

# Conservation Commission – Town of Spencer

## *Minutes*



Conservation Commission Meeting  
Wednesday, September 9, 2009 at 7:00 PM  
Richard Sugden Library

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The Meeting was opened at 7:01 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Warren Snow, Mary McLaughlin, Chris Plant

Commissioners Absent: Steve Manuel

Staff present: Ginny Scarlet & Lisa Daoust

**Minutes Approved:** August 26, 2009 – *A motion to approve the minutes with amendments (Plant/Snow) passed 5/0.*

**Signed & Notarized:** Lot 9, Greenville St., 3 year Extension  
8 Bond Street, Certificate of Compliance – *A motion to issue a Certificate of Compliance (McLaughlin/Snow) passed 5/0.*  
10 Wildwood Lane, Cert. of Compliance – *A motion to issue a Certificate of Compliance (Lochner/McLaughlin) passed 5/0.*  
369 Main St., Cert. of Compliance – *A motion to issue a Certificate of Compliance (McLaughlin/Lochner) passed 5/0.*  
460 Main St., Cert. of Compliance  
460 Main St., Cert. of Compliance  
503 Main St., Resign Order of Conditions

### **7:20 p.m. Opened the Public Hearing for Request for Determination of Applicability for CSX Transportation, Inc.**

#### **Property: CSX Rail line in Spencer, MA**

Ms. Scarlet showed the Commission pictures showing where previous treatments have caused plants to die back and grow in again. Steve Herzog, AMEC Environmental, representative for CSX Transportation, said CSX submitted the Request for Determination of Applicability for a five year Vegetation Maintenance Plan. CSX is required by the state and federal laws to keep vegetation off the tracks. Mr. Herzog went out on the right-of-way in the spring and verified locations of wetlands and water bodies

because CSX is prohibited from spraying herbicides within ten feet of the wetlands and water bodies. They are also restricted against spraying within 100 feet of the wetlands more than once a year. The maps submitted show the yellow marked areas that are within 10 feet of the wetlands or water bodies where no herbicide application will be done. The blue is within 100 feet of the buffer zone and the purple is other non-wetlands.

Ms. Scarlet said a Negative Determination is appropriate if spraying takes place as marked. She said the photos show that it is clearly marked for spraying. Mr. Snow asked how long the herbicide remains active. Mr. Herzog said it varies. There is a selection of herbicides that are permitted which are regulated by the state. The state allows herbicides to be used that are benign in sensitive areas. Mr. Herzog does not know exactly how long each herbicide remains active. Mr. Herzog submitted a list of sensitive area materials from the Department of Agriculture. Ms. McLaughlin said from looking at the map, it looks like the water body is right on top of the area to be herbicided. Mr. Herzog said in the field, the water body is more than 10 feet away.

*A motion to close the public hearing (Lochner/McLaughlin) passed 5/0.*

*A motion for a Negative Determination (Snow/Plant) passed 5/0.*

### **7:30 p.m. Opened the Public Hearing for Request for Determination of Applicability for Douglas Cutler**

#### **Property: 28 Lakeview Drive, Spencer, MA**

Brian McKeon, Graz Engineering, presented the plan for a septic upgrade. It serves a four bedroom, single family home. The Title V failed. Mr. Cutler is in the process of renovating the house and upgrading the system. The plan has been submitted to the Board of Health. Ms. Scarlet received an email from Mr. Lee Jarvis, Board of Health Agent, saying it is his intention to recommend approval of the system plan at the Board of Health meeting scheduled for September 14<sup>th</sup>.

Ms. Lochner said when the Commission did a site visit; they noticed that the grading is to be very close to the stream. The Commission felt that some extra protection was needed. Mr. McKeon said a double row of hay bales and silt fence will be installed. Ms. Lochner asked what the plans are for the shed. Mr. Cutler said he is going to remove it. Mr. Grimes asked what the elevation change in the back yard is because the system is raised. Mr. McKeon said the top of the system is at around 100 feet and the existing grades are roughly 97 to 98 feet. A barrier area was incorporated around the system so the set backs could be brought in. There is an impervious membrane barrier set vertical around the perimeter of the system and trenched into the native soils.

