

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, August 11, 2010 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at: 7:12 p.m. Ms. Scarlet announced that the meeting is being recorded. She also announced that anyone who can't hear should raise their hand and when recognized by the Chair, ask for folks to speak closer to the microphones.

Commissioners Present: Ernie Grimes (Chairman), Judy Lochner, Warren Snow

Commissioners Absent: Mary McLaughlin, Ram Moennsad

Staff present: Ginny Scarlet

Procedures for creating List of Documents Used: Ms. Scarlet announced that when the Commission is done with a document, that document should be handed to the right and a pile of "documents used" accumulated at the far end of the table. Ms. Scarlet will make a list, as the Open Meeting Law requires, and then file the documents after the meeting.

7:18 p.m. Opened the Continuation of Public Hearing for Notice of Intent for the Town of Spencer

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

Rob McNeil submitted a plan prepared by Lenard Engineering, stamped by a P.E., indicating in detail the location, the profile, the end treatments of the proposed pipe, the culvert profile and the ESC plan for the replacement of the culvert at Chickering Road. This, with the previous Hydrology Study, should answer and provide the information the Commission was previously looking for.

Ms. Lochner asked if the project would take place during drawdown. Mr. McNeil said that was correct. Ms. Lochner asked if they would have to pump the excavation area. Mr. McNeil said they do not expect to pump but will have a pump in place in case of storm activity. Mr. McNeil said the road will be closed; it is a closed construction site.

Mr. McNeil went on to say siltation from the excavation will be controlled with a turbidity curtain on the downstream side. While the hole is open, hay bales will be in place. Ms. Lochner asked how far out the water is during drawdown. Mr. McNeil said drawdown comes to within six inches to the proposed elevation of the invert of the pipe. The placing of the gravel for the pipe bedding may be in the wet which would require the hay bales to be there. Ms. Scarlet asked Mr. McNeil to clarify when referring to the drawdown; within six inches below or above elevation? Mr. McNeil said six inches

possibly above elevation. It depends on what the final pipe invert elevation is; the lake water level (during the construction) will fluctuate depending on the weather.

Mr. Snow asked how much more it would cost to handle a 10 year event. Mr. McNeil said that has not been investigated at this point. He can say that to date, approximately \$3,000 has been spent in engineering fees to get to this point. So, we are certainly well above the budget on this project with limited funds to complete the project. Mr. McNeil also added as previously mentioned at other hearings, normally the Highway Department goes out and maintains a culvert pipe and replaces the damaged area with something better than existing conditions with little or no consultation

Ms. Lochner asked what type of material would go beside the pipe. Mr. McNeil said it is bedding material with an anti-seepage collar.

Mr. Grimes said that everything that was asked for has been done by the applicant. Mr. Grimes opened the meeting to the public for comment.

Mr. Stanley Kulesza brought written comments which he read aloud. Please see attached comments.

Mr. Robert Fournier also brought written comments which he read aloud. Please see attached comments. Mr. Fournier said his primary concern is the hydrology report done by Lenard Engineering. Mr. Fournier took the report and gave it to his own engineer, Mr. Mark Donohoe. Mr. Donohoe wrote a three page letter to Mr. Fournier in which he read aloud. Please see attached letter.

Mr. Fournier went through his documents including a Leicester situation in 2006 on the same lake where Mr. McNeil designed a subdivision. Mr. Grimes said that Leicester and 2006 is not pertinent to this situation. Mr. Fournier asserted that it involved the same engineer's design for a similar situation. Mr. McNeil said that was incorrect, this current design was done by Lenard Engineering. Mr. Fournier said he would be glad to go into Executive Session. Mr. Grimes allowed Mr. Fournier to continue reading his comments. Mr. Fournier then began to read aloud certain sections of the Minutes from July 14th. Mr. Fournier asked Ms. Scarlet if she doubted the authenticity of the photos that he had submitted. Ms. Scarlet replied she did not doubt the authenticity of the photos but none of them were marked and she had to identify them in the List of Documents Used during the meeting somehow. So she did mark them.

