

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Monday, January 31, 2011, at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at: 7:03 p.m.

Commissioners Present: Ernest Grimes (Chairman), Mary McLaughlin, Ram Moennsad

Commissioners Absent: Judy Lochner, Warren Snow

Staff present: Ginny Scarlet

Minutes Approved: December 8, 2010 – *A motion to approve the minutes as amended (McLaughlin/Moennsad) passed 3/0.*

Voted & Signed: Rustic Lane, Negative Determination –
The hearing had been closed at the 12/8/10 meeting but then the Commission directed Ms. Scarlet to revise the accompanying letter to the applicant. The Commission now reviewed the fixed letter and approved it.
A motion to issue a Negative Determination with discussed conditions (Moennsad/McLaughlin) passed 3/0.

7:15 p.m. Opened the Public Hearing for Request for Determination of Applicability for Jeffrey Eaton

Property: 127 Wilson Avenue, Spencer, MA

Mr. William Klansek represented Jeff Eaton. The project is to take some pine trees down. Mr. Klansek said the trees are in rough shape. Mr. Grimes said the Commission went and did a site visit. He said there is a huge potential for damage from these trees. Mr. Klansek said the stumps will be ground. Ms. Scarlet said a condition will be that the chips must be directed away from the water and anything that does go over the edge must be cleaned up. Mr. Grimes said he has no issue taking all 12 of the marked trees down. Mr. Moennsad asked if tractors would take the trees down. Mr. Klansek said they will be taken down with chainsaws.

A motion to close the public hearing (Moennsad/McLaughlin) passed 3/0.

A motion to issue a Negative Determination with conditions as discussed (McLaughlin/Moennsad) passed 3/0. The Commission signed the Determination

7:22 p.m. Opened the Public Hearing for Request for Determination of Applicability for Kristina Geenty

Property: 35 Lake Shore Drive, Spencer, MA

The project is for a new septic system; the current system is in failure. There will not be a leach field; it will be a tight tank. The Board of Health has approved the system. The tank is right by the house. The lot is extremely tight. There is no impact at all relative to the lake. The tank will have a two-level alarm system which will go off inside the house.

A motion to close the public hearing (McLaughlin/Moennsad) passed 3/0.

A motion to issue a Negative Determination with standard conditions as discussed (Moennsad/McLaughlin) passed 3/0. The Commission signed the Determination

7:27 p.m. Opened the Public Hearing for Notice of Intent for New England Organics

Property: 63 Cranberry Meadow Road, Spencer, MA DEP#293-0756

Jim Talvy and Lindsey D'Anna from New England Organics presented a project to reclaim the Bond Corporation Gravel Pit on Cranberry Meadow Road. They will use shredded paper fiber from the Irving Paper Mill, adding compost and fertilizer to make a manufactured top soil. The pit will be re-graded then top soil will be applied, mixed with existing soil, and seeded to become a hay field. The intention is to reclaim the areas that were excavated over the last 40 years. Cranberry Meadow Brook divides the excavated area into two sections. Work in the east section by the railroad will reach as close as 50 feet to the existing bank of the brook. The brook is perennial and regulated as a "river"; therefore, work will be partially in Riverfront Area or Buffer Zone or both. A berm separates the excavated areas from the stream except where the access road crosses the stream to connect the two sections of the pit. The berm around the area is shown as a red line on the plan map. The 100 and 200 foot RFA lines have been flagged in the field. Both pit sections will be reclaimed.

Mr. Moennsad asked for more information about the material to be applied. The fiber from the paper mill is too short to be used for recycled paper but is high in organic matter. About 6 inches of fiber compost will be spread. There are no chemicals in the compost and the analysis is in the NOI. Mr. Grimes added that organic fertilizer will be used. Ms. Scarlet noted that a separate permit from DEP is required for "beneficial" use of the mill "waste." A copy of that permit application is also included in the NOI before the Commission. A DEP approval of that permit will assure that the material is indeed benign.

Ms. Scarlet suggested that erosion controls be installed to prevent material washing into the access road crossing and from there into the brook.

Mr. Grimes mentioned a depression of about 8 feet at the north end of the pit's east section where water collects. He asked whether the depression needed to be re-graded to be useful as a hay field. Mr. Talvy believes it will not be inoperable as it is.

