recommended that the plan be revised to include additional erosion control measures (i.e. fabric) on the steep slope directly adjacent to the wetland. L. Standley also requested a revised restoration plan with species and quantities of plants shown on the plan as well as an invasive species control plan.

L. Standley opened the hearing to public comment. John Frankenthaler of 33 Brookside Drive explained his concern for the WCC dumping of grass clippings in the pond in the past. He believes that the runoff from mowers and gas storage are the cause of the strong odor from his house. M. Toohill responded that currently there are no mowers in the area and that any mowers that were within the area were disposed of properly in accordance with state and local requirements. Clifford Mosher of 35 Clarke Road, an abutter for 50 years and a member of the WCC for 40 years expressed concern for any work being conducted on the property. The Commission assured him that anyone who owns the property (now or in the future) will not be able to build within the jurisdictional wetland resource areas without receiving prior approval from the Conservation Commission and going through a public process. **Motion to close the hearing for 0 Forest Street (NGWP #16) by S. Soltzberg, seconded by M. Salett, approved 6-0-0.** The public hearing was closed at 8:29 p.m.

#### **274 RESERVOIR STREET (DEP FILE #234-616) – NOTICE OF INTENT**

L. Standley opened the public hearing at 8:45 p.m. Vincent Roy, Superintendent of the Town of Needham Water & Sewer Department Superintendent presented to the Commission the proposed project to replace the existing sewer pump station on Reservoir Street as it is 60 years old and undersized. Steve Nadeau of the Town of Needham Engineering Department explained the Town’s schedule to have a solid construction bid for November 2011 Special Town Meeting and go out to bid in July/August of 2011. CDM consultant Steve Rafferty, represented the Town of Needham Water & Sewer Department and explained that there are several site constraints for the lot and project including Route 128, the Charles River and Reservoir Road. The town would like to demolish the existing structure and reconstruct the pump station along with a garage to house the vector truck, a wet well, emergency generator, new transformer, retaining wall and stormwater infiltration system. He also described the proposed dewatering plan to use frac tanks during the pump station installation.

L. Standley questioned the source of the Base Flood Elevation (BFE) identified on the proposed plans as the state and local jurisdictional wetland resource areas, Bordering Land Subject to Flooding (BLSF), is derived from the FEMA 100-year floodplain not the Town of Needham Flood Plain District Base Flood Elevation. The applicant responded that the BFE was the Town of Needham Floodplain District demarcated on the submitted plans. The Commission required that the FEMA 100-year floodplain be presented on the plan as this is the limit of the jurisdictional resource area. S. Rafferty touched upon a few alternatives considered for the pump station; however he explicitly stated that an alternatives analysis was not required for the proposed limited project as it is exempt from the Riverfront Area regulations.

The Commission questioned whether the proposed “garage” to house the vector truck as an ancillary facility to the sewer pumping station qualified as an exemption under the Wetlands Protection Act Regulations. S. Rafferty stated that the proposal for the new pump station garage would house tools, parts, toilets, HVAC, maintenance needs for the facility and space to park a vector truck.

The Commission requested the following additional information: (1) written submission of how the vector truck’s location and the proposed garage has a connection to the pump station and why it should be considered part of the pump station exempt project; (2) submittal of a waiver request for work proposed within the vegetated 50-foot no disturb portion of the buffer zone to the Charles River bank; (3) revised plans with the BLSF properly identified and the location and species identification of trees and shrubs to be removed within the buffer zone; (4) a re-analysis of the turning radius for construction equipment necessary to construct the new pump station that may allow for reduced vegetation clearing; and (5) a restoration plan for work proposed within the 50-foot no disturb portion of the buffer zone. **Motion to continue the hearing to July 14, 2011 at 8:30 p.m. in the PSAB – Charles River Room by P. Alpert, seconded by D. Stolfi Stalenhoeft, approved 6-0-0.**