Mr. Fournier said Dam Safety has not been notified yet and verification has not been received from Endangered Species yet.

Ms. Lochner said that since the hearing is going to be continued anyways, she would like to take the time to verify the drainage area delineation. Mr. Snow commented that there are two expert opinions and that is beyond the Commissions scope of responsibilities as to determine which one is correct. Mr. McNeil said he will look at the information presented tonight. Mr. McNeil will also ask Selectmen whether to pursue this project.

Mr. Fournier commented to Mr. Snow that his point is very well taken. Also, every letter that he presented is stamped with an Engineering Seal and his engineer is insured and bonded.

Mr. Grimes commented to Mr. Fournier that there have been stamped plans that have come through this Commission before with the Engineer presenting them and they have been wrong. Mr. Grimes is not personally saying anything about anyone.

Mr. McNeil clarified that the plan is not Robert McNeil's product. The plan is a product of Lenard Engineering, consultant for the Town of Spencer. Mr. McNeil is here as the Superintendent of Utilities and Facilities.

Ms. Scarlet said after reviewing the plan, it was her personal opinion, that Stormwater Standards do not apply. Ms. Scarlet presently has significantly more information than DEP does. If this decision is appealed to DEP, then DEP will make their judgments at that time using information collected during the hearing.

Ms. Lochner commented that she believes the Commission has enough information on the project. Now they just have to sort through all the information and make a decision.

Mr. Grimes asked Mr. Fournier "at 16 inches of rain in a 24 hour period, what year storm would that be equivalent to?" Mr. Fournier replied "to tell you the truth, I'd have to ask Mark Donohoe." Mr. Grimes said that he would like that question answered. Mr. Fournier said he will get that question answered. Mr. Grimes said Mr. Fournier was throwing numbers out he thought Mr. Fournier would have an answer to that question.

Mr. Jason Dubois, a PE and resident by Stiles Reservoir, mentioned that the 100 year storm is roughly a 6.6 inch rainfall within a 24 hour period so 16 inches would probably be like a 1,000 year storm or greater. Mr. Grimes said if we get that amount of rain, everybody better be doing the backstroke. Don't worry about the dam, it won't be there.

At the applicant's request, the hearing has been continued to August 25, 2010.

Mr. Fournier took a copy of the detail plan as did Ms. Lochner.

8:20 p.m. Opened the Public Hearing for Request for Determination of Applicability for Christa Flynn

Property: 99 Maple Street, Spencer, MA

Ms. Julie Duggan from Cherry Hill Construction said the project is to install a one piece, fiberglass in-ground pool. Ms. Scarlet requested that silt fence be installed around the property, which has been done. Mr. Grimes read Ms. Scarlet's inspection report. One question in the report was what kind of equipment will be used. Ms. Duggan said a 35,000 pound excavator will be used. The excavator will access from the street through a gate. The other question is what is the maximum disturbance area and where is it. Ms. Scarlet said they should look at the plan to get that answer. Ms. Duggan said the disturbed area is going to be 15x32 feet. Mr. Grimes asked what will be done with the material that is excavated. Ms. Duggan said the excavated material will be put right into a 10-wheeler truck that will be kept on the road and will be taken away.

A motion to close the public hearing (Lochner/Snow) passed 3/0.

A motion for a Negative Determination on the plan as presented (Snow/Lochner) passed 3/0.

8:28 p.m. Opened the Public Hearing for Notice of Intent for Michael Mahan

Property: 5 Dolma Lane, Spencer, MA DEP#293-0746

The project is to replace a septic system. Ms. Scarlet handed out photos to the Commission. Mr. Jason Dubois, Bertin Engineering, presented using a copy of the plan. The silt fence will be against the retaining wall. Mr. Dubois spoke with Ms. Scarlet about not having the hay bales because the site is such a tight area. Ms. Scarlet agreed.

