

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, August 25, 2010 at 7:00 PM
Town Hall, McCourt Social Hall

Ms. Scarlet announced that the meeting is being recorded.

The Meeting was opened at 7:02 p.m.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Mary McLaughlin, Ram Moennsad

Commissioners Absent: Warren Snow

Staff present: Ginny Scarlet

Minutes Approved: August 11, 2010 – *A motion to approve the minutes as amended (McLaughlin/Lochner) passed 4/0.*

Signed: 5 Dolma Lane, Order of Conditions

7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Town of Spencer

Property: Intersection of Chickering Road and GH Wilson Road, Spencer, MA DEP#293-0745

Ms. Scarlet read an email dated 8/25/10, 9:55 a.m. from Mr. Rob McNeil. The email said that Mr. McNeil provided the Conservation Commission with all requested information necessary to make a decision regarding the replacement of the culvert at Chickering Road and he patiently awaits their decision. Mr. McNeil, therefore, was not present for the meeting.

Mr. Grimes asked if Mr. Fournier had any new information to present. Mr. Fournier said yes but first asked for a copy of that email from Mr. McNeil. Ms. Scarlet said she would get a copy for Mr. Fournier. Then one of the Commissioners handed Mr. Fournier his copy of the email.

Mr. Fournier handed out packets of information to the Commission. Mr. Fournier then talked about Mr. McNeil's behavior at the last session of the hearing. Mr. McNeil had called Mr. Fournier and told him that he, Mr. McNeil, had decided to withdraw the Notice of Intent but that the Town Administrator wanted to pursue the application. Mr. Fournier objected to private discussion outside the meeting and to town staff making a decision whether or not to withdraw the Notice of Intent outside a public meeting.

Mr. Fournier read a letter from Mr. Mark Donohoe, P.E. and then read the new information he presented to the Commission. Mr. Fournier asserted that the Y Camp has a public water supply and a Zone 1 in the area (no map of the zones). He also indicated that the local bylaw is not addressed in the Notice of Intent and there's no information about where excavated material would go. Mr. Fournier said "we don't believe the application covers the requirements". Mr. Fournier said the Local Bylaw says the Conservation Commission must find that "the preponderance of credible evidence" indicates there's adequate protection.

Mr. Fournier said that he thought he heard Ms. Scarlet say earlier that there were no rare species on this site. Ms. Scarlet objected to being misquoted. Ms. Scarlet clarified that what she had said was that there are no rare species habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program in the area. She then took the opportunity to point out that much of the information that Mr. Fournier is mentioning is called "background knowledge". The regulations are familiar to the Commission along with the Wetlands Protection Act and the Storm water Management standards and the local wetlands bylaw.

Mr. Grimes said it's not necessary to go through the regulations that the Commission already has knowledge of. Mr. Fournier said he did not see the regulations on the Notice of Intent. Mr. Grimes said it is not required to have the regulations put on the Notice of Intent. Mr. Fournier then thanked the Commission for listening.

Mr. Stan Kulesza gave the Commission copies of the synopsis of the Emergency Action Plan of the Stiles Reservoir Dam. He urged looking at the project from a broad overall viewpoint. Mr. Kulesza read the title of the document. He read aloud the underlined words of the document. Mr. Kulesza showed the Commission a Map associated with the Emergency Action plan. Ms. Lochner and Mr. Grimes asked what the relevance of the synopsis was to this project. Mr. Kulesza said he will go on with his presentation and if the Commission does not believe it is relevant, to please speak up. He went on and read his presentation.

Mr. Kulesza said the town proposes to change the Chickering Road culvert. He asserts that the current structure, which has been there for 200 years, has been filtering and treating the water flowing into Stiles. The change would alter the velocity and force of the then untreated, unfiltered flow. Mr. Kulesza believes the proposal presents a grave decision for the Conservation Commission. He returned to reading the underlined words starting again at section 1.3, page S4 of the document supplied.

Mr. Kulesza believes that debris allowed through the proposed culvert might block the spillway of Stiles Dam. The rest pertains to information already received and outlines possible damage if the Stiles Dam fails. Mr. Kulesza thanked the Commissioners for their patience and for listening.

Ms. Lochner asked Ms. Scarlet how the town determined the size and structure of the water passage. Ms. Scarlet answered that the Highway Department did an exploratory boring and excavation through the road to make that determination.

A motion to close the public hearing (McLaughlin/Lochner) passed 3/0. Mary McLaughlin, Judy Lochner, and Ernest Grimes voting. Ram Moennsad abstaining.