Mr. John Smith, abutter asked to see the plan & the precise work location in relation to his property. He looked at the map and a copy of the Assessors Map lot lines. The Commission pointed out the work areas.

Brett Burt, abutter and owner of lot 9, also asked to look. He expressed concern about an access between lots 9 and 10 and asked whether it is a legal access. Ms. Scarlet pointed out that the lot and access layout was approved by the Planning Board years ago.

The gap between lots 9&10 will not be used for this reclamation project. He asked what the project timing would be. Mr. Talvy said that May 1 was the target start date but the actual date will be weather dependent. DEP allows only a 43 day storage of the material onsite before it is spread, so it must be worked promptly. The project should be finished by the end of this year's growing season. There is not yet a farmer lined up to cut the hayfield.

Mr. Smith asked whether there would be odors. Mr. Talvy replied that it smells like wet paper towels, they will work in small sections. The smell should only be detectable from 100 to 150 feet away and the wind is generally from the west from the houses toward the pit. Work will be only business hours Monday through Friday, maybe as many as 5 trucks a day. There are no trees in the pit area that need to be removed.

Mr. Moennsad asked whether there were any problematic leachates. Mr. Talvy said the DEP examination eliminates that possibility.

A motion to close the hearing (Moennsad/McLaughlin) passed unanimously

Conditions discussed:

- No cutting of the stream bank.
- Erosion controls at the access road crossing.
- No breaking through the berms.
- Mr. Talvy and Ms. Scarlet to meet to determine effective ESC. No work until Ms. Scarlet has inspected and approved the ESC installation

A motion to approve the application with the conditions discussed (Moennsad/McLaughlin) passed 3/0.

7:52 p.m. Opened the Public Hearing for Request for Determination of Applicability for Fred Brunelle

Property: 12 Bellevue Drive, Spencer, MA

Marty German acted as Representative for Mr. Brunelle, who was also present. The project is construction of an addition and deck on a lakeshore lot. The foundation will be five (5) sonotubes, the holes for which will be dug by hand. The addition will reach to 51 feet from the water. CC had done a site visit and understood its constraints. The deck extends to 43 feet from the water. The structures are 18 feet or more from the lot line. During construction all materials will be stored across the street.

Condition discussed:

- The Commission must be notified if it turns out that a machine is needed.
- Materials to be stored across the street.

A motion (McLaughlin/Moennsad) to close the hearing passed 3/0.

A motion to issue a Negative Determination with the conditions discussed (Moennsad/McLaughlin) was passed 3/0. The Commission signed the Determination.

7:59 p.m. Opened the Public Hearing for Notice of Intent for Philip Samuelson Property: 14 (a.k.a. 15) Bellevue Drive, Spencer, MA DEP#293-0753

This project is for replacement of the septic system for the house at 14 Bellevue Drive. Mr. Samuelson also owns and uses as his mailing address, 15 Bellevue Drive, which has no dwelling. No one appeared as proponent for this project. Richard Gobi, Registered Sanitarian, designer of the system, sent a letter saying that because of the weather delays in the meeting schedule he is now in Florida and was available by phone if there were questions at the meeting.

Ms. Scarlet gave the Commission a copy of an email from Mr. Jarvis, Agent for Town of Spencer Board of Health. The email said that there was no alternative location for the septic system and that he was confident it would adequately protect the lake as designed. The Board of Health has issued a permit for the system as shown on the Notice of Intent Plan.

The Commission studied the plan. It included erosion controls. The Commission had visited the site and concurred that there were no other locations possible. The Commission had no questions and there were no questions from the public. Mr. Gobi's evening was not disturbed.

A motion was made (McLaughlin/Moennsad) to close the hearing which passed 3/0.

Conditions discussed:

- Standard conditions including the requirement for a hydraulic boom.
- Require submission of the contractor's name and the contractor certify that he has read and understood the Conditions.

The Commission detoured into discussion of the requirement for such contractor certification and decided that it should be included in all future permits with conditions.

A motion (Moennsad/McLaughlin) to approve the project with the conditions discussed passed 3/0.