Ms. Lochner asked if the retaining wall is above the ground. Ms. Scarlet said slightly. Mr. Dubois said a few inches above the ground. Ms. Scarlet said if the silt fence is tied in up against the upper retaining wall, she believes it will be effective.

Mr. Dubois said this is not a raised system so there will not be any mounds. The excavated material will be brought up the driveway and removed. Septic sand will be brought in. The Board of Health has approved the plan.

Mr. Snow asked if the system is going in the same exact spot the current septic system is in. Mr. Dubois said roughly yes. This system is a little bigger. Mr. Snow said there was no date on Ms. Scarlet's inspection report. Ms. Scarlet said it was on July 28, 2010. Mr. Snow wrote in that date on the inspection sheet. Mr. Snow then read the inspection report.

Mr. Snow asked if it is going to be a pumped system. Mr. Dubois said no, they will be using the existing septic tank and quite possible the same D box.

Mr. Dubois said the applicant is the new owner. The sale will be completed when the Title V issue is completed.

Ms. Lochner asked how close to the water does the excavation come. Mr. Dubois said 20 feet. Mr. Grimes said as a condition, hydraulic booms must be out 20 feet in the water.

A motion to close the public hearing (Snow/Lochner) passed 3/0.

A motion to accept the plan as submitted with standard conditions and follow the plan as discussed (Lochner/Snow) passed 3/0, Order of Conditions to be issued.

Other Business:

Lot 2, Candlewood Drive: Request for a Certificate of Compliance. This is the first lot on the right. Ms. Scarlet did an inspection. Mr. Snow read the report; all is good. *A motion to issue a Certificate of Compliance (Snow/Lochner) passed 3/0.*

Lot 9 & 10 Candlewood Drive & Greenville Street: Requests for three-year Extensions. Ms. Lochner asked if this was the first three year extension on Greenville Street, Phase Two. Mr. Murkland said this is the first extension from this Commission. Ms. Lochner said she is thinking about Stormwater; it needs current stormwater standards. Ms. Scarlet said the extension isn't for the subdivision but for individual lots. The Stormwater Regulations have changed. Mr. Snow checked the regulations. The outcome is that the current stormwater standards must be met. A letter from the Engineer must be submitted to the Commission before anymore work can take place.

A motion to grant three year Extensions for Lot 9 & 10 Candlewood Drive (Lochner/Snow) passed 3/0.

A motion to grant a three year Extension for Greenville Street with the condition that before any further work can begin, a letter must be submitted to the Commission by an Engineer stating that the current stormwater standards have been met (Lochner/Snow) passed 3/0.

Lake Street Extension: Ms. Scarlet sent letters on July 29th with a deadline of September 8th to give the Commission a SW management plan. Mr. Grimes did a site visit on July 24th. He said he spoke with the Wissiups and they will come up with some kind of berm because their plow man will not plow them in the winter. Ms. Scarlet suggested that if they do not come up with a plan, then the Commission get more formal about pushing them to get a plan. The Commission would give them a fair amount of time to get a plan done; possibly until next summer.

Mr. Simakauskas apologized again for the mess. Mr. Grimes said he has apologized enough. Ms. Scarlet said that on September 8th, the Commission strongly hopes that there will be a SW plan presented by the people of Lake Street Extension. Ms. Scarlet said she did speak with Kris Houston and he had some good ideas.

67 Jolicoeur Avenue: Ms. Scarlet said so far no silt has gone overboard. She has been going back and forth quite frequently. There was a dewatering system put in using dirt bags. Ms. Scarlet was present when they started pumping. No fines have been issued as of yet. When backfilling begins, Ms. Scarlet will be there to observe.

Ms. Lochner asked how long it took for the water to be pumped out.

Ms. Scarlet said approximately four hours. The bag conveys water fast if there is not a lot of silt. The water had been sitting there for a long time so all the silt went to the bottom. The water moved through very nicely and came out clear.