Mr. Grimes asked attendees to refrain from talking while the Commission discusses the project.

Ms. Lochner reported that she has checked the drainage area supplied by Lenard and the associated hydrology calculations. Ms. Lochner is happy and feels comfortable with the numbers and the plan. She does have concerns with the dam safety. Ms. Lochner proposes a condition that the plan be submitted to the Office of Dam Safety for their review with the question whether the project causes any hazard to the Stiles Dam. Ms. Lochner also suggested a condition that all stockpiled materials be covered, removed each day or surrounded by hay bales and silt fence.

Mr. Grimes thinks the project comes under maintenance of the system to get water from the pond to Stiles. In larger storms, the water goes over the road in any case. The project is far from the Dam. Watson Pond will not be affected by the project; it is approximately 1,140 feet away from where the project will take place.

Mr. Moenns said he tends to agree with Mr. Grimes. He said that even though he can't vote, he wants to express his opinion that the proposed project won't change the amount of water moving across. If Dam Safety has no concerns, the project should move forward.

Ms. McLaughlin agrees that Dam Safety should review the project and the dam is most likely being tested just as much now as it would be after the repair.

Ms. Lochner noted that the road has deteriorated in the time since this application was submitted.

Mr. Grimes said he thinks with this pipe in place, it will improve wildlife access rather than impede it.

Ms. Lochner said duck weed would go through the pipe. It is not invasive.

Ms. Lochner brought up the concern about scouring expressed by Mr. Fournier and Mr. Donohoe and that she believes the detail plans show adequate protection.

The proposed conditions are as follows:

- The project plans must be sent to the DCR Office of Dam Safety asking for review. If Dam Safety raises concerns, those concerns must be addressed by Spencer Utilities & Facilities before proceeding with the project.
- All stockpiled material must be covered, removed at the end of the day or surrounded by ESC.
- Absorbent booms must be deployed around work area on both sides at a distance effective to contain any spilled hydraulic fluid from machinery on the site.
- A second (back-up) pump must be kept on site for moving clean water around the excavation or for emergency use.
- A stockpile of extra hay bales must be kept available on site.
- The project work must follow the plan including all details.
- Notify the Wetland/Soil Specialist (WSS) four (4) business days before the project starts.
- Erosion and Sedimentation Controls must be installed as on the plans. Inspection and approval by a representative of the Commission must be obtained before work may proceed.
- There shall be no pumping of sediment-laden water into the lake or pond without a dewatering system. WSS inspection and approval

of the dewatering system installation must be obtained before any pumping is allowed.

- An As-Built plan must be provided to the Commission showing the final elevations of the culvert invert and outlet at the conclusion of the work. The Commission or WSS must be notified if an unforeseen condition (e.g. an old culvert structure is uncovered) or an emergency arises.
- The Commission or representative must be notified, and their review, and approval be obtained for any change to the plan before it is implemented.
- The Commission reserves the right to revoke this permit or modify the conditions of the permit in order to protect the interests of the WPA.

A motion to approve the plan as presented with conditions as discussed (Lochner/McLaughlin) passed 3/0, Mary McLaughlin, Judy Lochner, and Ernest Grimes voting. Ram Moennsad abstaining. Order of Conditions to be issued.

8:34 p.m. Opened the Public Hearing for Request for Determination of Applicability for Al Gould

Property: 45 Lake Avenue, Spencer, MA

Mr. Richard Gobi presented the project. The septic system is to be replaced. The old system (a cesspool) is where the septic tank is shown on the application plan. The house is between the work area and the lake. The lot is very level but silt fence will be installed. Though abutter notice is not required for an RDA, the abutters were all contacted and no one expressed any objections. The Board of Health has approved the plan. The system will be raised slightly. The infiltration chambers specified are strong enough to withstand being driven over. There is no change in the house. The fence will be in place during construction. Material will be removed from the site; there is no room to store it. ESC will be in place as shown on the plan. Ms. McLaughlin pointed out that the dock is falling down and if there are plans to repair the dock, they must file with the Conservation Commission before any repairs take place.

A motion to close the public hearing (Moennsad/McLaughlin) passed 4/0.

A motion for a Negative Determination (McLaughlin/Moennsad) passed 4/0.