8:04 p.m. Opened the Public Hearing for Notice of Intent for Town of Spencer Property: Sugden Reservoir Dam, Spencer, MA DEP# 293-0755

Mrs. McLaughlin disclosed, in writing and verbally, that she is a resident on Sugden Reservoir and was sitting as a Commissioner at the hearing only so there could be a quorum present. The applicant raised no objection and signed the written disclosure attesting to that effect.

The applicant supplied evidence that all abutters to the Reservoir had been sent notice of the Hearing.

Matt Bellisle for Pare Corp. (an engineering firm) explained the project. The gate controlling the Sugden Dam low level outlet is not working and joints in the dam spillway are opening up. This NOI is only for work associated with these repairs.

A sealant, Injectaflex, a flexible polyurethane material will be injected into the concrete spillway's leaking joints. To do the work, the polyurethane and the spillway concrete must be at least 40 degrees Fahrenheit. It will be necessary to dig down about 2 feet to a point where the joint is still sound. Digging will be done by hand. The excavated soil will be replaced when the caulking is finished. Access will be via an existing cart path from Paxton Road to the north end of the dam. A temporary ramp will

be constructed from the path onto the dam with staging & a foot bridge above the spillway work area. The joint repairs must be within dry condition which requires drawn down to ensure during this work. Flow downstream will be maintained by siphon over the dam if water doesn't rise to the spillway after the joint repairs are finished.

The gate house will be removed entirely and replaced with a more secure pre-cast concrete structure with solid door and frame to prevent unauthorized use of the control (as has happened.) The present corrugated metal gate house door is loosely held by an often-broken chain and there are gaps at the roof which allow in bees and other critters. The gate control stem is bent and the gate itself at the bottom of the well is wracked and warped inside its frame. It can no longer be completely closed and there's no backup system for closure. A new fully functional gate will be installed on the downstream side of the well and the existing gate will be rehabilitated and its stem straightened to provide secondary closure if necessary. The inlet to the well will be blocked during this work to provide safe conditions for the divers. The replacement gate house will be installed after the work in the well has been completed.

Access for the gate house work will be via the existing route from Lakeview Drive onto the dam and along its crest. There should be no need for work on upstream or downstream slope of the dam.

The plans are "progress plans" to expedite the project. They were sent to the Commission during the design and development phase.

Work sequence:

The reservoir will be lowered to its normal winter drawdown level. It has not reached that yet this year. When the water is down the spillway, work and removal of the existing gate house will take place. Then the low level intake to the well will be blocked temporarily so the pond level can rise to the spillway level. If the water does not rise enough to go over the spillway, a siphon will be used to maintain a minimal flow downstream.

As soon as the well intake has been blocked temporarily, work to put in the new gate and repair the old gate will start. When that's done the new gate house will be installed and the pond will be allowed to rise to its normal level. It is planned to start water level restoration by May 15 if possible. A wet spring or the current water level & snow pack may cause delay.

The only permanent impact to the resource areas is alteration of 85 square feet of Bordering Land Subject to Flooding and Riverfront Area associated with the work on the gate house structure. All the other impacts are temporary. They include about 245 square feet of Land Under Water for construction of the south access ramp; 4170 square feet of Land Under Water at the spillway apron, where there is no vegetation, for access to the spillway; 9335 square feet of Riverfront Area and 4270 square feet of Bordering Land Subject to Flooding for staging and access; and also about 10 linear feet of Bank for the access ramp.

The erosion controls are shown on the plan. Hay bales will be placed on the upstream side of dam crest along the truck route. Turbidity barriers will be at the low level outlet and across the spillway. The turbidity curtains will be cleaned by hand at removal.

Mr. McNeil mentioned that the outlet structure has been blocked at the well inlet by an unknown person during the fall drought in an attempt to keep the pond full. He believes that when the Utilities and Facilities Department tried to begin the weed control draw down in November, the increase in flow just pulled the block in more tightly and opening the gate did not fully increase flow. The contractor will have to deal with removing the “plug.” This will add to the Town’s expenses.

In answer to a question from Mr. Moennsad, Mr. Bellisle replied that the polyurethane grout sets almost instantly. Within 24 hours it is cured and ready to accept flow; 48 hours is better. The grouting should only take a couple of days and there’s good sunshine to heat the concrete.