Mr. Grimes said the detail of the hay bales and silt fence on the plan is not correct. They need to be reversed; silt fence is installed behind the hay bales.

Proposed conditions:

- Finish grading must be done by hand on the slope toward the stream
- Oil absorbent boom must be on site and ready to be installed
- A double row of hay bales and silt fence must be installed for extra protection

*A motion to close the public hearing (McLaughlin/Lochner) passed 5/0.  
A motion for a Negative Determination with conditions as discussed (McLaughlin/Snow) passed 5/0.*

**8:40 p.m. Public Hearing for Notice of Intent for Spencer Housing Authority  
Property: 77B Maple Street, Spencer, MA DEP#293-0732**

Neither the owner nor the representatives were present at this hearing.

*A motion to continue the hearing to September 23, 2009 (Snow/Plant) passed 3/2.*

**Other Business:**

**Lot 9, Greenville Street:** *A motion to grant a three year Extension (Snow/Plant) passed 5/0.* Ms. Lochner commented that on the site visit the flags were visible but they could not read the numbers on them. The Commission would like Mr. Murkland to re-number the flags.

**460 Main Street:** Certificates of Compliance were requested for two Orders of Conditions. Ms. Scarlet said everything is working well and is stable. *A motion to issue a Certificate of Compliance for both 460 Main Street Orders (Snow/Lochner) passed 4/0.* Mr. Grimes abstained from voting.

**503 Main Street:** The original Order of Conditions was lost. The Commission signed another copy so the owner can have the Order recorded at the Registry of Deeds.

**15 Pine Acres:** The Enforcement Order states that all earth materials and debris must be removed from the wetlands so the wetlands will grow back to their original condition. The debris must be removed by October 31, 2009. *A motion to issue the Enforcement Order (Plant/Snow) passed 5/0.*

**Pine Acres:** Ms. Scarlet said this weeks Spencer New Leader is supposed to have the announcement that the Town is no longer doing work on private roads. A letter and a copy of the announcement were sent to the owners on Pine Acres informing them of a meeting to be held on September 16, 2009. The owners will be told at this meeting they must comply with the wetlands law if work is going to be done on the culvert.

**26 Main Street:** The owner, Mr. Jason Jarmulowicz, has been working on the slope which is in the riverfront area. The whole slope is torn up. The owner claims it's because the septic system doesn't work and he needs to connect to town sewer. Ms. Scarlet had sent a Notice of Violation by certified mail. Mr. Jarmulowicz never picked up the certified mail from the post office. More work has been done. There are two manholes going down the slope. Mr. Jarmulowicz has no sewer connection permit. Mr. Jarvis said Mr. Jarmulowicz does not have Title V approval for the septic system. Ms. Scarlet told Mr. Jarmulowicz that he must come to the office on Monday, September 14<sup>th</sup> and file a Notice of Intent or he will get an Enforcement Order and a fine. Ms. Scarlet informed Mr. Jarmulowicz that no more work is to be done until he files. *A motion to allow Ms.*

*Scarlet to issue an Enforcement Order for 26 Main Street if the owner does not file a Notice of Intent by Monday, September 14, 2009 (Lochner/McLaughlin) passed 5/0.*

**79 Wire Village Road:** A Certificate of Compliance was requested. Ms. Scarlet said everything is good. *A motion to issue a Certificate of Compliance (Snow/Plant) passed 5/0.*

**Fireworks at Spencer Fair Grounds:** Selectman Donnie Berthiaume said the Selectmen are looking to have the fireworks at the fairground brought back. He said the town stopped having the fireworks due to the budget. Ms. Scarlet said it had nothing to do with Conservation. Mr. Berthiaume said the Selectmen want to put an Article on the Warrant for Town Meeting. There is currently \$7,000 in the celebration account and they want to add \$18,000 to bring it up to \$25,000. Mr. Berthiaume spoke with Keith Audette from East Brookfield. Mr. Audette said it cost approximately \$11,000 for the display in East Brookfield. The Selectmen want to have a full day of activities at the fairgrounds with vendors. The fireworks will be launched from the back corner. The only problem is the chemicals from the fireworks getting into the aquifer area which feeds the Meadow Road public well.