Other Business:

Conservation Funds: Lisa's computer died completely. According to the Town Administrator, there is no budget left for any new computers for this fiscal year. *A motion made to use funds from the Wetlands Fund account to buy a new computer for Lisa (Lochner/McLaughlin) passed 4/0.*

Ginny Report:

Releasing old Executive Session Minutes – Alternatively, Mr. Grimes can do it unilaterally as Chairman. That means not at a Commission meeting but is legal. If done at a meeting, Ms. Scarlet thinks you'd have to go into Executive Session in case your discussion involves an issue that you don't release. Mr. Grimes will look at them on Monday night.

Thompson Pond Rd Bridge – Ms. Scarlet emailed the Commission the first batch of information. Mr. McNeil is asking for an Emergency Certification to do the repair in September. Ms. Scarlet will issue it when the Highway Department is ready to start the work. They'll do the work above 4 feet deep. That will stabilize things for the winter. Mass Highway divers will finish up next year. Ms. Scarlet would like the Commission to authorize an Emergency Certification for them to ratify at their first meeting after Ms. Scarlet issues it. Ms. Scarlet included the bridge inspection report in the Commissions packets. The Commission Authorized the Emergency Certification.

Howe Pond Dam (lower pond) update – The Emergency Certification ran out Aug. 21, 2010. The pond was lowered and the level is being maintained by manual tweaking daily. The Office of Dam Safety has asked for a 2nd Emergency Certification. Their repair has been held up awaiting approval from the Mass. Historical Commission. It finally came on August 18th. Ms. Scarlet has issued the Certification after checking with DEP that they would agree. *A motion to ratify a second Emergency Certification (Lochner/McLaughlin) passed 4/0.*

Emergency Certifications – Ms. Scarlet said in general, it seems that we're getting a lot of requests for Emergency Certificates from the Town. After thinking about it, she thinks that's not unreasonable. Spencer has neglected it's infrastructure for a very long time. That necessarily causes sudden failures and when those involve roads, sewage, dams or *major* drainage features, Ms. Scarlet thinks public safety is involved.

South Spencer Road beaver dam – The Water Department proposes to do work to get the Cranberry River back to flowing down the center of its channel at the Beaver dam and restore the banks.

Ms. Scarlet said the dam was broken by someone working from land belonging to the south side abutter, Minerba Santoscordero, at 28 S. Spencer Road. The river has consequently eroded a gully by that south bank and is under-cutting the north bank further downstream because the flow bounces off the south bank. Trees were tipping over above the under cuts and the water department cut those trees which were about to topple into the stream to clog flow further and tear up the bank.

Malcolm Speicher and Ms. Scarlet met with Ms. Santoscordero and her friend "Ed" on Aug 18th. Ms. Scarlet and Mr. Speicher explained their WPA responsibilities. They agreed not to remove plants or otherwise alter the bank in the future and to allow the Water Dept. personnel to enter their property to restore the bank and river. The plants are regrowing strongly. Ms. Scarlet will get their permission in writing when the Water Department is ready to mobilize.

The Water Department proposes to take out the center of the beaver dam and then to repair the south gully and the undercuts on the north side using the stones and soils they take out of the center of dam and those which the abutter had pulled out. The outside of the banks will be armored with the largest stones as a last step. The Water Department proposes to do this work under the existing Order of Conditions and will need to use a backhoe. The backhoe will get in from town property on the north side. Since the dam is already broken, the downstream flow volume will not be affected.

Ms. Scarlet thinks the current Order of Conditions for managing the beaver dam and the Cranberry River water level is broad enough to cover the work. She will monitor the restoration. The Water Department seeks approval from the Commission to do the project. By consensus the Conservation Commission approved the work is covered by the Order of Conditions.

Spencer Abbey Dam – The engineers opened the low flow gate slightly on August 13th. The pond went down to about 3 inches below the “apron,” the upstream margin of the cement structure. They couldn’t see enough. At Ms. Scarlet’s request, they left the gate open over the weekend to keep the river flowing. More water was coming out through the drains and seams at the toe of the dam than through the low flow pipe. On August 18 the engineers returned & opened the gate further to draw the pond down to about 18 inches below the apron. Ms. Scarlet visited during drawdown. The engineers need to see whether or not the flow through the drains stops when the pond is down. If it keeps flowing, that would show that water is traveling under the dam altogether. The cement structure at the bottom was formed around steel plates driven to a certain depth into the river bed, which should have prevented flow underneath. That depth was determined during dam design by pre-permit test borings. Flow underneath is believed to be traveling through voids between large stones which were deposited when the stream bed & valley formed as glaciers retreated. The engineers assure us that the dam is not dangerous and promise to report on what happens next after a meeting with geotechnical engineers which was to happen today (8/25).