The refurbished gate well will have float sensors to monitor the pond level which will help track the rate of drawdown and refill and warn of emergencies. There will be an alert beacon visible from Paxton Road on the top of the gate house and powered by a solar panel.

Mr. McNeil, Superintendent of Spencer Department of Utilities and Facilities added that the monitoring system is a simple device to address an Army Corps of Engineers concern about the remoteness of the location from downtown and the Dept of Utilities and Facilities. The residents at Sugden can be trained to call 911 if they see the red light on so U&F can address the situation.

Ms. McLaughlin suggested that the Sugden Residents be warned of the extra drawdown by the lake association. Mr. McNeil assured her that they kept in contact with the Association. Mr. Grimes commented that the existing drawdown Order of Conditions has a 30 inch maximum drop and asked whether that would be enough for the work to be done. Mr. McNeil said that it would be enough. Mrs. Scarlet noted that the WPA limited project regulations for dam repair [310 CMR 10.53(3)(m)] allow whatever depth is needed for the work, but no more. The Order of Conditions for this project will necessarily extend the deadline for return to normal level.

Mr. McNeil added that the primary reason for doing this work is to maintain the lake’s recreational value. He pointed out that this is where the complaints come from. Ms. Scarlet pointed out that recreational value is not an interest of the WPA, but recreation is protected by the local wetlands bylaw.

A motion to close the hearing (Moennsad/McLaughlin) passed unanimously.

Conditions discussed:

- A boom must be in the lake through the period of delivery (by truck) of the new gatehouse structure.

A motion to approve the application with the conditions discussed (Moennsad/McLaughlin) passed unanimously.

**8:35 p.m. Opened the Public Hearing for Notice of Intent for Town of Spencer
Property: Public Roads throughout the Town of Spencer, MA DEP#293-0754**

Mr. Robert McNeil, Superintendent of the Department of Utilities and Facilities explained that the idea of creating a General Notice of Intent for routine maintenance operations of the Spencer Highway Department has been a goal for a long time, since Margaret Bacon was Superintendent of U & F. This NOI is intended to set up a system for the Highway Department to produce understanding so the Conservation and DEP know what to expect from the Highway Department. The NOI also provides for periodic joint review of that understanding. In addition, the system proposed will extend to training for the Hwy Dept. personnel about wetlands and precautions needed when work is done near or in the resource area and habitat areas..

The NOI sets out which specific activities are included in this application based on the exemptions given Hwy maintenance in MESA [MESA regulations, 321 CMR 21 and the WPA, and the limited projects which the Commission may permit [WPA regulations 10 CMR 10.53 (3).] Mr. McNeil reviewed the full list of the Highway Department's activities, and then the activities from that list for which the NOI covers.

Mr. McNeil said that, in addition, he has made a commitment in the NOI to reduce impervious surfaces wherever possible during the work on roads and town properties as long as he is Superintendent. For example, past paving has resulted in surfacing right up to, or often around, the mature trees so that the road edge undulates. The highway department will try to establish uniform minimum paving width needed to carry the traffic when reconstructing each road. The recent project to rebuild thirteen hundred (1300) foot long Ashview Drive resulted in a pavement reduction of one tenth (1/10) of an acre. He believes this will be environmentally beneficial and help the town comply with its NPDES permit.

Mr. McNeil continued that the NOI has a list of Hwy Dept. equipment, maps of the resource areas and rare species habitats showing where they intersect roads. The NOI has been filed with the Natural Heritage Endangered Species (NHESP) program and DEP. NHESP has responded with a comment letter.

Mr. McNeil pointed out the specific activities proposed in the application to be regulated by the Order of Conditions. He stated that cutting of roadside brush and trees is the only one of those activities which will be expanded. Lack of adequate equipment limited cutting in past years resulting in serious encroachment onto the shoulders and in some cases up to the pavement, often reducing sight distances. Now the department has a 10 year lease on a tractor with an articulating arm holding a flail brush cutter. Right of ways now can be cut back over time to a safe level. The NHESP was very specific about cutting in habitat areas. Mr. McNeil intends to work with the Commission agent to identify those areas in the field then train his staff about the requirements.