Mr. Snow asked if the emails that Ms. Scarlet sent to the Commission have to be part of the record. Ms. Scarlet said no, not unless they were read at the hearing. Then they will become part of the record.

Ms. Lochner asked what is next with this project. Ms. Scarlet said she will be there on Tuesday when the contractor starts backfilling.

Howe Pond Dam: A slab had collapsed at the dam. The pond needs to be lowered. Ms. Scarlet showed the Commission photos that she took of the dam. Ms. Scarlet issued an Emergency Certification to lower the pond. The Emergency Certificate extends to August 21, 2010. *A motion to ratify the Emergency Certification for Howe Pond Dam (Lochner/Snow) passed 3/0.*

Fishing Pier at Depot Trail: The Scout wants to move the location of the pier. He said it is very weedy and would like to put the pier closer to the culvert. Mr. Grimes asked if anyone has spoken to Mr. Moschini about this. Ms. Scarlet said that we own the land. The pond belongs to Mr. Moschini but not the land. Mr. Grimes asked if the pier is going out into the water. Ms. Scarlet said no. Ms. Scarlet said she will contact the scout and set up a date to take a walk to the pond and see where exactly he is talking about putting the pier; his email was really not specific enough.

RDA fees: Ms. Scarlet would like to draft a letter to the Board of Selectman to reduce the fees by \$40 for an RDA application. Ms. Scarlet would like to charge more fees for inspections when projects are not done correctly. The Commission agreed.

Stormwater Management Bylaw: Ms. Scarlet asked the Commission if they are willing to review the whole plan if there's also a Notice of Intent involved. That means reviewing the rest of the project outside of wetlands jurisdiction. Ms. Scarlet said it's a little more work but gives the Commission the chance to have some say on what's above the wetlands jurisdiction. Ms. Lochner said yes if the Commission is provided with an Engineer that can review the calculations for them; that is not something the Conservation Commission is qualified to do. Ms. Scarlet said the committee is thinking if the applicant has to apply to the Conservation Commission anyways, then the Commission can review the whole plan. That way the applicant only has to fill out one application. If the Planning Board has the application first, they will do the review. If the Zoning Board has the application first, they will do the review. Ms. Lochner mentioned that she believes that all the boards should have an Engineer review the calculations. Mr. Snow asked if the Notice of Intent has to have the stormwater calculations. Ms. Scarlet said not always. If it's a single family home, stormwater is not required.

Mr. Fournier asked if the Stormwater Bylaw is going to be modified.

Ms. Scarlet said no, it's not a modification. The town can have more stringent rules than the state law.

Mr. Fournier said there has to be a public hearing.

Ms. Scarlet said not necessarily. The town is required by Federal Law to have a set of Stormwater Regulations and there is a whole list of things that must be in there from the Federal Law.

Mr. Fournier said he attended the Attorney General's Public Hearing. Mr. Fournier did testify at this hearing. Mr. Fournier said he had a discussion with one of the Attorney Generals. Mr. Fournier talked about several other towns trying to get away from contingencies and make things simpler. Mr. Fournier said the Attorney General said a public hearing is required. Mr. Fournier said in this town, he is very interested in stormwater. He would like to help make it simpler but wants to do it through the administrative procedures process.

Ms. Lochner said getting back to the regulations, is there anything else that needs to be considered. Ms. Scarlet said no. The Committee is just trying to figure out how to get these reviews done as required without causing applicants to have anymore duplication than necessary.

Ms. Lochner said that in the Town of Oxford, which ever Board gets the application first, does the review.

Minutes Approved:

June 23, 2010 – *A motion to approve the minutes as written (Snow/Lochner) passed 3/0.*

July 14, 2010 – *A motion to approve the minutes as amended (Lochner/Snow) passed 3/0. Mr. Snow commented that he was not at that meeting but the minutes appear complete.*

Ginny Report:

Potential Cons Com members: No takers so far.

