

Montague Conservation Commission

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MEETING MINUTES

Thursday, October 8, 2015 – 6:30 pm

Upstairs Meeting Room, Town Hall, One Avenue A, Turners Falls, MA

Commissioners Present: Mark Fairbrother - Chair, Sean Werle, Addie Rose Holland and Alex Peterkin

Commissioners Absent: Deb Picking, Justin Fermann and Donna Francis

Staff: Walter Ramsey - Agent

Mark Fairbrother called the meeting to order at 6:30 PM

Approval of Minutes:

Motion made by Sean Werle to approve the July 9, 2015 minutes. Seconded by Addie Rose Holland.

Motion passed.

Continuation of Notice of Intent #2015-04 filed by David Svobada for the Walnut Street Condominium Association for property identified as 28 Walnut Street (Assessors Map 13, Lot 9). Applicant plans to stabilize and restore 140 linear feet of eroding bank to protect residential units.

Guest(s): Ed Young (Contractor) and Tim Ballou (Walnut Street Resident)

There was a new project plan submitted and dated October 8, 2015 prepared by Tim Ballou. Tim presented the plan to the satisfaction of the Commission.

The Agent drafted the following findings that were reviewed by the Commission:

1. The purpose of this project is to mitigate streambank erosion threatening residential condos from an unnamed stream originating near Dell Street with a watershed of approximately 0.16 square miles.
2. The continuous erosion constitutes an immediate threat to the health, safety, and welfare of the condo residents.
3. The project will occur within Bank, but adequately protects the public interests identified in the Wetlands Protection Act.
4. The proposal uses best management practices to the extent practical.
5. The proposed work meets the general performance standards for Bank found at 310 CMR 10.54(4)(a) 1 through 6.

Agent drafted the following standard conditions that were reviewed by the Commission:

1. The Commission should be notified at least 48 hours prior to construction in order to review and inspect erosion control.
2. A copy of this Order of Conditions shall be provided by the Applicant to the Contractor
3. Changes in the scope, design or construction methods that affect areas within the jurisdiction of the Conservation Commission shall be submitted to the Commission for review and approval **prior** to implementation in the field to ensure that they are consistent with this Order and the Wetlands Protection Act and Regulations. The Commission shall have the right to impose additional conditions to ensure compliance with the Act and Regulations.

4. There shall be no stockpiling of materials, fueling of vehicles, or storage of oil, fuel or other hazardous materials in resource areas or their buffer zones, including any areas within 100 feet of a Bordering Vegetated Wetland or intermittent stream or within 200 feet of a perennial stream, unless specifically permitted by this Order or approved in writing by the Commission or its Agent.
5. The Contractor shall provide watertight tanks or barrels to dispose of chemical pollutants, such as drained lubricating or transmission fluids, grease, soaps, concrete mixer washwater, or asphalt, produced as a by-product of the construction activities.
6. Supplies for cleanup of oil, gasoline and other hazardous materials to be used during the project shall be kept onsite at all times from the start of the project to its completion. Spills of hazardous materials shall be reported immediately to the Department of Environmental Protection (DEP) and the Commission and cleaned up in accordance with DEP guidelines.

Motion made by Sean Werle to close the hearing and approve Notice of Intent #2015-04 filed by David Svobada for the Walnut Street Condominium Association with the special conditions recommended by the Agent. Seconded by Alex Peterkin. **Motion passed.**

Enforcement Order Hearing: James Smith- 420 Turners Falls Rd Enforcement Order issued for unauthorized fill in BW.

Guest: James Smith (owner)

A cease and desist order was issued by the Conservation Agent on September 17, 2015. The order was a consequence of unauthorized fill in bordering vegetated wetlands at the residence located at 420 Turners Falls Road, which was a clear violation of the Wetlands Protection Act.

It was noted that Mr. Smith has an extensive history with the Commission including another enforcement order for unauthorized work in the same wetland. He feels he did not violate the WPA because in his opinion his backyard is not a wetland. He did acknowledge that he had previously cut down the vegetation and recently filled in the area in question, but felt he was operating within his rights. Agent estimates the actual fill area to be 300 square feet, but it is impossible to know for sure without a soils-based delineation.