### **3 MARY CHILTON ROAD (DEP FILE #234-615) – NOTICE OF INTENT**

L. Standley opened the public hearing at 9:20 p.m. Bill Hannigan of Hannigan Engineering represented the owners, Lisa and Tom Daly. He explained the proposed project to replace the retaining wall and construct stormwater facilities to fix the current drainage problem on the property within the 100-foot buffer zone to bordering vegetated wetland. He explained that the wall was constructed in 2007 without a permit and due to the storms last March 2010 and this year, it collapsed. A 1910 historic drain and swale appear to be located on the property and are believed to have caused the collapse. B. Hannigan believes that the outfall on the property was buried when Great Plain Avenue was widened years ago. B. Hannigan has discussed the project with the town and he explained the plan to cooperatively work together on exposing the drain and pipe and reconstructing the wall. L. Standley recommended that the properties owners confirm with the town who would be responsible for which portions of the proposed project. As it is currently proposed, the homeowners are the applicants and would be the sole responsible party for the project implementation. Written approval from the town would need to be acquired and submitted to the Commission if the town were also to become a permit holder. L. Standley suggested the applicant pull back the hay bales away from the vegetated wetland and limit the scope of work. The Commission requested that additional information be provided including (1) a waiver request for work proposed within the 25-foot no disturb portion of the buffer zone along with the associated \$1,000 fee; (2) revised plans reducing the work limits and showing the restoration plan and specifications; (3) confirmation of responsible parties for project implementation. The Commission noted that this would also be an “after the fact” Notice of Intent to permit the existing damaged retaining wall. **Motion to continue the public hearing (for additional information) of 3 Mary Chilton Road (DEP File #234-615) to July 14, 2011 at 8:45 p.m. by S. Soltzberg, seconded by P. Alpert, approved 6-0-0.**

### **1143 SOUTH STREET (DEP FILE #234-613) – *continued* NOTICE OF INTENT**

L. Standley opened the public hearing at 9:40 p.m. Sean Reardon represented the applicant and explained that he had properly notified abutters, submitted the Certificate of Compliance Request and the revised mitigation plan. **Motion to close the public hearing for 1143 South Street by P. Alpert, seconded by C. Shapiro, approved 6-0-0.** The public hearing was closed at 9:42 p.m. The Commission reviewed the Order of Conditions. **Motion to issue the Order of Conditions for 1143 South Street (DEP File #234-613) by P. Alpert, seconded by D. Stolfi Stalenhoeft, approved 6-0-0.**

## **74 PILGRIM ROAD (DEP FILE #234-602)–Continued REQUEST TO AMEND ORDER OF CONDITIONS**

L. Standley opened the public hearing at 9:43 p.m. John Rockwood of Eco Tec Inc. represented the applicant, M. Deychman and explained that the owner would like to amend the existing Order of Conditions to install a 4-foot fence supported by 4-inch metal channel posts within Bordering Vegetated Wetland and the 25-foot buffer zone. He further explained that the owner would like to install sod up to the wetland line where the area is currently existing lawn, beyond the approved limit of work. J. Rockwood presented to the Commission a wildlife habitat assessment, performance standard analysis and detailed waiver request required by the bylaw; however L. Standley disagreed and stated that the solid fence through the wetland would alter wildlife habitat. The Commission expressed concern regarding the impacts to the wetlands functions and values for the proposed fence installation in the vegetated wetland and required an alternatives analysis be submitted in accordance with the Bylaw regulations, as the applicant did not satisfactorily demonstrate in accordance with Section 1.11 of the Needham Wetlands Protection Regulations that there were no practicable alternatives to the proposed action (installation of fence within the vegetated wetland). After much discussion regarding the location of the fence, M. Deychman agreed to provide the Commission a revised plan with the proposed fence installation just outside the wetland line and sod on the property within the 25-foot buffer zone. **Motion to close the public hearing for 74 Pilgrim Road (DEP File #234-602) by C. Shapiro, seconded by P. Alpert, approved 6-0-0.** The public hearing was closed at 10:11 p.m.