South Spencer Road: Ms. Scarlet sent a Notice of Violation to the south bank property owner, Minerba Santoscordo, telling her not to touch the beaver dam and that she should talk to the water department if there is a flooding problem.

Christie Wright, co-owner of the lot, called in response. Ms. Scarlet and Ms. Wright agreed to meet on August 18th at 4pm to walk the river bank and talk about what their responsibility is to repair the bank and what can and can't be done. All Commissioners are invited. Malcolm Speicher will be there also.

Mr. McNeil has asked for a site walk with the Commission to talk about long term management of the area and ideas he has. Ms. Scarlet is looking for some date suggestions from the Commission. The Commission suggested Monday or Tuesday evenings, possibly 8/16, 8/17, 8/23 or 8/24. Ms. Scarlet will advise Mr. McNeil.

Spencer Abbey Dam: The engineers want to draw down the pond using the low flow pipe in order to inspect the "toe drains" and have asked permission. The Order of Conditions has an ongoing condition saying the low flow pipe must be used when necessary to keep the river flowing. On August 9th no water was coming over the spillway. Water was running from the 2-3" holes at the base of the concrete on both spillways. Some water was also discharging between those holes along the joint between the spillway toe and the wall underneath. There was no flow from the low flow pipe. As a result flow down river was minimal and the pond was down 6 inches.

Since the low flow pipe should be opened to maintain some flow down stream, this seems a good time to draw down for the toe drain inspection. The engineers plan to open the low flow pipe tomorrow (8/12).

There have been problems with beaver blocking the culverts upstream of the pond. The Abbey applied for a trapping permit and Ms. Scarlet gave permission to break up the beaver "work" at the culverts, if they do it daily as maintenance, but the beaver may be working upstream somewhere else. With the dry weather, that could account for the pond going down. There is still a little, very little, flow leaving Browning Pond.

Seven mile River: Ed Hubacz of Bond Corp called Ms. Scarlet. He had received a letter from DEP about Bond's water withdrawal. Bond has a permit for withdrawal. Mr. Hubacz asked whether Ms. Scarlet knew what the limit in gallons per day is. She gave him contact names at DEP to find out and she emailed DEP. Bond is allowed to draw 67 million gallons over a 245 day period, that's an average of 0.27 million gallons per day (MGD).

Ms. Scarlet said during the dry conditions we have now, the withdrawal has an impact on the river. Bond does not actually meter their withdrawal. Mr. Hubacz and Ms. Scarlet talked about how he can minimize the withdrawal. He told her that the DEP letter reminded him that he was told in 2008 to install a meter. Meanwhile, Ms. Scarlet said as a bottom line, Bond has to shut down rather than shutting down the river. Ms. Scarlet

hopes that the Commission will consider using the WPA to enforce that. Ms. Scarlet also spoke with Maryann Dipinto about it. She didn't commit but with rare species habitat and DFW stocking the river with trout, we have 2 other agencies we can enlist to "talk" with DEP. Bond's withdrawal last week was pulling the river flow down to less than 0.2 cfs toward the end of each day, roughly 1/5 the flow at the start of the day.

Sullivan Street: Ms. Scarlet met with Glenn Krevosky, Ed Jardus, and Charlie Kady on August 9th. Work on fixing the detention pond will start August 16th. They discussed materials, machines and methods. They'll try to do the rock swale rebuilding with machinery but are lining up laborers in case that proves impossible. Ms. Scarlet thinks the work will get done.

Sugden Dam: The water level is way down. The low flow gate is stuck open. Mr. McNeil has hired engineers to inspect and draw plans to fix the dam. We've received a letter from Meloche & Meloche representing the Sugden Lake Association. No Conservation Commission action is needed now, but this background may be useful when next the Commission considers management of Sugden Reservoir.

25 R. Jones Road: Mr. Grimes got a complaint call reporting that automotive fluids were being dumped. #25 is a single family home lot. Ms. Scarlet did a site inspection. It's on a knoll with no wetlands within 100 feet. Ms. Scarlet referred the problem to Lee Jarvis, Board of Health Agent.