Mr. Smith asked what prompted the Enforcement Order and the Agent responded that it was brought to his attention by a Commissioner who could see the violation in plain sight from the public way.

There was a fundamental disagreement between Mr. Smith and the Commission about the interests of the Wetlands Protection Act and how it is enforced.

Mr. Smith left the meeting at 7:25 at which point the Commission discussed adding two additional provisions to the Enforcement Order:

1. Resource area alterations resulting from said activity shall be corrected and the resource area returned to their original conditions
2. A restoration plan shall be filed with the issuing authority on or before November 12, 2015. The restoration plan needs to include a delineation based on soil samples identified in the field by a qualified professional. Failure to submit a restoration plan to the Commission by the date of November 12, 2015 will constitute a violation.

The Commission directed the Agent to coordinate enforcement with DEP.

Motion made by Sean Werle to ratify the Enforcement Order for James Smith of 420 Turners Falls Road dated 9/17/15 along with requiring a professional delineation of the wetland area done by October 28, 2015 and a plan for restoration of the area by November 12, 2015. Seconded by Alex Peterkin. **Motion passed.**

Emergency Certificate EC#2015-03 Camp 10 E Industrial Blvd.

First Light Hydro Generating Company has filed for an emergency certificate to remove a dangerous, downed tree in the riverfront area of the Connecticut River. It happened during the high water storm on September 29, 2015. The applicant feels it poses an immediate threat to the adjacent dock areas in high flow and requests the emergency certificate to remove the downed mature tree. Agent and commission concur based on photographs. Work to be done by Cotton Tree. Applicant to supply post-work photos to ensure that no damage was done to the bank. Agent had previously issued the EC.

Motion made by, Addie Rose Holland to ratify Emergency Certificate EC#2015-03 for Camp 10 E Industrial Blvd. Seconded by Sean Werle. **Motion passed.**

Agent Updates:

- a. **Update on Notice of Intent #2015-02 filed by Montague DPW** for drainage improvements and slope stabilization on Millers Falls Rd affecting assessors Map 25 Lot 10.

Mark Fairbrother thought that the plan that was approved had pipe that was suppose to go all the way down the hill to a splash pool. It turns out that the plan stated that there was to be 20 feet of pipe as it was installed leading to an outlet to a swale that had geotex fabric mat then into the scour hole. The submitted plan was approved and stamped by the engineer and was modeled. The swale failed on 9/9/2015. The contractor reinstalled it on their own dime and on 9/13/2015 it washed out again. Sediment got washed into the oxbow but the layer is not too thick and Walter will visit the site with David Brule who first raised concern in the next few days. Currently the design has been reworked and altered so that the pipe is now been brought all the way down the hill with erosion controls in place emptying into a reinforced scour pad. The re-design works currently. A new double staked hay bale fence was installed to replace the one that had failed, per order of the Agent.

- b. **Forest Cutting FC#2015-01 filed by Michael Mauri for Robert & Anne Weaver.** Location of work to be done at Fosters & Weaver Roads (20.3 acres).

This forest plan does not impact any wetlands. Department of Fish and Wildlife did not have any comments on the plan. The Commission did not offer comments.

- c. **topics not anticipated within the 48 hours of posting**

- Town Meeting met last week and appropriated money to participate in the FRCOG process for the pipeline and money to fighting the pipeline at the State DPU level.
- Alex will be attending a conference on October 17, 2015 and requests reimbursement from the Commission for the fee.

Motion made by, Sean Werle to reimburse Alex Peterkin from the Conservation Fund in the amount of \$95.00 for the conference. Seconded by Addie Rose Holland. **Motion passed.** *Alex Peterkin abstained.*

Motion made by, Addie Rose Holland to adjourn the meeting. Seconded by, Sean Werle. **Motion passed.**

Meeting adjourned at approximately 7:58 PM.

Approved by: _____ Date: _____