### **COMMISSION ACTIONS**

#### **DPW CHARLES RIVER STREET DRINKING WATER WELL REPLACEMENT PROJECT – EXEMPTION REQUEST**

Vincent Roy, Superintendent of the Town of Needham Water and Sewer Department explained that the town had been conducting rehabilitation work on the 75 year old drinking water well no. 1 and the well collapsed during the process. After having a study conducted, the town opted to replace the well. Andy Miller of Camp Dresser McKee, Inc. stated that the town is requesting an exemption approval from obtaining a permit under the MA Wetlands Protection Act and the Needham Wetlands Protection Bylaw to conduct 2.5 –inch test wells in existing maintained lawn area within Bordering Land Subject to Flooding associated with the Charles River. No woody vegetation would be disturbed as a result of the testing. The town is seeking to bring supply on-line by the end of the year. **Motion to approve installation of test wells at the Charles River Street Drinking Water Well No. 1 as an exempt minor activity by C. Shapiro, seconded by M. Salett, approved 6-0-0.**

#### **DPW 274 RESERVOIR STREET SEWER PUMP STATION REPLACEMENT PROJECT – EXEMPTION REQUEST**

S. Nadeau of the Town of Needham’s DPW - Engineering Department stated that the town is requesting an approval as an exempt activity under the MA Wetlands Protection Act and the Needham Wetlands Protection Bylaw to conduct an approximately 12-foot deep test pit adjacent to the existing pump station to determine the groundwater level within the 200-foot Riverfront Area of the Charles River and the 100-foot Buffer Zone to inland bank. Additionally, S. Nadeau requested approval, as an exempt activity, to cut down one dead hazard tree and two living trees in the area of the utility right-of-way to allow the utility company to relocate the utilities. The Commission approved the test pit and tree removals as exempt minor activities provided that if the replacement pump station project is not approved, the Town must prepare and submit a restoration plan for the test pit area and the two trees. **Motion to approve the test pit and removal of two trees and one dead tree as exempt minor activities by M. Salett, seconded by P. Alpert, approved 6-0-0.**

### **POLLARD MIDDLE SCHOOL (TEAM BUILDING SCIENCE BIOMES)-REQUEST TO USE RIDGE HILL RESERVATION**

The Pollard Middle School has requested approval to use Ridge Hill Reservation for its annual Team Building Day to create individual science biomes with 150 middle school students. The students would take small amounts of dirt, twigs and other items from nature to put in 2-liter bottles to create the biome. The Commission requested that all activities take place outside of the Commission owned meadows as this sensitive and protected wildlife habitat is currently undergoing restoration. **Motion to approve the Pollard Middle School use of Ridge Hill Reservation without the use of the Conservation Commission owned meadows by S. Soltzberg, seconded by M. Salett, approved 6-0-0.**

### **PARK AND RECREATION DEPARTMENT (OUTDOOR LIVING ADVENTURE) - REQUEST TO USE RIDGE HILL RESERVATION**

The Park and Recreation Department requested approval from the Conservation Commission to mow a portion of the meadows on either side of the Ridge Hill Reservation entrance road for the scheduled Annual Outdoor Living Adventure program field games to take place at Ridge Hill from June 2011 through August 2011. The Conservation Commission approved the use of the Ridge Hill Reservation trails for the Park & Recreation Outdoor Living Adventure Program but did not approve the mowing and use of the meadows on either side of the driveway on the Conservation Commission owned portion of Ridge Hill Reservation. The Conservation Commission expressed concern about the use of the meadows that are currently under restoration from the Needham Tercentennial Committee Ridge Hill Re-enactment Event and the use of the meadows for field sport activities is inconsistent with the primary objective for conservation of the meadows as wildlife habitat along with direct violation of the voted and established Reservation rules. The Commission referenced other fields in town which may be consistent with the purpose of field sports (i.e. the Nike Site). The only meadow mowing the Commission approved were three trail entranceway paths as identified on the Trails Map. P. Barry will coordinate with the Parks and Forestry Department regarding the mowing of the trail entrance ways. **Motion to deny the Park and Recreation Department request to mow the Conservation Commission owned portion of the meadows for the Annual Outdoor Living Adventure Program field sports by M. Salett, seconded by S. Soltzberg, approved 6-0-0.**

### **113 WEBSTER STREET – DEAD TREE REMOVAL EXEMPTION REQUEST**

P. Barry explained that there is a dead tree the owners wish to remove at 113 Webster Street. There are no apparent streams within the area but there may be an isolated wetland in the rear of the property. L. Standley stated that a 6-foot snag should be retained for wildlife habitat. **Motion to approve the dead tree removal exemption with a 6-foot snag by M. Salett, seconded by S. Soltzberg, approved 6-0-0.**