New Applications: 45 Lake Avenue, RDA

A motion to adjourn the meeting at 10:13 p.m. (Snow/Lochner) passed 3/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

List of Documents and Media Used August 11, 2010.

Attach to the Minutes

- Draft Minutes of 6/23/10 Conservation Commission Meeting
- Draft Minutes of 7/14/10 Conservation Commission Meeting
- Ginny Report – Aug. 11, 2010
- Email from Daniel PI Rukakoski to Virginia Scarlet, Subject, RE Spencer Abbey Dam, 8/11/10 with foregoing email correspondence included.
- USGS “Presentation” graph, “USGS 01175670 Sevenmile River near Spencer, MA” for the period 7/26/2010 through 8/2/2010. Showing “discharge in CFS.

- 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 Hydrolic and Hydrolic Analysis, Chickering Road Culvert. Prepared by Lenard Engineering, Inc. Auburn MA, for Town of Spencer. June 30, 2010.
- List of Qualifications and List of Primary Concerns, date 8/11/10, from Stanley V. Kulesza of 44 Lake Ave., Spencer, MA
- Letter to Stiles Lake Water District from Philip P. Nadeau, Wetlands Section Chief, Mass. Dept of Environmental Protection, 11/2/2005
- Letter to Bob Fournier from Mark T. Donohoe, PE of Acton Survey & Engineering, Inc., 8/10/10
- Pages 71 & 18 from Annual Reports of the Town Officers of the Town of Spencer, Massachusetts for the year ending December, 31, 2009.
- Letter to Stiles Lake Water District, Water Level Committee, c/o Bob Fornier, Re: Parker Street Definitive Subdivision 6532, 4114, from Mark T. Donohoe, PE, Acton Survey & Engineering, Inc, 9/19/2006
- Pages 2,5, and Table 1 from Emergency Action Plan Stiles Reservoir Dam, MA00983 by Fuss & O’Neill, June 2007 and attached photocopies of a news paper article entitled, “Heroic Work of Many Saves Stiles Reservoir,” hand dated 8-14-55. (The source newspaper is not identified.)
- Photocopy of an article (publication not identified) entitled, “There’s less of Stiles Lake than there used to be.” Hand dated “1995”
- Agreement to Continue Public Hearing to 8/25/10.

- 99 Maple Street -Request for Determination of Applicability, 6/20/10
- 99 Maple Street Request for Determination Plan, 6/22/10

- Inspection Report re 99 Maple Street, 7/27/10
- Certificate of Compliance
- Inspection Report re 2&4 (was Lot 2) Candlewood Dr, 7/15/10
- 2 photographs of 2&4 Candlewood Dr taken by Ginny Scarlet, 7/15/2010
- Notice of Intent for 5 Dolma Lane, DEP # 293-0746, 7/20/10
- Plan: Subsurface Disposal System Repair, 5 Dolma Lane, Leicester, MA 01524, 7/19/10
- Inspection Report re 5 Dolma Lane 7/28/10
- 7 photographs of 5 Dolma Lane, taken by Ginny Scarlet 7/28/10
- Inspection Reports re 67 Jolicoeur Ave. dated 8/4/10, 8/10/10, & 8/11/10
- 67 Jolicoeur Ave, Dewatering Sketch Plan A, 7/21/10
- 67 Jolicoeur Ave, Dewatering Sketch Plan B 8/4/10
- 4 photographs of 67 Jolicoeur Ave, taken by Ginny Scarlet, 8/11/10
- WPA Emergency Certification Form for drawdown of Howe Pond, Howe Pond State Park, dated 7/22/10
- Inspection Report re Howe State Park Dam, 7/21/10
- 3 Photographs of the Howe State Park Dam, taken by Ginny Scarlet 7/21/10
- Email from Edward Hughes to Virginia Scarlet, Subject: FW: 09124.08 Howe Mill Pond Dam Site Evaluations, 7/22/10