Mr. McNeil explained that debris accumulated at the road margins is scraped periodically. During the scraping, the machine is turned out away from the road to open a path for road runoff to drain away in sheet flow. The turn locations are the "turnouts" as mentioned in the NOI. Settling ponds are intended to make it possible to clean out accumulated sediments washing from the road.

He continued that the NOI was intended to give the Commission an overview of the operations. It does not cover specific locations for the activities except where required by the regulations. The goal is to recognize the activities done within the town's

limits so it's on paper, with discussion & training, to improve the roads in an environmentally friendly way.

Resurfacing hard surfaced roads and properties pertains to reclaiming, repaving and reconstruction of existing pavement. Likewise for filling pot holes. Creating a new impervious surface would require separate prior approval from the Commission. The reconstruction of North Brookfield Road is an example of culvert replacement and new catch basin installation, thereby significantly improving drainage of the road. Before repaving, collapsed corrugated metal culverts were replaced with plastic pipes, and block culverts with per-cast concrete.

Mr. Grimes commented that it was a very good job. Mr. McNeil said that the Highway workers worked very hard to do an excellent job and that North Brookfield Road is substantially better as a result. It is the intention to start with drainage improvement at the start of the project for each road identified for reconstruction. Projects now in line include Bacon Hill Road, Thompson Pond Road and part of Donnelly Cross Road. Mr. Grimes noted that there are many trees on Donnelly Cross Road to dodge. Mr. McNeil termed those "vertical speed bumps."

Mr. McNeil noted that Hwy Dept has a good record with catch basin cleaning. Road edging includes scraping sand off road margins as mentioned before. In resource areas the material scraped away will be trucked away, not pushed into the resource area. The workers are becoming aware of wetland issues and more likely recognize when to call for direction when it's unclear how to proceed. He assured the Commission that the few past incidents where problems arose were accidental. They are already dedicated to doing the best job possible.

Mr. Moennsad asked whether all the Commission members had copies of the full NOI. Ms. Scarlet acknowledged that they did not. It was created in pieces and some parts are available only in hardcopy. Mr. McNeil suggested that she get the narrative from the U & F network drive. Ms. Scarlet undertook to put the whole pack together, get it scanned and send it to the Commission as soon as possible.

Ms. Scarlet pointed out that this NOI includes an annual process for Hwy to give the Commission a list of the roads to be worked on that year and for conference between Hwy and the Commission about that year's work process. That way the General Order application need not be repeated frequently and the system will be on paper to guide future Commissions and Hwy personnel.

Mr. McNeil noted that there are other road projects that will require additional Notice of Intent. This application addresses general maintenance in as much detail as feasible. For instance, right now the dams need more extensive work to remove brush and some trees, some grubbing of roots, and repacking of holes with suitable dam material. That more extensive work will be addressed by a separate NOI. Mowing of the town owned dams will later be added to the routine activities later.

The Commission and Mr. McNeil decided to continue the Public Hearing until February 23, 2011 so that the Commissioners can absorb all the information in the NOI.

Other Business:

- Certificate of Compliance Request for 3 Jolicoeur Ave, DEP # 293-526. Ms. Scarlet presented photographs of the property and gave the Commission her written inspection report. She said it is fully stabilized and recommended a

Certificate of Compliance in spite of the fact that there were some changes from the approved plan and the Order of Conditions had expired. Ms. Scarlet had not found evidence of any impact on the Brook.

A motion to issue a Certificate of Compliance on the recommendation of the Commission's esteemed agent (Moennsad/McLaughlin) passed 3/0.

- Spencer Abbey Beaver Dam. Ms. Scarlet reported on hearsay information that the large beaver dam in the Sevenmile River on Abbey land had been breached by "someone," and the information she had been able to collect about the matter without trespassing on Abbey posted land. In her opinion there has been no adverse impact on wetland interests, though it is clear that the upstream water level dropped gradually and has stayed down. She reminded the Commission that when Mr. Grimes and she visited that dam in 2008, it was Mr. Grimes' opinion that the beaver had stopped maintaining it. The Commission decided that no action was necessary. The lower level is the usual upstream level.
- Fees. The Commission reviewed Ms. Scarlet's memo to the Town Administrator asking that the Board of Selectmen restructure Commission fees by reducing the Town inspection fee for all Requests for Determination of Applicability. They agreed that it is unfair and counter-productive to discourage law abiding people from asking for information and that a charge for compliance inspections be instituted for 2nd and subsequent non-compliance incidents. *A motion was made to authorize Ms. Scarlet to formally request the fee change for RDA's to the Board of Selectmen and the Town Administrator (McLaughlin/Moennsad) passed 3/0.*