Sevenmile River - DEP sent Ms. Scarlet a copy of their Notice of Violation to Mr. Hubac of Bond Corp. regarding the water withdrawal. Bond was required in 2007 to install a meter on their withdrawal. They haven’t and have been estimating the withdrawal amount by multiplying pump capacity x hours the pump is on. They never calibrated the pump. DEP is now requiring that the meter go in – again.

Ms. Scarlet asked for authorization to talk to Department of Fish and Wildlife on behalf of the Commission asking for advice about what’s a reasonable minimum flow in the river. The Commission assented.

Sugden Reservoir - We received a copy of a letter from William Saloma, Director of DCR Office of Dam Safety, to James O’Brien of Meloche & Meloche in response to his assertion (representing the Sugden Lake Assoc.) that the operator of the Moose Hill Dam **must** release water from that impoundment to keep flow to Sugden “normal.” DCR says there’s no such obligation on record and that the documents sent by Mr. O’Brien don’t establish that there is one. The letter points out that drought has caused the level of Moose Hill Pond to drop also. DCR does not intend to release water. The letter invites

Mr. Meloche to submit any document the Association has, or can obtain, that does require a release.

Sullivan St. – Mr. Kady started the work to fix the detention basin but now the rain has stopped it. Ms. Scarlet provided photos to the Commission. The deadline to finish is 8/31/10. Ms. Scarlet would like authorization to extend it if necessary. The Commission gave authorization.

Draining the Swamp – James Casey of 107 Wilson Avenue asked Ms. Scarlet whether he can clean out the intermittent stream that drains a wetland at the back of 108, 109, 116, 124, Zero (U28-36) & 129 Wilson Avenue, then joins the stream from south of Buteau Road. Together they run under Wilson Avenue through 129 Wilson Avenue into Stiles Reservoir. The wetland the stream drains into is growing. Development on the Wilson Avenue lots has pushed stones into the stream course and the wetland over time. Ms. Scarlet has photos of the growth at 109 Wilson Avenue which has happened since she was employed in 2006. Ms. Scarlet answered, “Maybe,” to this question,

A Notice of Intent would definitely be required. The various lot owners would have to agree to allow it. The application would have to show how the wetland interests (which Ms. Scarlet explained) were better protected. The fees would probably total \$725.00. Ms. Scarlet said she would ask the Conservation Commission whether they feel such work in wetland is out of the question or worth at least considering. Ms. Scarlet gave the Commission photographs of 109 Wilson Avenue where the wetland has expanded since the Commission walked the site in connection with construction of a barn and shared septic system. Wetland has moved up to the barn foundation which was dry when last viewed. She also gave a GIS sketch map showing the locations of the lots in the area, the road, the wetland and related stream. Ms. Scarlet asked what the Commission thought about such a situation. The Commission would accept such an application if received and consider it then.

Site Visits: Scheduled for Monday, August 30th at 6 p.m. Everyone will meet at the Town Hall.

- * 43 Lambs Grove
- * 7 Point Eastalee Drive
- * Possibly Thompson Pond Bridge
- * Possibly Cranberry Rd./South Spencer Rd. beaver dam and river

New Applications: 7 Point Eastalee Drive, NOI
43 Lambs Grove, NOI

A motion to adjourn the meeting at 9:21 p.m. (Moennsad/McLaughlin) passed 4/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