Ms. Scarlet said the problem chemical is perchlorate in the fireworks. She said EPA had to lower the standard because of health effects for drinking water. Several towns in Massachusetts have had perchlorate in their drinking water and the only thing they could track it to was the Towns' firework events. Ms. Scarlet will find out what DEP Regulations there are as a result of the chemicals in the water and proper procedures for getting a permit.

Chief Parsons told Mr. Berthiaume that fireworks are made with minimum amounts of perchlorate now. It makes them a little more expensive to buy. Mr. Berthiaume said East Brookfield has already set their fireworks date which is July 10<sup>th</sup>. Spencer will try to have the fireworks on July 3<sup>rd</sup>.

**Elm Street Culvert:** There are some unexpected difficulties. The utilities on the south side are not as anyone expected. There are pieces of sewer line and drain manholes that have been uncovered. There is a sewer manhole that has a drain line going right through it. As a result, there will have to be a few minor changes to the project. Ms. Scarlet asked if the Commission will consider the changes to be a modification of the project within the scope of the original application. The changes are all within the same work area. The work involved will not affect any wetlands. A drawing of the changes was submitted to the Commission.

**Maple Street drainage work extension:** Ms. Scarlet asked if this can be considered as part of the Maple Street project RDA. Mr. McNeil has talked the State into extending the drainage renovation up the hill to where drainage is piped into the line coming down the hill. The pipe in this uphill section now is too small and it overflows and floods out 75 Maple Street. The new drainage will go into wetlands near Astorplace which is the destination of the existing pipe (when not blocked) discharge. If the State does these

changes, the Town will save approximately \$100,000. The work involved will not affect any wetlands. Mass Highway has already drawn the necessary plans.

*A motion to accept the minor changes on the plan for Elm Street and Maple Street (McLaughlin/Snow) passed 5/0.*

**Muzzy Pond:** Mr. Grimes commented that an Emergency Certification was issued for the drawdown of Muzzy Pond that is supposed to be completed within 30 days. Ms. Scarlet said the gate is closed and they are filling it as fast as it will fill. Ms. Scarlet said the Notice of Intent has been submitted for the drawdown of Muzzy Pond. The hearing is scheduled for September 23, 2009.

**Spencer Wetlands Bylaw Amendments:** Ms. Scarlet is working on a short explanation for Town Warrant and an annotated version of the current bylaw indicating the changes for anyone who asks. The proposed draft and short blurb will be posted next week.

**Spencer Furniture:** The final culvert section is being constructed now. It ties the Spencer Furniture culvert into the culvert under the Old Main Street bridge. The creek is fine. There is no Notice of Intent filed yet for the Olde Main Street drainage by Spencer Furniture because Mr. Rob McNeil is still discussing an easement with the Chalifoux.

**Country Spirits:** Mr. Grimes said the project is underway. There is a big hole in the ground. Ms. Scarlet remarked that there were no problems there.

**5 Meadow Road, Charlie's Diner:** Ms. Scarlet said because the Towns Highway Department drainage was going into Charlie's Diner swale, the Town put a catch basin in on their side before the swale.

**Site Visits:** The Commission will do site visits for new applications on Sunday, September 20, 2009. Meet at 8am at the Town Hall.

Warren Snow and Mary McLaughlin will not be attending the September 23, 2009 meeting.

New Applications:   6 Bellevue Dr., NOI  
                          3 Sherwood Dr., RDA  
                          15 Hastings Rd., NOI  
                          Muzzy Pond, NOI

*A motion to adjourn the meeting at 9:03 p.m. (Lochner/Snow) passed 5/0.*

Respectfully submitted by:

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Lisa Daoust, Clerk  
Development & Inspectional Services