Ginny Report

- Ms. Scarlet asked the Commissioners who wished to attend the MACC Annual Conference, March 5, 2011. There is funding for only one Commissioner. Ms. McLaughlin voiced interest.
- Bob Fournier and Stan Kulesa re Chickering Road "culvert failed to appear, though Mr. Fournier had asked to be on the agenda.
- Ms. Scarlet gave the members present their packets of information about the Open Meeting Law from the Human Resources office. The Commissioners present returned their signed acknowledgements as law requires.
- The Commission interviewed potential Commission member, Dana Reed, resident at 70 Brooks Pond Road. Mr. Reed had provided his resume. He has been active in Brooks Pond protection. During the interview he said he was able to commit to attending the meeting regularly and foresees no reason that if appointed he would leave the Commission soon. He would also be willing to go to the MACC courses. The Commission also emphasized the need to learn the limits of their jurisdiction. The Commission explained the quorum issues.
- Ms. Scarlet made some suggestions for Lake Street Extension enforcement strategy which the Commission took under advisement. The Commission agreed that the matter should be pursued and to be vigilant when the snow starts to melt and during the spring rains. Mr. Simakauskas and Mr. Houston have missed their

verbal commitments. The next step is a formal Enforcement Order which has a deadline for compliance.

- The Commission has received a forest cutting plan for 66 GH Wilson Road showing the “landing” somewhat into wetland. Ms. Scarlet was contacted by both the DCR regional forester and the consulting forester. She will meet with them and report to the Commission.

Ms. McLaughlin mentioned that she will not be able to attend the February 23 Commission meeting. Therefore, either Judy or Warren (or both) must listen to the recording of this night’s hearing session to have a legal quorum to close the hearing and vote on the Highway Department General Notice of Intent.

New Applications: 391 East Main St., RDA

The Commission has already been to this site before the big snow storms, so no site visit was scheduled.

A motion to adjourn the meeting at 9:15 p.m. (Moennsad/McLaughlin) passed (3/0).

Respectfully submitted by:

Ginny Scarlet, Wetland/Soil Specialist
Development & Inspectional Services

LIST OF DOCUMENTS USED 1/31/2011

Draft Minutes, Spencer Conservation Commission Meeting, Wednesday, December 8, 2010.

Draft letter from Ginny Scarlet, Wetlands/Soil Specialist to Carl Dworman, dated January 13, 2011.

Map: Bond_River_Buffers, prepared by the NRCS Holden Service Center 1/11/2011.

List of Abutters to Sugden Reservoir.

Disclosure letter from Conservation Commissioner Mary McLaughlin, resident at Sugden Reservoir

Request for Determination of Applicability, for Jeffrey Eaton, Property: 127 Wilson Avenue, Spencer, MA

Request for Determination of Applicability, for Kristina Geenty; Property: 35 Lake Shore Drive, Spencer, MA

Notice of Intent for New England Organics, Property: 63 Cranberry Meadow Road, Spencer, MA DEP#293-07

Request for Determination of Applicability for Fred Brunelle, Property: 12 Bellevue Drive, Spencer, MA

Notice of Intent for Philip Samuelson, Property: 14 (a.k.a. 15) Bellevue Drive, Spencer, MA DEP#293-0753

Notice of Intent for Town of Spencer, Property: Sugden Reservoir Dam, Spencer, MA
DEP# 293-0755

Notice of Intent for Town of Spencer Property: Public Roads throughout the Town of
Spencer, MA DEP#293-0754

Memorandum from Spencer Conservation Commission to Spencer Board of Selectmen
and Town Administrator Re Conservation Commission Fees

Registration form and workshop listing for the MACC 2011 Annual Environmental
Conference, Saturday, March 5.