LIST OF DOCUMENTS USED

- Meeting of Spencer Conservation Commission, August 25, 2010
- Draft Spencer Conservation Commission Minutes of August 11, 2010
- Order of Conditions for 5 Dolma Lane
- Request for Determination of Applicability for 45 Lake Ave, from Al Gould, dated 7-26-10
- Plan of Sewer Disposal System, 45 Lake Ave, Stiles Reservoir, Spencer prepared for Al Gould by Gobi Engineering, Inc. Signed by Richard D. Gobi, RS #978, dated 7-13-10.
- Inspection Report: 45 Lake Ave., 8-4-10, signed by Ginny Scarlet
- 4 Photos of 45 Lake Ave, taken by Ginny Scarlet , 8-4-10
- Determination of Applicability for 45 Lake Ave. (signed)
- Email from Robert McNeil to Virginia Scarlet Re Chickering Road Hearing, dated August 25, 2010 9:55 AM
- Plan & Profile Prepared for Town of Spencer Road Culvert, Spencer Massachusetts, 8/6/2010, by Lenard Engineering, Inc. Signed and Stamped by Corey M. Brodeur, Civil P.E.
- Chickering Road Culvert Notice of Intent: DEP# 293-0745.
- Topographic Plan of Land of Chickering Rd. & G.H. Wilson Rd. in Spencer Massachusetts (Worcester County) May 19, 2010. Prepared by BSC Group, Inc. for the Town of Spencer. Job. No. 8.5310.01.
- Proposed Intersection Improvement Plan of Chickering Rd. & G.H. Wilson Rd in Spencer Massachusetts (Worcester County), May 19, 2010. BSC Group, Inc. Prepared for the Town of Spencer, Job No. 8.5310.01
- Pre and Post Development Hydraulic and Hydraulic Analysis, Chickering Road Culvert. Prepared by Lenard Engineering, Inc. Auburn MA, for Town of Spencer. June 30, 2010.
- Photocopies of 310 CMR 10.00 sections all dated 11/10/89. They are: Table of Contents and 10.01,10.02, 10.03, 10.37, 10.51, 10.52, 10.56, 10.57 with particular words or lines underlined.
- Spencer 2009 Town Report, page 69.
- Emergency Action Plan, Stiles Reservoir Dam, MA00983. Stiles Lake Water District, Leicester, MA, June 2007; by Fuss & O'Neill.
- Map entitled: "Emergency Action Plan (EAP) For the Stiles Lake Water District." By Fuss & O'Neil. Dam Breach Inundation Area.
- Letter to Bob Fournier from Mark T. Donohoe, PE of Acton Survey & Engineering, dated August 25, 2010.
- Table of Contents and pp 1, 2, 7, & (6 in that order) from "Guidance for Aquatic Plant Management in Lakes & Ponds as it Relates to the Wetlands Protection Act," Department of Environmental Protection Bureau of Resource Protections Wetlands and Waterways Program, April 2004.
- Spencer General Bylaws, Article 7, Wetland Protection, Sections 1, part of 2, 4, and part of 5, &12.

- A photocopy of what appears to be a page from a dictionary with work prenomens through preponderate legible, labeled with a circled 7 but no other identification of source.
- Ginny Report 8-25-10 with notes taken during the meeting.
- Mass. Dept. of Transportation Underwater Operations Team Routine Underwater Inspection Report, Re Structure S23017-6W2-MUN-BRI, Town: Spencer, Facility Carried: HWY THMPSN PD RD, Features intersected: WATER THOMPSON POND, Under Operation Engineer: JOHN B. DESMOND, JUL 12, 2010.
- Email from Robert Mc Neil to Bert Drexler, copied to Virginia Scarlet & Adam Gaudette, Subject: Thompson Pond Bridge, Dated August 24, 2010 1:31 PM
- Email from Maryann (DEP) Dipinto to Virginia Scarlet, August 24, 2101 RE Howe Pond Dam Emergency Certification.
- Email from Philip (DEP) Nadeau to Virginia Scarlet August 24, 2010, RE Howe Pond Dam Emergency Certification.
- WPA Emergency Certification for Howe Pond Dam, Howe Park Spencer from Spencer Conservation Commission, dated 8/23/2010
- Inspection Report Re Howe Pond Dam dated 8/23/10 by Ginny Scarlet
- South Spencer Rd Site Sketch by Ginny Scarlet, 8/25/10.
- Site Meeting & Inspection Report, 28 South Spencer Road (at Cranberry River), by Ginny Scarlet, August 18, 2010
- 3 photographs, taken by Ginny Scarlet of the Cranberry River at South Spencer Road and 28 S. Spencer Road, 7/6/2010.
- 2 Presentation Graphs of USGS 01175670 Sevenmile River Near Spencer, MA, dated 8/25/2010, printed from the website http://waterdata.usgs.gov/nwis/uv/?dd_cd_00060&format=img_default&site_no=0117 ..., One showing river discharge 8/18/2010 through 8/25/2010, and the second showing discharge 7/26 through 8/25/2010.
- Email from Robert McNeil to Alan Stolarczyk, copies to Adam Gaudette, Lee Jarvis & Virginia Scarlet; RE Sugden Dam, dated August 24, 2010
- Email from Robert McNeil to Alan Stolarczyk, copy to Adam Gaudette, August 09, 2010, RE Sugden Dam
- 6 photographs of the Condition of Sullivan St, Spencer drainage system, taken by Ginny Scarlet, dated 8/23/10
- GIS sketch RE 107 Wilson Ave. Ditching an intermittent stream, created by Ginny Scarlet.
- 2 Photographs taken 5/11/10 of 109 Wilson Ave, by Ginny Scarlet