### **1143 SOUTH STREET (DEP FILE #234-383) – CERTIFICATE OF COMPLIANCE REQUEST**

P. Barry explained that the Order of Conditions is from 2001 and that appears via a site visit that the project was completed in compliance with the order. There are no ongoing conditions. **Motion to issue the Certificate of Compliance for 1143 South Street (DEP File #234-383) by P. Alpert, seconded by C. Shapiro, approved 6-0-0.**

### **1885 CENTRAL AVENUE – VIOLATION**

L. Standley explained to the Commission that she has observed that vegetation has been cleared and grubbed on the bank of the Charles River at 1885 Central Avenue. There is past history with the property owner who conducted unpermitted work within protected wetland resource areas in 2009. L. Standley recommended an enforcement order be issued with a fine, requiring an “after the fact” Notice of Intent application and a restoration plan be submitted one week in advance of the next Conservation Commission Meeting scheduled for July 14, 2011. The Commission agreed that a non criminal fine of \$1,600 would be issued for the two unpermitted activities (vegetation clearing and soil

disturbance/grubbing) within the 200-foot Riverfront Area, Bordering Land Subject to Flooding, Inland Bank and the 100-foot Buffer Zone. **Motion to issue an Enforcement Order to the owners of 1885 Central Avenue for violation of the MA Wetlands Protection Act and the Town of Needham Wetlands Protection Bylaw by S. Soltzberg, seconded by M. Salett, approved 5-0-1.** P. Alpert and C. Shapiro disagreed with the total fine of \$1600 and believed the fine should be more based on the amount of vegetation removed.

#### **177 OXBOW ROAD – VIOLATION**

L. Standley explained to the Commission that the neighbor with the dock adjacent to 1885 Central Avenue on Oxbow Road, also has cleared vegetation along the River without a permit. She noted that there is no prior history of past violations and that less damage to the resource areas was conducted in comparison to 1885 Central Avenue. The Commission agreed that an \$800 fine for one unpermitted activity (vegetation clearing) be issued for the violation for work within the 200-foot Riverfront Area, Bordering Land Subject to Flooding, Inland Bank and the 100-foot Buffer Zone along with an enforcement letter requiring the submittal of a restoration plan to be submitted to the Commission for the next Conservation Commission meeting on July 14, 2011. **Motion to issue an Enforcement Letter to the owners of 177 Oxbow Road for violation of the MA Wetlands Protection Act and the Town of Needham Wetlands Protection Bylaw by P. Alpert, seconded by D. Stolfi Stalenhoeft, approved 5-0-1.** For the record, C. Shapiro disagreed with the total fine of \$800 and believed the fine should be more based on the amount of vegetation removed.

#### **18 BORDER ROAD (DEP FILE #234-612)- ISSUE ORDER OF CONDITIONS**

The Commission reviewed the draft Order of Conditions. **Motion to issue the Order of Conditions for 18 Border Road (DEP FILE #234-612) by C. Shapiro, seconded by P. Alpert, approved 4-0-0.** S. Soltzberg and M. Salett abstained from voting.

#### **OTHER BUSINESS**

##### **BUILDING DEPARTMENT PLOT PLAN FORM 2011 REVISIONS**

P. Barry presented to the Commission a revised Building Department plot plan form that is being used by the Building Department. The form was revised to elaborate on the required identification of wetlands and floodplains on the submitted plot plan in accordance with the Building Department requirements, specifically identifying that the FEMA 100-year flood plain, 100-foot buffer zones and 200-foot Riverfront Areas all need to be identified on the plot plan.

##### **GIS DEPARTMENT NEEDHAM WETLANDS MAP (APRIL 2009)**

P. Barry distributed the new GIS wetlands maps to the Commissioners, compiled from the most recent 2009 flyover data. The map has disclaimers listed and P. Barry noted how helpful the map has been already to the Conservation Department in conducting resource area analyses.

**Motion to adjourn by C. Shapiro, seconded by P. Alpert, approved 6-0-0. The meeting was adjourned at 10:40 p.m.**

#### **NEXT PUBLIC HEARING**

*July 14, 2011 at 7:30 p.m. in the Public Services Administration Building, Charles River Room*